

APPENDIX A
Agency Correspondence

Paul Jackson

From: Rountree, Mark <Mark.Rountree@erie.gov>
Sent: Friday, July 13, 2012 2:53 PM
To: 'pjackson@tlassoc.com'
Subject: National Cemetery - Information about 4106 Walden Avenue, Lancaster
Attachments: National Wetlands 4106 Walden.pdf

Mr. Jackson,

In response to your letter dated June 12, 2012, regarding the proposed Western New York National Cemetery,

The current site with infrastructure was constructed to be an office/ industrial park in 2001/ 2002. At that time, the required SEQR environmental studies were undertaken. The SEQR should have most of the information needed to complete a full environmental review. To obtain a copy of this information, please contact the owner Uniland Development Corporation or the Town of Lancaster Planning Board

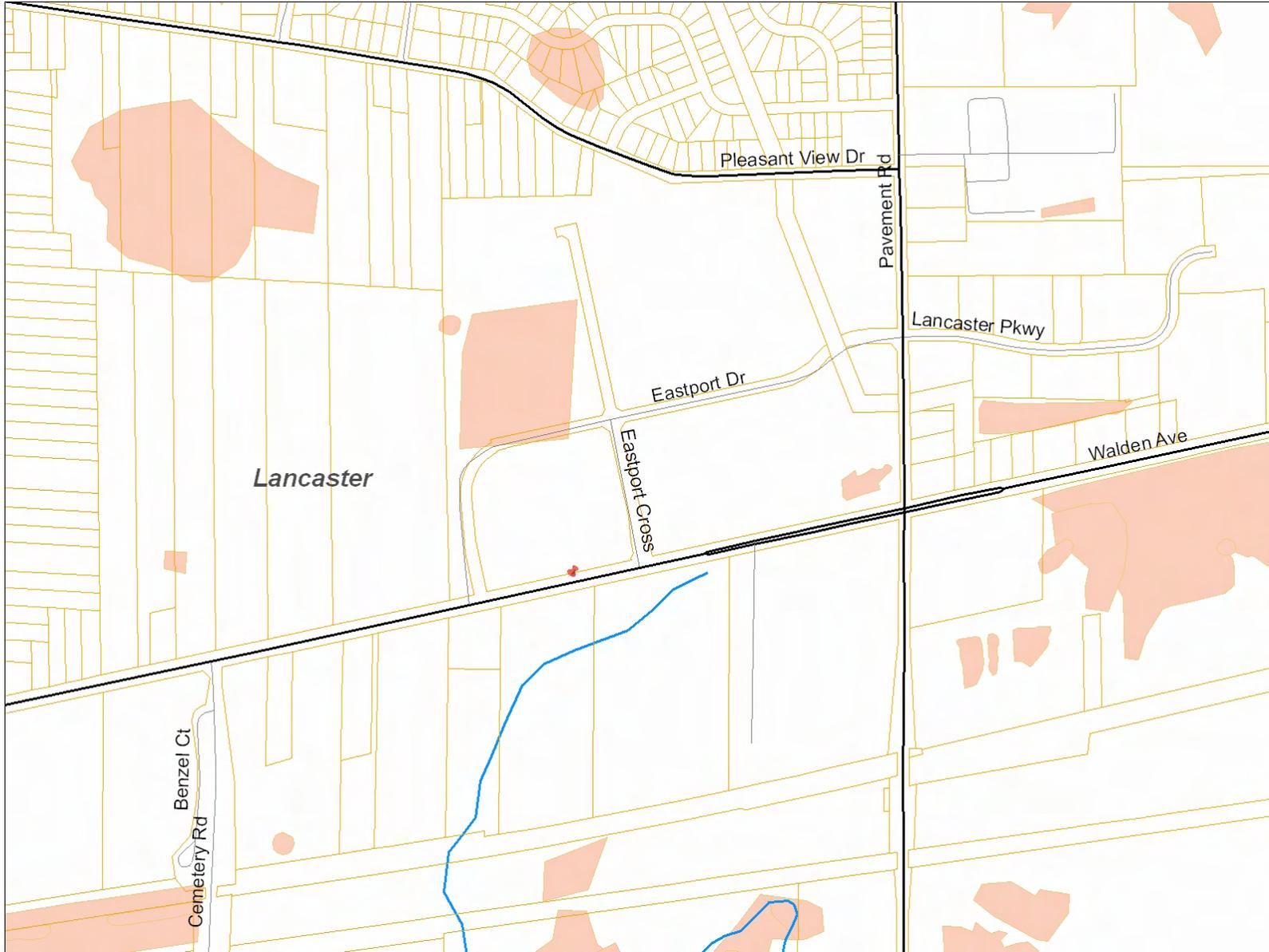
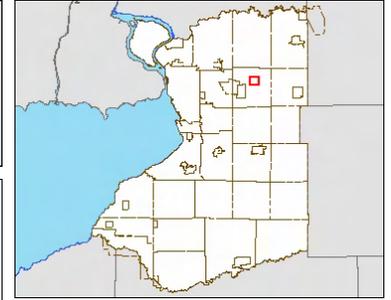
Information Requested with response in bold:

1. Potential environmental concerns or issues: **We are not aware of any environmental issues**
2. Surface and groundwater resources, including streams, wetlands, flood plains, open water features, wells and local aquifers: **There are no known DEC wetlands on site, there are suspected national wetlands on site (map attached)**
3. Federally or state listed threatened or endangered species, or any species proposed for such listing, or critical habitat for such species that may occur within one mile radius around the proposed site
4. Parks, nature preserves, conservation areas, designated wild or scenic rivers , migratory bird habitats or special wildlife issues:
5. Natural resources issues: **We are not aware of any natural resources issues**
6. Soils and geologic data, including hydric soils:
7. Prime and unique farmland (NRCS only)
8. Traffic, noise, or socio economic concerns: **Site is currently developed for as a office/ industrial site, current infrastructure is adequate to handle the traffic of a cemetery**
9. Air quality concerns: **No known air quality concerns**
10. Additional environmental, cultural, land use, or socioeconomic information or concerns your agency may have with regard to the referenced sites:

Mark Rountree | Planner
Erie County | Environment & Planning
95 Franklin St., Room 1056 | Buffalo, NY 14202
P:(716) 858-8008 | F:(716) 858-7248
Mark.Rountree@erie.gov



National Wetlands Inventory



Legend

Streets and Highways

- Interstate
- Primary State Road
- Secondary State Road
- County Road
- Local Road

Parcels

-

Streams

-

National Wetlands Inventory

- Wetlands
- No Digital Data

1: 10,576



Notes

4106 Walden Avenue, Lancaster

0.3 0 0.17 0.3 Miles

Erie County and its officials and employees assume no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information provided. Tax parcel data was prepared for tax purposes only and is not to be reproduced or used for surveying or conveying.

ERIE COUNTY, NEW YORK
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GEOGRAPHIC INFORMATION SERVICES

Paul Jackson

From: foltramari@co.genesees.ny.us
Sent: Friday, July 13, 2012 2:28 PM
To: pjackson@tlassoc.com
Cc: mhancock@co.genesees.ny.us; jgsell@co.genesees.ny.us; cpratt@co.genesees.ny.us; ALawrence@co.genesees.ny.us; hkreter@co.genesees.ny.us; WJoyce@co.genesees.ny.us; gmaha@co.genesees.ny.us; tyaeger@co.genesees.ny.us; thens@co.genesees.ny.us; mmasse@gcedc.com; George.Squires@ny.nacdnet.net; jbabinski@co.genesees.ny.us
Subject: Genesee County Sites for Proposed Western New York National Cemetery
Attachments: Genesee County Sites for Proposed Western New York National Cemetery.pdf

Mr. Jackson,

Per your request, please find attached our comments on the Genesee County sites for the proposed Western New York National Cemetery.

Felipe A. Oltramari - Senior Planner
Genesee County Department of Planning
3837 West Main Street Road
Batavia, NY 14020-9404
foltramari@co.genesees.ny.us
(585) 344-2580 x5470
(585) 345-3062 (fax)
On the web at: www.co.genesees.ny.us/departments/planning

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GENESEE COUNTY DEPARTMENT OF PLANNING

Felipe A. Oltramari – Senior Planner
Jill M. Babinski – Senior Planner
Holly M. McAllister – Secretary
Melvin J. Wentland – Planning Board Chairperson

Memo

To: Paul J. Jackson, Environmental Scientist

From: Felipe A. Oltramari, Senior Planner

Date: July 13, 2012

Re: Genesee County Sites for Proposed Western New York National Cemetery

The Genesee County Department of Planning has received your correspondence regarding Intergovernmental and Interagency Coordination of Environmental Planning for the U.S. Department of Veterans Affairs Proposed Western New York National Cemetery Erie or Genesee County, New York. Two sites have been proposed within Genesee County, 1232 Indian Falls Road, Corfu, NY Site 1 and Main Road, Corfu, NY Site 2.

As you are aware, both proposed sites are situated within proximity to the proposed Western New York Science and Technology Advanced Manufacturing Park, referred to as WNY STAMP. This site is slated to have approximately 10,000 on-site employees, thus changing many aspects of the area, including having an impact on the amount of traffic. Should you require further information on this proposed project, please contact our office, as we have much documentation or please visit www.gcedc.com/index.php/sites/wny-stamp.

Agriculture is Genesee County's No. 1 industry. As a result, when analyzing proposals, the Department of Planning looks closely at the effects that a proposed project will have on agriculture and its viability. Neither site is enrolled in a NYS Certified Agricultural District. However, Site 1 has prime farmland with fields in agricultural production. Site 2 is not being farmed and would have minimal, if any impacts on agriculture. Both sites have some wet soils including NYS DEC regulated wetlands, but Site 2 has an overall higher water table. For further information on the agricultural operations and soils at the two sites, please contact the Genesee County Soil and Water Conservation District Office District Manager, George Squires, at (585) 343-2362 or via email at george.squires@ny.nacdnet.net.

It should also be noted that neither location is located in a Smart Growth Development Area as designated by the Genesee County Smart Growth Development Plan. The Genesee County Smart Growth Plan seeks to ensure that the extension of water lines does not have a direct impact on growth within Genesee County. The Development Areas were created so that development could be directed to areas that already have infrastructure constructed to support growth. Site 1 is part of a proposed water district (Town of

Pembroke Water District No. 4) that would extend public water service north from where it ends at 8331 Alleghany Rd. (NYS Rt. 77), just north of the NYS Thruway, and then east on Indian Falls Rd. Site 2 is already serviced by public water at Main Rd. (NYS Rt. 5).

