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May 12, 2014

David Coburn
Director, Onondaga County Office of the Environment
John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, NY 13202

**Re: Comments on Draft Scoping Document for Amphitheater Project
Submitted via e-mail to DavidCoburn@ongov.net**

Dear Mr. Coburn:

On behalf of the Onondaga Nation, I am submitting the following comments on the Draft Scoping Document for the Lakeview Amphitheater Facility ("Amphitheater"). The Onondaga Nation ("the Nation") is the Firekeeper or central council fire of the Haudenosaunee Confederacy, which is composed of the Mohawk, Oneida, Onondaga, Cayuga, Seneca and Tuscarora Nations. The lands around Onondaga Lake fall within the Nation's traditional territory and are of cultural and historic significance to the Nation and the broader Haudenosaunee Confederacy. Additionally, the Lake and the area one mile around the Lake are specifically recognized and protected by the 1794 Treaty of Canandaigua.

The Nation has an obligation to care for the lands on which we live, to ensure that future generations have clean air and water, and to help protect natural areas and wildlife and is working for a healing of the relationship between the land, themselves, and the people of New York.

The Amphitheater, as currently proposed, is likely to have significant impacts on the environment within the Nation's traditional territory, on the Nation's cultural and historic resources, on public health and safety, and on the Nation's ability to meet its obligations to the land and to future generations. At minimum, this project requires

rigorous and detailed review within the State Environmental Quality Review Act (SEQRA) process.

Fundamentally, the Nation opposed any “development” or building on top of these wastebeds and the Crucible landfill; and, as we have consistently done for years, urge the County to join us in demanding that Wastebeds 1 through 8 be completely removed by the responsible parties, and this large shoreline area be fully restored to a more natural state, including the construction of many acres of wetlands. If such removal and restoration were accomplished, then this area could be made into safe and useable park land, for a far created benefit to the community and the natural world.

Generally, the Nation is concerned that the Draft Scoping document is not sufficiently detailed or site specific to provide meaningful direction for the environmental impact review. As currently drafted, the document is little more than a listing of the generic types of impacts that are considered in any environmental assessment along with a partial list of remediation-related studies, planning documents and reports for the site. The description of the project itself provides very limited information with most details described “to be determined.”

However, it is clear that the Amphitheater will be built on portions of an industrial waste landfill (Wastebeds 1 – 8), which has not been fully remediated, and a separate closed hazardous waste landfill (the Crucible Landfill). These waste sites are perched above Onondaga Lake and are part of the larger Onondaga Lake Superfund site. This area and adjacent properties have been untended and unused for some time, which has allowed emergent habitat to develop and has drawn birds, small mammals and other wildlife to the site.

While the lack of specificity in project design makes commenting on the Draft Scoping difficult, adverse environmental and public health impacts related to contaminant exposures should be assessed whenever new construction is proposed for a hazardous or industrial waste site. In addition, closure documents for the Crucible Landfill suggest additional concerns related to site stability must be investigated. The unique status of this parcel as ungrouted habitat suggests another suite of potential environmental impacts that should be considered.

Finally, potential adverse impacts of the Amphitheater on the Nation’s unique cultural and historic relationship to the Lake and surrounding areas should be considered. The County should revise the Draft Scoping document to ensure that these project-specific potential impacts are assessed within the environmental review and

should expand the list of potentially relevant studies, plans, and reports to include documents directly relevant to the closed Crucible Steel hazardous waste landfill. In addition, the County should ensure that it develops a robust list of alternatives for analysis, including alternative locations that would not require development on open and ungroomed habitat. Given the extensive analysis required, the Nation is concerned that the proposed project schedule is untenable and recommends that the County revise its plans to ensure that a comprehensive and meaningful environmental review can be conducted.

I. Uncertainty in Design and Related Environmental Impacts

The planning documents provided in advance of the Scoping process, including the Environmental Assessment Form (EAF) and the rough proposal outline, leave a number of key details undetermined. While this may be unavoidable so early in the development process, it means that many potential environmental, public safety, public health and economic concerns are left unidentified as well.

