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*ADMITTED IN NEW YORK AND NEW JERSEY
**ADMITTED IN NEW YORK AND CONNECTICUT

VIA REGULAR MAIL and EMAIL

Tim Miller Associates, Inc.,
10 North Street
Cold Spring, NY 10516

Re: DGEIS 507 acre annexation petition

Dear Mr. Miller:

We are counsel to the Board of Education of the Monroe-Woodbury Central School District ("MWCS D"). Subject to a full reservation of its rights, the MWCS D is submitting its written comments on the Draft Generic Environmental Impact Statement ("DGEIS") on the petition for Annexation of approximately 507 acres from the Town of Monroe ("Town") to the Village of Kiryas Joel ("Village") dated December 23, 2013 ("507 acre petition").

Generally, MWCS D confined its review to those areas of the DGEIS that directly impacted the District such as population growth, demographics and fiscal analysis. However, while we did not provide comprehensive comment on the remainder components, MWCS D submits that those areas of the DGEIS are equally flawed.

Initially, MWCS D notes that it is apparent that the DGEIS was drafted in a manner as to benefit the proposed annexation. For example, it is disconcerting that after the time to provide comment on the DGEIS was closed, the Village accepted and posted as part of the SEQRA Repository on this project, the comment letter dated April 23, 2015 from the legal firm representing the Board of Education of the Kiryas Joel Union Free School District ("KJUFSD"), that disputed the MWCS D submittal on the DGEIS scoping document. Furthermore, much of the financial data used to support the analysis of the financial impact on the MWCS D was procured in a questionable manner and certainly, without attention to accuracy.

Section 1.0 Executive Summary Existing Zoning: The statement that the Town zoning in the annexed area does not allow for commercial development is incorrect.

Section 2.1 Project Location and Description:

As MWCSO previously commented, the population of Kiryas Joel will continue to exceed the housing stock and continue to overflow its borders. The only real check on this growth is the land use zoning of the neighboring communities limiting the density of units per acre and the control of water and sewer usage. Currently, as admitted in the DGEIS, the Village zoning does not limit the number of units per acre. Without some control in growth, the impact to the District and surrounding communities will increase dramatically.

The DGEIS incorrectly calculates the projection of potential housing units with and without annexation. Under both scenarios, the projection fails to take into account potential limitations on development, including, but not limited to storm water management, wetlands, steep slopes, ponds, lakes, drainage basins, endangered species or fauna, historical sites, and sanitary sewer capacity topography. It is a glaring oversight that while the DGEIS includes various maps that depict the zoning, it fails to include readily available overlays for wetlands, slopes or endangered species.

It is especially disconcerting that the calculation of development without annexation relies solely on the Town zoning, that allows in a single family home, the construction of an accessory apartment or in some instances in the DGEIS, what is inaccurately referred to as a condominium. Such representation is disingenuous and ignores the significant restrictions on the approval of accessory apartments in the Town. The Town of Monroe Code specifically limits “the specific purpose and intent of this section to allow an accessory apartment within one-family detached residential structures in all one-family residence districts in order to provide the opportunity and encouragement for the development of small rental housing units designed, in particular, to meet the special housing needs of single persons and couples.” [Town of Monroe Zoning Code, Section 57-21]. Furthermore, accessory apartments are specifically limited in size to two bedrooms.” [Town of Monroe Zoning Code Section 57-21(H)]. It is noted that the two developments Forest Edge and Vintage Vista located on the land proposed to be annexed, are touted in the DGEIS as ripe for accessory apartments. However, such representation appears to be poised to flaunt the Town Law given the very specific purpose and restriction on accessory apartment use. As repeatedly asserted, Hasidic families have on average 6 children. Accessory apartments in single family homes cannot accommodate nor are they intended to accommodate families let alone 8 people.

It is also significant that the Village has not adopted a comprehensive plan whereas the Town has implemented such a plan. The DGEIS must include a discussion and analysis of the impact of the Village’s lack of planning.