Please note that, per your request, the Department of Planning forwarded a copy of your letter to additional agencies or organizations that may have data or concerns relevant to this project or sites. We did not receive any comments or further information from these agencies. The Genesee County Planning Board discussed your letter at their July 12, 2012 meeting and the members expressed their interest in having the cemetery in Genesee County. The sites in Genesee County would have great access to the NYS Thruway and would be more centrally located between the Rochester and Buffalo metropolitan areas than the Lancaster site. The Board did not show a preference for either site within Genesee County, as that determination would be better made by the Town of Pembroke with the input of the adjacent land owners.

Please do not hesitate to contact our office with any further requests for information.

cc: Mary Pat Hancock, Annie Lawrence, Carolyn Pratt, Jay Gsell, Gary Maha, Tim Yaeger, Tim Hens, Hal Kreter, William Joyce, Mark Masse, Edwin Mileham, George Squires

Paul Jackson

From: jbabinski@co.geneseee.ny.us
Sent: Monday, June 25, 2012 2:05 PM
To: Paul Jackson
Subject: RE: Genesee County

Hi Paul,

Our data does not differ from the sources you have named. For now, I won't send you any GIS files, but should you decide you need something in the future, please do not hesitate to contact me.

Enjoy the day!

-Jill

Jill M. Babinski - Senior Planner
Genesee County Department of Planning
3837 West Main Street Road
Batavia, New York 14020-9404
jbabinski@co.geneseee.ny.us
(585) 344-2580 x5471
(585) 345-3062 Fax

-----"Paul Jackson" <pjacksonttl@charter.net> wrote: -----

To: <jbabinski@co.geneseee.ny.us>
From: "Paul Jackson" <pjacksonttl@charter.net>
Date: 06/25/2012 10:52AM
Subject: RE: Genesee County

Thanks, Jill.

The following GIS files will be pertinent to the completion of our NEPA Environmental Assessment:

2011 Tax Parcels (released yearly in July)

Address Points

NYSDEC Freshwater Wetlands

Federal Wetlands (only if the information differs from USFWS information)

Soils (including Prime and Strategic Farmland) (only if the information differs from USDA NRCS information).

Audubon Important Bird Areas

FEMA Floodplains (only if the information differs from FEMA information from other available sources).

Watersheds and Hydrology

Well Head Sites and Protection Areas

Public Parks and Recreation Areas

Schools, Churches and other Public Facilities

Roads and Highways

Contour/Elevation Lines (5 and 10 meter USGS)

NYS Agricultural Districts

School Districts

Local Zoning

1990, 2000 and 2010 Census Tracts, Block Groups and Blocks (only if the information differs from US Census Bureau information).

Electric, Gas and Brine Transmission Lines and Pipelines

Electric and Gas Franchise Zones
National Register Historic Sites & Districts (only if the information differs from NY SHPO and NHRP information).
Local Historic Sites and Districts
Culturally Significant Areas
Aerial Photography
Primary and Secondary Aquifers
Smart Growth Development Areas
Water and Sewer lines

Thank you,

Paul Jackson

TTL Associates, Inc.

44265 Plymouth Oaks Boulevard

Plymouth, Michigan 48170

Phone: 734-455-8600 x 1262

Fax: 734-455-8608

From: jbabinski@co.geneseee.ny.us [mailto:jbabinski@co.geneseee.ny.us]
Sent: Monday, June 25, 2012 10:44 AM
To: Paul Jackson
Subject: RE: Genesee County

Paul,

They are not. If you see files that you would like, let me know and I can export them to you.

Thanks,

Jill M. Babinski - Senior Planner
Genesee County Department of Planning
3837 West Main Street Road
Batavia, New York 14020-9404
jbabinski@co.geneseee.ny.us
(585) 344-2580 x5471
(585) 345-3062 Fax

-----"Paul Jackson" <pjacksonttl@charter.net> wrote: -----

To: <jbabinski@co.geneseee.ny.us>
From: "Paul Jackson" <pjacksonttl@charter.net>
Date: 06/25/2012 10:31AM
Subject: RE: Genesee County

Jill:

Thanks for the information. If all of these files are available online, then I will retrieve them.

Are any of the listed GIS files not available through your website?

Thanks again,

Paul Jackson

TTL Associates, Inc.

44265 Plymouth Oaks Boulevard

Plymouth, Michigan 48170

Phone: 734-455-8600 x 1262

Fax: 734-455-8608

From: jbabinski@co.genesee.ny.us [mailto:jbabinski@co.genesee.ny.us]

Sent: Monday, June 25, 2012 10:09 AM

To: pjackson@tlassoc.com

Subject: Genesee County

Paul,

The Genesee County Planning Department has received your correspondence regarding Intergovernmental and Interagency Coordination of Environmental Planning for teh US Department of Veterans Affairs Proposed Western New York National Cemetery Erie or Genesee County, New York. We have numerous GIS files and are wondering if you would like these. The list is below--

2011 Tax Parcels (released yearly in July)

Address Points

NYSDEC Freshwater Wetlands

Federal Wetlands

Soils (including Prime and Strategic Farmland)

Audubon Important Bird Areas

FEMA Floodplains

Watersheds and Hydrology

Well Head Sites and Protection Areas

Public Parks and Recreation Areas

Schools, Churches and other Public Facilities

Roads and Highways

Contour/Elevation Lines (5 and 10 meter USGS)

Railroads, Active and Abandoned

Municipal Boundaries

NYS Agricultural Districts

Fire Stations and Districts
School Districts
Local Zoning
Telecommunication Towers
1990, 2000 and 2010 Census Tracts, Block Groups and Blocks
Electric, Gas and Brine Transmission Lines and Pipelines
Electric and Gas Franchise Zones
Fire Hydrants (outside of the City of Batavia)
National Register Historic Sites & Districts
Local Historic Sites and Districts
Culturally Significant Areas
Aerial Photography
Primary and Secondary Aquifers
Election Districts and Polling Places
Zip Code Boundaries
Legislative Districts
Smart Growth Development Areas
Water and Sewer lines

Please let me know if you would like any of these files.

-Jill

Jill M. Babinski - Senior Planner
Genesee County Department of Planning
3837 West Main Street Road
Batavia, New York 14020-9404
jbabinski@co.genesee.ny.us
(585) 344-2580 x5471
(585) 345-3062 Fax

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Paul Jackson

From: thens@co.genesee.ny.us
Sent: Wednesday, July 11, 2012 5:05 PM
To: pjackson@tlassoc.com
Subject: Proposed WNY National Cemetery

Mr Jackson--

This department has no issue with any of the sites shown on your coordination letter dated 6/12/12. I would like to advise you that Indian Falls Rd is County Rd and any new utilities or access roads or driveways will require a County Highway Right-of-Way Work Permit which can be obtained from this office.

Let me know if I can be any further assistance.

Timothy J. Hens, P.E.
Superintendent
Genesee County Highway Department
153 Cedar Street
Batavia, NY 14020
(585) 344-8508
FAX (585) 343-9303

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Paul Jackson

From: Lynn Sacha, Lancaster NY <lynn.sacha@lancasterny.com>
Sent: Friday, June 22, 2012 12:21 PM
To: pjackson@tlassoc.com
Subject: Proposed Western New Yoork National Cemetery
Attachments: Fudoli to TTL Associates Ltr_6 22 12.pdf

Mr. Jackson,

The Lancaster Industrial Development Agency (LIDA) is in receipt of your correspondence dated June 12, 2012. Please see the attached letter of response from Dino J. Fudoli, who is both the Chairman of the LIDA and the Supervisor of the Town of Lancaster. This letter will also be sent via US mail to your attention.

Thank you.

Lynn M. Sacha
Secretary to the Supervisor
Town of Lancaster
21 Central Avenue
Lancaster, NY 14086
(716) 683-1610

TOWN OF LANCASTER
INDUSTRIAL DEVELOPMENT AGENCY
21 Central Avenue
Lancaster, NY 14086
(716) 683-1610

web: www.lancasterny.com
e-mail: lookatus@lancasterny.com

June 22, 2012

TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, MI 48170
Attn: Paul J. Jackson, Environmental Scientist

Re: Proposed Western New York National Cemetery

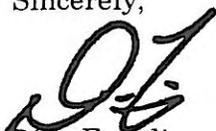
Dear Mr. Jackson:

We are in receipt of your letter dated June 12, 2012 regarding the proposed National Cemetery for the U.S. Department of Veterans Affairs.

The proposed site identified at 4106 Walden Avenue, Lancaster, New York (Site 3) is under the ownership of the Lancaster Industrial Development Agency. This site is a prime location within the Town of Lancaster for future development of an industrial or manufacturing business park and is currently named the Eastport Commerce Center. The Lancaster Industrial Development Agency has leased the site to TTC North, Inc. (Uniland Development Company). Uniland Development Company has made substantial capital investment at the site, including the installation of roadway infrastructure, curbing, and utility infrastructure in anticipation of future development.

We respectfully request that this site be withdrawn from further consideration by the U.S. Department of Veterans Affairs.

Sincerely,



Dino Fudoli
Chairman, Lancaster Industrial Development Agency

Cc: Honorable Charles Schumer, United States Senate
Nick Dhimitri, WNY Regional Director, United States Senate
Honorable Terrence McCracken, Erie County Legislature
Gary Rothfeld, Department of Veterans Affairs
Lancaster Industrial Development Agency Board
Richard Grimm, III, Esq., Counsel to LIDA
Town of Lancaster Board
Stanley Keysa, Chairman, Town of Lancaster Planning Board

Michalak & Dobson

Attorneys at Law

Arthur F. Dobson, Jr.
adobson@manddlegal.com

Sheridan Meadows Corporate Park
6225 Sheridan Drive Suite 100
Williamsville, New York 14221
Tel: 716.633.1500 Fax: 716.633.4806
www.michalak-dobson.com

July 17, 2012

TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, MI 48170
Attn: Paul J. Jackson, Environmental Scientist

Re: Site 3
4106 Walden Avenue, Lancaster, New York
Our File No.: 7193

Dear Mr. Jackson:

Please be advised that I am outside counsel to the Uniland Development Company ("Uniland") and its associated entities.

In light of a June 22, 2012 letter sent to you by Dino Fudoli, chairman, Lancaster Development Agency, I have been asked to advise you of the Town of Lancaster Industrial Development Agency's ("LIDA") role with regard to Site 3.

Uniland is the equitable owner of Site 3 by virtue of a lease with the LIDA. Uniland originally acquired the various parcels which now form Site 3. Site 3 was subsequently placed into the LIDA and then leased back by the LIDA to Uniland to facilitate various economic development benefits to Uniland, however the LIDA has no equitable interest, nor does it have any development rights in Site 3. Uniland has the absolute right at any time to terminate the lease with the LIDA and have Site 3 placed back in its name with notice to the LIDA and payment of \$1.00.

