



Department of
Environmental
Conservation

The SEQRA PROCESS

Who Does What, When and With What?

Question

- A proposed **multi-family apartment complex** in residential zoning district in small city in NYS
- Use and density of apartments is **allowed by zoning**
- Controversial project because apartments will be for those **recovering from addictions**
- Story in newspaper says **public hearing will be held on the site plan application**
- Indicates SEQRA review will be done **after the public hearing**



Question

- **What's wrong here?**
 - **SEQRA should be started at the earliest time possible in the review**
 - **Waiting until after the public hearing on the site plan means lead agency only has 62 days to complete SEQRA as they must render a decision within 62 following close of public hearing**
 - **Can't make a positive declaration because of the time frame**
 - **City isn't giving the public any chance to address the answers the lead agency provides in the EAF**



Purpose of SEQRA

- Incorporate consideration of “environmental factors” into an agency’s decision-making process at the earliest possible time

What Does SEQRA Say?

- “No agency involved in an “action” may undertake, fund or approve the “action” until it has complied with the provisions of SEQRA”
- What is an “Agency” as defined here?
 - A public body- elected and appointed
 - Includes state departments, local boards, districts, governing bodies and public authorities



How Do you “Start SEQRA?”

- Initiating agency or **first agency to receive an application** is responsible for initiating SEQRA
- That first agency must “classify” the action.
- First involved agency must also identify other state or local agencies who may have one or more jurisdictions over the project,

for example:

- Highway access permit
- Natural resource-based permits
- Local land use approvals



How to Decide Lead Agency

- First agency either seeks permission from other agencies to be lead agency or.....
- Asks other agencies if they would like to be lead agency
- One agency must be the lead, usually the one with the most **knowledge and experience** about the issue or most involvement with the project
- If no agency wants to be lead DEC Commissioner will decide and **we don't like to do that!**

Lead Agency

- Involved agency with the most interest, involvement and concern about the proposed action
- Responsible for reviewing environmental assessment form (EAF)
- Responsible for determining if an environmental impact statement must be prepared
- Must determine significance within 20 days of being named “lead agency”



Lead Agency Must Classify the Action

Three types of Actions Under SEQRA:

- Type I
- Type II
- Unlisted

Type II

- Not subject to SEQRA
- List available in Part 617 to help determine if “action” is a Type II
- Classification as Type II concludes SEQRA
- Examples:
 - 1, 2 or 3-family homes on approved lots
 - Issuance of an area variance
 - Most maintenance or repair to buildings



Type I

- More likely to have adverse impacts on environment
- More likely to require an environmental impact statement (EIS)
- List available in 617 NYCRR
- Must continue with SEQRA process



Unlisted Actions

- Not on Type 1 or Type 2 lists; fall below Type 1 threshold
- Require that SEQRA continue
- Largest category of actions subject to SEQRA
- Actions range from minor use variances to complex construction activities



Lead, Involved and Interested Agencies

- **Involved Agency** -public body which undertakes, funds or approves proposed action
- **Lead Agency** - involved agency which coordinates the SEQRA review
 - responsible for determining whether an environmental impact statement will be required
- **Interested Agency** -public body not undertaking, funding or approving the proposed action
 - wishes to participate in the process because of its expertise or specific concerns
 - Sierra Club, Audubon, Conservation Advisory Council etc.



Who Does What Next?

- The **Environmental Assessment Form** Determines the significance of the application
- The **Lead Agency completes** with assistance and input from involved agencies



Environmental Assessment Form (EAF)

Key to SEQRA Review

Three parts to EAF

➤ Part 1

- Site and Project Descriptions
- **Project Sponsor/Applicant Completes**

➤ Part 2

- Potential Impacts and Magnitudes
- **Lead Agency Completes**

➤ Part 3 (may be optional)

- Importance of Impacts Identified in Part 2
- **Lead Agency Completes, if necessary**



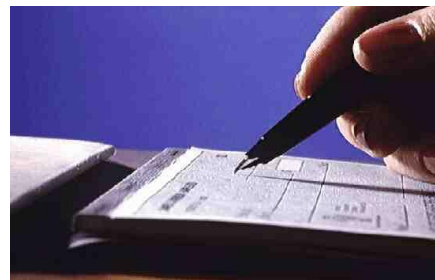
Environmental Assessment Form

- Two Types-
 - **Short and Full/Long** Environmental Assessment Forms (EAF)
 - **Type I Actions**- must complete **full EAF**
 - **Unlisted Actions**- may use **short form**, but lead agency can require applicant to use full/long form
- Both have Parts 1, 2, and 3
- Lead agency can require supplemental information to EAF if needed to make determination of significance



Part I of EAF- The Applicant's Responsibility

- Applicant must provide accurate, complete information for Part 1
 - May need to provide supporting information to verify answers provided
- **Lead agency responsible for reviewing EAF and verifying accuracy** of info with materials submitted for project
 - Should flag any problem
 - Identify missing information
 - Require revisions if necessary



Answers to Part One are Completed by Applicant

- If any answers in Part I seem untrue, meet with applicant to discuss and have him revise
- Don't accept **answers that are inaccurate**, based on hard facts you have
- **Lead agency** is ultimately responsible for Parts 1, 2 and 3 of EAF.
- Lead agency can and should **require supplemental information to EAF** if needed to make determination of significance



Part 2 of the EAF

Lead Agency Responsibility

Part 2 requires lead agency to identify each impact as either “**none/small impact**” or “**moderate to a large impact**”

Examples:

- Does action **impair natural resources**?
- Does action **increase potential** for erosion, flooding, drainage problems?
- Does **action create hazard to environmental resources or human health**?
- Will there be **remediation for hazardous materials** on site?



