



EXCELSIOR ENERGY CENTER

Case No. 19-F-0299

1001.28 Exhibit 28

Environmental Justice

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Exhibit 28: Environmental Justice

This Exhibit will track the requirements of Stipulation 28, dated July 6, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.28.

28(a) Environmental Justice Analysis

The purpose of an Environmental Justice evaluation is to determine if a facility could potentially have a significant and adverse disproportionate environmental impact on defined communities or populations. As a solar-powered electric generation facility, the Excelsior Energy Center (Project) will not generate air emissions during operation. Nevertheless, based on the criteria set forth in 6 NYCRR § 487.4, the Applicant has defined the “Impact Study Area” for Environmental Justice consideration to consist of a 0.5-mile radius around the Project Area.

Potential Environmental Justice Areas are defined by New York 6 NYCRR § 487.3 as areas with populations that meet one or more of the following thresholds:

- 51.1 percent or more of the population in an urban area reported themselves to be members of minority groups; or
- 33.8 percent or more of the population in a rural area reported themselves to be members of minority groups;¹ or
- 23.59 percent or more of the population in an urban or rural area had household incomes below the federal poverty level.²

The Project Area and the 0.5-mile Impact Study Area fall within multiple Census block groups in Genesee County. Census block group 1, Tract 9510, located in Southern Batavia, is also included as requested by NYSDEC. Table 28-1 below presents the low-income and minority populations for the block group containing the Project Area.

¹ *Minority population* means a population that is identified or recognized by the U.S. Census Bureau as Hispanic, African-American or Black, Asian and Pacific Islander, or American Indian.

² The annual thresholds for the federal poverty level vary with household size and composition. In 2017, the poverty level for a family of four related persons with two children under age 18 was \$25,465. For more information, see <https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-266.pdf>.

Table 28-1. Low-Income and Minority Populations in the Excelsior Energy Center Project Area and Impact Study Area

Block Group	Low-income Population	Minority Population (non-white and/or Hispanic)	Potential EJ Area
Project Area and 0.5-mile Impact Study Area			
BG 4, Tract 9501	21.9%	7.1%	No
BG 5, Tract 9501	2.9%	1.4%	No
BG 6, Tract 9501	3.6%	1.7%	No
BG 1, Tract 9502	10.8 %	24.8%	No
BG 4, Tract 9511	10.2%	3.5%	No
Other Areas Requested by NYSDEC (not in Project Area and Impact Study Area)			
BG 1, Tract 9510	30.4%	4.7%	Yes

Source: U.S. Census Bureau, 2014-2018 American Community Survey 5-Year Estimates

Based on the review of the minority and low-income population of the Census block groups above, the proposed Project location is not in a Potential Environmental Justice Area as defined by the State of New York. Further, a review of New York State Department of Environmental Conservation's (NYSDEC's) mapped Potential Environmental Justice Areas³ indicates that the Project is not located in a Potential Environmental Justice Area. Block group 1, Tract 9510 is a Potential Environmental Justice Area. This block group, however, is outside of the Project's Impact Study Area.

Based on the review of the minority and low-income population of the Census Block Group, the proposed location is not in a Potential Environmental Justice Area, as defined by the State of New York. In summary, (a) Potential Environmental Justice Areas are outside the required 0.5-mile Impact Study Area around the Project Area, (b) the closest Environmental Justice Area is located approximately 3.6 miles from the Project Area in the City of Batavia, (c) there will be no air emissions during operation, and (d) any vehicle/equipment emissions during construction will not affect any Environmental Justice Areas. Therefore, the full Environmental Justice Analysis required by 6 NYCRR § 487.6 is not required.

³ See: <https://www.dec.ny.gov/public/911.html>.

The Project's operation and construction will not result in any significant and adverse disproportionate environmental impacts. As demonstrated in each respective exhibit of the Application, there will be not significant adverse impacts to any community adjacent to the Project Area due to Project traffic (Exhibit 25 Effects on Transportation), noise (Exhibit 19 Noise and Vibration), or visibility (Exhibit 24 Visual Impacts) and certainly not to any community 3.6 miles away.⁴ All resource evaluations were completed in a manner that are in accordance with the requirements of the Stipulations and the requirements of the Article 10 regulations.

The Project, therefore, will not result in significant and adverse disproportionate environmental impacts on any Environmental Justice areas. Therefore, the full Environmental Justice Analysis provided by 6 NYCRR § 487.6 is not required.

28(b) Environmental Justice Area Map

Figure 28-1 depicts census block groups in the vicinity of the Project. The figure also shows the Potential Environmental Justice areas, located approximately 3.6 miles from the Project in the City of Batavia (Block Group 1), in relation to Project Area and the Impact Study Area.

⁴ See Exhibits noted for details on studies used in the evaluations of the resources listed. Study information includes the author and date.

References

- New York State Department of Environmental Conservation. 2000. Potential Environmental Justice Areas in Genesee County, New York. Accessed February 6, 2020. Available online at: https://www.dec.ny.gov/docs/permits_ej_operations_pdf/geneseeej.pdf
- U.S. Census Bureau. 2019. 2013-2018 American Community Survey 5-Year Estimates. Accessed February 5, 2020. Available online at: <https://data.census.gov/cedsci/>
- U.S. Census Bureau. 2020. Poverty Thresholds by Size of Family and Number of Children. Accessed February 6, 2020. Available online at: <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>