Uniland is the only entity which has the development rights to Site 3 and the LIDA has no right to request Site 3 be withdrawn from consideration by the U.S. Department of Veterans Affairs. Uniland is very much interested in Site 3 remaining under consideration by the U.S. Department of Veterans Affairs and should a contract be entered into by the parties, would be ready, willing and able to terminate its lease with the LIDA at any time in order to deliver Site 3 to the U. S. Department of Veterans Affairs in fee simple.

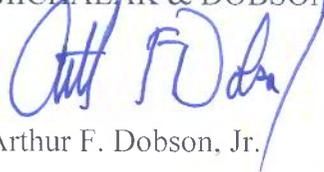
I trust this clarifies the legal position of Site 3 and Uniland's claim to title thereon. Should you have any questions or desire to see the documents upon which this opinion is based, please feel free to contact me.

Michalak & Dobson

Paul J. Jackson, Environmental Scientist
July 17, 2012
Page 2

Very truly yours,

MICHALAK & DOBSON



Arthur F. Dobson, Jr.

AFD/js
cc. Dino Fudoli
Michael J. Montante

Paul Jackson

From: Vaidya, Sanjyot (DOT) <Sanjyot.Vaidya@dot.ny.gov>
Sent: Thursday, July 19, 2012 2:13 PM
To: pjackson@tlassoc.com
Cc: Mozrall, Craig (DOT)
Subject: Proposed WNY National Cemetery Erie County.
Attachments: Walden Cemetery Site ECC.doc

Dear Mr. Jackson,

This is in reponse to your letter dated June 12, 2012 seeking information from The NY State Department of Transportation about environmental issues pertaining to the sites being considered for the proposed Western New York National Cemetery.

Of the three sites mentioned in your request, the attached comments are in reference only to the 4106 Walden Avenue, Lancaster, Erie County, NY (Site 3)

The other two sites which are in Genesee county have been forwarded to appropriate personal in NYSDOT and you will or may have received comments from them directly pertaining to those sites.

If you have any further questions please contact me via e-mail or at 716-847-3223

Thank you,

Sanjyot Vaidya

Assistant Regional Design Engineer

Region 5

ENVIRONMENTAL COMPLIANCE CHECKLIST
(VA Review of Potential Environmental issues, Walden Avenue Site)

Issue		Exist	Remarks	
4.1. Introduction				
4.1.1. Environmental Classification and Lead Agencies	Y	NEPA:	Class	
	Y	SEQR:	Type	
4.1.2. Cooperating, Participating, and Involved Agencies	N	Cooperating:		
		Participating:		
		Involved:		
4.2. Social				
4.2.1. Land Use	N	No impacts are anticipated.		
4.2.2. Neighborhoods and Community Cohesion				
4.2.3. General Social Groups Benefited or Harmed				
4.2.4 School Districts, Recreational Areas, Churches or Businesses				
4.3 Economic				
4.3.1 Regional and Local Economies	N	No impacts are anticipated.		
4.3.2 Business Districts				
4.3.3 Highway Related Businesses				
4.4 Environment				
4.4.1. Wetlands	?	State:	State/federal wetlands are located in close proximity to the project limits. Further investigation is necessary.	
	?	Federal:		
4.4.2. Surface Waterbodies and Watercourses	N	No streams are located within the project limits. Therefore, no impacts to waterbodies are anticipated.		
4.4.3. Wild, Scenic, and Recreational Rivers	N	There are no Wild, Scenic or Recreational Rivers within the project limits.		
4.4.4. Navigable Waters	N	No US Coast Guard navigable waters are located in the project limits.		
4.4.5. Floodplains	N	No flood plains in project area.		
4.4.6. Coastal Resources	N	CZM	The project is not located in an area subject to Coastal Zone Management regulations.	
		LWRP	The project is not located in a municipality with an approved LWRP.	
		Coastal Hazard Area	The project is not located within a Coastal Hazard Area.	
		Niagara River Greenway Plan	The project is not located in a municipality subject to review under the Niagara Greenway Plan.	
4.4.7. Aquifers, Wells, and Reservoirs	N	The project is not located over an aquifer but is near an unconsolidated aquifer in north east corner. The project is not located over and/or in close proximity to any wells or reservoirs. No impacts are anticipated.		
4.4.8. Stormwater Management	?	Project will disturb more than an acre of land a SPEDES permit will likely be needed. Further investigation is necessary.		
4.4.9. General Ecology and Wildlife Resources	N	T&E Species	There are no State or Federal listed threatened or endangered species in the project area.	
	?	Invasive Species	An evaluation for the presence of invasive species will be necessary. Further investigation is necessary.	
4.4.10. Critical Environmental Areas	N	The project is not located in or near a Critical Environmental Area as defined by the NYSDEC.		
4.4.11. Historic and Cultural Resources	N	There should not be any historic and cultural resources concerns, but project must be coordinated with SHPO		

**VA Review of Potential Environmental issues, Walden Avenue Site
ENVIRONMENTAL COMPLIANCE CHECKLIST (CON'T.)**

4.4.12. Parks and Recreational Resources	N	Section 4 (f):	No impacts are anticipated due to the limited scope of the project. No right-of-way will be acquired; no change in use anticipated.
		Section 6 (f):	
		Section 1010:	
4.4.13. Visual Resources	N	No impacts are anticipated due to the limited scope of the project.	
4.4.14. Farmlands	?	State:	The project is located in an Agricultural District. Land is considered prime farmland and a small portion is considered Farmland of Statewide Importance. Further investigation is necessary.
		Federal:	Farmlands will be converted by project activities. Further investigation is necessary.
4.4.15. Air Quality	N	Mesoscale:	The project is not transportation related, and is therefore not subject to conformity regulations.
		Microscale:	A microscale air quality analysis is not required.
4.4.16. Energy	N	No impacts are anticipated due to the limited scope of the project.	
4.4.17. Noise	N	Project will most likely not cause any noise concerns post construction.	
4.4.18. Asbestos	N	Asbestos is not anticipated to be encountered due to the nature of work.	
4.4.19. Contaminated and Hazardous Materials	N	There were 6 spills on road near project area. All have been closed for at least 8 years. No impacts are anticipated.	
4.4.20. Construction	Y	Construction related impacts will be minimized through the use of Best Management Practices	
4.5 Environmental Construction Effects	N	No impacts are anticipated due to the limited scope of the project.	
4.6 Environmental Indirect (Secondary) Effects			
4.7 Environmental Cumulative Effects			
4.8 Relationship Between Short Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity			
4.9 Irreversible and Irretrievable Commitments of Resources Involved With the Proposed Action			
4.10 Adverse Environmental Impacts That Cannot be Avoided or Adequately Mitigated			

Y - Involvement Anticipated

N - No Involvement Anticipated

? - Further Investigation Required

Paul Jackson

From: Vaidya, Sanjyot (DOT) <Sanjyot.Vaidya@dot.ny.gov>
Sent: Thursday, August 02, 2012 9:52 AM
To: Paul Jackson
Subject: RE: Proposed WNY National Cemetery Erie County.
Attachments: ei09002.pdf; EB 04-041.pdf; ei09001.pdf

Dear Mr. Jackson,

A few good resources for information on IS are,

- The New York State Department of Environmental Conservation (NYSDEC)
- The WNY Partnership for Regional Invasive Species Management (PRISM), <http://www.dec.ny.gov/animals/47433.html>
- FHWA http://www.environment.fhwa.dot.gov/ecosystems/vegmgmt_row.asp
- NYSDOT's Environmental Procedure Manual (EPM) Chapter 4.8 <https://www.dot.ny.gov/divisions/engineering/environmental-analysis/manuals-and-guidance/epm/repository/4-8invas.pdf>

As you may be aware, Presidential Executive Order 13112 and NYS Environmental Conservation Law Article 9, Title 17 requires preventing the introduction and spread of Invasive Species (IS), as well as provide for their control, where practicable. In other words Under this EO, Federal Agencies cannot authorize, fund or carry out actions that it believes are likely to cause or promote the introduction or spread of IS in the US or elsewhere unless all reasonable measures to minimize risk of harm have been analyzed and considered.

Currently the NYSDOT has identified four targeted IS that we have been directed to try and control the spread of here in New York. They are Phragmites (*Phragmites australis*), Japanese Knotweed (*Polygonum cuspidatum*), Giant Hogweed (*Hercacleum mantegazzianum*), and Purple Loosestrife (*Lythrum salicaria*).

In your E-mail you noted that approximately 90% of the proposed property is covered with invasive and aggressive plant species. At this stage of your investigation, I would recommend that you investigate and determine if any of the targeted NY species are present on the property. If they are present, Best Management Practices (BMP) would need to be used to avoid the spread and or proper disposal methods be used during the development of the property. These practices would need be outlined in your study document. I have attached NYSDOT Engineering Bulletin and Engineering Instruction on how NYSDOT has been handling IS during our maintenance and transportation projects with federal funding.

If you would like more information on how NYSDOT handles these IS please feel free to contact Sylvia Jones, Regional Environmental Contact, Environmental/Landscape Architecture Unit at (716)847-5268

Thanks
Sanjyot Vaidya

From: Paul Jackson [mailto:pjacksonttl@charter.net]
Sent: Monday, July 30, 2012 3:55 PM
To: Vaidya, Sanjyot (DOT)
Subject: RE: Proposed WNY National Cemetery Erie County.

Mr. Vaidya:

Thank you for all of the useful information. Under Section 4.4.9 – General Ecology and Wildlife Resources, you stated that an evaluation for the presence of invasive species will be necessary and further investigation is necessary. Can you direct me to additional resources that may explain what would be required to address invasive species? Other than replanting with natives species and controlling invasive species during development, this is new to me. At this point, I can tell you that the 4106 Walden Avenue Site is covered (approximately 90%) by invasive and aggressive plant species. This site was cleared of trees and graded approximately 10 years of ago, and then left essentially idle since then.

Thanks,
Paul Jackson
TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, Michigan 48170
Phone: 734-455-8600 x 1262
Fax: 734-455-8608

From: Vaidya, Sanjyot (DOT) [mailto:Sanjyot.Vaidya@dot.ny.gov]
Sent: Thursday, July 19, 2012 2:13 PM
To: pjackson@tlassoc.com
Cc: Mozrall, Craig (DOT)
Subject: Proposed WNY National Cemetery Erie County.

