

I am an ally to the Haudenosaunee Confederacy who governs their Territories and citizens according to the Great Law of Peace. The Haudenosaunee Confederacy are sovereign Nations with political, cultural, and religious agency over their ancestral homelands that is New York State. The NYS Climate Council have excluded them from the most pivotal legislation on climate change ever. This is a violation of their treaty rights and human rights. To redress:

I ask the NYS Climate Council create a stand-alone working group to establish a state to Nation partnership: 1) Where Indigenous representation is chosen by the Seneca, Mohawk, Onondaga, Oneida, Cayuga, and Tuscarora Nations respectively; 2) To ensure their political status is not supplanted under a racial group categorization, and 3) To radically challenge the NYS Climate Act Scoping Plan in its integrity and motive regarding Indigenous people, which fundamentally affects marginalized communities.

Tribes are Governmental and Political Entities, not Racial Groups

This principle is embedded in U.S. law and explicitly recognized by the Supreme Court in Morton v. Mancari in 1977. This is the law of the land. As was thoroughly explained by the U.S. Supreme Court..., Tribes are governmental entities, not racial groups. As such, Congress may enact legislation, and executive branch agencies may implement policy, that is unique to Indian peoples without violating the requirement of equal protection of the law, when such legislation or policies are reasonable and rationally designed to further tribal self-government. 417 U.S. at 555. This remains the governing law today. The holding of Mancari indicated that the relationship of Indigenous people to the federal government was political, not racial.” - Indian Law Resource Center

The Scoping Plan failed to acknowledge the Haudenosaunee, but otherwise refers to them in a general acronym for people of color. The Haudenosaunee have governing power and ecological intelligence that reaches forward and back since time immemorial. There cannot be a policy or directive that meets the overwhelming response to climate change without the Haudenosaunee at the table exercising their substantive rights and knowledge, including their collective rights of self-determination and land ownership, rather than merely recognizing “participatory” rights as people of color under “marginalized communities”; specifically, diminished to participation in “consultation.” This illuminates the historical and current tactics NYS uses to try to delegitimize the Haudenosaunee in their distinct, exceptional, and unparalleled right to the conservation and protection of land and our non-human relatives.

The well-being and protection of the land and natural resources are inextricably intertwined and inseparable from the Haudenosaunee. *One Dish, One Spoon* is a cultural and spiritual practice that means the land provides for all, and if some have an abundance of something, they share with others. This aligns completely with NYS’ vow for environmental justice for marginalized communities. Any exploitation and pollution of the natural resources of their Territories are also impacts to the cultural resources and health of the Haudenosaunee including non-Indigenous people, as we share the land with them.

Notwithstanding, Indigenous people are people of color who have the highest poverty rate among all minority groups. Indigenous women and girls are murdered and missing more than women of any other race according to the Justice Department. Partnership for the Public Good factsheet, *Indigenous People of Western New York: Time Immemorial to 2018* reported: “Economy and employment historical trauma, a lack of economic and educational investment, discrimination...all play a role in the persistent economic disparities Native communities face...Native peoples

experience severe health disparities compared to the general population. Nationally, Native Americans born today have a life expectancy that is 4.4 years less than the U.S average; they are also more likely to die from diabetes, tuberculosis, and suicide than any other group. Suicide is the second leading cause of death—2.5 times the national rate—for Native youth in the 15 to 24 year old age group. Nationally, Native poverty and unemployment rates are double the average...In Allegany, Cattaraugus, and Erie counties, unemployment for AI/AN peoples is a full 6% higher than the general population.”

Environmental Ethics & the SEQRA Process

The DEC’s website explains SEQRA as: *New York's State Environmental Quality Review Act requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. This means these agencies must assess the environmental significance of all actions they have discretion to approve, fund or directly undertake. When considering an action that has been the subject of a Final EIS, SEQR requires the agencies to balance the environmental impacts with social and economic factors when deciding to approve or undertake an "Action".*

However, the SEQRA has not been unpacked in the Scoping Plan as an integral, established state governmental process that should act to mediate the imbalance of power. In actuality, the Act gives the corporate entity the ability to bypass imperative environmental assessments that protect the cultural, religious, and land rights of the Haudenosaunee and us. The fox is guarding the hen house.