EAF Part 2 Answers

None to Small Impact Examples:

- There will be a small impact to **community character** because of concerns over consistency with existing architectural and aesthetic resources (Question # 3)
- **Historic /Archaeological resources on site**, but no major changes will occur. Location where resources exist will be avoided, for example (Question #8)
- **Wetlands in the vicinity** of the project, but a site-specific inventory shows there are none on the project site (Question #9)
- **Minor disturbances to traffic** will occur, but they won't alter the level of traffic services (Question # 5)
- **Historic preservation permits** have been issued that are in compliance with the local historic preservation code (Question # 8)



EAF Part 2 Answers

Moderate to Large Impact Examples:

- **Historic structures will be demolished** or relocated (Question # 8)
- Historic structures to be remodeled in a way that **destroys or damages historic value** (Question #8)
- Proposed action will **increase flooding potential** in the project area (Question # 10)
- Proposed project **requests a land use not permitted by existing zoning** (Question # 1)
- Proposed action will **damage or reduce the number of threatened species** in the area (Question #9)
- Project **changes the character or view** of important aesthetic resources (Question #3)



EAF Part 3

- Lead agency completes, if necessary
- Used to elaborate on any answers in Part 2 that couldn't be mitigated.
- If unable to still mitigate to lead agency's satisfaction, **may be reason for making a positive declaration**

EAF Decision Options

1. **A Negative Declaration** means the project will have no **significant impacts** on the environment
 - Ends the review process
2. **A Positive Declaration** means the application may have a **significant impact** on the environment
 - An environmental impact statement must be prepared
3. **Conditional Negative Declaration** may be made for Unlisted Actions
 - Only if a coordinated review was conducted



Making a Decision

- **Timing and substance** of the EAF should be conducted in conjunction with the underlying application
- You can't make a **positive declaration** under SEQRA and yet approve the site plan, subdivision or variance.
- A **positive declaration** puts the application **on hold** until an environmental impact statement is completed and reviewed.
- Public hearings on EIS should be conducted **at the same time** as the hearings for the underlying application as well



Determination of Significance

- In writing by the Lead Agency
- Must identify all relevant impacts
- Must look at whole action-even those separated by time or distance (**no segmentation**)
- Must take a “hard look” at all potential impacts
- Must explain why impact **may or will not be significant**



Determination of Significance

Must provide “Reasoned Elaboration”

- Be explicit
- Is potential impact likely, significant, or neither
- Describe mitigation included in project plans
- Name sources you rely on to reach conclusions
- Explain how cited sources support your conclusions



If Lead Agency Makes a Positive Declaration.....

A Draft Environmental Impact Must be Prepared



Scoping the DEIS

- Not mandatory, but encouraged
- Creates a formal outline for DEIS
- Focuses on significant issues; eliminates non-significant issues
- Identifies necessary information
- Identifies alternatives
- Identifies mitigation measures
- Provides opportunity for other agency and public input or mitigation to minimize impacts



Scoping the DEIS

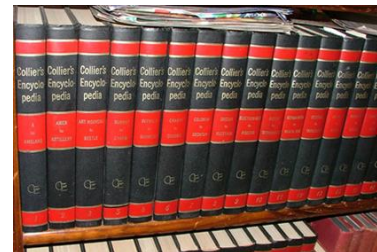
- If scoping is used, must be an opportunity for public participation
- Lead agency is ultimately responsible for determining issues to be included in the scope
- 60 days for completion of scoping
- Negotiation of extensions is common



DEIS Content

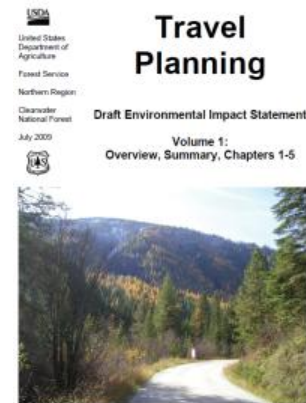
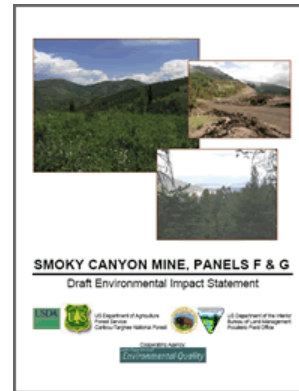
Analytic, not Encyclopedic

- Describe the Action
- Define the Location
- Describe the Setting
- Evaluate potential significant adverse impacts
- Identify potential mitigation measures
- Discuss reasonable alternatives
- Must include the “no action” alternative



Preparing the DEIS

- DEIS usually prepared by applicant/sponsor and submitted to lead agency
- Lead agency must review to determine if DEIS is “adequate”
 - May be returned to sponsor/applicant for revision
 - Must provide specific written comments or suggested changes- give direction
- Lead agency has 45 days for review; 30 if resubmission
- All DEIS must be posted on the web and remain there until FEIS is accepted



Public Comment on DEIS

- Notice of Completion of DEIS
 - Must be on public web site, filed with all required agencies and published in Environmental Notice Bulletin
- Public Hearing is optional under SEQRA
 - Minimum of 14 days notice of hearing
 - Should run concurrently with other hearings required for the action