Dear Mr. Jackson,

This is in repose to your letter dated June 12, 2012 seeking information from The NY State Department of Transportation about environmental issues pertaining to the sites being considered for the proposed Western New York National Cemetery.

Of the three sites mentioned in your request, the attached comments are in reference only to the 4106 Walden Avenue, Lancaster, Erie County, NY (Site 3)

The other two sites which are in Genesee county have been forwarded to appropriate personal in NYSDOT and you will or may have received comments from them directly pertaining to those sites.

If you have any further questions please contact me via e-mail or at 716-847-3223

Thank you,

Sanjyot Vaidya
Assistant Regional Design Engineer
Region 5

To:		<p style="text-align: center;">New York State Department of Transportation ENGINEERING BULLETIN</p>	<p style="text-align: center;">EB 04-041</p>
Title: ENVIRONMENTAL PROCEDURES MANUAL CHAPTER 4.8 "INVASIVE SPECIES"			
Distribution: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Manufacturers (18) <input checked="" type="checkbox"/> Local Govt. (31) <input checked="" type="checkbox"/> Agencies (32) <input checked="" type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Consultants (34) <input checked="" type="checkbox"/> Contractors (39) <input type="checkbox"/> _____() 		Approved: <p style="text-align: right;">/s/ <u>Mary E. Ivey</u> <u>9/13/04</u></p> <p style="text-align: center;">Mary E. Ivey, Director Environmental Analysis Bureau Date</p>	

ADMINISTRATIVE INFORMATION:

- **Effective Date:** This Engineering Bulletin (EB) is effective beginning with projects submitted for the letting of 1/13/05. As the announced guidance is generally current practice, Regions are encouraged to follow the guidance upon receipt of this EB.
- **Superseded Issuances:** This EB does not supersede any Engineering Instructions.

PURPOSE: This EB announces the availability of Environmental Procedures Manual (EPM) Chapter 4.8 "Invasive Species".

TECHNICAL INFORMATION: Designer Information: For all projects and activities, designers and maintenance managers shall inventory, consider impacts of, and incorporate appropriate management techniques for priority invasive plant and animal species.

TRANSMITTED MATERIALS: There are no materials transmitted with this EB. EPM Chapter 4.8 is available at <http://www.dot.state.ny.us/eab/epm.html>.

DISTRIBUTION: All EPM guidance and associated attachments are available electronically at <http://www.dot.state.ny.us/eab/epm.html>. Paper copies of the EPM are not distributed.

CONTACT: Questions concerning the format, content and use of Chapter 4.8 of the EPM should be directed to Kyle Williams in the Operations Section of the Environmental Analysis Bureau at 518/457-5566, kwilliams@dot.state.ny.us. Project-specific questions regarding the application of this guidance should be directed to the appropriate Regional Environmental staff.

To:		New York State Department of Transportation ENGINEERING INSTRUCTION	EI 09-001
Title: DESIGN GUIDANCE FOR REMOVAL OF INVASIVE PLANT SPECIES			
Distribution: <input type="checkbox"/> Manufacturers (18) <input type="checkbox"/> Surveyors (33) <input checked="" type="checkbox"/> Local Govt. (31) <input checked="" type="checkbox"/> Consultants (34) <input checked="" type="checkbox"/> Agencies (32) <input checked="" type="checkbox"/> Contractors (39)		Approved: <u>/s/ Daniel D'Angelo</u> <u>3/25/09</u> Daniel D'Angelo, P.E. Date Deputy Chief Engineer, Design	

ADMINISTRATIVE INFORMATION:

- **Effective Date.** This Engineering Instruction (EI) is effective beginning with projects submitted for the letting of 09/03/09.
- Design guidance will be incorporated into a future revision of the Highway Design Manual (HDM).
- **Superseded Issuances.** None

PURPOSE:

This EI issues design and landscape development guidance for the removal of invasive species.

TECHNICAL INFORMATION:

- This EI is being issued concurrently with EI 09-002 *Special Specifications for Invasive Plant Species Control*.
- Phragmites (*Phragmites australis*), Japanese Knotweed (*Polygonum cuspidatum*), Giant Hogweed (*Hercacleum mantegazzianum*) and Purple Loosestrife (*Lythrum salicaria*) are invasive plant species the Department is looking to control. Other species will be added in the future as needed and as recommended by Partnerships for Regional Invasive Species Management (PRISM).
- Invasive plant material removed from the project site must be disposed of in an approved area. It may be possible to bury some material on site in embankments, if done as specified by Special Specifications for Invasive Plant Species Control.

GUIDANCE FOR PROJECT DESIGNERS:

- The Designer's first concern is for the spread and introduction of invasive plants and secondarily to use good judgment for sustainable management of invasive plant species. It makes little sense to treat an invasive plant in our R.O.W. when the same plant occupies adjacent private land.
- Management activities should be context appropriate and consistent with landscape-scale, long-term strategic planning efforts. To this end, management activities should follow NYS Invasive Species Council recommendations including priorities established by the approved PRISM. Factors to consider in determining context management (where practical) include: whether the species in question is a national, statewide or PRISM priority, does NYSDOT control the entire patch, is the patch isolated, is this the leading edge of an invasion, is the species located at a critical environmental nexus, (e.g. stream crossing, critical habitat, etc).
- The Designer, in consultation with the Regional Landscape Architect, is responsible for

estimating quantities of invasive plant species to be removed and include specific pay items for their removal.

- Approved disposal sites should be identified in the plans or located within the contract boundaries.
- If an error pertaining to removal of invasive species is discovered after the PS&E submission then it shall be corrected by either an amendment or Order on Contract (OOC).
- Included is a *Special Note* template for controlling invasive plant species:

CONTROLLING INVASIVE PLANT SPECIES

[THIS IS A TEMPLATE ONLY-Choose sections appropriate to project and edit accordingly]

This Special Note contains details related to the Special Specifications Item 617.01XX—24-Controlling Invasive Plant Species, Item 617.10—24-Disposal of Material Containing Invasive Plant Species and Item 617.11—24-Equipment Cleaning for Invasive Plant Species.

Species-This project requires control of the following invasive plant species: [Giant hogweed, Common reed, Purple loosestrife, Japanese knotweed, etc.]

Control Location-Control items, quantities and Notes pertaining to location(s) of target species are found on the following plan sheets: [drawing number(s)]

Permits/Notification-This project requires that [permits/notification] for [herbicide application to wetland, excavation in wetlands, neighbor notification, etc.] has been secured. See contract documents for permit(s) which [has/have] been obtained. Any additional permits required by changes to recommended treatment methods on this project will be the responsibility of the Contractor to secure.

Treatment-For target species, choose appropriate control option(s) outlined in Attachment 4-Best Management Practices of EPM Chapter 4.8 Invasive Species. Include any site preparation required, specific timeframe(s) for treatment/application with consideration of construction staging, number and type of application(s) per season, etc. Identify Erosion & Sediment Control items (mulch, seed, topsoil, etc.) that may be required to stabilize treated area.

Disposal-Material containing invasive species may be [disposed of, buried] at [if within ROW of project limits, provide Station and Offset; if within ROW outside of project limits, provide Reference Marker, Offset, Town, County; if disposal off of ROW, provide name of disposal site/facility (landfill, incinerator, mine/quarry, etc.), Town, County. Identify potential stockpile locations on plans, if needed. In addition to Erosion & Sediment Control practices to stabilize stockpile, providing a silt fence perimeter and covering stockpile w/black plastic will provide additional protection from spreading invasives].

Equipment Cleaning-Identify location(s) of equipment cleaning station(s), where practicable. It is recommended that water used for equipment cleaning comes from a municipal water source. This minimizes potential contamination of equipment from invasive aquatic plants/animals. If water is to be drawn from local surface water source, identify and obtain any regulatory permits/approvals required.

GUIDANCE FOR PROJECT LANDSCAPE DEVELOPMENT:

- Site preparation: Seed heads from previous season's growth should be removed prior to treatment.

One exception may be with excavation treatment since all plant material will be removed. Since dormant stalks are not vegetatively viable, they need not be transported from the site.

- The suggested removal process of the four invasive plant species are listed below:

Phragmites(Common Reed)-*Phragmites australis*

Herbicide use is, at minimum, a 2 year, 2 step process because the plants may need a “touch up” application. Cut stalks and treat with a herbicide (ex. Glyphosate, triclopyr or imazapyr) late July thru Oct., but before a killing frost. If plants are too tall to spray, cut back and apply herbicide when regrowth reaches 2 to 3 feet. Herbicide should be applied at a rate of 4-6 pints/acre. Equipment (back-packs/handheld sprayers) should follow the recommended percentage of concentrated herbicide per gal. of total mixture found on the products label. The use of a surfactant ensures that the herbicide is absorbed by the plant stems and leaves. After 2 to 3 weeks following application, cut or mow down the stalks to simulate new growth. All plant parts shall be carefully placed in heavy black plastic bags and tightly secured before moving them off-site or as specified in the contract documents. In heavily infested areas some regrowth may occur from unconnected rhizomes. For best results spray should be applied two successive years, then spot-treated in succeeding years to prevent reestablishment.

Hand pulling is an effective technique on small areas (less than ¼ acre) with sandy soils. Pulling is not otherwise recommended.

Japanese Knotweed-*Polygonum cuspidatum*

Repeated cutting may be effective in controlling this plant, although it is very labor intensive. Cutting knotweed is an option where the population is small, isolated, or in an environmentally sensitive area. Cut the knotweed close to the ground at least 3 times a year. This strategy must be carried out for several years to obtain successful control. Cutting alone will not eliminate the specimen. Treat with an herbicide (ex. Glyphosate, triclopyr or imazapyr). Treatments in late summer or early fall, before a killing frost, are much more effective in preventing re-growth.

Excavating small populations where the entire plant can be removed and the repeated cutting of small, isolated populations at least three times a year will also work. Successive yearly treatments may be required.

As with phragmites, cut plant parts shall be carefully placed in heavy black plastic bags and tightly secured before moving off-site.

Giant Hogweed-*Hercacleum mantegazzianum*

Foliar spray with a herbicide (ex. Glyphosate, triclopyr or imazapyr) in intervals until gone is the recommended means of removal. Treatments in late summer or early fall are much more effective in preventing regrowth.

Excavation is a physical method of control. Excavating out the top 5-6 inches of root mass satisfactory kills the plant, but should only be done with effective body protection (head to toe, plus eye protection). Removing the green growth helps to exhaust the roots and will weaken the plant. Digging is only

recommended for small populations. Even after the plants are completely removed, the numerous seeds left behind can germinate 7 to 15 yrs. later.