This is in light with the recent judgement that rejected the Tonawanda Seneca Nation’s lawsuit against the Genesee County Economic Development Center (GCEDC) and their tenant Plug Power Inc. for Project Gateway- also known as the hydrogen production facility. The Tonawanda Seneca Nation has authority and jurisdiction over its citizens and its treaty-protected Reservation Territory, which lies within Genesee, Erie, and Niagara counties in Western New York State. They must now live with threat of a cultural and environmental crisis because GCEDC willfully ignored critical assessments, which should be required by SEQRA, in its Generic Environmental Impact Statement. GCEDC declared no further compliance and was supported by the NYS judicial system.

One of many, GCEDC did not analyze or include information about the impact of an explosion at the hydrogen facility on the Nation. SEQRA requires an analysis of reasonably foreseeable catastrophic impacts to the environment for certain facilities whose operations are prone to explosions or catastrophic failure. A catastrophic explosion at a hydrogen production facility is reasonably foreseeable, due to liquid hydrogen’s flammability. Hydrogen’s flammability is what makes it valuable for use as fuel. GCEDC is marketing this hydrogen facility as “green energy” when in fact, hydrogen is twice as flammable as propane.

Further, Project Gateway is estimated at 232.7 million dollars. The hydrogen production facility will require development of an electric substation and wastewater treatment facility. Plug Power would produce liquid hydrogen through an electrolysis process by depleting Lake Ontario, Lake Erie, and other water resources of 243,000 gallons of water (and will increase) *per day* to power forklift batteries for clients such as Amazon, Nike, HomeDepot, Mercedes, and now Walmart. This involves miles of pipe being laid connecting through multiple counties’ water systems to disrupt fragile ecosystems of natural environments like the Iroquois Wildlife Refuge that is joined to the Nation’s Territory. As marketed on the NYS Climate Act website, an ironic path for “direct resources in a

manner designed to ensure that disadvantaged communities...benefit of spending on energy and energy efficiency programs”

NYS taxpayers benefit: *Investigative Post* reported Plug Power will receive an estimated 269.5 million in tax breaks and discounts in exchange for building a plant that would create only 68 jobs; 30 of those jobs would be for truckers. At a cost of \$4 million per job, the subsidy deal is the wildest in Western New York history. In other words, Plug Power will make millions by exploiting the natural resources of the Great Lakes and benefit even more from us by taking our water supply while we pay for it. This also compounds the environmental racism and genocide of the Haudenosaunee by extreme assault of the natural world for a financial profit of very few. How is this justifiable, especially when there are other more suitable places that already have the infrastructure in place to accommodate such consumption?

NYS Legalese, Institutional Racism, Section 94-C

Section 94C: Executive (EXC) CHAPTER 18, ARTICLE 6

§ 94-c. Major renewable energy development program. 1. Purpose. It is the purpose of this section to consolidate the environmental review and permitting of major renewable energy facilities in this state and to provide a single forum in which the office of renewable energy siting created by this section may undertake a coordinated and timely review of proposed major renewable energy facilities to meet the state's renewable energy goals while ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such facilities as more specifically provided in this section.

NYS is promoting the Climate Act as a roadmap to integrate more renewable energy and just transition away from fossil fuels and per website, “...charged the Climate Justice Working Group with the development of criteria to identify disadvantaged communities to ensure that frontline and otherwise underserved communities benefit from the state’s historic transition to cleaner, greener sources of energy, reduced pollution and cleaner air, and economic opportunities.”

Behind the curtain though, Section 94-C undermines the objective of the Climate Justice Working Group by removing any perceived obstacles of the SEQRA process in order to advance corporate profit. This is by design. It is the perpetual conflict of interest and juxtaposition that currently live in NYS law that confirm the genocide and land grabs of the Haudenosaunee and discrimination of marginalized communities is alive and present. Conversely, the floral marketing of the Climate Act underestimates communities of color and all NYS residents. The sheer volume of the Scoping Plan is indicative of the sleight of hand behavior NYS uses to exhaust, distract, and discourage its taxpayers to participate in legislation that profoundly affects their health and their environment. The Haudenosaunee are always disproportionately affected because their fight to exist and maintain their inherit relationship to Mother Earth has never ended. A relationship that is critical to all of our futures.

The Climate Justice Working Group is aware of Section 94-C in action right now: Invenergy and their Horseshoe Solar Project (HSP). HSP was first planned entirely on the west side of the Genesee River Valley. The Point of Insertion (POI) was to be constructed on leased quarry land. This followed EPA and NYS recommendation that massive renewable energy projects should be constructed on landfills, brownfields, etc. Next up, the POI was moved and reimagined on the Seneca’s unceded ancestral Canawaugus Territory.

