

## **PUBLIC NOTICE OF PROPOSED CWA § 401 CERTIFICATION**

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### **SENECA NATION ENVIRONMENTAL PROTECTION DEPARTMENT**

**Project:** On May 31, 2022, the Seneca Nation (Nation) Environmental Protection Department (EPD) received a completed “Permit Application for Construction Projects Within Waterways” (CPWW) from Ramboll Americas Engineering Solutions, Inc. (Ramboll), who was retained by the New York State (NYS) Office of General Services (OGS) (applicant) to design remediation improvements that are required for the structure referred to as the Cuba Lake Outlet Spillway Dam (NYS ID: 026-0371; OGS Project Number (PN): 47284) in Cuba, New York and the Oil Spring Territory of the Seneca Nation. The improvements are required, per compliance with NYS Department of Environmental Conservation (DEC) dam safety design standards. While the Dam is located outside the limits of the Oil Spring Territory, the features referred to as the “primary and secondary spillways” are located within northcentral portion of the Oil Spring Territory of the Seneca Nation. The Cuba Lake Outlet Spillway Dam has a primary spillway (a concrete channel with a central pier that supports two spans of wooden stoplogs) and a secondary spillway (broad-crested weir buttressed by a concrete lined berm of unknown construction). The scope of work for the project identified as PN: 47284 (Project), encompasses the replacement of the secondary spillway concrete overlay, with a new cast-in-place reinforced concrete slab underlain by a filter drainage system. The project, as proposed, will consist of removing approximately twenty (20) cubic yards (yd<sup>3</sup>) of material (concrete and accumulated sediment), and then managing that material and disposing of it, off-Territory and in accordance with local, State, and federal regulations. Approximately seventeen (17) yd<sup>3</sup> of material (primarily concrete) will be placed below the Ordinary High Water Mark (OHWM) to complete the improvements within the 0.6-acre project area. Ramboll worked in conjunction with OGS and the DEC Dam Safety Section to redesign a structure that will provide long-term stability, while also minimizing potential impacts to natural and cultural resources. Ramboll and OGS also worked closely with the Seneca Nation to ensure that natural and cultural resources are considered and protected. The Project is anticipated to proceed under the CWA § 404 Nationwide Permit (NWP) 3 and requires permitting under Section 404 of the federal Clean Water Act (CWA). Water Quality Certification (WQC) under CWA § 401 by the Seneca Nation as to whether the Project will comply with the Nation’s water quality requirements, is also required for the 404 NWP to proceed. Pursuant to CWA § 401, the Seneca Nation Environmental Protection Department (EPD) seeks public and agency comment, regarding its proposed WQC of the CWA § 404 permit at issue.

**CWA § 401 Water Quality Certification:** Under CWA § 401, a federal agency may not issue a permit or license to conduct any activity which may result in any discharge into waters of the United States unless a Section 401 WQC is issued or waived by the state or authorized Native nation where the discharge will originate. The Seneca Nation was approved to administer a CWA § 401 program on March 12, 2021. Examples of federal permits and licenses requiring certification include the CWA §§ 402 and 404 permits issued by the EPA and the U.S. Corps of Engineers, respectively.

**Public Comment Period:** Pursuant to CWA § 401(a)(1), the public comment period for the proposed CWA § 401 certification of the Cuba Lake Outlet Spillway Dam Improvements by EPD is thirty (30) days from the date of publication of this notice in the Seneca Nation Newsletter (Community News Section) and other publicly available locations. Agency representatives and

members of the public are encouraged to submit written comments to EPD, by 4:30pm on September 16, 2023, as follows:

- by email at [epd@sni.org](mailto:epd@sni.org) or
- by USPS mail to the Seneca Nation Environmental Protection Department, 84 Iroquois Drive, Irving NY 14081, Attention: Water Program Manager

**Copies:** A copy of this CPWW Application is available under the “documents” tab at the EPD website, here: <https://sni.org/community-services/environmental-protection/> or may be requested by contacting the email shown above, with the title, “Request for Copy of Cuba Lake Spillway Dam Improvements Application” in the subject line.