Purple Loosestrife-*Lythrum salicaria*

Treat with a herbicide (ex. Glyphosate, triclopyr or imazapyr) when greater than 100 plants but less than 3-4 acres in size.

Pulling and excavation is acceptable for small stands (less than 3 acres, especially on younger plants). Pull or dig small plants or cut larger plants close to the ground in July or August when the plants are flowering but have not yet developed seed heads. Cutting can be effective in small stands as well if less than 3 acres. Remove flower heads before they go to seed, so seed isn't spread when cutting or mowing. The plant spreads by millions of tiny seeds which can be dispersed by wind, water or animals. Cutting does not affect rootstock, thus plant will re-grow. Carefully place plants in heavy black plastic bags and tightly secure before moving off-site.

Biocontrols include the release of leaf-feeding beetles and root-feeding weevils. The beetle is called *Galerucella californiensis* and *G. pusilla*. The weevil is *Hylobius transversovittatus* and *Nanophyes marmoratus*. Adult *Hylobius* weevils also feed on the plant leaves and shoots. The beetle is the best control for large stands of invasive plants, especially when there are adjacent stands on private lands.

TRANSMITTED MATERIALS: None.

BACKGROUND: This guidance is a result of research and guidance from various private and public sources.

Federal Executive Order 13112 of Feb. 3, 1999 establishes the National Invasive Species Council. The Executive Order requires the State to prevent introduction and spread of invasive species, detect and respond to control, monitor populations and where possible remove invasive plant species from our projects.

CONTACT: Direct questions regarding this Engineering Instruction to Gary Glath in the Specifications and Standards Section at 518/457-5286 (e-mail: gglath@dot.state.ny.us).

EI 09-002 Page 2 of 2

617.0103--24 Controlling Invasive Plant Species by Excavation
617.10----24 Disposal of Material Containing Invasive Plant Species
617.11----24 Equipment Cleaning for Invasive Plant Species

- The following US Customary contract pay items are approved:
 - 617.01010024 Controlling Invasive Plant Species with Herbicides
 - 617.01020024 Controlling Invasive Plant Species by Pulling
 - 617.01030024 Controlling Invasive Plant Species by Excavation
 - 617.10000024 Disposal of Material Containing Invasive Plant Species
 - 617.11000024 Equipment Cleaning for Invasive Plant Species

TRANSMITTED MATERIALS: This EI transmits special specifications for approved items listed above.

BACKGROUND: The Department is required by Presidential Executive Order 13112 and NYS Environmental Conservation Law Article 9, Title 17 to prevent the introduction and spread of invasive species, as well as provide for their control, where practicable. Management activities should be context appropriate and consistent with landscape-scale, long-term strategic planning efforts. To this end, management activities should follow NYS Invasive Species Council recommendations, Department policy guidance within the Environmental Procedures Manual (EPM) and include priorities established by approved Partnerships for Regional Invasive Species Management (PRISMs). Factors to consider in determining context appropriate management include:

- Whether the species in question is a national, statewide PRISM priority;
- The character of the infestation:
 - Does the Department control the entire infestation?
 - Is the infestation isolated?
 - Is this the leading edge of an invasion?
 - Is the species located at a critical environmental nexus, e.g. stream crossing, critical habitat, etc.?

The Department should not attempt to control small portions of large contiguous infestations.

Although eradication methods provided in the special specifications are important, it is more important to implement best management practices to minimize spread of invasive species. Practices such as proper contaminated material disposal and equipment cleaning methods limit the potential of invasives to establish in new locations within and beyond the project site.

CONTACT: Questions regarding this issuance may be directed to Scott Kappeller of the Environmental Science Bureau at (518) 485-7106 (skappeller@dot.state.ny.us).

**ITEM 617.0101 24 – CONTROLLING INVASIVE PLANT SPECIES WITH
HERBICIDES**

ITEM 617.0102 24 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.0103 24 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

**ITEM 617.10 24 – DISPOSAL OF MATERIAL CONTAINING INVASIVE PLANT
SPECIES**

ITEM 617.11 24 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

DESCRIPTION. This work shall consist of control and disposal of identified invasive species and disposal of infested soil in accordance with the contract documents and as directed by the Engineer. The work described is to control the spread and/or re-growth of invasive species. Specific control methods to be used are identified in the Special Note entitled *Controlling Invasive Plant Species*.

MATERIALS.

Herbicide: EPA/NYSDEC Label-approved herbicide conforming to §713-13 *Pesticides*. Surfactants added to increase the effectiveness of the herbicide may be used, in accordance with manufacturers' labels. Tracer dye shall be used in herbicide mixes to aid in identifying application coverage. Additional permitting from regulatory agencies may be required prior to application.

CONSTRUCTION DETAILS.

The work shall be performed in accordance with the requirements of Special Note entitled *Controlling Invasive Plant Species*.

Site Preparation. Refer to the Special Note for specific control methods of targeted invasive species.

Controlling Invasive Plant Species. Three methods are described:

1. Pulling.

- a. Contractor shall hand-pull, or remove using hand tools, all stems and associated roots within the designated areas shown in the contract documents at the times specified.
- b. All plant parts shall be carefully placed in black plastic bags (0.1 mm minimum) and securely tied or sealed.
- c. Care shall be taken in pulling stems to remove as much of the root mass as possible.
- d. Supplemental digging using hand tools to remove roots/ rhizomes or herbicide treatment may be required. Refer to the Special Note entitled *Controlling Invasive Plant Species*.
- e. Plant material shall be treated and/or transported in accordance with *Disposal of Material*.

2. Excavation.

- a. Mechanical methods may be used to remove plant material.

**ITEM 617.0101 24 – CONTROLLING INVASIVE PLANT SPECIES WITH
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ITEM 617.0102 24 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.0103 24 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

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- b. Removal perimeter shall extend no less than 5 m beyond the leading edge of invasive species stand.
- c. Excavation shall extend to a minimum depth of 2 m below proposed final grade.
- d. Excavated area shall be backfilled with uncontaminated suitable material.
- e. Excavated material shall be treated and/or transported according to *Disposal of Material*.

3. Herbicide Application.

- a. The herbicide applicator shall be a NYSDEC Certified Commercial Pesticide Applicator. In planning the use of herbicides to control invasive species, the Contractor and Certified Pesticide Applicator shall ensure that herbicides used are labeled for the target species- through the pesticide label or through the unlabeled pest process.
- b. Herbicide shall be applied by hand-sprayer, back-pack, wick application, stem injection or herbicide clippers.
- c. Site preparation for herbicide application shall include cutting dormant stalks and actively growing plants approximately 4 weeks prior to first annual treatment.
- d. Contractor shall be responsible for all public notification and posting requirements.

Disposal of Material. Cut plant material shall be placed in (0.1 mm minimum thickness) black plastic bags for transportation out of the area. Bags shall be securely tied or sealed. Soil containing seeds, roots and/or rhizomes shall be wrapped in black plastic sheeting (0.1 mm minimum thickness) and transported in a manner which prevents the spread of the contaminated material during transport. Acceptable disposal methods can be one of the following:

- *Bury* - Soil containing invasive plant material shall be buried either in an excavated pit or fill section, covered with at least 2 m of uncontaminated fill material (eg: embankment in place, topsoil, etc.) Soil containing invasive plant material shall not be buried within 30 m of a water body (including wetlands). Disposal of surplus excavated material generated from this disposal method shall be at no additional cost to the State.
- *NYSDEC Quarry/ Mine Reclamation* - Where feasible and accessible, material shall be transported to an approved quarry/ mine accepting invasives-contaminated fill material.
- *Landfill/ Incinerator* - Plant material or spoil containing invasive plant material shall be disposed of in a municipal solid waste management facility or incinerator that is operated under current 6 NYCRR Part 360 regulations.
- *Approved NYSDOT disposal facility* - Where available, plant material or spoil containing invasive plant material may be disposed of in regional invasive species

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disposal facilities as identified in the contract documents.

Stockpiling and stockpile location(s) of soil containing invasive plant material shall be approved by the Engineer. Invasive species spoil stockpiled on site shall be identified as such so not to be inadvertently used in a manner that is not consistent with *Disposal of Material*. Stockpiles shall be stabilized to prevent erosion and transport of invasive material. Stockpiling shall be at no cost to the State.

The Contractor shall identify the disposal location(s) and obtain approval from the Engineer at least 5 calendar days prior to disposal.

Equipment Cleaning. Equipment used in areas containing invasive plant species shall be power-washed (6900 kPa minimum) and cleaned with clean water (without using cleaning soaps or chemicals) before leaving the invasive control/removal area to prevent the spread of seeds, roots, or other viable plant parts. Water may be supplied by a municipal water source or may be pumped from an on-site or local surface water source. If water is drawn from a local water source, to protect aquatic life, there shall not be any loss of water elevation at the site of withdrawal or immediately downstream of the site. Withdrawal from surface waters may be subject to USACOE, NYSDEC and other regulations. Equipment cleaning stations shall include either a constructed cleaning station conforming to §209-3.13 *Construction Entrances* or a portable commercial cleaning station with a rack. Loose plant and soil material that has been removed from clothing, boots and equipment, or generated from cleaning operations, including constructed cleaning station material after use, shall be disposed of as described in *Disposal of Material*. If sufficient space is not available or precluded by terrain to provide a cleaning station on site, upon approval by Engineer, equipment used within an infested area may be power-washed adjacent to the invasive control/removal area, provided that the wash water (including spray) does not discharge within 30 m of any stream, existing or proposed wetland, or stormwater conveyance (eg: ditch, catch basin, etc). If upon completion of construction, the area remains infested with invasive plants, the invasive material generated may remain in the infested area.

Care of Controlled Areas During Construction. The Department will inspect all treated areas approximately every 4 weeks during the growing season (or during the following growing season for fall applications if contract continues into the following growing season). If additional treatments are necessary, the Contractor shall apply treatment to all identified areas within 10 calendar days of notification. Additional treatments will be considered extra work.

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HERBICIDES**

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METHOD OF MEASUREMENT.

Herbicides. The quantity of controlling invasive species to be measured for payment will be in square meters of surface area controlled, measured to the nearest square meter.

Pulling. The quantity of controlling invasive species to be measured for payment will be in square meters of surface area controlled, measured to the nearest square meter.

Excavation. The quantity of controlling invasive species to be measured for payment will be in cubic meters removed, measured to the nearest cubic meter.

Disposal of Material Containing Invasive Plant Species. The quantity to be measured for payment of contaminated material disposal will be in cubic meters removed, measured to the nearest cubic meter.

Equipment Cleaning for Invasive Plant Species. The quantity to be measured for payment of equipment cleaning will be on a lump sum basis.