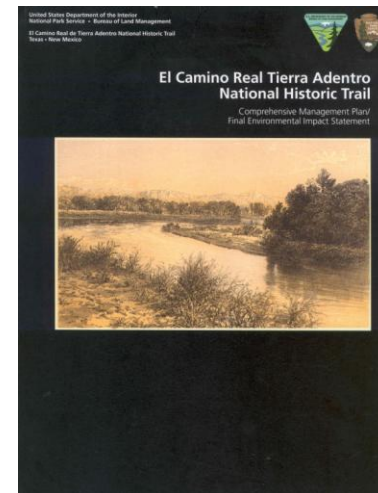
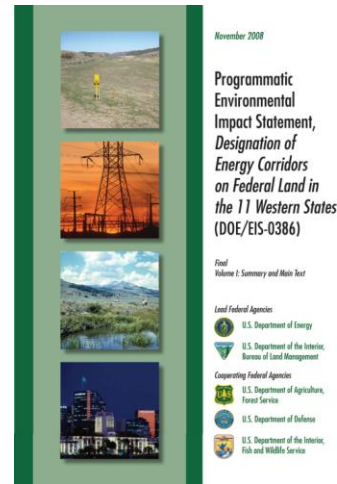
Public Comment on DEIS

- Hold Hearing if:
 - Substantial interest shown by the public or involved agencies
 - Significant adverse environmental effects have been identified
 - Concerns or questions regarding adequacy of mitigation measures and alternatives proposed
 - Public hearing can aid the agency decision making process



Final Environmental Impact Statement (FEIS)

- Prepared after close of comment period on DEIS
- Consists of :
 - Draft EIS, including revisions or supplements
 - Summary or copies of comments received
 - Lead agency's response to substantive comments
- Lead agency responsible for accuracy and adequacy of all responses in the FEIS, even though project sponsor may prepare such



Final Environmental Impact Statement (FEIS)

- Must be completed:
 - Within 45 days after a public hearing OR
 - Within 60 days after the DEIS “Notice of Completion” if no public hearing
- Lead agency must file “Notice of Completion” of FEIS
- All FEIS must be posted on the web and remain there for a year after all permits/approvals made
- Starts a 10 day “consideration” period
 - Not an additional round of public comment



Findings

- Made by lead and all involved agencies after FEIS is accepted
- Reasoned conclusion using information from the FEIS
- Serves as rationale for each agency's decision on the FEIS
- Certifies proposed action is one that avoids or minimizes environmental impacts

After Findings

- SEQRA process concludes
- Underlying permits and approvals can be made
 - Funding released for project
 - Special permits or variances issued
 - Zoning amendment approved
 - Law passed by local municipality etc.



NEW SEQRA PROPOSALS

Jan 2026 Announcement From Governor Hochul's Office Would:

- Add Environmental Justice issues to SEQRA review
- **Exempt small actions** and categorizing them as TYPE II Actions if they are being built on previously disturbed land
- Require that **all Environmental Impact Statements** be **completed in two years** time



Hochel's Proposals Re: SEQRA

- Direct the Department of Environmental Conservation (DEC) to develop 'Generic Environmental Impact Statements' (GEISs) so as to allow developers to quickly move through the environmental review process
- To be used on renewable energy projects and housing projects



Hochel's Proposals Re: SEQRA

Adjust SEQRA classifications so that, **on previously disturbed land, no further review is needed under SEQRA** for:

- **Clean Water Infrastructure:** Critical water infrastructure projects that avoid impacts to natural resources.
- **Green Infrastructure:** Nature-based storm water management.
- **Parks and Trails:** Public parks and recreational bike/pedestrian paths on previously disturbed land.
- **Child Care:** New or renovated childcare centers on previously disturbed land.



Hochel's Proposals Re: SEQRA

- Support to local communities through a **“permitting academy”** to help **expediate the permitting process locally**.
 - Will be conducted by the Regional Economic Development Councils, which will conduct a series of workshops with local governments to cover best practices and provide assistance for localities in need of additional support.
 - Includes support with SEQRA



Updates Involve Environmental Justice Siting Law

- Updates aim to incorporate provisions of **the Environmental Justice Siting Law (EJSL)** into SEQRA Process
- EJSL requires view process to consider whether an action may cause or increase disproportionate pollution burden on disadvantaged communities
- The determination is to be made by the **lead agency**
- Lead Agency **may request an EIS to make the determination** since EIS more fully analyzes the environmental impacts, alternations and mitigating for a proposed action



Changes Include:

- Text **changes to definitions** relating to disadvantaged communities and pollution
- **Additional criteria** regarding adverse impacts on the environment
- **Additional information to be analyzed** in an EIS
- Lead agency must determine if “an action may cause or increase a disproportionate pollution burden on a disadvantaged community.”



Changes to EAF to Help Lead Agencies

- **Revised Short and Full EAFs** will address these questions
- **New question in regard to disadvantaged communities** and potential environmental impact of projects to those communities in EAF
- Short EAF also includes question asking if project is **located within a 500-year floodplain**
- Full EAF includes new questions to gain insight into future physical climate risks, air emissions and greenhouse gas emissions



New Type II Actions

- New Type II Actions identified
 - Construction or expansion of three-family residences and construction with four or more dwelling units provided the building: (1) gross floor area does not exceed 10,000 s/f; (2) is constructed on an approved lot; (3) connects to existing public water and sewerage systems; and (4) is permitted , including special permitted uses, under the local zoning code
 - Construction or rehabilitation of secondary structures, including sidewalks, parking areas, playgrounds and landscaping are also identified as Type II actions