If Invenergy is successful in installing upwards of 600,000 solar panels that span both sides of the Genesee River in the Towns of Caledonia and Rush, it will defile Canawaugus Territory. Deeply held Seneca values require the land must be protected seven generations past, in order to preserve it for future seven generations. The territory is culturally and inexorably connected to the Seneca; burial grounds are intact and human remains have already been found. The Tubiolo Report, *The Cultural Landscape of the Genesee Valley*, details 500 generations of human habitation in the Genesee River Valley. If the project is built as planned, the Report calculates that depending on the panel supports chosen, between 40,000 and 80,000 steel beams will be driven 10-20 feet deep while 52 miles of 5-foot-deep trenches will be dug to accommodate buried electrical collection cables. This will result in cultural genocide where sacred sites at Golah and the surrounding areas will be destroyed. Only after sustained opposition, Invenergy agreed to remove panels from Canawaugus and a portion of land called Golah; however, what is not common knowledge is that all land on both sides of the Genesee River are ancestral Canawaugus Territory going back hundreds of years and likely contain graves and artifacts that encompasses a vast 3,800 acres. Consequently, penetrating radar and phase II archaeological investigation must be completed *before* any ground disturbances occur.

Many residents of Rush don't want the massive solar installation either as it will profoundly affect their town's rural character. The Steering Committee of Residents United to Save our Hometown was created to lead the initiative to educate residents in their opposition to HSP. While the town of Rush and Residents United support renewable energy, they oppose HSP. Invenergy is marketing the HSP site good for pasture, which is misleading. According to the Department of Agriculture and Markets, the land is optimal and strongly suited for row crops not pasture. Solar facilities are not entirely green either because this requires huge tracts of land to be cleared of vegetation and diversion of water for cooling systems that can lead to the destruction of wildlife habitats. Altering the land use, solar facilities may lead to degradation of land because of the extraction, manufacturing, and disposal of solar panels. The energy footprints on the land are such it might be too difficult or even impossible to return to its earlier state.

That is not to say that the Haudenosaunee or The Steering Committee of Residents United to Save our Hometown does not support renewable energy. The town of Rush has already identified and allocated land for large-scale solar that would support renewable energy goals, but preserve culture, land, and community. Despite this effort, Invenergy and NYS intentions push forward to pollute ancestral and agriculture land.

A notable mention, look further to Montgomery County where large scale solar projects are being paved for approval through Section 94-C legislation that will absorb roughly 3,500 acres. In the annual State of the County address, the county executive recently shared that these solar farms are slated to meet 1 GW of NYS' 10 GW solar power goal by 2030 and that "One small rural county should not be targeted for siting such a large quantity of solar simply because we are an easy mark." For reference, 1 GW equals 1,000 megawatts of solar energy. There are roughly 15,000 homes in Montgomery County; 1 GW produces enough energy to power 200,000 homes. Even though this county is disproportionately expected to carry 1/10 of NYS's solar power goal, there are no plans to provide energy to Montgomery residents. This will also result in the dislocation of the Amish, a religious minority whose livelihood would be devastated by massive solar installations that will occupy acres of prime farmland. This religious group does not use broadband, computers or telephone and their ability to research the project and attend town meetings is limited. It is likely the Amish will leave the Town of Glen because there will not be enough land for their children to buy and farm.

NYS governing bodies have benefited from the power position of taxpayers' dollars and legislation to proceed in methodical genocide and economic deprivation of the Haudenosaunee that has gone unimpeded by non-Indigenous people for centuries. That has changed. The stolen land of all Six Nations, such as NYS Power Authority from the Tuscarora, who struggle for health equality because of poisoned drinking water; the Onondaga Creek poisoned by industry, which has adversely impacted their water and food source; the nuclear power plant and flooding of Alleghany Seneca land; the strong-arming of Seneca Nation gaming by withholding health and county services and freezing their assets; Residential Schools. This history is too deep and wide to form.

The NYS Climate Act Scoping Plan speaks to environmental justice without a way forward to restorative justice. Upholding the treaty rights and human rights of the Haudenosaunee have direct far reaching protections for all NYS residents. To that end, righteous accountability is required.

Respectfully,