BASIS OF PAYMENT.

Herbicides. The unit price bid will include the cost of all labor, materials and equipment necessary to perform site preparation and satisfactorily complete the work.

Pulling. The unit price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Excavation. The unit price bid shall include the material and work required to perform site preparation, excavation, backfill the excavated area and surplus material removal. Backfill quantity shall not exceed the quantity of material excavated.

Disposal of Material Containing Invasive Plant Species. The unit price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Equipment Cleaning for Invasive Plant Species. The lump sum price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Payment will be made under:

Item No.	Item	Pay Unit
617.0101--24	Controlling Invasive Plant Species with Herbicides	Square Meter

**ITEM 617.0101 24 – CONTROLLING INVASIVE PLANT SPECIES WITH
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ITEM 617.0102 24 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.0103 24 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

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ITEM 617.11 24 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

617.0102--24	Controlling Invasive Plant Species by Pulling	Square Meter
617.0103--24	Controlling Invasive Plant Species by Excavation	Cubic Meter
617.10----24	Disposal of Material Containing Invasive Plant Species	Cubic Meter
617.11----24	Equipment Cleaning for Invasive Plant Species	Lump Sum

**ITEM 617.01010024 – CONTROLLING INVASIVE PLANT SPECIES WITH
HERBICIDES**

ITEM 617.01020024 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.01030024 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

**ITEM 617.10000024 – DISPOSAL OF MATERIAL CONTAINING INVASIVE PLANT
SPECIES**

ITEM 617.11000024 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

DESCRIPTION. This work shall consist of control and disposal of identified invasive species and disposal of infested soil in accordance with the contract documents and as directed by the Engineer. The work described is to control the spread and/or re-growth of invasive species. Specific control methods to be used are identified in the Special Note entitled *Controlling Invasive Plant Species*.

MATERIALS.

Herbicide: EPA/NYSDEC Label-approved herbicide conforming to §713-13 *Pesticides*. Surfactants added to increase the effectiveness of the herbicide may be used, in accordance with manufacturers' labels. Tracer dye shall be used in herbicide mixes to aid in identifying application coverage. Additional permitting from regulatory agencies may be required prior to application.

CONSTRUCTION DETAILS.

The work shall be performed in accordance with the requirements of Special Note entitled *Controlling Invasive Plant Species*.

Site Preparation. Refer to the Special Note for specific control methods of targeted invasive species.

Controlling Invasive Plant Species. Three methods are described:

1. Pulling.

- a. Contractor shall hand-pull, or remove using hand tools, all stems and associated roots within the designated areas shown in the contract documents at the times specified.
- b. All plant parts shall be carefully placed in black plastic bags (4 mil minimum) and securely tied or sealed.
- c. Care shall be taken in pulling stems to remove as much of the root mass as possible.
- d. Supplemental digging using hand tools to remove roots/ rhizomes or herbicide treatment may be required. Refer to the Special Note entitled *Controlling Invasive Plant Species*.
- e. Plant material shall be treated and/or transported in accordance with *Disposal of Material*.

2. Excavation.

- a. Mechanical methods may be used to remove plant material.
- b. Removal perimeter shall extend no less than 16 ft beyond the leading edge of

**ITEM 617.01010024 – CONTROLLING INVASIVE PLANT SPECIES WITH
HERBICIDES**

ITEM 617.01020024 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

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**ITEM 617.10000024 – DISPOSAL OF MATERIAL CONTAINING INVASIVE PLANT
SPECIES**

ITEM 617.11000024 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

invasive species stand.

- c. Excavation shall extend to a minimum depth of 6 ft below proposed final grade.
- d. Excavated area shall be backfilled with uncontaminated suitable material.
- e. Excavated material shall be treated and/or transported according to *Disposal of Material*.

3. Herbicide Application.

- a. The herbicide applicator shall be a NYSDEC Certified Commercial Pesticide Applicator. In planning the use of herbicides to control invasive species, the Contractor and Certified Pesticide Applicator shall ensure that herbicides used are labeled for the target species- through the pesticide label or through the unlabeled pest process.
- b. Herbicide shall be applied by hand-sprayer, back-pack, wick application, stem injection or herbicide clippers.
- c. Site preparation for herbicide application shall include cutting dormant stalks and actively growing plants approximately 4 weeks prior to first annual treatment.
- d. Contractor shall be responsible for all public notification and posting requirements.

Disposal of Material. Cut plant material shall be placed in (4 mil minimum thickness) black plastic bags for transportation out of the area. Bags shall be securely tied or sealed. Soil containing seeds, roots and/or rhizomes shall be wrapped in black plastic sheeting (4 mil minimum thickness) and transported in a manner which prevents the spread of the contaminated material during transport. Acceptable disposal methods can be one of the following:

- *Bury* - Soil containing invasive plant material shall be buried either in an excavated pit or fill section, covered with at least 6 ft of uncontaminated fill material (eg: embankment in place, topsoil, etc.) Soil containing invasive plant material shall not be buried within 100 ft of a water body (including wetlands). Disposal of surplus excavated material generated from this disposal method shall be at no additional cost to the State.
- *NYSDEC Quarry/ Mine Reclamation* - Where feasible and accessible, material shall be transported to an approved quarry/ mine accepting invasives-contaminated fill material.
- *Landfill/ Incinerator* - Plant material or spoil containing invasive plant material shall be disposed of in a municipal solid waste management facility or incinerator that is operated under current 6 NYCRR Part 360 regulations.
- *Approved NYSDOT disposal facility* - Where available, plant material or spoil containing invasive plant material may be disposed of in regional invasive species disposal facilities as identified in the contract documents.

**ITEM 617.01010024 – CONTROLLING INVASIVE PLANT SPECIES WITH
HERBICIDES**

ITEM 617.01020024 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.01030024 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

**ITEM 617.10000024 – DISPOSAL OF MATERIAL CONTAINING INVASIVE PLANT
SPECIES**

ITEM 617.11000024 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

Stockpiling and stockpile location(s) of soil containing invasive plant material shall be approved by the Engineer. Invasive species spoil stockpiled on site shall be identified as such so not to be inadvertently used in a manner that is not consistent with *Disposal of Material*. Stockpiles shall be stabilized to prevent erosion and transport of invasive material. Stockpiling shall be at no cost to the State.

The Contractor shall identify the disposal location(s) and obtain approval from the Engineer at least 5 calendar days prior to disposal.

Equipment Cleaning. Equipment used in areas containing invasive plant species shall be power-washed (1000 psi minimum) and cleaned with clean water (without using cleaning soaps or chemicals) before leaving the invasive control/removal area to prevent the spread of seeds, roots, or other viable plant parts. Water may be supplied by a municipal water source or may be pumped from an on-site or local surface water source. If water is drawn from a local water source, to protect aquatic life, there shall not be any loss of water elevation at the site of withdrawal or immediately downstream of the site. Withdrawal from surface waters may be subject to USACOE, NYSDEC and other regulations. Equipment cleaning stations shall include either a constructed cleaning station conforming to §209-3.13 *Construction Entrances* or a portable commercial cleaning station with a rack. Loose plant and soil material that has been removed from clothing, boots and equipment, or generated from cleaning operations, including constructed cleaning station material after use, shall be disposed of as described in *Disposal of Material*. If sufficient space is not available or precluded by terrain to provide a cleaning station on site, upon approval by Engineer, equipment used within an infested area may be power-washed adjacent to the invasive control/removal area, provided that the wash water (including spray) does not discharge within 100 ft of any stream, existing or proposed wetland, or stormwater conveyance (eg: ditch, catch basin, etc). If upon completion of construction, the area remains infested with invasive plants, the invasive material generated may remain in the infested area.

Care of Controlled Areas During Construction. The Department will inspect all treated areas approximately every 4 weeks during the growing season (or during the following growing season for fall applications if contract continues into the following growing season). If additional treatments are necessary, the Contractor shall apply treatment to all identified areas within 10 calendar days of notification. Additional treatments will be considered extra work.

METHOD OF MEASUREMENT.

Herbicides. The quantity of controlling invasive species to be measured for payment will be in square feet of surface area controlled, measured to the nearest square foot.

Pulling. The quantity of controlling invasive species to be measured for payment will be in

**ITEM 617.01010024 – CONTROLLING INVASIVE PLANT SPECIES WITH
HERBICIDES**

ITEM 617.01020024 – CONTROLLING INVASIVE PLANT SPECIES BY PULLING

ITEM 617.01030024 – CONTROLLING INVASIVE PLANT SPECIES BY EXCAVATION

**ITEM 617.10000024 – DISPOSAL OF MATERIAL CONTAINING INVASIVE PLANT
SPECIES**

ITEM 617.11000024 – EQUIPMENT CLEANING FOR INVASIVE PLANT SPECIES

square feet of surface area controlled, measured to the nearest square foot.

Excavation. The quantity of controlling invasive species to be measured for payment will be in cubic yards removed, measured to the nearest cubic yard.

Disposal of Material Containing Invasive Plant Species. The quantity to be measured for payment of contaminated material disposal will be in cubic yards removed, measured to the nearest cubic yard.

Equipment Cleaning for Invasive Plant Species. The quantity to be measured for payment of equipment cleaning will be on a lump sum basis.

BASIS OF PAYMENT.

Herbicides. The unit price bid will include the cost of all labor, materials and equipment necessary to perform site preparation and satisfactorily complete the work.

Pulling. The unit price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Excavation. The unit price bid shall include the material and work required to perform site preparation, excavation, backfill the excavated area and surplus material removal. Backfill quantity shall not exceed the quantity of material excavated.

Disposal of Material Containing Invasive Plant Species. The unit price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Equipment Cleaning for Invasive Plant Species. The lump sum price bid shall include the cost of all labor, materials and equipment necessary to satisfactorily complete the work.

Payment will be made under:

Item No.	Item	Pay Unit
617.01010024	Controlling Invasive Plant Species with Herbicides	Square Foot
617.01020024	Controlling Invasive Plant Species by Pulling	Square Foot
617.01030024	Controlling Invasive Plant Species by Excavation	Cubic Yard
617.10000024	Disposal of Material Containing Invasive Plant Species	Cubic Yard
617.11000024	Equipment Cleaning for Invasive Plant Species	Lump Sum

New York State Department of Environmental Conservation
Office of General Counsel, Region 9

270 Michigan Avenue, Buffalo, New York 14203-2915

Phone: (716) 851-7190 • Fax: (716) 851-7296

Website: www.dec.ny.gov



Joe Martens
Commissioner

June 18, 2012

Paul J. Jackson
TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, MI 48170

Dear Mr. Jackson:

This letter acknowledges receipt of your request(s) dated 6/12/2012 for access to records relative to:

4106 Walden Ave., Lancaster

Your request(s) has been forwarded to the appropriate individual program(s) within DEC.