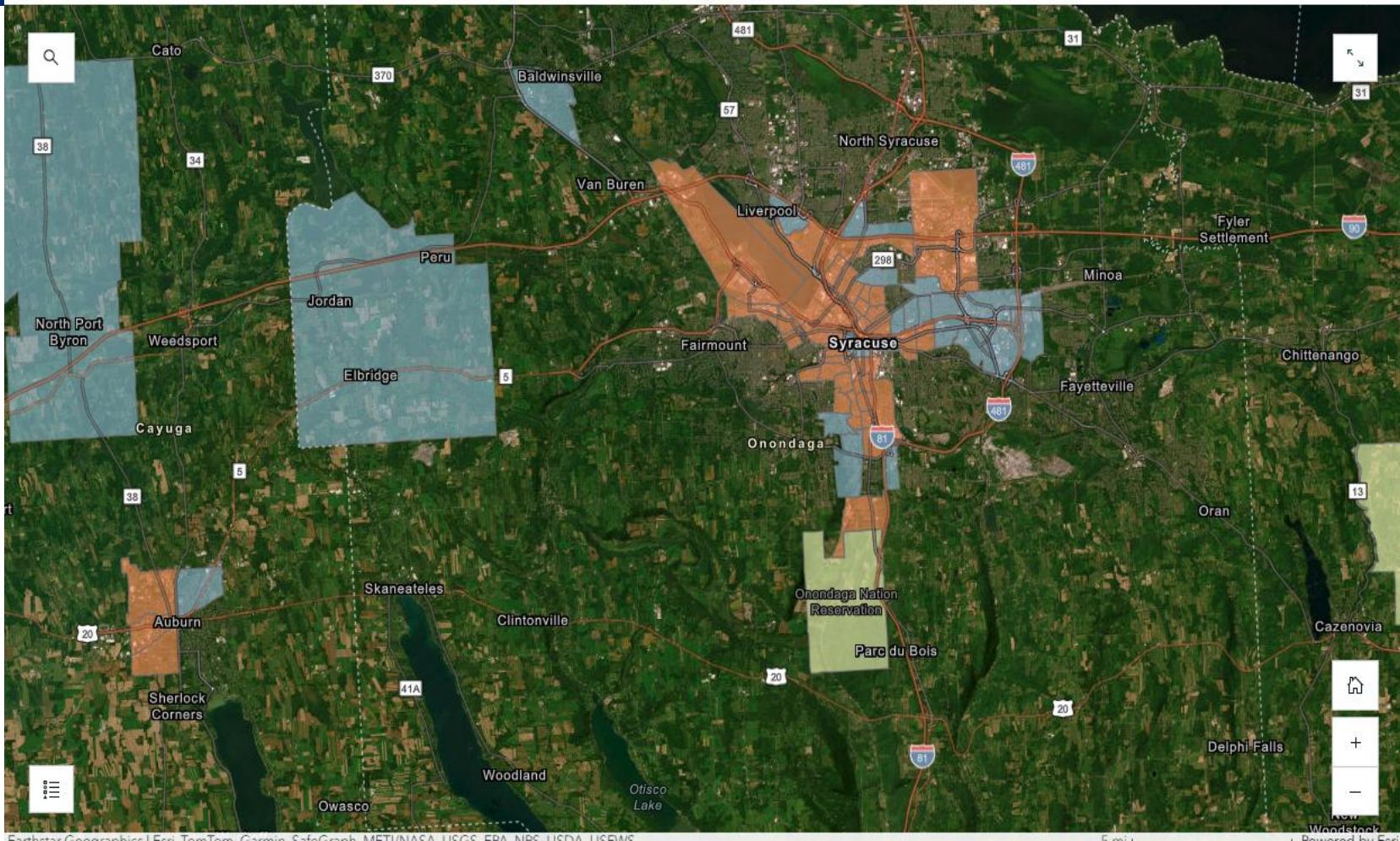


How to Determine if Action is in a Disadvantaged Community?

- Use the DEC's Disadvantaged Community Assessment Tool
- Available from:
<https://www.nyserda.ny.gov/ny/Disadvantaged-Communities>
- **Most of the city of Syracuse** is a Disadvantaged Community
- **Onondaga Indian Reservation** is a disadvantaged community
- Outside of Onondaga County but nearby, parts of Auburn, Fulton, Rome and Ithaca are disadvantaged communities



Disadvantaged Communities in Onondaga County shown in orange



Warnings

- DEC warns communities not to rely solely on the map to make a determination if a location is “disadvantaged”.
- Provisions have NOT been adopted yet but are expected to be adopted in 2026.
- Announced on January 26, 2026, by the Governor’s Office
- **Has not been adopted to date**



Find Complete Information at:

- DEC's web page with complete information about SEQRA changes:
- <https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations/state-environmental-quality-review-act-regulatory-revisions>
- Governor Hockel's webpage about this and other "Let Them Build" changes

<https://www.governor.ny.gov/news/let-them-build-governor-hochul-unveils-landmark-reforms-cut-red-tape-and-build-more-housing>



Case Example

Proposed Development in RA Zoning District, Town of Oneonta, NY

- Eco Yotta, the applicant, wants to build a Data Center in an RA -40 Zoning District in town of Oneonta
- Data Centers are not allowed in the district
- Eco Yotta asks town board to rezone his property as a Planned Development District (commercial) so he can develop a commercial use in a strictly residential and agricultural zoning district