Section 3.2.6 Fiscal Analysis Schools:

As noted in MWCSO’s comments on the petitions, regardless of the size of the annexation, the impact to MWCSO is significant. Notwithstanding that the demographic and financial projections due to the significant growth in Kiryas Joel’s population in the 10 short years noted in the DGEIS are underestimated, even using these inaccurate premises, the impact on MWCSO cannot be overcome.

While the children of Kiryas Joel families attend private school, the District is obligated to provide support services such as transportation, and books. In the DGEIS, the source of the data for the analysis of the purported cost to provide services to Kiryas Joel students of \$1,700 is neither specific to a particular time period nor verified. [See, 3.2.6 DGEIS]. In fact, the figure of \$1,700 was provided by MWCSO as an estimate during a casual conversation initiated by the KJUFSD business official. During that conversation it was never represented that this information would be used as the accurate foundation analysis of fiscal impacts for the DGEIS, nor was there a follow-up contact to the MWCSO to confirm the accuracy of these numbers. Had anyone bothered to contact MWCSO, they would have learned that the actual number for the cost of services to general education students during the 2014-2105 school year is \$2,986. If in 2014-2015, the District was to provide these services to the projected 8,160 students, the cost of services is actually \$24,365,760 which clearly does not account for increases in the cost of services during this period.

In addition, the District provides education services for special needs students. The DGEIS analysis of financial impacts to provide special education services relies on the information provided by the Superintendent of KJUFSD that the tuition is approximately \$79,000. However, again, the time frame of this purported tuition was not provided nor was the number confirmed with MWCSO. Further, the tuition cost does not include the cost of related services. In actuality, the 2014-2015 cost of tuition is \$86,000 and the cost of related services for 7 of the 11 special education students is \$17,320. Therefore, the average cost per student for tuition and services is \$89,000 this year, which does not account for the part-time students. Moreover, their costs will not remain stagnant over the next 10 years as suggested by the DGEIS.

Notwithstanding the questionable accuracy of the DGEIS figures, the costs will continue to rise dramatically as the cost of providing transportation, books, salary, tuition and other associated costs increase on an annual basis. Based on these accurate numbers, the financial impacts must be adjusted to reflect the actual numbers and adjusted for inflation over the course of the growth projection.

MWCSO notes that 10 years is an artificial time frame on which to base the analysis of the impacts. Furthermore, the projected population growth is predicated on stale outdated information, including the U.S. Census and a 2009 growth study for the Village of Kiryas Joel. We submit that a more accurate projection of potential growth is not only the expected 6 children per family, but the capacity of water supply to the Village which above all else will drive the potential for growth.

It is incomprehensible that the DGEIS would summarily dismiss the increased water capacity as a source of potential increased population. If that were the case, there would be no need to increase water capacity. The fact is that in order to sustain the viability of the loan from the Environmental Facilities Corporation, the Village has underwritten such by forecasting significant increases in housing and the corresponding financial commitment of those homeowners providing the influx of money necessary to pay off that loan. It is axiomatic, water is absolutely essential for any growth to occur.

Proceeding on that premise coupled with the unlimited density controls of the Village zoning, we submit that the current growth projection is grossly underestimated. A simple calculation of the individual water usage per day based on the availability of water projects a

staggering potential for growth. Increasing the capacity allows for the exponential expansion of the population growth calculating water usage at 70 gallons per day (“GPD”) per person:

- 1 million GPD add 14,285 new residents;
- 4.5 million GPD, add 64,285 new residents; and
- 6 million GPD, add 85,714 new residents.

While it is asserted that the revenue from the taxes the additional housing may generate will more than compensate for these expenses, that position is not accurate. Significantly, there is no factual information or even a historical foundation submitted to substantiate these purported forecasts of revenue enhancement. Specifically, the data provided in Tables 3.2-8 and 3.2-9 as the foundation for determining the assessed value of the new construction is unreliable. This crucial information is unsubstantiated and merely based on Appendix E which is nothing more than a projection of housing construction and a vague reference to property assessments in Orange County as well as unexplained values derived from proposed future housing. Moreover, the analysis noted in the DGEIS failed to account for increasing costs to the District to provide these services.