To assist you in obtaining information, many records can be immediately accessed through the Department's website www.dec.ny.gov. The following links provide information commonly requested of the Department:

- DEC Permit Application Data www.dec.ny.gov/cfm/xtapps/envapps
- Spills, Tanks and Remedial Site Database Search www.dec.ny.gov/chemical/8437.html
- Mapping Gateway www.dec.ny.gov/pubs/212.html

If your record request is for undeveloped property, the Department recommends using the Environmental Resource Mapper www.dec.ny.gov/animals/38801.html to determine the location of both freshwater wetlands regulated by the State of New York and New York State's classified streams and water bodies. If your request did not specify records on wetlands or other environmental resources, the Department search may not include information on environmental resources that are state protected.

Following the necessary file search, you will be contacted as to whether such records are in our custody. If all records are not provided because the records are excepted from disclosure, you will be notified of the reasons and of your right to appeal the determination.

Due to the large volume of requests we receive, you may expect a reply by 7/16/2012.

Sincerely,

Peter Grasso
Regional Enforcement Coordinator

Paul Jackson

From: Foil R9Foil <R9Foil@gw.dec.state.ny.us>
Sent: Wednesday, June 20, 2012 2:34 PM
To: pjackson@tlassoc.com
Subject: 4106 Walden Avenue

Dear Mr. Jackson,

Please disregard the letter you received yesterday treating your request as a Freedom of Information Law request. Your project is being handled by our Division of Environmental Permits and being treated as a State Environmental Quality Review (SEQR) request. You should be hearing from that Department in the near future.

Thank you,

Julie Foster

NYSDEC
270 Michigan Avenue
Buffalo, New York 14203
716-851-7190

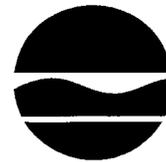
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 8

6274 East Avon-Lima Road, Avon, New York 14414-9519

Phone: (585) 226-5400 • Fax: (585) 226-2830

Website: www.dec.ny.gov



Joe Martens
Commissioner

July 3, 2012

Paul Jackson
TTL Associates
44265 Plymouth Oaks Blvd.
Plymouth, MI 48170-2585

Dear Mr. Jackson:

The Department has conducted an environmental screening in response to your June 12, 2012 dated request related to the proposed Western New York National Cemetery. The Department has screened the three potential sites and organized our comments accordingly.

1) 1232 Indian Falls Road, Corfu, NY

- Portions of the site are located within areas of potential cultural (archeological) significance. The Department recommends further consultation with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) on the potential impacts to cultural resources. NYS OPRHP can be reached at 518-237-8643.
- NYS Freshwater Wetland AK-14 is located on the proposed site. The wetlands need to be delineated early in the planning process to determine the actual wetland boundary. The US Department of Veterans Affairs may not be subject to the State's Article 24 Freshwater Wetland regulations but a 401 Water Quality Certification would likely be required for wetland disturbance. Consistent with the Article 24 regulations (6 NYCRR Part 663) the Department recommends that impacts to the wetland and 100 adjacent area be avoided to the extent practicable.
- It would appear that there are federally regulated wetlands on the proposed site. We recommend that you contact the US Army Corps of Engineers Buffalo Regulatory Branch at 716-879-4330.
- There are no known gas, oil and/or water wells on the project site but there are numerous gas wells surrounding the proposed site.
- There is a Class C non-navigable waterway located near the southern property boundary along the NYS Thruway.
- In a screening for potential NYS endangered and threatened species there was a hit for Northern wild comfrey, a NYS listed endangered plant species. The date last documented was June 4, 1922.

2) Main Road Site, Corfu, NY

- The entire site is located within an area of potential cultural (archeological) significance. The Department recommends further consultation with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) on the potential impacts to cultural resources. NYS OPRHP can be reached at 518-237-8643.

- NYS Freshwater Wetland AX-1 is located on the proposed site. The wetlands need to be delineated early in the planning process to determine the actual wetland boundary. The US Department of Veterans Affairs may not be subject to the State's Article 24 Freshwater Wetland regulations but a 401 Water Quality Certification would likely be required for wetland disturbance. Consistent with the Article 24 regulations (6 NYCRR Part 663) the Department recommends that impacts to the wetland and 100 adjacent area be avoided to the extent practicable.
- It would appear that there are federally regulated wetlands on the proposed site. We recommend that you contact the US Army Corps of Engineers Buffalo Regulatory Branch at 716-879-4330.
- There appears to be an active gas well on the proposed site. Please contact Linda Collart, NYSDEC Minerals, at 585-226-5376 for additional information on the gas well.
- A portion of the project site lies within a mapped 100 year FEMA floodplain.

3) 4106 Walden Avenue Lancaster, NY

- This site is located within NYSDEC Region 9. We recommend that you contact David Denk, NYSDEC Region 9 Regional Permit Administrator at 716-851-7165 for further information on this site. Though this site is located in Region 9 the following comments are provided based on the information available to the NYSDEC Region 8 office.
- The entire site is located within an area of potential cultural (archeological) significance. The Department recommends further consultation with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) on the potential impacts to cultural resources. NYS OPRHP can be reached at 518-237-8643.
- It would appear that there are federally regulated wetlands on the proposed site. We recommend that you contact the US Army Corps of Engineers Buffalo Regulatory Branch at 716-879-4330.
- The proposed site appears to contain a plugged gas well. Please contact NYSDEC Region 9 for further information.

If you have any questions regarding information contained in the letter please feel free to contact me at 585-226-5393.

Sincerely,



Thomas P. Haley
Deputy Regional Permit Administrator

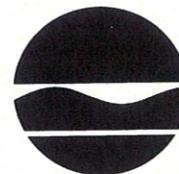
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7165 · Fax: (716) 851-7168

Website: www.dec.ny.gov



Joe Martens
Commissioner

July 5, 2012

Mr. Paul J. Jackson
TTL Associates, Inc.
44265 Plymouth Oaks Boulevard
Plymouth, Michigan, 48170-2585

Dear Mr. Jackson:

Environmental Planning Review for the Proposed Veteran Affairs National Cemetery 4106 Walden Avenue - Town of Lancaster

In response to your June 12, 2012 letter, this office performed a preliminary environmental review of the above referenced site which has been proposed for consideration as a National Cemetery. The following environmental concerns have been identified:

1. The whole site appears to be within an archaeologically sensitive area. This concern should be evaluated during the National Environmental Policy Act (NEPA) review, unless it can be verified by appropriate documentation that the site has been significantly disturbed in a way that would destroy potential artifacts. Please recognize that normal agricultural activities, such as plowing, would not constitute such land disturbance.
2. Note that the Natural Resources Conservation Service's web soil survey shows that some of the project site has soils considered as partially hydric. See the enclosed pages printed from that website. If a federal wetlands permit is required, it is possible that Section 401 Water Quality Certification may be required from this Department.
3. There appears to be a plugged natural gas well located within the project site (Roll 1285). Please contact our Regional Mineral Resources Unit (telephone: 716/372-5636) in order to obtain additional information.

Thank you for providing this office with the opportunity to review the proposed project. If you have any questions, please feel free to contact Ms. Lynne Judd or me at 716/851-7165.

Sincerely,

David S. Denk
Regional Permit Administrator

LJ/rs
Enclosure

Hydric Rating by Map Unit—Erie County, New York



Hydric Rating by Map Unit

Hydric Rating by Map Unit— Summary by Map Unit — Erie County, New York (NY029)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
ApA	Appleton silt loam, 0 to 3 percent slopes	Partially Hydric	37.0	27.9%
Cc	Canandaigua silt loam	Partially Hydric	1.4	1.1%
CgB	Cazenovia silt loam, 3 to 8 percent slopes	Not Hydric	11.3	8.5%
LmA	Lima loam, 0 to 3 percent slopes	Not Hydric	10.4	7.8%
LmB	Lirna loam, 3 to 8 percent slopes	Not Hydric	8.8	6.6%
Od	Odessa silt loam	Partially Hydric	2.7	2.0%
OvA	Ovid silt loam, 0 to 3 percent slopes	Partially Hydric	61.2	46.1%
Totals for Area of Interest			132.7	100.0%

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish, Wildlife & Marine Resources

625 Broadway, 5th Floor, Albany, New York 12233-4757

Phone: (518) 402-8935 • Fax: (518) 402-8925

Website: www.dec.ny.gov



Joe Martens
Commissioner

July 2, 2012

Paul Jackson
T T L Associates Inc.
44265 Plymouth Oaks Blvd
Plymouth, MI 48170

Dear Mr. Jackson:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Selection of a 100 Acre Site for the U S Dept. Veterans Affairs NY National Cemetery, area as indicated on the map you provided, located on Walden Avenue, - Intersection of Walden Ave and Pavement Road, in the Town of Lancaster, Erie County.

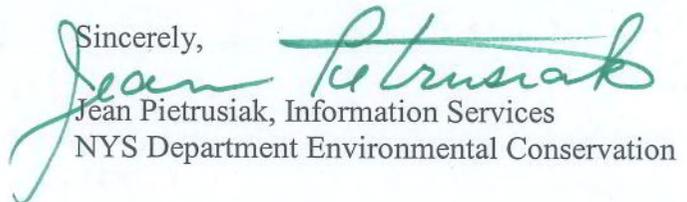
We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your sites.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,


Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. , Wildlife Mgr.

609

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish, Wildlife & Marine Resources

625 Broadway, 5th Floor, Albany, New York 12233-4757

Phone: (518) 402-8935 • Fax: (518) 402-8925

Website: www.dec.ny.gov



July 2, 2012

Joe Martens
Commissioner

Paul Jackson
T T L Associates Inc.
44265 Plymouth Oaks Blvd
Plymouth, MI 48170

Dear Mr. Jackson:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Selection of a 100 Acre Site for the U S Dept. Veterans Affairs NY National Cemetery, area as indicated on the map you provided, located on Main Road, Corfu, Intersection of Main and Cleveland Roads, Town of Pembroke, Genesee County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your sites.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. , Wildlife Mgr.

