

**U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency**

Final ENVIRONMENTAL ASSESSMENT


Genesee County, New York

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Date: 9/8/25



COVER SHEET

Proposed Action:	The Farm Service Agency, of the United States Department of Agriculture (USDA), proposes to provide assistance for the construction of two bunk silos, one 600'x300', and one 400'x200', and associated site preparation. The bunks will be made of concrete. There will also be a 100'x50' leachate storage structure with pump installed. The project will be located at [REDACTED], in East Bethany NY, in Genesee County.
Type of Document:	This is a site-specific Environmental Assessment
Lead Agency:	United States Department of Agriculture (USDA) Farm Service Agency (FSA)
Cooperating Agencies:	None
Further Information:	Jamie Epstein, 441 South Salina Street, Syracuse New York 13202, and (315) 477-6313
Comments:	This Environmental Assessment (EA) was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementing procedures found in 7 CFR 1B, as well as the NEPA of 1969, Public Law 91-140, 42 US Code 4321-4347, as amended. A copy of the EA can be found on the NY FSA webpage.

ACRONYMS AND ABBREVIATIONS

AEM	Agricultural Economic Management
BMP	Best Management Practices
CAFO	Confined Animal Feeding Operation
CBRA	Coastal Barrier Resource Area
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CO _{2e}	Carbon Dioxide Equivalent
DEC	Department of Environmental Conservation
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
FONSI	Finding of No Significant Impact
FSA	Farm Service Agency
GHG	Green House Gases
HUC	Hydrological Unit Code
IPaC	Information Planning and Conservation
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMP	Nutrient Management Plan
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resource Conservation Service
SHPO	State Historic Preservation Officer
SIP	State Implementation Plan
SPDES	State Pollutant Discharge Elimination System Permit
SWCD	Soil and Water Conservation District
SWPPP	Storm Water Pollutions Prevention Plan
THPO	Tribal Historical Preservation Officer
US	United States
USACE	United States Army Corp or Engineers
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
VTa	Vegetative Treatment Area
WMA	Wildlife Management Area
WSS	Web Soil Survey

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1. INTRODUCTION

1.1 Background

The United States Department of Agriculture (USDA) Farm Service Agency (FSA) proposes to provide assistance for the applicant to build a concrete bunk silo west of the existing heifer barns. The proposed project will take place on the home farm containing approximately 353.44 acres, with possible impacts to several other farms and tracts of land currently owned and leased by the producer. The possible impacts to other farms and tracts will be primarily related to the application of manure to approximately 4,097 acres of the total available land. The proposed action will give the facility the ability to store approximately 100,000 tons of feed. The construction of the bunks will allow the producer to have more centralized storage. The proposed project site will be located at [REDACTED] East Bethany NY 14051 (A-1). The proposed site is not located in an area of the state identified by regulatory authorities as being subject to unusual agricultural restrictions. Appendices A and B contain maps and photos of the proposed project area. A detailed description of the components of the Proposed Action, the project site and related surrounding area of potential effect is further described in Section 2.1 of this document.

1.2 Purpose and Need for the Proposed Action

The purpose of the proposed action is to implement USDA, Farm Service Agency's mission of equitably serving all farmers, ranchers, and agricultural partners through the delivery of effective, efficient agricultural programs for all Americans. FSA is tasked with this mission as provided by the Food and Security Act of 1985 as amended, the Consolidated Farm and Rural Development Act as amended, and related implementing regulations found in 7 CFR Parts 762 and 764.

FSA has the responsibility to provide access to credit and support the agricultural economy by helping family and beginning farmers and ranchers to start, improve, expand, transition, market, and strengthen their operations. The Proposed Action is needed to fulfill this responsibility and to address the applicant's request for assistance to increase the profitability of their farming operation and reduce the potential negative environmental conditions. The Proposed Action will assist the applicant in achieving their goals and objectives, while also protecting the natural resources and public health.

1.3 Decision To Be Made

FSA's decision is whether to:

- Approve the applicant's request
- Approve the request with additional mitigations; or
- Deny the request.

1.4 Regulatory Compliance

The EA has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) (Public Law 91-190, 42 United States Code 4321 et seq.). The intent of NEPA is to protect, restore, and enhance the human environment through well-informed Federal decisions. The following non-exclusive list of higher-tier executive orders (EOs), acts, and relevant decision and guidance documents apply to actions undertaken by Federal agencies and form the basis of the analysis presented in this PEA:

- Clean Air Act (42 USC 85 parts 7401 et seq., 1999)
- Clean Water Act (33 USC 26 parts 1251 et seq., 2000)

- Endangered Species Act [ESA] of 1973, as amended (16 USC 35 parts 1531 et seq., 1988)
- National Historic Preservation Act (54 USC 300101 et seq., 2014) and associated Section 106 process (54 USC 306108, 2014)

Right to Farm Act

All fifty states have enacted right-to-farm laws that seek to protect qualifying farmers and ranchers from nuisance lawsuits filed by individuals who opt to reside in rural areas where normal farming operations exist, and who later use nuisance actions to attempt to stop those ongoing operations. The Right to Farm law for **New York Agriculture & Markets Law AGM ARTICLE 25 AA SECTION 308.**