Real property valuation is a complex process and is impacted by the type of housing - single family versus multi-family versus condominiums versus low income housing. Further, the valuation of assessment and taxing formula is different for each. The mere fact that housing stocks will increase is not a reliable predictor of tax revenue. Given the potential for low income housing, the DGEIS must be adjusted to reflect the different type of real property tax scenarios. It is especially notable that the analysis applied to determine future public school taxes, Tables 3.2-14 and 3.2-15, are misleading. This analysis does not accurately reflect the calculation of taxes and as illustrated, depicts an artificial windfall to MWCSO. The analysis should be based on a trajectory of increasing expenditures and corresponding tax levy, tax levy distribution among the municipalities affected, and the impact of the tax cap over the course of the 10 years.

Furthermore, the assertion of alleged tax revenue as a windfall to the District is a misnomer. The increased costs for such services are factored into the budget and are spread out over the entire district population, but the tax levy is based on the relative assessment of each community. Accordingly, while the tax levy for MWCSO impacted by the annexed area may decrease, the levy in other areas could increase.

Of significant concern is that the District may experience a decrease in state aid due to the increased housing. The calculation of state aid is also a complicated formula. However, with a greater aggregate assessed valuation from more housing without a corresponding increase in student population attending the MWCSO, the District might appear wealthier than it actually is which could result in a diminution of state aid. Therefore, also there must be an analysis of the potential impact on state aid.

The DGEIS does acknowledge that the growth will require a significant expansion to the private religious schools and to a lesser extent KJUFSD. Yet, there is only one stray comment from the KJUFSD Superintendent representing that the private schools are building infrastructure. Notably absent is any documentation on the amount of private or public school classroom space needed to accommodate the growth, timelines for proposed construction, recitation of what is currently being constructed, the cost of such construction, the impact to the

tax base of the construction or any other of the myriad impacts that result from such and should be included in Tables 3.2-14, 3.2-15 and 3.2-17.

While, it is argued that the MWCSO could easily deflect these impacts by engaging in a boundary change process, the impact of this project on the MWCSO must be analyzed without the specter of such. The factors to be considered in determining whether to alter school district boundaries are the educational interests of the students involved, the effect of the transfer on the tax revenues of the districts involved and the effect of the transfer on the educational programs of the school from which the property is transferred. (Appeal of Michailides, 31 Ed Dept Rep 204). While KJUFSD purports to have adopted a resolution approving an alteration of boundary lines, there is no corresponding evidence that the parties have undertaken the necessary analysis of the factors to approve such. Moreover, boundary changes are limited by law and the unpredictable decisions of government officials and it cannot be relied on as a panacea to address these impacts.

However, of significance and not addressed in the DGEIS is the potential impact such expansion may have on the very existence of the KJUFSD. Education Law Section 1504 provided the authority to the Village of Kiryas Joel to create the KJUFSD, which boundaries were coterminous with that of the Village. Clearly, the legislature in authorizing the creation of this type of school district, set forth the fundamental precedent that the boundary lines of the municipality and the district must be coterminous. To ignore that fundamental principal serves only to circumvent the law, especially in light that Section 1504 is silent as to whether a school district so created can expand beyond those initial boundaries without the corresponding expansion of the municipal territory. Further, while KJUFSD advocates for a boundary change with the MWCSO, it is equally questionable as to whether it is KJUFSD or the Village that has the authority to approve such expansion. It is of no small import that this basic tenant cannot be ignored when considering the overall impact of the project.

Respectfully, based on the evidence both submitted on the record and pursuant to this letter, the DGEIS should be deemed incomplete.

Thank you for your consideration in this matter.

Sincerely,



Judith Crelin Mayle

cc: Elsie Rodriguez, Superintendent
Monroe Woodbury Central School District School Board