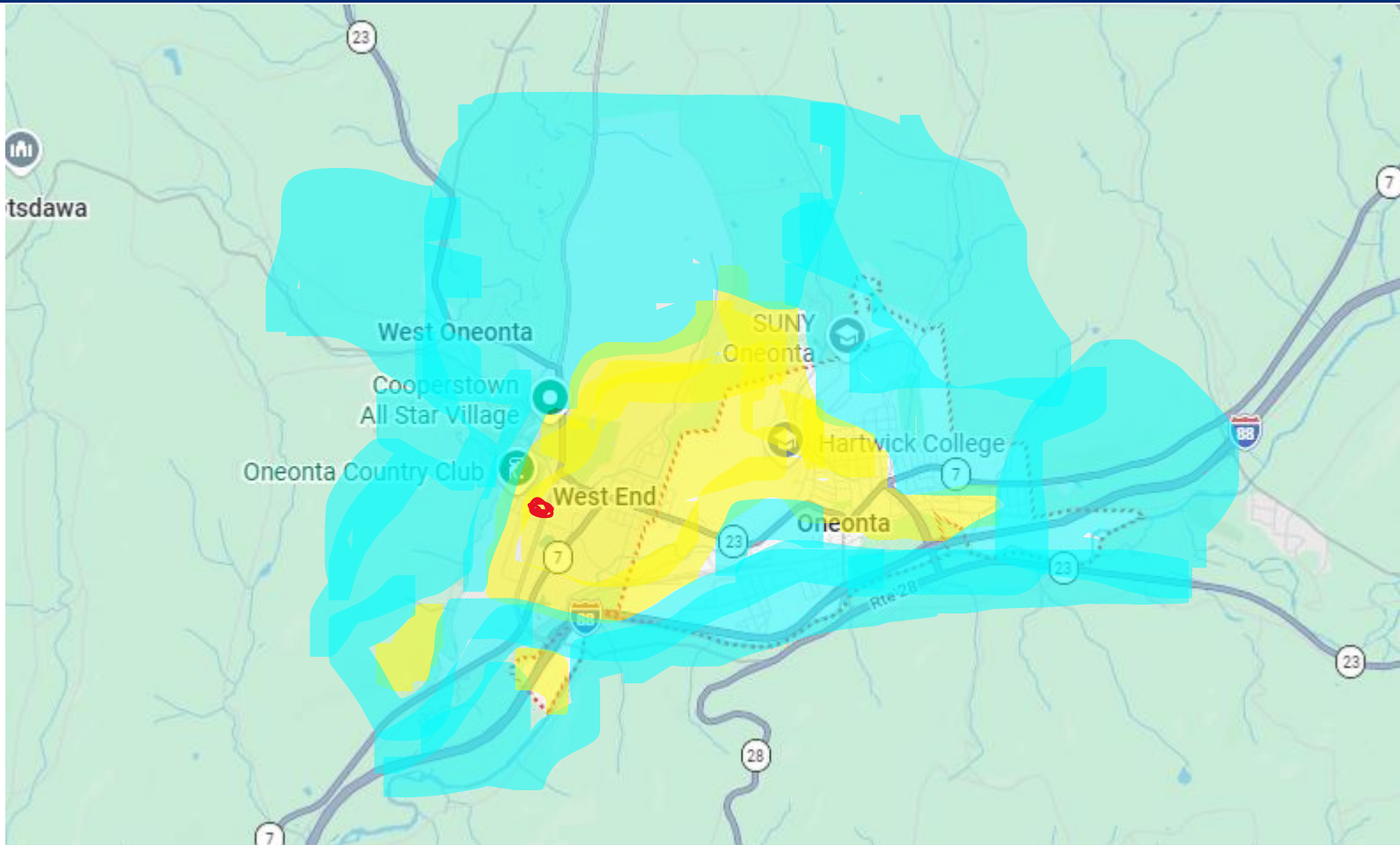
Oneonta



Town



City





ONEONTA CREEK
WATER LAKE & LOWER RESERVOIR
DRAINAGE BASIN

TOWN OF ONEONTA ZONING MAP

OTSEGO COUNTY NEW YORK

THIS IS A COPY OF THE OFFICIAL ZONING MAP OF THE TOWN OF ONEONTA, NEW YORK, ADOPTED AS PART OF THE TOWN OF ONEONTA ZONING ORDINANCE BY THE TOWN BOARD ON _____ AND EFFECTIVE _____, TOGETHER WITH AMENDMENTS ADOPTED THROUGH _____.

THE OFFICIAL COPY OF THE TOWN ZONING MAP IS ON FILE WITH THE TOWN CLERK, TOWN HALL, WEST CHURCHINA, NEW YORK.
OFFICIAL ZONING MAPS WILL BEAR THE SIGNATURES OF THE TOWN BOARD MEMBERS AND THE SEAL OF THE TOWN.