New York Right to Farm

- 1a. The commissioner shall, in consultation with the state advisory council on agriculture, issue opinions upon request from any person as to whether particular agricultural practices are sound.
- b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; “timber operation,” as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York State College of Agriculture and Life Sciences and the USDA Natural Resources Conservation Service, and provide such information, after the issuance of a formal opinion, to the municipality in which the agricultural practice being evaluated is located. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.
2. Upon the issuance of an opinion pursuant to this section, the commissioner shall publish a notice in a newspaper having a general circulation in the area surrounding the practice and notice shall be given in writing to the owner of the property on which the practice is conducted and any adjoining property owners. The opinion of the commissioner shall be final, unless within thirty days after publication of the notice a person affected thereby institutes a proceeding to review the opinion in the manner provided by article seventy-eight of the civil practice law and rules.
3. Notwithstanding any other provisions of law, on any land in an agricultural district created pursuant to section three hundred three or land used in agricultural production subject to an agricultural assessment pursuant to section three hundred six of this article, an agricultural practice shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.
4. The commissioner, in consultation with the state advisory council on agriculture, shall issue an opinion within thirty days upon request from any person as to whether particular land uses are agricultural in nature. Such land use decisions shall be evaluated on a case-by-case basis.
5. The commissioner shall develop and make available to prospective grantors and purchasers of real property located partially or wholly within any agricultural district in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to

right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property law.

308-a. Fees and expenses in certain private nuisance actions.

1. Definitions - for purposes of this section:

- a. "Action" means any civil action brought by a person in which a private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.
- b. "Fees and other expenses" mean the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, consultation with experts, and like expenses, and reasonable attorney fees, including fees for work performed by law students or paralegals under the supervision of an attorney, incurred in connection with the defense of any cause of action for private nuisance which is alleged as part of a civil action brought by a person.
- c. "Final judgment" means a judgment that is final and not appealable, and settlement.
- d. "Prevailing party" means a defendant in a civil action brought by a person, in which a private nuisance is alleged to be due to an agricultural practice, where the defendant prevails in whole or in substantial part on the private nuisance cause of action.

2. Fees and other expenses in certain private nuisance actions.

- a. When awarded: In addition to costs, disbursements and additional allowances awarded pursuant to sections eight thousand two hundred on through eight thousand two hundred four and eight thousand three hundred one through eight thousand three hundred three-a of the civil practice law and rules, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the plaintiff, fees and other expenses incurred by such party in connection with the defense of any cause of action for private nuisance alleged to be due to an agricultural practice, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issue by the commissioner under section three hundred eight of this article, prior to the start of any trial of the action or settlement of such action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished, except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings.
 - b. Application for fees: A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which sets forth (i) the facts supporting the claim that the party is a prevailing party and is eligible to receive an award under this section, (ii) the amount sought, and (iii) an itemized statement from every attorney or expert witness for which fees or expenses are sought stating the actual time expended and the rate at which such fees and other expenses are claimed.
3. Interest: If the plaintiff appeals an award made pursuant to this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award. Such interest shall run from the date of the award through the day before the date of the affirmance.
4. Applicability:
- a. Nothing contained in this section shall be construed to alter or modify the provisions of the civil practice law and rules where applicable to actions other than actions as defined by this section.
 - b. Nothing contained in this section shall affect or preclude the right of any party to recover fees or other expenses authorized by common law or by any other statute, law or rule.

1.5 Public Involvement and Consultation

Scoping is an early and open process to involve agencies, organizations, and the public in determining the issues to be addressed in the environmental document. Scoping is a process that seeks opinions and consultation from the interested public, affected parties, and any agency with interests or legal jurisdiction.

1.5.1 Internal Scoping

USDA staff of various specialties have been consulted regarding the purpose and need, issues, and impact topics appropriate for consideration for the proposed activity. A site visit and pedestrian review was completed by Amanda Patterson, County Executive Director Genesee County FSA on 4/11/25. Site visit notes and photographs (Appendix B-1).

1.5.2 External Scoping

USDA FSA has completed research including the following:

- Research of U.S. Fish and Wildlife Service (USFWS) - Information, Planning, and Conservation System (IPaC) about the Proposed Action's potential to affect Federally listed species as required by the Endangered Species Act of 1973. Official species listed were Northern Long-eared Bat (*Myotis septentrionalis*), and Monarch Butterfly (*Danaus plexippus*). Research on iPaC resulted in a "No Effect" determination for both listed species (Appendix D).
- Consultation with the State Historic Preservation Officer (SHPO) to ensure that compliance with the requirements of Section 106 of the National Historic Preservation Act (NHPA) are met and that significant impacts to historic properties will not result from the Proposed Action (Appendix E).
- Tribal Historic Preservation Officers (THPO) and Tribal Representatives were consulted to ensure that compliance with the requirements of Section 106 of the NHPA are met and that significant impacts to historic properties will not result from the Proposed Action (Appendix E).
 - Seneca (Appendix E-1)
 - Seneca Cayuga (Appendix E-2)
 - Tonawanda (Appendix E-3)

2. DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

2.1 Alternative A - Proposed Action

The proposed action will occur on an existing dairy farm on the north side of East Rd in East Bethany, Genesee County, New York. The concrete bunk silo will be funded by FSA's Farm Storage Facility Loan program. The owners of [REDACTED] are proposing the construction of a 600'x300' bunk, a 400'x200' bunk, and a 100'x50' leachate storage system and pump.

2.2 Alternative B - No Action Alternative

The No Action Alternative means FSA assistance will not be provided and the project described in Section 2.1 above (Proposed Action) will not be built. Existing conditions on the site will continue and there will be no impact as the proposed action will not go forward.

