

Daniel A. Spitzer  
Partner  
Direct Dial: 716.848.1420  
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February 8, 2021

**Via Certified Mail (Return Receipt Requested)**

Marshacres, LLC  
7017 Fadale Road  
Ellicottville, New York 14731

Peter Sorgi, Esq.  
Hopkins Sorgi & McCarthy PLLC  
726 Main Street, Suite B  
East Aurora, New York 14052

John Cappellini  
John Cappellini Attorney at Law  
1 E Main Street  
Cuba, New York 14727

To Whom It May Concern:

**Re: *Notice of Public Hearing  
Tax Map Nos.: 158.-1-2.1, 158.-1-31 in the Town of Amity; and  
145.-1-5.1 in the Town of Angelica (collectively, the "Property")***

Pursuant to Section 202(C) of the New York State Eminent Domain Procedure Law, the Allegany County Industrial Development Agency (the "Agency") hereby informs you that the Agency has scheduled a public hearing for February 22, 2021 at 11:00 a.m. to be held remotely via conference call rather than in person, in connection with the proposed acquisition in fee of the above referenced Property by the Agency. The proposed acquisition of the Property will be for the construction of an approximately 486,000 square foot cheese manufacturing facility, and an approximately 50,000 square foot distribution water treatment facility in the Towns of Amity and Angelica.

Existing property records indicate that you are the assessment record billing owner and have a possible right, title or interest in such property, which will be the subject of such public hearing. As a courtesy, we have also copied the attorneys with whom we have discussed this proceeding.

Please be advised that pursuant to Article 2 of the New York State Eminent Domain Procedure Law, property owners who may subsequently wish to challenge condemnation of their property via judicial review may do so only on the basis of issues, facts, and objections raised at such hearing.

Enclosed is a notice for the public hearing referenced above. Additional information can be obtained from Craig R. Clark, P.E., Ph.D., Allegany County Industrial

February 8, 2021  
Page 2



Development Agency, 6087 NYS Route 19 N, Suite 100, Belmont, New York 14813;  
Telephone: (585) 268-7445; and electronically at [clarker@alleganyco.com](mailto:clarker@alleganyco.com).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Dan A. Spitzer".

Daniel A. Spitzer

DAS:amr  
Enclosure

cc: Craig Clark, Executive Director

NOTICE OF PUBLIC HEARING  
ON PROPOSED PROJECT  
AND FINANCIAL ASSISTANCE  
RELATING THERETO

Notice is hereby given that a public hearing (the "Public Hearing"), pursuant to Article 2 of the New York State Eminent Domain Procedure Law, will be held by the Allegany County Industrial Development Agency (the "Agency") on the 22nd day of February, 2021 at 11:00 a.m., local time, in connection with the Great Lakes Cheese Manufacturing Plant Project, as described below. As a result of the (1) ban on large meetings or gatherings pursuant to Executive Order 202.1 issued on March 12, 2020, as supplemented, (2) ban on non-essential gatherings of individuals of any size for any reason pursuant to Executive Order 202.10 issued on March 23, 2020, as supplemented, and (3) suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15 issued on April 9, 2020, as supplemented, each as issued by Governor Cuomo in response to the novel Coronavirus (COVID-19) pandemic, the Public Hearing will be held electronically via conference call rather than in person. Members of the public may attend the Public Hearing by listening to and/or commenting on the Project and the benefits to be granted to Great Lakes Cheese (the "Company"), by the Agency during the Public Hearing by calling 1-888-850-7158 and entering passcode 299146.

The Company submitted an application, (the "Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following:

(A) (1) the acquisition of an interest in certain parcels of property located in Allegany County, New York (collectively, the "Land"):

No.	Address	Tax Map Number
1.	Old State Road, Town of Amity	158.-1-2.1
2.	Trianna Road, Town of Amity	158.-1-31
3.	County Road 20, Town of Angelica	145.-1-5.1

(2) the construction of a manufacturing plant around 480,000 square feet, with a waste water treatment facility of around 50,000 square feet, and any other required improvements (all said improvements being collectively referred to as the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other personal property (the "Equipment"), all of the foregoing to constitute a cheese manufacturing plant to be owned and operated by the Company (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes and real estate transfer taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project, and (B) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Agency with respect to the Project in the office of the County Clerk of Allegany County, New York or elsewhere, (2) exemption from deed transfer taxes on any real estate transfers, if any, with respect to the Project, (3) exemption from sales taxes relating to the acquisition, construction, renovation and installation of the Project Facility, and (4) in the event that the Project Facility would be subject to real property taxation if owned by the Company but

shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, exemption from real property taxes (but not including special assessments and special ad valorem levies), if any, with respect to the Project Facility, subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility. If any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency will follow the procedures for deviation from such policy set forth in Section 874(4) of the Act prior to granting such portion of the Financial Assistance.