Date _____

Supervisor _____

Town Clerk _____

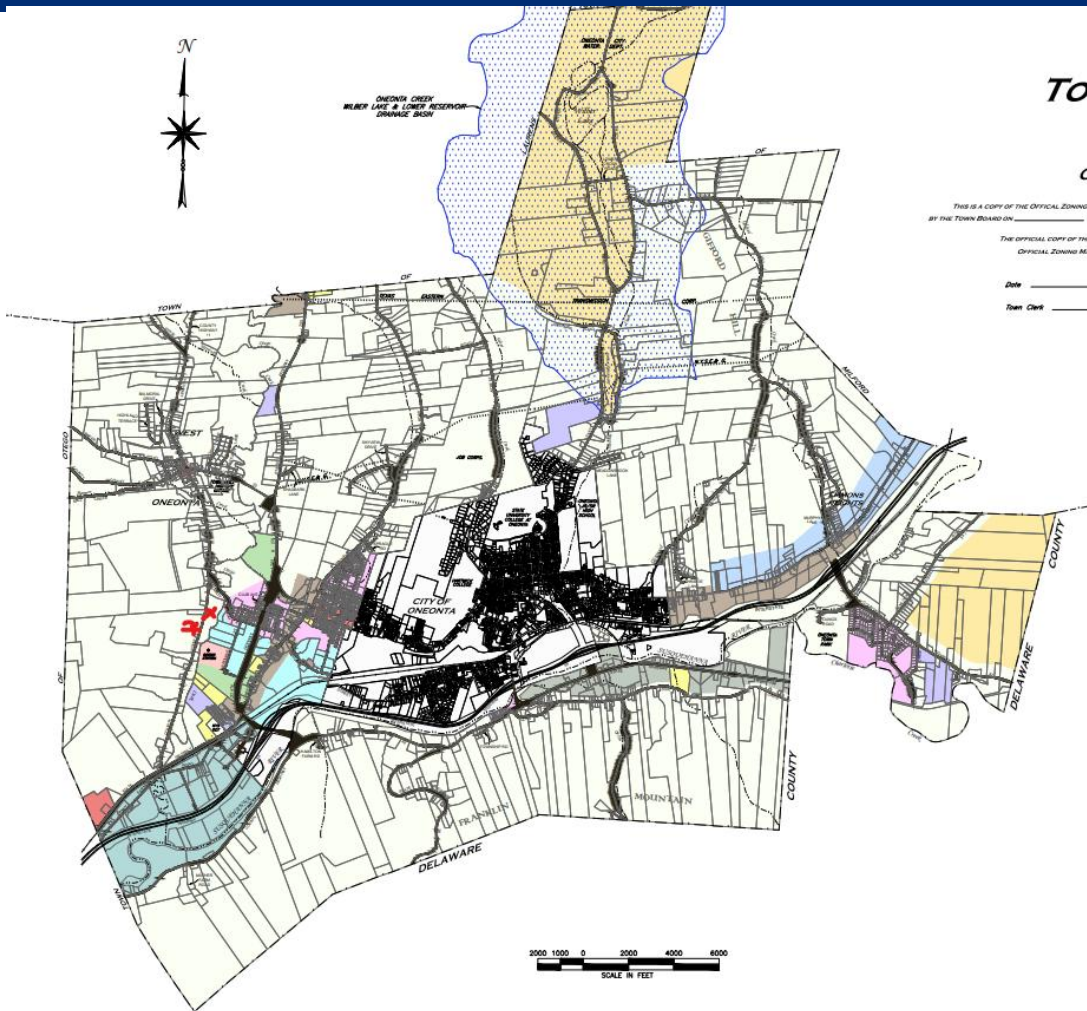
Council Member _____

Council Member _____

Council Member _____

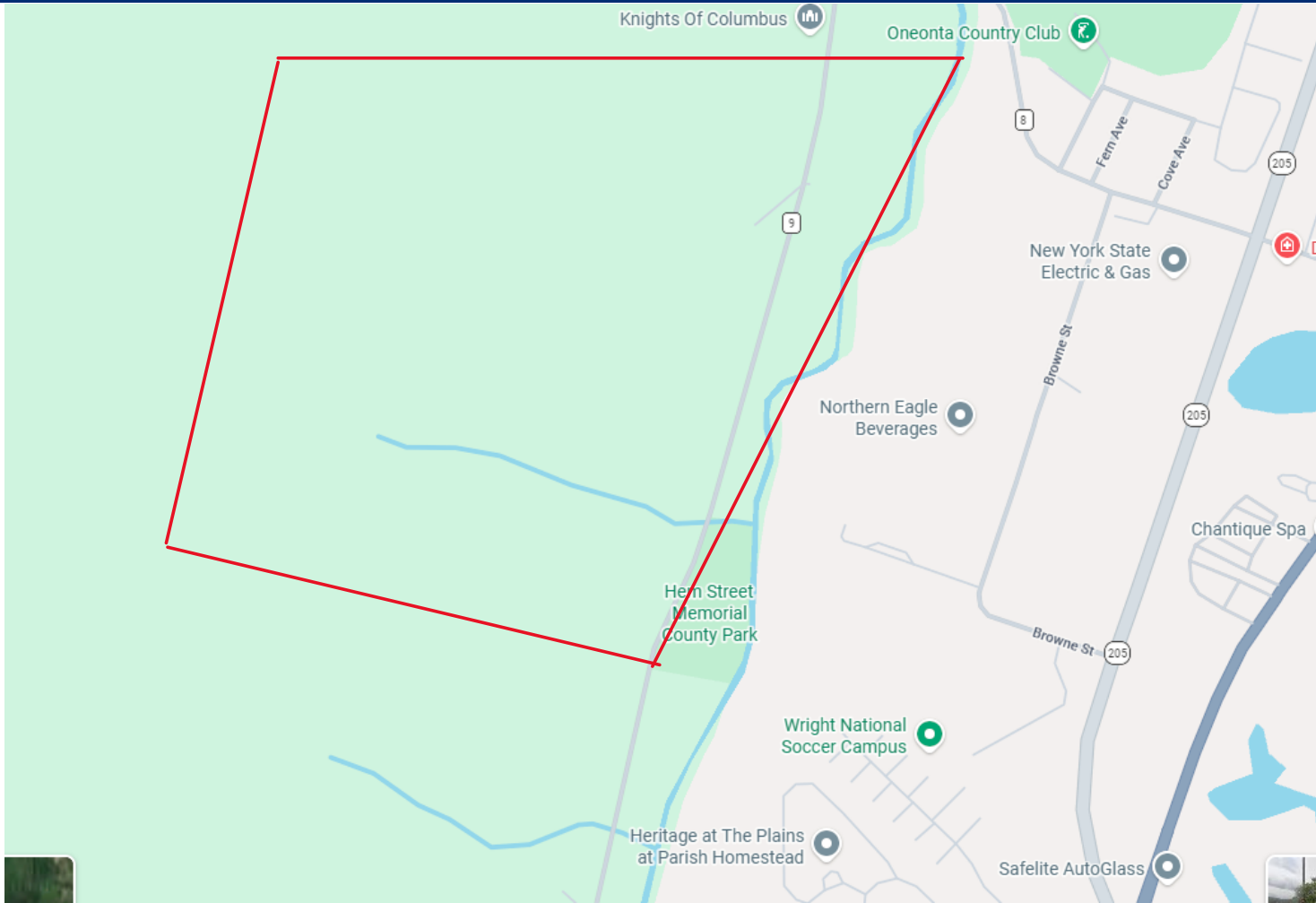
Council Member _____

Red dots
show
where
property is
located



SYMBOL	ZONING DISTRICT
[White box]	AM-40 RESIDENCE - AGRICULTURAL
[Yellow box]	R-80 RESIDENCE - AGRICULTURAL
[Light yellow box]	R-20 RESIDENTIAL
[Light blue box]	R-10 RESIDENTIAL
[Red box]	B-1 NEIGHBORHOOD BUSINESS
[Orange box]	B-2 GENERAL BUSINESS
[Light green box]	ID INDUSTRIAL
[Dark green box]	ID-2 INDUSTRIAL 2
[Light purple box]	HSD HIGHWAY DEVELOPMENT DIST.
[Yellow box]	MHD MOBILE HOME DISTRICT
[Light blue box]	PD0-R PLANNED DEV. DIST.-RESIDENTIAL
[Light purple box]	PD0-ID PLANNED DEV. DIST.-INDUSTRIAL
[Light green box]	PD0-R/B PLANNED DEV. DIST.-RESIDENTIAL/BUSINESS
[Light red box]	PD0-R/B/ID PLANNED DEV. DIST.-RESIDENTIAL/BUSINESS/INDUSTRIAL