3. AFFECTED ENVIRONMENT AND IMPACTS

The impacts to a number of protected resources, as defined in FSA Handbook 1-EQ (Revision 3) Environmental Quality Programs for State and County Offices, are considered in this EA. Some resources are eliminated from detailed analysis. Resources that are not eliminated are carried forward for detailed analysis. The table below shows the resources that are eliminated from detailed analysis and those carried forward. Section 3.1 contains discussions of those resources eliminated from detailed analysis. Section 3.2 describes the existing conditions for resources carried forward for detailed analysis and the anticipated impacts to those resources resulting from the Proposed Action.

Resource	Eliminated	Carried Forward
Wildlife and Habitat		X
Cultural Resources		X
Coastal Barriers	X	
Coastal Zones	X	
Wilderness Areas	X	
Wild and Scenic Rivers, NRI	X	
National Natural Landmarks	X	
Sole Source Aquifers	X	
Floodplains	X	
Wetlands	X	
Soils	X	
Water Quality		X
Air Quality		X
Noise	X	
Important Land Resources	X	

3.1 Resources Eliminated from Detailed Analysis

Coastal Barrier Resources System

The Coastal Barrier Resources Act (CBRA) of 1982 designated relatively undeveloped coastal barriers along the Atlantic and Gulf coasts as part of the John H. Chafee Coastal Barrier Resources System (CBRS) and made these areas ineligible for most new Federal expenditures and financial assistance. The purpose of CBRA is to protect these important resources from development that may cause their degradation or destruction.

The proposed project site is located near East Bethany, New York, which is approximately 34 miles from the nearest CBRS unit (NY-86 Bogus Point) as shown on the map (Appendix- L-1). The project involves the construction of a bunk silo on an existing farm that has no direct or indirect connection to any coastal barrier. Therefore, the project does not fall within the CBRS and does not require compliance with CBRA. The project will not have any adverse impacts on coastal barriers or their associated resources, such as wetlands, floodplains, wildlife habitat, or water quality. The project will not encourage or facilitate development or modification of coastal barriers in the future; therefore, Coastal Barrier Resources Systems will not be carried forward for detailed analysis.

Coastal Zone Management Areas

The Coastal Zone Management Act (CZMA) of 1972 is a federal law that provides for the management of the nation's coastal resources, including the Great Lakes. The goal is to preserve, protect, develop, and where possible, to restore or enhance the resources of the nation's coastal zone. The purpose of CZMA is to protect these important resources from development that may cause their degradation or destruction.

The proposed project site is located near East View, New York, which is approximately 30 miles from the nearest coastal zone area (Irondequoit Bay, Lake Ontario) as shown on the map (Appendix N-1).

Therefore, it does not fall within a coastal zone management area and does not require compliance with CZMA. It will not be carried forward for detailed analysis.

Sole Source Aquifers

The Sole Source Aquifer Program (SSA) was authorized as part of the Safe Drinking Water Act of 1974 which made projects that may contaminate aquifers through the recharge zone of these designated areas ineligible for federal financial assistance.

A sole source aquifer is an aquifer that supplies at least 50 percent of the drinking water for its servicing area and there is no reasonably available alternative drinking sources should the aquifer become contaminated.

The purpose of the SSA program is to protect these important resources from development that may create a significant hazard to public health.

The proposed project site is located near East Bethany, New York, which is approximately 20 miles northeast from the nearest sole source aquifer (Cattaraugus Creek Basin SSA) as shown on the map (Appendix M-1). This project has no direct or indirect connection to a sole source aquifer. Therefore, it does not require compliance and will not be carried forward for detailed analysis.

Important Land Resources

Prime and unique farmland, forestland and rangeland resources are eliminated from detailed analysis because the proposed action will not result in prime and/or important farmland being converted to a nonagricultural use. See Prime and Unique Farmland Map (Appendix Q-1).

Soils

Soil is a natural body comprised of solids (minerals and organic matter), liquid, and gases that occurs on the land surface, occupies space, and is characterized by one or both of the following: horizons, or layers, that are distinguishable from the initial material as a result of additions, losses, transfers, and transformations of energy and matter or the ability to support rooted plants in a natural environment. Soils can be classified as highly erodible for either wind or water erosion.

Soils at the proposed project site were analyzed using USDA NRCS Web Soil Survey (WSS) which provides soil data and information produced by the National Cooperative Soil Survey.

The proposed action will have no significant effect on soil health on the farmstead. The soils have been previously disturbed as the area has been used to plant annual agricultural crops. During the project development, any topsoil that will be removed will be stored on site and used while grading and site preparation is conducted and used after the footers are poured to grade away from the structure.

There are no hydric soils near the proposed site. The Agency has determined that the proposed action will not result in any impacts to soil quality (Appendix J-2).

Wetlands

Wetlands were eliminated from detailed analysis because there are no wetlands in the project area and the proposed action will not result in discharge or fill into any wetlands. A pedestrian survey of the

project area was conducted on 04/11/2025. In addition, the applicant executed Forms AD-1026 on 05/13/2015 to certify compliance with the highly erodible land and wetland conservation provisions (Appendix J-4).

There are no direct impacts anticipated from the proposed action. The project creates potential improvements to any indirect effects to the potential wetland on the farm.

Wilderness Areas

The National Wilderness Preservation System is a network of over 111.7 million acres of public land comprised of more than 803 wilderness areas administered for the American people by the federal government.

Wilderness areas are eliminated from detailed analysis because the proposed action is not located near a Wilderness Area and will not create a disturbance that could be observed from a Wilderness Area.

There are no Wilderness Areas in New York State (Appendix F-1).

