

Sent: 3/27/2023

Attn: Mr. Haley

Re: Western NY STAMP Full Campus Incidental Take Permit

Please consider this correspondence my written comments on the STAMP Endangered/Threatened Species Sitewide Incidental Take Permit proposal to use the habitat of the endangered Short-Eared Owl (SEOW) and the threatened Northern Harrier (NOHA) for industrial purposes at STAMP in Alabama, NY. This is an important issue to birders and environmentalists nationwide.

I am strongly opposed to the issuance of this permit. It fails to address issues in a number of issues regarding threatened and endangered (T&E) Species on the STAMP property.

**Issue 1: The proposed mitigation is to set aside 58 acres of suitable habitat on site in exchange for destroying permanently 665 acres of current habitat, including 345 acres of high quality SEOW and NOHA. This is not a net conservation benefit as required by law but rather a catastrophic destruction of habitat for struggling species.**

Setting aside less than 10% of occupied habitat and acting as if it is an adequate substitute for the proposed habitat loss is nonsensical. To then recount and recount that acreage to state an acreage benefit is insulting. The existing habitat is evidently well enough managed that it sees current occupancy, despite the site not managing for grassland birds, so the idea that occupancy could be significantly increased by management to offset huge acreage removal from occupied habitat seems to fly in the face of reason.

As DEC staff is certainly aware, one of the largest difficulties in managing for grassland birds is their requirement for large open areas that exceed size thresholds. SEOW and NOHA require approximately 250 acres of contiguous open habitat to reliably occupy, while the proposed mitigation plan proposes leaving 1/5<sup>th</sup> of that in non-contiguous area. This mitigation area is not habitat for NOHA and SEOW at all, and should not be considered as such by DEC for the purpose of mitigating SEOW and NOHA habitat destruction. The applicant implies and says that row crop fields should be excluded from the occupied habitat, but neglects to mention the value of contiguous open space for grassland birds in meeting minimum size thresholds and the fact that crop fields are habitats used by SEOW and NOHA.

**Issue 2: The applicant has stated an intention to degrade existing habitat regardless of the outcome of this permitting process.**

This indicates bad faith management of the site in a way that will be damaging to SEOW and NOHA overall survival in the area. In follow-up to DEC's questions, the applicant stated an intention to alter existing habitat to reduce T&E species use, by converting pasture to row crop before next winter. This is blatantly managing the site for extirpation of vulnerable species to streamline permitting.

DEC should have the applicant stop and desist on any action that would negatively affect SEOW and NOHA use of the site without the valid permitting. Agricultural exemptions imply the potential for habitat replenishment by fallowing a field or converting to hay, not the deliberate act of destroying habitat to make permitting more straightforward.

**Issue 3: This take permit fails to acknowledge the overall degradation of habitat (namely the 58 acres of mitigation) from the proposed development of the site.**

In the application the applicant makes it seem that protection and management of the habitat would somehow improve the habitat for grassland birds. Even beyond the problems mentioned in point 1 above, this mitigation area would be severely degraded by noise pollution, increased traffic, light pollution, and potentially site contamination.

Noise pollution has well documented negative effects on bird use. Some birds are able to cope, while others are not. Until STAMP can robustly prove that the noise from construction and site development would not negatively affect the habitat, each mitigation acre should be valued at less in the future than in its current form.

Increased traffic can add to noise pollution, creates air pollution, and increases the potential for direct mortality of birds by vehicle collision. The placement of the site away from rail and public transportation infrastructure mean that vehicle use will exponentially grow through the proposed site buildout. These problems further reduce the suitability of the already insufficient mitigation acreage.

Light pollution can affect nocturnal birds, and interfere with SEOW hunting. Details of how light pollution from site development would affect SEOW should be required.

Finally possible site contamination must be addressed. Many industrial sites in New York have wound up as contaminated spots. Should this happen at the STAMP site suitable habitat may become an ecological trap where grassland birds are drawn only to be killed by exposure to environmental hazards. This would further devalue the potential onsite mitigation acreage over the 60-year life of the site.

**Issue 4: The stamp site does not exist in isolation. Potential development on the site can reduce occupied SEOW and NOHA habitat off site, requiring even more mitigation than is stated.**

The STAMP is surrounded on 3 sides by high quality natural habitat. It is located adjacent to 2 DEC Wildlife Management Areas, adjacent to high quality habitat on the Tonawanda Seneca Nation, and within a mile of Iroquois National Wildlife refuge. Occupied habitat on these sites will be degraded by the same things that degrade mitigation acreage on the STAMP property, and the effects on surrounding habitat, specifically by the problems raised in point 3, must be adequately addressed and that degradation mitigated.

**Issue 5: This permit does not address other T&E species present on the site or in the area.**

Long eared bats are known to occupy the area. This species will be listed as of March 31 and potential occupied habitat should not be allowed to be destroyed.

**Issue 6: The Tonawanda Seneca Nation (TSN) oppose this permit.**

TSN have been good stewards of the land, and oppose such wanton destruction adjacent to tribal territory. This permit proposes the destruction of culturally important species and the overall degradation of tribal land and culturally significant spots such as Big Woods. This permit application raises critical environmental justice issues and DEC's Environmental Justice policy should be followed. In addition, a robust environmental impact statement and public meetings should be held regarding sitewide effects of development before permitting.

**Conclusion:** The mitigation for SEOW and NOHA proposed by the applicant is pathetic and does not at all address habitat requirements for SEOW or NOHA. Through their offsets, and permit application it seems that the intention is to extirpate SEOW and NOHA from the site, and the applicant has stated that degrading occupied habitat is their management intention. This is not a robust plan that will result in a net conservation benefit to the affected species as required by law. For that reason alone, the permit should be denied.

But this project is even more than that it will degrade occupied habitat on adjacent properties through site buildout, and this application makes no attempt to calculate what that habitat damage would amount to or how it should be mitigated. This permit also fails to take into account or mitigate for long eared bat which occupy the site. Overall, the campus seems better suited to act as mitigation acreage than an industrial site.

Finally, this permit is opposed by TSN and given its scope and proximity to tribal land DEC's Environmental Justice policy should be followed.

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