If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed, reconstructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make certain payments to the Agency.


The Agency has not yet made a determination pursuant to Article 8 of the Environmental Conservation Law (the "SEQRA Act") regarding the potential environmental impact of the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project, or the Financial Assistance being contemplated by the Agency in connection with the proposed Project. A copy of the Application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency. A transcript or summary report of the hearing will be made available to the members of the Agency.

Additional information can be obtained from, and written comments may be addressed to: Craig R. Clark, P.E., Ph.D., Executive Director, Allegany County Industrial Development Agency, Crossroads Commerce and Conference Center, 6087 NYS Route 19N, Suite 100, Belmont, New York 14813; Telephone: (585) 268-7445.

Dated: February 4, 2021

ALLEGANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Craig R. Clark, P.E., Ph.D., Executive Director



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARSH ACRES, LLC  
 7017 FADALE RD.  
 ELLICOTTVILLE, NY 14721



9590 9402 5268 9154 0697 46

2. Article Number (Transfer from service label)

7019 2970 0001 2862 0204

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9  
270 Michigan Avenue, Buffalo, NY 14203-2915  
P: (716) 851-7165 | F: (716) 851-7168  
[www.dec.ny.gov](http://www.dec.ny.gov)

### SENT VIA EMAIL

February 3, 2021

Daniel Spitzer  
Hodgson Russ  
140 Pearl Street, Suite 100  
Buffalo, New York 14202

Dear Daniel Spitzer,

**SEQR Lead Agency Coordination**  
Great Lakes Cheese Manufacturing Plant  
SBL Nos. 158.-1-2.1, 158.-1-31, and 145.-1-5.1  
Gibson Hill Road (County Route 20)  
Towns of Amity and Angelica  
Allegany County

This is to acknowledge receipt of your January 8, 2021 notice which requested State Environmental Quality Review Act (SEQR) Lead Agency status for the above-noted project. The New York State Department of Environmental Conservation (NYSDEC) concurs that the Allegany County Industrial Development Agency should act as SEQR Lead Agency, since the environmental impacts of the proposal are primarily of significance to this agency. However, please be advised of the following:

1. Since project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project. More information on General Permit GP-0-20-001, as well as the NOI form, is available on NYSDEC's website at [www.dec.ny.gov/chemical/43133.html](http://www.dec.ny.gov/chemical/43133.html). Information on permitting requirements and preparation of a necessary Stormwater Pollution Prevention Plan (SWPPP) is available on NYSDEC's website at <http://www.dec.ny.gov/chemical/8468.html>.