Wild and Scenic Rivers/Nationwide Rivers Inventory (NRI)

Wild Scenic and Recreational Rivers Act protects those rivers of the state that possess outstanding scenic, ecological, recreational, historic, and scientific values. These attributes may include value derived from fish and wildlife and botanical resources, aesthetic quality, archaeological significance and other cultural and historic features.

Wild and Scenic Rivers/Nationwide Rivers Inventory are eliminated from detailed analysis because the proposed action is not located within ¼ mile of a Wild and Scenic River or River listed on the Nationwide Rivers Inventory, will not involve destruction, alteration or cause a disturbance to such a river. The nearest designated Wild and Scenic River, the Upper Delaware River, along the New York and Pennsylvania border is located over 100 Miles South from the project site. The nearest river listed on the Nationwide Rivers Inventory is the Genesee River, located approximately 13 miles East from the proposed site (Appendix G-1, G-2).

National Natural Landmarks

There are 28 National Natural Landmarks in New York State. National Natural Landmarks are sites designated by the Secretary of the Interior that contain outstanding biological and geological resources. Sites are selected for their condition, illustrative character, rarity, diversity, and value to science and education.

The proposed project site is located near East Bethany, New York. The site of the proposed action is not located near any National Natural Landmarks, nor does it threaten to alter or impair them. The closest, Bergon-Byron Swamp, is located approximately 13 miles South of the proposed site in Genesee County, therefore National Natural Landmarks will not be carried forward for detailed analysis (Appendix H-1).

Floodplains

Floodplains are eliminated from detailed analysis because there are no floodplains located in the project area or adjacent to the project site of the Proposed Action. This determination is based on a flood plain map obtained on the FEMA portal (Appendix I-1).

Noise

Effects on noise were eliminated from detailed analysis. There are no state or local noise ordinances with which the operation will not be in compliance. The increase in noise level during construction will be temporary, resulting from the operation of heavy equipment during normal working hours.

Construction of a facility this type will typically take 3 months from start to finish.

After construction of the proposed addition, noise from the Proposed Action will be the same or similar to noise from the existing operation. Truck traffic servicing the facility will continue to occur routinely during normal daylight working hours. Milk pickup may require occasional truck operation during the

evening and early morning hours. The farm's compressor will continue to be in operation during milking. Normal farm equipment use will continue with the majority occurring during normal business hours. Additionally, State Right to Farm Law protects the operation of farms that were established prior to the use of the area surrounding the agricultural operation for nonagricultural activities when those farms employ methods or practices commonly or reasonably associated with agricultural production.

3.2 Resources Considered with Detailed Analysis

This section describes the environment that will be affected by the implementation of the alternatives described in Chapter 2. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Under the 'no action' alternative, the Proposed Action will not be implemented. The 'no action' alternative will result in the continuation of the current land and resource uses in the project area. This alternative will not be evaluated further in this EA.

3.2.1 Wildlife and Habitat

Existing Conditions

The site of the Proposed Action is characterized by land that is cropland and previously had a crop on it. A site visit was conducted by the Farm Service Agency County Executive Director on 04/11/2025 and photographs were taken (Appendix B-1).

The area surrounding the proposed action has long been in agricultural use and includes farm buildings, cropland, and a family dwelling. No changes or effects are anticipated for these areas related to this action.

A list of threatened and endangered species and designated critical habitat for Genesee County was obtained from the US Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) system (Appendix D-1). The following species are known to occur in the county: Northern Long-Eared Bat and Monarch Butterfly. There are no designated critical habitats for these species in the county.

FSA consulted with the USFWS on June 18, 2025, regarding the potential of the proposed action to affect threatened and endangered species. FWS IPaC Report and technical assistance letters dated June 18, 2025 (Appendix D-2, 3).

The monarch butterfly (*Danaus plexippus*) is a candidate species and not yet listed or proposed for listing. The butterfly both eats and lays their eggs on milkweed, none of which was observed in the area of potential effect (Appendix D-5).

The Northern Long-Eared Bat (*Myotis septentrionalis*) is an endangered species whose range includes Genesee County NY. During the summer these bats roost in trees or snags with cracks, crevices, or loose bark alone or in colonies with young. During winter months these bats hibernate in caves and mines and are rarely found in man-made buildings like barns (Appendix-D4).

Impacts of Proposed Action

The proposed action will not result in removal of any areas of native vegetation or wildlife habitat that vegetation provided. The proposed site is and has been cropland. No milkweed was found during the pedestrian review of the site.

With the lack of milkweed in the proposed action area, this action is not likely to affect monarch butterflies.

Considering that the activity will not remove any trees, this action is not likely to affect the northern long-eared bat.

No significant impacts to Wildlife and Habitat are expected to result from the Proposed Action.

3.2.2 Cultural Resources

Existing Conditions

Because the Proposed Action involves ground disturbing activities in areas not previously evaluated or previously disturbed to the depth required for the Proposed Action, cultural resources require a detailed analysis. A pedestrian site visit was conducted by trained Farm Service Agency personnel (Appendix B-1). New York's long history of American Indian culture and European settlement has provided the State with a diverse collection of historic and cultural resources in need of preservation. A site-specific cultural review and tribal consultation will ensure protection of vital resources within in the APE if any are present.

As part of this project cultural resources are evaluated for their significance and importance to our understanding of the prehistory and history of an area and for their eligibility to be listed on the National Register of Historic Places (NRHP). Additionally, under New York law (HP-POL-005), the preservation of NRHP properties must be considered for all state undertakings.