608

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish, Wildlife & Marine Resources

625 Broadway, 5th Floor, Albany, New York 12233-4757

Phone: (518) 402-8935 • Fax: (518) 402-8925

Website: www.dec.ny.gov



Joe Martens
Commissioner

July, 2, 2012

Paul Jackson
TTL Associates, Inc
44265 Plymouth Oaks Blvd
Plymouth, MI 48170

Dear Mr. Jackson:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Selection of a 100 Acre Site for the U S Dept. Veterans Affairs Western NY National Cemetery, area as indicated on the map you provided, located on Indian Falls Rod, Corfu, Town of Pembroke, Genesee County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

The enclosed report may be included in documents that will be available to the public. However, any enclosed maps displaying locations of rare species are considered sensitive information, and are intended only for the internal use of the recipient; they should not be included in any document that will be made available to the public, without permission from the New York Natural Heritage Program.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.htm.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.

cc: Reg. 8, Wildlife Mgr.

607

Natural Heritage Report on Rare Species and Ecological Communities



NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,
Albany, NY 12233-4757
(518) 402-8935

HISTORICAL RECORDS

The following plants and animals were documented in the vicinity of the project site at one time, but have not been documented there since 1979 or earlier, or there is uncertainty regarding their continued presence.

There is no recent information on these plants and animals in the vicinity of the project site and their current status there is unknown. In most cases the precise location of the plant or animal in this vicinity at the time it was last documented is also unknown and therefore location maps are generally not provided.

If appropriate habitat for these plants or animals is present in the vicinity of the project site, it is possible that they may still occur there.

Natural Heritage Report on Rare Species and Ecological Communities



VASCULAR PLANTS

Cynoglossum virginianum var. boreale

Northern Wild
Comfrey

NY Legal Status: Endangered

NYS Rank: S1S2 - Critically imperiled

Office Use
2985

Federal Listing:

Global Rank: G5T4T5 - Apparently secure

Last Report: 1922-06-04

EO Rank: Historical, no recent
information

County: Genesee

Town: Pembroke

Location: Indian Falls

Directions: Specimen label: Tonawanda Creek, Indian Falls, near Akron.

General Quality
and Habitat:

M

1 Records Processed

More detailed information about many of the rare and listed animals and plants in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at <http://www.natureserve.org/explorer>, from NYSDEC at <http://www.dec.ny.gov/animals/7494.html> (for animals), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

CYNOGLOSSUM VIRGINIANUM L. var. BOREALE (Fern.) Cooperrider
Northern Wild Comfrey

FAMILY: Boraginaceae

HABIT: Perennial herb to 8 dm.; flowering May, June; fruiting June, July.

SIMILAR SPECIES: *Cynoglossum boreale* closely resembles *C. virginianum* in habit, size, and inflorescence. It generally differs in its more slender habit, less stiff pubescence, more elongate slender pedicels, and smaller floral parts. However, the two species can be reliably distinguished only by nutlet length.

TOTAL RANGE: Que. to Ont., s. to N.S., ME, NH, n. CT, NY, IN, WI, and IA; also in B.C.

STATE RANGE: There are pre-1960 records from Ashtabula, Jefferson, and Perry counties.

HABITAT: Rich woods and thickets, often associated with hemlocks.

HAZARDS: Removal of forest canopy.

RECOVERY POTENTIAL: Unknown, probably poor.

INVENTORY GUIDELINES: Mature fruiting material is needed for accurate determination; avoid over-collecting.

COMMENTS: There is great taxonomic confusion concerning this species. Johnston (1924) states that all vegetative characters of *C. boreale* can be matched with material of *C. virginianum*, but that the character of nutlet length seems to always be distinct. Some authors reduce the species outright to *C. virginianum*, but it appears deserving of varietal rank at the very least.

Roberts and Cooperrider (1982) recognize only the Ashtabula County record as true *C. boreale* and state that the other specimens fall within the range of variation of *C. virginianum*. Intensive field surveys are needed for this taxon in eastern Ohio, especially in Ashtabula, Jefferson, and Perry counties. The collection of mature fruiting material is of utmost importance for accurate identification.

SELECTED REFERENCES:

Fernald, M.L. 1905. A northern *Cynoglossum*. *Rhodora* 7: 249-250.

Johnston, I.M. 1924. Studies in the Boraginaceae - II. *Contr. Gray Herb. Harvard Univ.* 70: 3-54.

Roberts, M.L. and T.S. Cooperrider. 1982. Dicotyledons. p. 48-84. In: Cooperrider, T.S., ed., *Endangered and threatened plants of Ohio*. *Ohio Biol. Surv. Biol. Notes*, No. 16. 92 p.



Division of Natural Areas and Preserves
Ohio Department of Natural Resources

Created: 12/1983 James F. Burns



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

June 28, 2012

Paul J. Jackson
TTL Associates, Inc.
44265 Plymouth Oaks Blvd.
Plymouth, Michigan 48170

Re: VA
Proposed Western New York
National Cemetery
3 Locations
Town of Lancaster, Erie County
Town of Pembroke, Genesee County
12PR02608

Dear Mr. Jackson:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based on this review, the SHPO has no building/structure concerns with any of the three proposed cemetery sites. In regards to archaeology, we offer the following comments.

1232 Indian Falls Road, Corfu, NY (Site 1)

The SHPO recommends that a Phase I archaeological investigation is warranted.

Main Road Site, Corfu, NY (Site 2)

SHPO records indicate that a large portion of Site 2 was surveyed in 2007 (07PR6447) by Commonwealth Cultural Resources Group (CCRG). One precontact archaeological site was identified in the Phase I archaeological investigation (Report 134), the Pembroke Precontact Site (A03712.000024). The SHPO had no further concerns with the Pembroke Precontact Site Loci 1 and 2 and recommended a Phase II Site Examination or avoidance for the Pembroke Precontact Site Loci 3 and 4. For any portions of Site 2 not

covered by the 2007 CCRG survey, the SHPO recommends that a Phase I archaeological investigation is warranted.

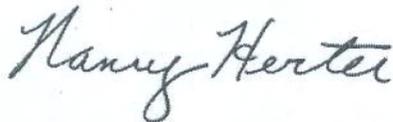
4106 Walden Avenue, Lancaster, NY (Site 3)

SHPO records indicate that a large portion of Site 3 was surveyed by CCRG. The first Phase I archaeological investigation (00PR2684) identified the Lutz-Roll Findspots Site (A02917.000101). These findspots include a spokeshave, a flake/scrapper and a flake tool (Report 734). The SHPO has determined that this site is not National Register eligible and we have no further concerns for A02917.000101. The second Phase I archaeological investigation (09PR5296) identified the Try-It Site, Loci 1 and 2 (A02917.000111) that includes three flake fragments (Report 1081). The SHPO has determined that this site is not National Register eligible and we have no further concerns for A02917.000111. For any portions of Site 3 not covered by the previous two surveys, the SHPO recommends that a Phase I archaeological investigation is warranted.

We would strongly recommend tribal consultation with the Tonawanda Seneca Nation and the Seneca Nation of Indians given the presence of known Native American sites within two of the three proposed cemetery sites. Please note that proposed cemetery Site 1 lies in close proximity to the Tonawanda Seneca Nation Reservation and they may have an extra level of interest in this project area.

The SHPO appreciates the opportunity to comment on this information. Please telephone me at ext. 3280 with any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Herter". The signature is written in black ink and is positioned above the printed name and title.

Nancy Herter
Scientist, Archaeology

Seneca Nation of Indians (Federally Recognized)

Lana Watt

Tribal Historic Preservation Officer

Seneca Nation of Indians

90 Ohi:Yo' Way

Salamanca, NY 14779

Phone: (716) 945-1790, ext 3589

Lana.Watt@sni.org

Tonawanda Seneca Nation (Federally Recognized)

Chief Roger Hill

Tonawanda Band of Seneca Indians

7027 Meadville Road

Basom, NY 14013

Phone: (716) 542-4244

Fax: (716) 542-4008

Email: tonseneca@aol.com

Paul Jackson

From: Metivier, Steven V LRB <Steven.V.Metivier@usace.army.mil>
Sent: Thursday, June 21, 2012 2:12 PM
To: pjackson@tlassoc.com
Subject: Proposed National Cemetery sites (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Paul,

Thank you for your recent request regarding potential environmental concerns at three sites being considered by the Department of Veterans Affairs for a national cemetery.

The Corps recommends that a qualified wetland consultant be retained to further investigate the sites for the presence of Federal wetlands/waters of the United States.

Two sites are in Corfu (Indian Falls Road and Main Road) and the other is in Lancaster (4106 Walden Avenue). The Indian Falls Road site (132 acres) is primarily agricultural field in the northern half, and forested in the southern half. The forested area is mapped in the USDA soil survey as containing wetland soils and also shows as a wetland on the National Wetland Inventory map. Neither of these resources provides a conclusive determination regarding the presence of waters of the US, but together strongly suggest that such resources may be present in the forested area..

The Main Road site (104 acres) is located at least partially on a site for which a delineation was submitted in 2008 for the Buffalo Shooting Club (DA processing no. 2008-00180). The application was withdrawn and the delineation was never verified, but the submitted delineation map for the site showed significant wetland areas woven throughout.

The Walden Avenue (123 acres) site was the subject of an approved JD in 2001 (2001-00392). The site was determined to be upland with the exception of approximately 400-500 lineal feet of an unnamed tributary and an approximately 3-5 acre wetland. The wetland was determined to be isolated and outside Corps jurisdiction. The previous wetland delineation has expired, so a new delineation would be required to re-verify the previous findings.

In summary, it appears that the Walden Avenue site has the least chance of containing substantial areas of wetlands. However, all three sites have potential wetland indicators and on-site investigations will be required to generate a conclusive determination at each location.

Please feel free to contact me with any further questions.

Sincerely,

Steven V. Metivier
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Classification: UNCLASSIFIED
Caveats: NONE



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<http://www.fws.gov/northeast/nyfo>



Project Number: 12-TA-401

To: Paul J. Jackson

Date: July 12, 2012

Regarding: Proposed Western NY National Cemetery

Town/County: Pembroke, Genesee Co. and Lancaster, Erie Co.

We have received your request for information regarding occurrences of Federally-listed threatened and endangered species within the vicinity of the above-referenced project/property. Due to increasing workload and reduction of staff, we are no longer able to reply to endangered species list requests in a timely manner. In an effort to streamline project reviews, we are shifting the majority of species list requests to our website at <http://www.fws.gov/northeast/nyfo/es/section7.htm>. Please go to our website and print the appropriate portions of our county list of endangered, threatened, proposed, and candidate species, and the official list request response. Step-by-step instructions are found on our website.

As a reminder, Section 9 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) prohibits unauthorized taking* of listed species and applies to Federal and non-Federal activities. Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (Service), to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take"* any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. If you have any questions or require further assistance regarding threatened or endangered species, please contact the Endangered Species Program at (607) 753-9334. Please refer to the above document control number in any future correspondence.

Endangered Species Biologist: Timothy R. Sullivan

*Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.