For example, the proposal includes boat access near the site, but fails to identify a specific location for this feature. Without more information about potential locations and the work required to create boat access in those areas, the County cannot possibly determine, as it purports to do, that the project will have only minimal effects on the lake bottom, will not destroy or cause the removal of aquatic vegetation, will create minimal turbidity, and will require minimal dredging. The proposal involves construction of an amphitheater stage and grandstand of undefined size, structure, and location, but asserts that the construction will cause minimal erosion. Similarly, the County indicates that the Town of Geddes has sufficient water and sewage capacity to meet the needs of the proposed Amphitheater, despite the fact that these needs are currently undefined.

The County should explicitly recognize the uncertainty in project design and clarify that the assessed impacts are estimations at best. The scoping document should acknowledge the full range of potential impacts associated with possible or likely project configurations.

II. History of the Site

The Scoping document should explicitly address the prior uses of the proposed Amphitheater site. Although the Draft Scoping document acknowledges the presence of an active remediation and a closed landfill on the site, it does not specify the potential

chemical exposures at the site or the use restrictions or institutional controls that might be disrupted by the new proposed use.

Wastebeds 1-8 and the Crucible Landfill are sources of benzene, toluene, ethylene, xylene and related compounds (BTEX compounds), polycyclic aromatic hydrocarbons (PAHs), phenols, polychlorinated biphenyls (PCBs), chromium, and other metals. Information about chemicals present on-site, as well as continuing exposure pathways and specific institutional limits or operating requirements designed to interrupt those pathways, are important to identifying potential impacts and should be addressed sooner rather than later. As noted above, there are additional assessment, planning, and reporting documents related specifically to the Crucible hazardous waste landfill, which should be considered within this environmental review and identified in the Scoping document.

III. Public Health and Safety

Constructing a public amphitheater on a hazardous waste site inevitably creates potential public health and safety impacts. The contaminants found on this site, which are hazardous to human health, include chromium, benzene, toluene, ethylbenzene, xylene, polyaromatic hydrocarbons (PAHs), polychlorinated benzenes (PCBs), phenols, mercury and arsenic. From the Draft Scoping document, the County appears to be relying heavily on a Human Health Risk Assessment (HHRA) conducted for hiking and biking trails that cross sections of the Wastebed 1-8 site. However, these studies are inadequate for assessing the full impacts of inviting large numbers of people onto the interior of the site.

Although the HHRA assumed that some portion of the users would occasionally stray off-trail, the proposed Amphitheater project directly invites users off-trail and into the interior of the site. In fact, the placement of the proposed festival site ensures that users will be drawn directly onto the Crucible hazardous waste landfill. In addition, the number of users will be much higher at a concert venue than on a nature trail, suggesting that erosion impacts and related exposures will be higher.

By providing lawn seating, the County is inviting direct contact between guests and the soil and this seating may be particularly attractive to families with young children, who are most vulnerable to contaminants and who were not assumed to stray off-trail in the HHRA. Concert goers are likely to remain on-site far longer than hikers, particularly if the County includes a vendor or "festival" area in the project. In addition,

the HHRA presumed that people would stray from the trails toward the interior rather than coming from the highway or State Fair parking lots to the site. The differences in underlying assumptions mean that the County should largely redo the human health risk assessment for the proposed Amphitheater project. The Scoping document should also consider the potential impact of intensive foot traffic on the integrity of site caps, particular in the “festival area” located on a closed hazardous waste landfill.

IV. Site Stability/Documented Environmental Conditions

The Draft Scoping document touches on the idea of stability in the section on geology, soils, and topography. However, given the history of this site, the County should more specifically address soil stability and related impacts on both environmental conditions on the site and public health and safety.

The proposed Amphitheater site houses both hazardous and non-hazardous wastes, which have been or are likely to be managed by covering or capping the sites. The “proposed festival area” included in the conceptual design is located directly above the Crucible Landfill, a closed hazardous waste landfill which sits atop Solvay Waste. Because the safety of both Wastebeds 1-8 and the closed Crucible Landfill depends on the stability and integrity of this cover/cap system, the County should specifically consider the impacts of the proposed Amphitheater on site stability and erosion or wear of the ground cover. These potential impacts are not simply speculative; they were specifically identified in site management documents.