The United States Department of Agriculture (USDA) Farm Service Agency (FSA) proposes to approve a project to construct concrete bunk silo and leachate system. The existing project area consists of cropland. The development will be adjacent to an existing facility on land situated in Genesee County at 10423 East Road East Bethany, NY, 14054. The project site is located at Latitude 42.54.35 N and Longitude 78.6.3 W.

For the purposes of this NEPA document, cultural resources include places associated with events important to an area's history, places associated with people important to an area's history; and structures that are exceptional examples of a type of construction, are one of the few remaining examples of a type of structure, are the work of a master, or are otherwise significant for their physical characteristics. Cultural resources can also be significant because of their potential to provide data that will assist us in developing a greater understanding of prehistoric or historic periods in the area. Of the prehistoric cultural resources that are determined to be significant for our understanding of the prehistory of an area, most are determined to be significant under this last criterion.

FSA consulted with the State Historic Preservation Office (SHPO) on 06/17/2025 by providing the location and details of the Proposed Action. The SHPO provided a response on 06/23/2025, which indicated that no historic properties affected (Appendix E-4).

Additionally, FSA consulted with the following federally recognized Tribes:

- Seneca Nation of Indians
- Seneca Cayuga Nation
- Tonawanda Band of Seneca

Informal consultation letters describing the location and details of the Proposed Action were sent on June 17, 2025 (Appendix E1-3). Consultation with Tribes was closed on July 17, 2025, with no responses received from any Tribes.

Impacts of Proposed Action

Based on the consultation with SHPO and the Seneca Nation, Seneca-Cayuga Nation and Tonawanda Band of Senecas, no impacts to known cultural resources are anticipated to result from the Proposed Action. Impacts to previously unidentified historic properties, including archaeological and historic resources, could occur during ground disturbance and construction. If such resources were to be encountered all activities will stop, FSA state and national office personnel will be notified, and the

resources will be professionally evaluated for eligibility for listing on the National Register of Historic Places.

3.2.3 Water Quality

Existing Conditions

In the state of New York, the Department of Environmental Conservation (DEC) has the authority to enforce provisions of the Clean Water Act that are protective of water quality and to issue permits that are protective of water quality standards. This authority is delegated to them by the Environmental Protection Agency (EPA). The EPA has laid out in the Clean Water Act, 6 NYCRR 701.1 Section 701.1, that the discharge of sewage, industrial waste or other wastes shall not cause impairment of the best usages of the receiving water as specified by the water classifications at the location of discharge and at other locations that may be affected by such discharge.

The farmstead and most of the crop fields are in the Black Creek Watershed which is a sub-watershed of the Lower Genesee River Watershed. The Black Creek Watershed is devoted principally to agriculture, according to the “Black Creek Watershed Characterization” document and is listed on the NYS DEC Priority Waterbodies List (PWL) as having impaired, or occasional impacts from agriculture. Adverse impacts from agriculture can be the result of poor agricultural practices. The applicant in this case has a developed and in place a CAFO (Appendix P) Plan to guide the best management practices and reduce the adverse impacts to the surrounding environment, including water.

During construction, the applicant will adhere to a Stormwater Pollution Prevention Plan (SWPPP) (Appendix R), to help preserve water quality. A combination of dry swales and filter strips will be used to slow flows from smaller storms and filter out potential contaminants. A total collection system will be used for the bunk silos and will ensure there is no discharge or run-off from the bunks up to and including the 100-year storm. This allows the farm to meet CAFO requirements.

All CAFOs utilizing waste storage structures must adhere to the following conditions: The maximum operating level for open waste storage structures, earthen and fabricated, shall be indicated by a depth marker and be the level that minimally provides for the design storage volume less the volume contribution of precipitation and runoff from the 25-year, 24-hour storm event plus one (1) foot of freeboard for all earthen waste storage structures and all fabricated waste storage structures with a contributing drainage area. The minimum design storage volume includes the volume needed for manure, litter, food processing waste, digestate, and process wastewater storage according to the CNMP in accordance with the NRCS NY conservation practice 313 Standard design criteria. 15 b) c) Waste storage structures, including anaerobic digesters, that overtop, must be re-evaluated by a PE, in accordance with the “AEM Tool for the Evaluation of Undesigned Waste Storage Facilities,” within 30 days of overtopping, the re-evaluation and any necessary corrections must be documented in the CNMP, and the CNMP adjusted if necessary. In addition, the owner/operator must report any instances of overtopping by completing a CAFO Incident Report and submitting it to the DEC Regional Office.

Leachate collection and control facilities must be implemented, operated and maintained in accordance with all applicable NRCS standards to prevent overflow or discharge of the concentrated, low flow leachate products. If an AEM certified planner deems low-flow leachate collection unnecessary, a detailed description of an ongoing monitoring strategy is necessary for this determination and must be included in the CNMP. This monitoring strategy must be site-specific and, at a minimum, include documented on-going inspections of the feed storage area to verify low-flow leachate is not leaving the pad. Furthermore, high-flow leachate must be treated by a Vegetative Treatment Area (VTA) or a system which provides equivalent protection to a VTA. The CAFO plan includes manure management and storage guidelines, and the storage has been evaluated and designed by a professional engineer.

The National Wetlands Inventory layer maintained by US Fish & Wildlife lists wetland areas east of the bunk area, as freshwater forested/shrub wetland (Appendix J-3). The area is approximately 478 feet from the project area.