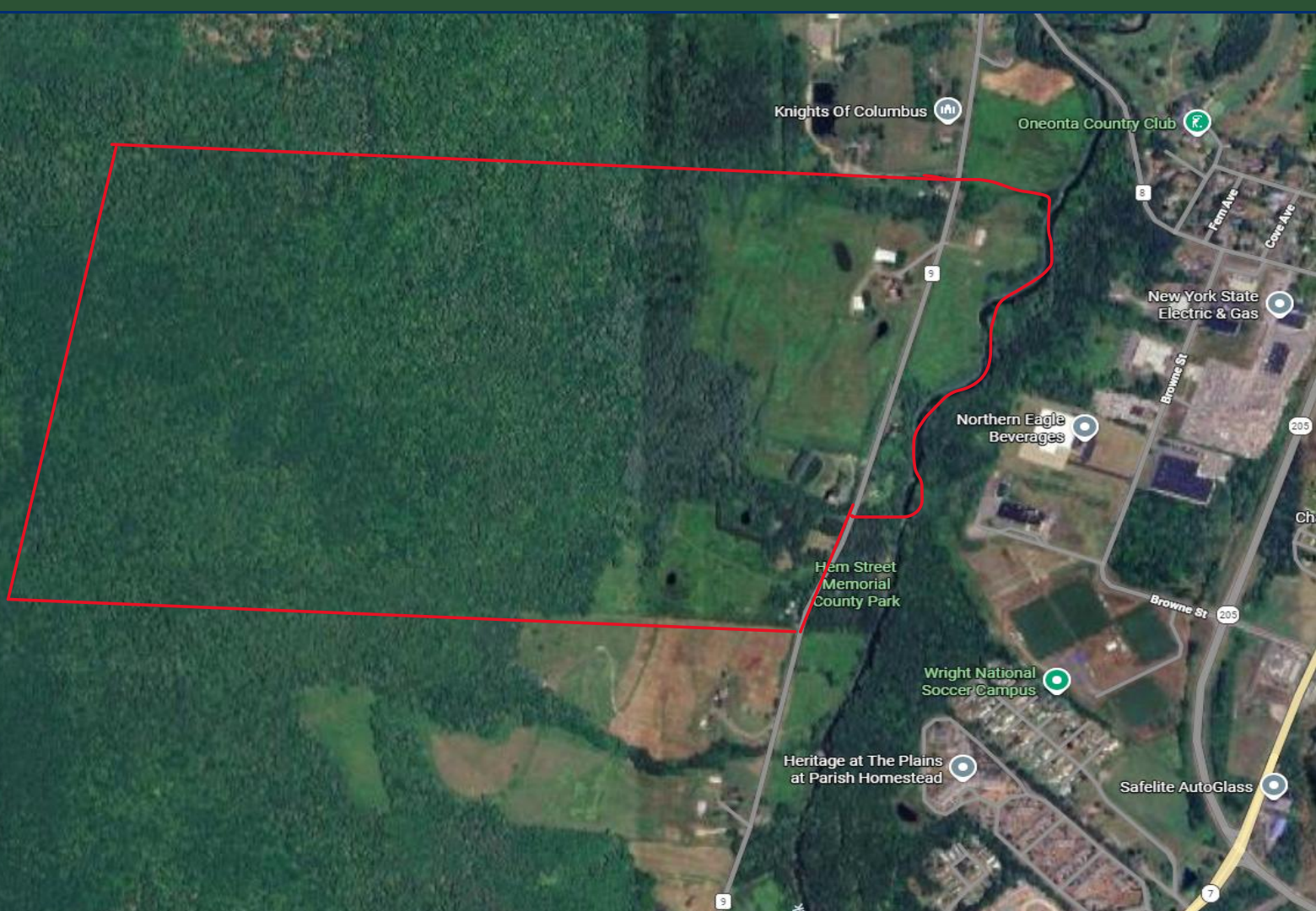
Proposed Location of Data Center



Proposed Action

- Eco Yotta wants to use two large barns on the property to house their data center.
- Despite the fact that the town has an industrial park with four vacant buildings on the site, Eco-Yotta doesn't want to locate their business there
- They bought the residential property they now own and want the town to rezone it to fit their needs.





Proposed Action

- It will use 3,000,000 KW of energy per year
- That is enough energy to power 278 homes
- This proposed use- a Datacenter- **is not allowed in any of the three PDD subtypes delineated in the town's zoning ordinance** (PDD-Residential, PDD Business and Commercial and PDD Industrial)
- Their attorney first claims the project is a home occupation; then later in his application letter he says it's an accessory use.
- Attorney is grabbing at straws to get project approved



Proposed Action

- Part I of the EAF is a sham with all types of errors and mistruths about the project
- Applicant seems to be segmenting the project as he talks about later expansion and needing additional infrastructure and electricity
- The owners' web page is very limited and has no information about a project they claim is up and running in NJ.
- In fact, the developers own **a day care center in NJ**; that's all they own in terms of a "business"





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Eco Yotta's Web Page



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Drop us a line!



Eco-Yotta representatives gave a two-hour presentation to the Oneonta Town Board on December 9. It included a floor plan of the barn, pictured, with the green representing space to be used for hydroponics. (Photo by Eric Santomauro-Stenzel)

Eco-Yotta Presents Business Plan to Oneonta Board, Criticizes Process

Community Resistance Grows More Organized Ahead of New Board Swearing-in

Proposed Action

- Review shows that a data center is NOT allowed in either of the three PDD Districts the town allows in its zoning ordinance
- **Town would have to amend zoning ordinance section on PDDs to allow this use**
- Following this, applicant would need to re-write their EAF and their application because it's not accurate or complete



Residents
Opposed
to the
project
speak at
the
Oneonta
town hall



Proposed Action

- Both review of the application and the completion of the SEQRA process need to happen concurrently, not separately
- Segmentation must be avoided. Eco-Yotta needs to explain and **include full build out on the site plan.**
- Perhaps equally important, should the town consider applications from individual who buy property who fail to investigate the allowed uses before they buy it?

Important Questions to Consider

- Should the town allow PDDs as a way to circumvent the existing zoning?
- What benefit does this provide to the town?
- PDDs are supposed to be for **uses that benefit the town as well as the applicant.**
- A use that takes enormous amounts of energy, may pollute the nearby creek, will take thousands of gallons of water daily to cool the computers, and be disruptive to the neighbors doesn't meet the criteria for which PDDs were created.



Update

- The applicants have now come back to the town board and claim they want to build **a hydroponic garden and will use the data servers to hear the plants!**
- This go around seems like a tall tale or at the least very disingenuous
- No one in the town believes the hydroponic garden is for real.
- They feel they are being undermined and lied to



Update

- Large scale commercial gardens, with data centers used to heat them, **are also not an allowed use in the RA -40 District or in the PDD**
- To date the project remains in limbo.
- The new town supervisor is not taking any action on their application as the use is not allowed in a PDD or RA-40 District.

SEQRA Resources on the DEC Website

General SEQRA Information <http://www.dec.ny.gov/permits/357.html>

Stepping Through SEQRA- Sequential Information on SEQRA

<http://www.dec.ny.gov/permits/6189.html>

SEQRA Handbook (Updated)

<http://www.dec.ny.gov/permits/6188.html>

SEQRA Forms - <http://www.dec.ny.gov/permits/6191.html>

Other SEQRA Publications

<http://www.dec.ny.gov/permits/26860.html>

Draft Model Short and Full Environmental Assessment Forms-

proposed <http://www.dec.ny.gov/permits/70393.html>



For More Information

NYS Department of Environmental Conservation, Division of Environmental Permits

625 Broadway, Albany, NY 12233

518-402-9167

<http://www.dec.ny.gov/permtis/357.html>

NYS Department of State Division of Local Gov't

One Commerce Plaza

99 Washington Ave

Suite 1015

Albany, NY 12231

518-473-3355

518-474-6740 (Legal)

<http://www.dos.state.ny.us/lgss/index.htm>



Department of
Environmental
Conservation

For More Information

NYS DEC, Region 7 Offices

5786 Widewaters Parkway, Syracuse, NY
13214-1867

315-426-7403 Public Outreach &
Education

315-426- 7438 Environmental Permits

<http://www.dec.ny.gov/about/615.html>

reg7info@gw.dec.state.ny.us



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