The Crucible Landfill Closure plan, adopted in 1989, identified soil disturbance or erosion as a potential issue for the site and specifically indicated that the intended future use of the site didn’t include “major soil disturbances or heavy wheel loads” (Crucible Closure Plan, p. 3-3). Construction of the proposed Amphitheater will certainly involve soil disturbance and heavy wheel loads and on-going operation may also involve heavy trucks carrying equipment for performances, vendor tents or other attractions. The Crucible Landfill Closure Plan specifically limited the total height of landfill content and cover above Solvay Waste to minimize settling (Crucible Closure Plan, p. 3-1). Because the limit was based on height – or total amount of waste and cover material – rather than slope, it is presumably based on weight considerations. These concerns were greatest for the dikes that were built to separate waste cells in the Solvay Wastebed, which might be damaged by increased direct or adjacent surface loads (Closure Plan, pp. 3-2, 3-30).

Even with these limitations, recent monitoring has found ground fluctuations ranging from drops of 0.02 to 0.34 feet in two locations to a 0.6 foot rise in another. (2011 Annual Monitoring Report for the Crucible Landfill, March 2012, p. 7 [2011 Annual Report]). The observed settlement appears to be higher along the northeastern side of the landfill – that is, the side closest to the proposed amphitheater project (2011 Annual Report, March 2012, p. 8). In addition, several subsidence monitoring plates were found to be bent during most recent review, suggesting that there have been changes in elevation over time (2011 Annual Report, p. 7).

For this reason, the County should specifically consider the stability of the Solvay Wastebeds to support viewing stands (empty and full), roads (at maximum capacity) and stage site (empty and at maximum use). The County should specifically consider potential damage to waste cells and related dikes located directly underneath or adjacent to viewing stands, roads and stage. In addition, the County should consider potential damage to Solvay Waste cells and related dikes under the proposed festival site. Although the load on this site is likely to be lower and sporadic, this area already bears the weight of the Crucible Landfill. The County should consider the potential for intensified settling on the developed portions of the site and possible impacts on the stability of adjacent cells, groundwater movement, and cap/cover integrity.

As part of this assessment, the County should also consider the recent fluctuations in groundwater, as documented in the 2011 and 2012 Annual Reports for the Crucible Landfill. Between 2008 and 2011, groundwater levels at the site rose by 3.5 feet on average (2011 Annual Report), while levels dropped by an average of 5.55 feet between 2011 and 2012 (2012 Annual Report for Crucible Landfill, March 2013 [2012 Annual Report]). Such variability may have implications for site stability, since a high water table can mean high water pressure and correspondingly weak soil structures.

Finally, the County should consider the unsettled state of remediation on the site. Although the Crucible Landfill has been formally closed, on-going monitoring is required since hazardous waste remains on-site. Final remediation for the larger Wastebeds 1-8 area has not been developed, but is likely to include institutional controls and use limitations, since waste will likely remain in place post-remediation. The Draft Scoping document should include any known institutional controls, monitoring or maintenance requirements, acknowledge that more are likely to be applied to the site in future, and commit to assessing the compatibility of planned site use with these limitations.

V. Water Resources

To compensate for wetlands destroyed through the remediation of other portions of the Onondaga Lake Superfund site, Honeywell built 9.5 acres of wetlands on or around WB 1-8. The County should specifically consider the impact that amphitheater construction and subsequent use might have on the stability and environmental integrity of these wetlands. Specifically, these mitigation wetlands may be affected by increased sediment loads from site run-off caused by construction, intensified trail use, or the generation of “cowpaths” between points of interest on the site or from the on-going vibrations from project construction, event traffic, and the future music events themselves.