Impacts of Proposed Action

The farm with 2200 dairy animals in New York follows their DEC permit and regulations. It has a waste storage facility that meets the NRCS standards and leachate control systems. It does not impair the water use or habitats, as required by the Clean Water Act. The applicant has had a SWPPP developed to protect water quality during construction. Therefore, there are no anticipated impacts to water quality.

3.2.4 Air Quality

Existing Conditions

The site of the Proposed Action lies in Genesee County in a rural area where agriculture, including livestock feeding operations, are common. There are no local ordinances regulating odor. The proposed project involves the construction of a bunk silo.

As of July 16, 2025, Genesee County, New York is in attainment for all criteria pollutants established by the Environmental Protection Agency in compliance with the Clean Air Act. The proposed farm will not be required to obtain an air permit as there are no State or local air permits required for agricultural projects in this county. The potential air quality effects considered here include odor and dust production, which may be associated with construction activities and the ongoing operations of the farm.

Issues related to odor are the most common concern about livestock operations. An initial concern about odors in many cases will lead to other concerns. Controlling odors will allow farms to co-exist successfully with residential and commercial neighbors. Farms that are perceived to benefit the community around them will elicit fewer complaints and other negative responses. Farms benefit their communities in many ways. This may be maintaining open spaces (aesthetics), stewardship of the land, maintaining wildlife land, providing food, lowering the tax burden, and employment/business opportunities. Proper odor control can enhance the quality of life for the farmer by reducing the stress of having to deal with complaints. A clean operation will also protect the health of the livestock, and of the people working and living on the farm. Healthier people and animals will help the financial situation by reducing costs in the long run. It is important to note that odors will be noticeable at some times on all farms. The proposed action is to alter an existing farm and there is a protective Right to Farm statute per 6 CRR-NY 617.5.

Construction activities that disturb the soil surface could generate dust. Such impacts will be minor, temporary, and localized, generally confined to the farm property and ongoing only during construction. Exposed soil could be wet down to control fugitive dust. Similarly, during construction, minor and localized emissions associated with heavy machinery could be expected. None of these construction-related impacts will have a significant or long-term adverse impact to surrounding air quality. During operation of the farm, roads used by delivery trucks will be paved/gravel to minimize dust associated with travel. Dust generated while the facility is in operation will occur mostly during feeding. Odor will be controlled through management of the ventilation systems, as is necessary for livestock health and required by integrators. The barn will be cleaned according to the specifications of the management plan between production cycles and on an as-needed basis. The farm will store waste in the existing manure lagoon. By following the manure application plan written into the CAFO plan, the applicant is able to reduce the odor associated with manure spreading. They manage their free stalls

well and keep animals clean. These, along with following a mortality management plan help to keep any impacts from odor to a minimum.

Impacts of Proposed Action

The project is expected to have no significant impact on air quality and no adverse effect on human health or the environment. Based on the above analysis, the project will have no effect on air quality and will not require any mitigation measures or further evaluation. The project is consistent with the goals and objectives of the State Implementation Plan (SIP) for New York to attain and maintain the NAAQS and to protect public health and welfare.

The project will comply with the applicable Federal, state, and local regulations and standards for air quality. The project will not exceed the National Ambient Air Quality Standards (NAAQS) for criteria pollutants, such as particulate matter, ozone, sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead. The project will also not emit hazardous air pollutants above the thresholds established by the Clean Air Act.

The area where the Proposed Action will take place is mainly rural. Odors mix with the air around them and become less noticeable as they move away from the source. This depends on how far they travel, the shape of the land, and the weather conditions. The wind direction will help to spread the odors out. Odor impacts are not likely to be significant.

4. CUMULATIVE IMPACTS

Both the CEQ and EPA have issued guidance on cumulative impacts analysis, including the following, which have been used to guide this analysis.

- Considering Cumulative Effects Under the National Environmental Policy Act (CEQ 1997)
- Consideration of Cumulative Impacts in EPA Review of NEPA Documents (EPA 1999)
- Guidance on the Consideration of Past Actions in Cumulative Effects Analysis Memorandum (CEQ 2005)

Establishing appropriate and reasonable geographic and temporal boundaries is required for an effective cumulative impacts analysis.

EPA notes that geographic boundaries should not be extended to the point that the analysis “*becomes unwieldy and useless for decision-making*” and advises that the proper spatial scope of the analysis include the geographic areas that sustain the resources of concern (EPA 1999). On establishing an appropriate temporal scope, EPA advises estimating the length of time the effects of the proposed action will last (EPA 1999).

Once an Agency has established the appropriate geographic and temporal scope of the cumulative impacts analysis, it must identify and describe relevant past, present, and reasonably foreseeable activities within those boundaries. Both CEQ and EPA provide guidance on the level of effort and detail that is appropriate in cumulative impacts analysis. According to EPA (1999):

“The analysis should be commensurate with the project’s impacts and the resources affected...for example, small scale projects that have minimal impacts that are of short duration will not likely contribute significantly to cumulative impacts.”

CEQ guidance (2005) reinforces this, stating:

“The scope of the cumulative impact analysis is related to the magnitude of the environmental impacts of the proposed action. Proposed actions of limited scope typically do not require as comprehensive an assessment of cumulative impacts as proposed actions that have significant environmental impacts over a large area. Proposed actions that are typically finalized with a Finding of No Significant Impact usually involve only a limited cumulative impact assessment to confirm that the effects of the proposed action do not reach a point of significant environmental impacts”

“focus on the extent to which information is relevant to reasonably foreseeable significant adverse impacts, is essential to a reasoned choice among alternatives, and can be obtained without exorbitant cost”

In accordance with EPA (2005) and CEQ guidance (2005), this cumulative impact analysis focuses on each potentially affected resource (identified in section 3.2 of this document) and uses natural boundaries to establish the geographic scope within which cumulative impacts could occur. Relevant past, present and reasonably foreseeable activities identified in Section 4.2 are based on potential geographic and temporal relationships with the Proposed Action within those identified boundaries. Cumulative effects on those resources are described in Section 4.3.