Daniel Spitzer  
February 3, 2021  
Page 2

2. The wastewater discharge to the Genesee River proposed as part of this project will require a NYSDEC State Pollutant Discharge Elimination System (SPDES) permit for an industrial discharge pursuant to 6 NYCRR 750. The permit application form must also list the proposed discharge of treated sanitary wastewater to groundwater since the discharge will exceed 1,000 gallons per day. A permit for the sanitary wastewater treatment system may also be required from the Allegany County Health Department (telephone: 585/268-9250). The NY-2C SPDES application form and additional information is available on our website at: <https://www.dec.ny.gov/permits/6054.html>. For questions relating to SPDES permitting requirements for the project, the project sponsor should contact Ms. Melanie Stein of our Division of Water at 716/851-7070.
3. The proposed land application of dairy waste may require a Solid Waste Management Facility registration or permit from NYSDEC. For additional information, the project sponsor should contact Ms. Efrat Forgette of our Division of Materials Management at 716/851-7220.
4. Petroleum Bulk Storage and Chemical Bulk Storage registrations will be required for the storage tanks proposed for the facility. The project sponsor should contact Ms. Veronica Kreutzer of our Division of Environmental Remediation at 716/851-7220 for more information on these requirements.
5. The proposed facility will require an Air State Facility (ASF) permit or registration from NYSDEC. The ASF permit application and instructions can be found at this link: <https://www.dec.ny.gov/chemical/4754.html>. The project sponsor should note that the Climate Leadership and Community Protection Act (CLCPA) currently requires NYSDEC to review applications for new ASF permits, new Title V permits, and significant modifications to state facility permits and Title V permits for consistency with the requirements and goals of CLCPA. This project would be subject to this review since if an ASF permit is required. The project sponsor is advised to contact our Division of Air Resources at (716) 851-7130 to discuss the type of approval necessary for this project and the requirements for the CLCPA analysis that would be part of an ASF permit application.
6. We have reviewed the available information in the New York State Natural Heritage Program databases on known occurrences of rare or state-listed animals and plants, of significant natural communities, and other significant habitats. Bald Eagle (*Haliaeetus leucocephalus*) nests have been identified on the project site. Additionally, portions of the project site include a significant natural community (floodplain forest). Since the Bald Eagle is a NYS listed threatened species, the project sponsor should submit a request pursuant to 6 NYCRR Part 182.9 to determine if the proposed project is likely to result in the take or taking of this species and if a Part 182 Incidental Take permit will be required for the project.

For most sites, comprehensive field surveys have not been conducted. 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. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

7. Van Campen Creek and the Genesee River are located within the project area and are considered "unprotected" waterbodies at this location. Although a NYSDEC Protection of Waters Permit will not be required for work in the areas of these tributaries, the project sponsor should be aware that that project activities cannot cause contravention of water quality standards (either directly or indirectly). Accordingly, appropriate erosion and sediment control measures must be utilized during and after project construction.
8. According to the Environmental Assessment Form enclosed with your notice, federally regulated wetlands may be present on the project site. The project sponsor should consult with the United States Army Corps of Engineers (USACE), telephone: 716/879-4330, concerning USACE regulatory jurisdiction to determine if the project will impact federally regulated wetlands or require any other approval from that agency. If federal wetlands are involved, USACE may require the project sponsor to obtain a Water Quality Certification (WQC) from NYSDEC. Please note that, effective September 11, 2020, a request for a WQC is subject to a new United States Environmental Protection Agency rule which requires that a pre-filing meeting request be filed 30 days prior to applying for a WQC. More information related to this requirement and a pre-filing meeting request form can be found on NYSDEC's website at <https://www.dec.ny.gov/permits/6546.html>.
9. The project site is located within Allegany County Agricultural District # 2. Impacts to the agricultural district should be considered during the review of this action.
10. It was noted on the Federal Emergency Management Agency's (FEMA) FIRM Nos. 3610950010A and 3610930005B that the site is located within the designated 100-year floodplain. The proposed project should be designed in accordance with all applicable local municipal laws for flood damage reduction.
11. The project site is located in archaeologically sensitive areas based on information obtained through the Cultural Resource Information System (CRIS) on the New York State Office of Parks, Recreation and Historic Preservation's (OPRHP) website at <https://cris.parks.ny.gov/>. As part of the SEQR process, this

Daniel Spitzer  
February 3, 2021  
Page 4

concern should be evaluated, 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. If there are any questions regarding this, contact OPRHP (telephone: 518/237-8643).

If you have any questions regarding this letter, please feel free to contact Ms. Michelle Woznick of this office at 716/851-7177.

Sincerely,

David S. Denk

Digitally signed by David S. Denk  
DN: cn=David S. Denk, o=NYS DEC,  
ou=Div. of Env. Permits,  
email=david.denk@dec.ny.gov, c=US  
Date: 2021.02.03 16:47:35 -0500

David S. Denk  
Regional Permit Administrator

MRW

ecc: Michael Emery, NYSDEC Division of Air Resources  
Geoffrey Knall, NYSDEC Division of Air Resources  
Efrat Forgette, NYSDEC Division of Materials Management  
Veronica Kreutzer, NYSDEC Division of Environmental Remediation  
Melanie Stein, NYSDEC Division of Water  
Brian Hourigan, NYSDEC Division of Water  
Jacquie Walters, NYSDEC Division of Fish & Wildlife  
Craig Clark, Allegany County Industrial Development Agency  
Matthew Wilkinson, Great Lakes Cheese Company