VI. Biological, Terrestrial and Aquatic Ecology

The proposed Amphitheater project may also have significant impacts on terrestrial and aquatic wildlife in the area. Any damage to wetlands on and around the site will have negative impacts on resident wildlife. In addition, the County should consider wildlife impacts related to construction and use-related noise, light pollution, construction and use-related vibrations, and intensified human presence on on-site trails and in adjacent areas of Onondaga Lake. Hunting birds, such as bald eagles and osprey, have frequently been seen roosting or hunting along the shoreline in the project area. Migratory birds and waterfowl may also prefer the project area, given that it's one of the few ungrumbled, undeveloped and unindustrialized habitats left around the Lake. For this reason, the County should specifically consider the impacts of construction and operation on birds of prey, migratory birds, and waterfowl, which may be most disturbed by the project.

The composition of wildlife on the project site may also be affected by the project. The increased human presence, management of vegetation, and elimination of open areas may disrupt wildlife currently on the site. Animals, such as mice and rats, that are drawn to areas with heavier human presence and the possibility of food waste may impact existing wildlife populations. Increased numbers of burrowing rodents, like mice and rats, may have an impact on the integrity of the site caps. The County should also consider the possibility that habitat itself will be disturbed or damaged by intensified human presence, including the development of “cow paths” or intensified use of designated foot trails, and the need to manage vegetation on and adjacent to the site.

In assessing potential environmental impacts in this area, the County should consider not only current conditions on the site, but the potential wildlife habitat that

would be provided by this site if the Amphitheater is not built. As with other Onondaga Lake Superfund sites, the final remediation plan for this site is likely to require restoration of habitat damaged by sampling, removal and remediation activities. Typically, this replacement habitat is constructed with some attention to the natural conditions that might have been present in the absence of industrial wastes and related stressors. The limited habitat provided by the unremediated Wastebed 1 – 8 site is unlikely to be fully representative of the habitat that would rebound on the site without the Amphitheater project. Further, Wastebeds 1-8 might be particularly valuable as undeveloped habitat, given that the eastern and southern shores of Onondaga Lake are mostly commercialized, industrialized or groomed parkland. This site represents a significant portion of the undeveloped, ungroomed area around the Lake and removal of a significant chunk of this site from “re-wilding” could have a significant impact on wildlife.

VII. Cultural, and Archaeological Resources

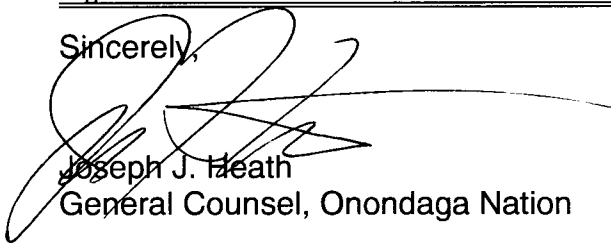
The Draft Scoping document identifies a number of studies of cultural and historical resources conducted on and around Wastebeds 1-8. These studies all focus on the potential presence of physical objects of cultural or historic importance – funerary objects, for example. However, the cultural and historic importance of Onondaga Lake to the Nation is broader than specific, concrete items. The Lake itself and its shores are sacred to the Nation, as is the vision of the Lake and surrounding areas as an integrated and functioning ecosystem. The County should consider the negative cultural impacts of a project that institutionalizes a permanently polluted landscape on and around the Lake, precludes additional remediation, and obstructs the potential to create a sustainable, functioning Lake-wide ecosystem.

Conclusion:

For all these reasons, the Nation believes that the County should consider a wide range of alternatives, including alternative locations. An amphitheater project might do well, for example, at the downtown end of the Lake near the Creek Walk and would avoid most of the potential environmental and related impacts discussed above. At minimum, the County should give serious consideration to the site-specific concerns outlined above as well as the more generic issues mentioned in the Draft Scoping document. Finally, the County should extend its implementation schedule for this project to allow more thoughtful planning and a full and meaningful environmental review.

David Coburn
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Sincerely,



Joseph J. Heath
General Counsel, Onondaga Nation

cc: Onondaga Nation Council of Chiefs
EPA, Region 2
New York State DEC
Onondaga County Legislature