4.1 Past, Present and Reasonably Foreseeable Actions

This cumulative analysis focuses on the farm itself which includes the area where the proposed project will be implemented and the associated area which encompasses resources of concern.

In identifying past activities for cumulative analysis, Agencies are not required to list the individual effects of past actions; rather they can focus:

“on the current aggregate effects of past actions” without providing details of those actions.”

CEQ (2005) states that cumulative effects analysis requires:

“a concise description of the identifiable present effects of past actions to the extent that they are relevant and useful in analyzing whether the reasonably foreseeable effects of the agency proposal...may have a continuing, additive, and significant relationship with those effects”.

Federal, state, local, and private activities that are currently taking place, have occurred in the past, or may reasonably be assumed to take place in the future in the cumulative effects area include the following:

The Proposed Action is located in the Black Creek Watershed, a sub-watershed of the Genesee River Basin. The sub-watershed provides habitat for fish and wildlife, supports agriculture and recreation, and supplies drinking water for local communities. However, the sub-watershed also faces challenges such as flooding, erosion, sedimentation, water pollution, and invasive species. These challenges affect the health and resilience of the sub-watershed and its downstream neighbors.

The applicant will also be constructing a new barn, manure storage, milking parlor, and associated driveways. This project is separate from the bunk silos that will be funded by FSA. Since it is occurring within the same time and has the potential to use feed stored in the bunks, the area was reviewed to determine if there would be an effect to endangered species or cultural resources. Both reviews were conducted on June 18, 2025. The consultation with FSWS determined no critical habitats present and no response was received from THPO. Any activities that may already have taken place will not be funded by FSA. The U.S. Army Corps of Engineers (USACE) was contacted on by the producer to determine the presence and extent of wetlands and waters of the United States. The project area contains both hydric soils per NRCS Web Soil Survey, and areas mapped as an NWI wetland on the DEC Wetland Mapper. On July 9, 2024, USACE provided the farm with a notice of non-jurisdiction on the mapped wetland, and stated Department of Army authorization is not required if they purposed work, installation of structures, or a discharge of dredged or fill material. (Appendix C 2-3). The producer also contacted the NYS DEC. On March 24, 2025, the producer received a letter stating the project may proceed. It did stipulate that work could not commence until coverage under the SPDES general permit for construction activities had been obtained. The producer obtained the SWPP and SPDES general permit on May 26, 2025. (Appendix C- 4)

4.2 Cumulative Analysis

The resources considered for detailed analysis above (in Section 3.2) will not be directly or indirectly affected by the Proposed Action.

Cumulative impacts guidance from CEQ states that the significance of cumulative effects is dependent on how impacts compare with the environmental baseline and relevant thresholds, such as regulatory standards. Regulatory standards can restrict development by establishing thresholds of cumulative resource degradation (CEQ 1997):

“Government regulations and administrative standards...often influence developmental activity and the resultant cumulative stress on resources, ecosystems, and human communities. They also shape the manner in which a project may be operated, the amount of air or water emissions that can be released, and the limits on resource harvesting or extraction.”

Cumulative effects in this analysis is described relative to regulatory standards and thresholds in accordance with CEQ guidance. FSA relies on the authority and expertise of regulatory agencies, which have broad knowledge of regional activities that could affect the sensitive resources they are charged to protect, to ensure through permitting and consultation that its activities are not likely to contribute to significant negative cumulative resource impacts.

Cumulative impacts can be positive or negative, short, or long term. Cumulative effects can be additive (effects of the action together with other past, present, reasonably foreseeable actions produce a total effect), countervailing (effects of some activities balance or mitigate the effects of others), or synergistic (effects of activities together is greater than the sum of their individual effects).

4.2.1 Wildlife and Habitat

Contributions of the Proposed Action to cumulative impacts do not include removal of existing vegetation and the loss and fragmentation of wildlife habitat. The site was previously disturbed as a crop field. The Proposed Action is not anticipated to result in long-term or adverse impact to endangered species or their habitat. No cumulative impacts are anticipated based on program requirements.

4.2.2 Cultural Resources

Based on program requirements, which call for coordination and consultation with State and Tribal Historic Preservation Offices, no impacts to known cultural resources are expected to result from the Proposed Action. There is the potential for encountering unknown cultural resources during construction or ground disturbing activities. Though unlikely, potential loss and damage to unknown cultural resources could occur, adding to similar potential impacts from other past, ongoing, and future developments that have the potential to degrade and destroy cultural resources.

4.2.3 Water Quality

During construction or ground disturbing activities of the Proposed Action there is the potential for mobilization of exposed soil; however, those impacts will be temporary and; however, once the disturbed areas are developed, no adverse impacts to water quality will be expected. Since there will be no long-term effects to water quality, the proposed action will not contribute significantly to cumulative effects to water quality.

