

Conservation Planning Assistance

Mohawk Valley EDGE Marcy Semiconductor Facility Oneida County, New York

Mohawk Valley Economic Development Growth Enterprises (EDGE) proposes to locate a Nanotechnology (Semiconductor Fabrication) Facility on a 300-acre site adjacent to SUNY-Institute of Technology (SUNY-IT), Edic Road, Town of Marcy, Oneida County, NY.

EDGE is acting as agent for the site owner, SUNY-IT. The current site plan proposes to impact 9.64 acres of Federal jurisdictional wetland, 3,027 linear feet of intermittent stream, and 2,184 linear feet of ephemeral stream for the *potential* construction of a semiconductor manufacturing facility. An end user has not been identified at this time.

Project Background: On April 6, 2007, the U.S. Army Corps of Engineers (Corps) issued a 30-day Public Notice (PN). The U.S. Fish and Wildlife Service (USFWS) responded to the PN requesting that the permit be denied for the following reasons: off- and on-site alternatives were not sufficiently addressed due to the lack of a specified tenant (end user); on-site alternatives analysis was not complete; and secondary impacts, including indirect impacts to aquatic resources, had not been addressed. The applicant provided a response to the PN comments on June 1, 2007.

Several meetings were held in 2007 with the applicant to discuss concerns over the project. In April 2008, the USFWS participated in a conference call with EDGE, their consultants, the Corps, and New York State Department of Environmental Conservation (NYSDEC) to discuss a proposed preliminary mitigation plan at Oriskany Flats State Wildlife Management Area (OFWMA), which is owned and managed by NYSDEC. The USFWS stated in letters dated June 11 and December 15, 2008, that we do not support the mitigation plan because it does not provide in-kind compensation for wetland and stream impacts, it results in a net loss of wetland and stream functions and services, and it is located on state-owned and managed land which is currently protected. To date, the USFWS remains concerned that EDGE has not found a tenant for the proposed facility. We recommend that when a tenant is found, the Corps work with the applicant to further reduce wetland and stream impacts, based on the site needs of the applicant, not a fixed footprint as currently proposed. This action could also reduce overall mitigation requirements (e.g., replacement ratios, costs, and costs associated with 5-year monitoring).



Issues:

- EDGE has not identified a tenant for the semiconductor facility. When a tenant is named, the applicant should apply for impacts to waters of the U.S. based on their site needs which may reduce impacts.
- The project, as proposed, remains in non-compliance of the Clean Water Act, specifically USEPA 404(b)1 Guidelines.
- Mitigation is proposed to be located on the Oriskany Flats Wildlife Management Area. The USFWS does not support the current mitigation plan because it does not provide in-kind compensation for wetland and stream impacts, it results in a net loss of wetlands and streams, and it is located on state-owned and managed land which is currently protected.

Endangered Species: On August 10, 2007, the USFWS concurred with the Corps' effect determination regarding endangered species, thereby concluding the Section 7 process.

Summary: It is our understanding that the Corps continues to meet with EDGE to further evaluate on-site mitigation alternatives, identify hydrologic changes as a result of construction to prevent impacting additional wetlands on- and off-site, and the off-site mitigation plan. The USFWS will review and comment on the revised plan when submitted to the Corps to determine compliance with the Clean Water Act.

**For more information, contact:
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