4.2.4 Air Quality

Dust will be generated from soil disturbance and equipment usage during construction or activities involving ground disturbance, and during operation as a result of equipment use, delivery trucks and feeding or similar mechanized systems for movement of supplies or materials. Such impacts will be minor, intermittent, and localized. Odor impacts from the proposed action are addressed in the CNMP. Impacts of dust and odor will be an intermittent occurrence of modest intensity and an inherent characteristic of accepted agriculture practices in rural areas. As the impact of the proposed project will not be expected to have a significant effect on a widespread geographical area beyond the vicinity of the farm property, they will not contribute to significant cumulative impacts.

4.3 *IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES*

NEPA requires that environmental analysis includes identification of any irreversible and irretrievable commitments of resources which will be involved should an action be implemented. The term irreversible refers to the loss of future options, and commitments of resources that cannot be renewed or recovered or can only be recovered over a long period. Irreversible commitments apply primarily to the use of nonrenewable resources, such as minerals or cultural resources, or to factors such as soil productivity, that are renewable only over a long period. Irretrievable refers to the loss of production or use of natural resources. For example, when a road is built through a forest, some, or all of the timber production from an area is lost irretrievably while an area is serving as a road. The production lost is irretrievable, but the action is not irreversible. If the use changes, it is possible to resume timber production. No irreversible resource commitments will occur as a result of the Proposed Action. Irretrievable resources include those raw materials and fuels used during construction or soil and ground disturbance.

5. LIST OF PREPARERS AND PERSONS AND AGENCIES CONTACTED

List of Preparers	
Name and Title	Education and Experience
Jamie Epstein, Agricultural Program Specialist	Bachelor of Technology, State University of New York Morrisville State Years of experience: 9
Ellen deMey, Program Support Specialist	BS Environmental Studies, State University of New York College of Environmental Science and Forestry. Years of experience: 18

Persons and Agencies Contacted	
Name and Title	Affiliation
Joe Stahlman THPO	Seneca Nation of Indians
William Tarrant, THPO	Seneca-Cayuga Nation
Roger Hill, Chief	Tonawanda Band of Seneca

6. REFERENCES

CEQ 2005. Guidance on the Consideration of Past Actions in Cumulative Effects Analysis Memorandum.

United States Department of Agriculture (USDA) Farm Service Agency (FSA). 2016. FSA Handbook Environmental Quality Programs for State and County Offices. Short Reference 1-EQ (Revision 3). November 4, 2016.

USFWS 2015. IPaC-Information, Planning and Conservation System. Listed and Sensitive Species U.S. Fish and Wildlife Service Environmental Conservation Online System, accessed 06/18/2025.

7. EA DETERMINATION AND SIGNATURES

ENVIRONMENTAL DETERMINATION – The FSA preparer of the EA determines:

1. “FSA has considered the factors mandated by NEPA; this EA represents FSA’s good-faith effort to prioritize documentation of the substantive issues and most important considerations of the Act within the Congressionally mandated page limits (75 pages); this prioritization reflects FSA’s expert judgment; and any issues or considerations addressed briefly or left unaddressed were, in FSA’s judgment, comparatively not of a substantive nature.”
2. “This EA represents FSA’s good-faith effort to fulfill NEPA’s requirements within the Congressional timeline (1 year), is substantively complete in FSA’s expert opinion, has thoroughly considered the factors mandated by NEPA, and the analysis contained herein is adequate to inform and reasonably explain the finding regarding the alternative selected for implementation.”
3. Based on an examination and review of the foregoing information and supplemental documentation attached hereto, I find that this proposed action:
 - would not have a significant effect on the quality of the human environment and, therefore, an EIS will not be prepared.
4. I recommend that the Project Approval Official for this action make the following compliance determinations for the below-listed environmental requirements.

Not in compliance	In compliance	Not applicable	
	X		National Environmental Policy Act
	X		Clean Air Act
	X		Clean Water Act
	X		Safe Drinking Water Act
	X		Endangered Species Act
	X		Coastal Barrier Resources Act
	X		Coastal Zone Management Act
	X		Wild and Scenic Rivers Act/National Rivers Inventory
	X		National Historic Preservation Act
	X		Subtitle B, Highly Erodible Land Conservation, and Subtitle C, Wetland Conservation, of the Food Security Act
	X		Executive Order 11988 and 13690, Floodplain Management
	X		Executive Order 11990, Protection of Wetlands
	X		Farmland Protection Policy Act
	X		Department Regulation 9500-3, Land Use Policy
	X		E.O. 12898, Environmental Justice

5. I have reviewed and considered the types and degrees (context and intensity) of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with FSA environmental policies, particularly those related to important farmland protection, and have considered the potential benefits of the proposed action. Based upon a consideration of these factors, from an environmental standpoint, this Proposed Action may:
 - Be approved without further environmental analysis and a Finding of No Significant Impact (FONSI) prepared.

Signature of Preparer:	Date: 9/8/25
Name and Title of Preparer (print): <i>Jamie Epstein</i> <i>State Environmental Coordinator</i>	

Environmental Determination – FSA State Environmental Coordinator determines:

Based on my review of the foregoing Environmental Assessment and related supporting documentation, I have determined:

- ☒ The appropriate level of environmental review and assessment has been completed and substantiates a Finding of No Significant Impact (FONSI); therefore, an EIS will not be prepared, and processing of the requested action may continue without further environmental analysis. A FONSI will be prepared.
- ☐ The Environmental Assessment is not adequate and further analysis or action is necessary for the following reason(s):
- ☐ The Environmental Assessment has established the proposed action cannot be approved for the following reason(s):

Additional SEC Comments:

Signature of SEC	Date: 9/8/25
Printed Name: Jamie Epstein	