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June 22, 2015

Via Overnight and Electronic Mail (tmiller@timmillerassociates.com)

Tim Miller, President
Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516

Re: Comments On Draft Generic Environmental Impact Statement For Proposed 507-Acre Annexation Of Land From The Town Of Monroe By The Village of Kiryas Joel

Dear Mr. Miller:

This Firm represents United Monroe in connection with the proposed annexation of approximately 507 acres of land (the "Proposed Annexation") from the Town of Monroe (the "Town") by the Village of Kiryas Joel (the "Village"). United Monroe respectfully submits these comments on the Draft Generic Environmental Impact Statement ("DGEIS") for the Proposed Annexation, which was purportedly prepared pursuant to the State Environmental Quality Review Act ("SEQRA"). These comments are submitted in good faith to assist the Town Board and the Village Board (collectively, the "Boards"), each of which are independently obligated to issue findings under SEQRA if they proceed with the Proposed Annexation.[1]

The DGEIS is deficient for many reasons, including, but not limited to, that:

(1) The Proposed Annexation would violate the Establishment Clause;

(2) The Proposed Annexation is illegal because, as the DGEIS concedes, it is intended to evade the Town's duly adopted Zoning Code,

(3) The Proposed Annexation is also illegal because it would create baroque boundaries, and an isolated "island" of Town residents;

[1] United Monroe's comments on the DGEIS's deficiencies generally apply to the proposed 507-acre annexation, as well as the so-called 164-acre alternative.

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(4) The DGEIS fails to identify, much less take a "hard look" at, the Village's systemic disregard for fundamental zoning, land use, and environmental laws, and the consequent unregulated development;

(5) The DGEIS fails to rationally assess reasonably foreseeable significant adverse impacts of the Proposed Annexation, including by using irrationally low build-out and density projections and by failing to assess impacts past the year 2025;

(6) Contrary to SEQRA's essential purpose, the DGEIS fails to set forth any concrete mitigation measures; and

(7) The DGEIS fails to set forth any real thresholds for further review, contrary to SEQRA's GEIS requirements.

The substantive gaps in the DGEIS's analysis are so large that, by law, a Supplemental Generic Environmental Impact Statement ("SGEIS") is required to allow the Involved Agencies, including the Town Board, to review and comment upon the missing information, as well as to ensure compliance with SEQRA's public participation requirements.

Every community needs to accommodate natural growth. Satisfying that need, however, does not give municipalities *carte blanche* to disregard the environment. To the contrary, in considering how to accommodate natural growth, the Town Board and the Village Board both must "strike a balance" between social and economic goals and legitimate concerns about the environment. To accomplish this, SEQRA requires both Boards to "inject environmental considerations directly into governmental decision making," bearing in mind that ultimately they are "*obligat[ed] to protect the environment for the use and enjoyment of this and all future generations.*"

The State Legislature enacted SEQRA specifically because the "*capacity of the environment is limited.*" Thus, agencies are required by SEQRA to "identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds from being reached." As New York Courts hold, the essential purpose of an environmental impact statement ("EIS") is to serve as an "environmental alarm bell," to alert public officials to environmental shifts *before* those changes reach "ecological points of no return." As such, the New York State Department of Environmental Conservation ("DEC") notes that a generic EIS ("GEIS") "should identify upper limits of acceptable growth inducement."

The DGEIS, however, fails to consider the capacity for development of the territories at issue, or when development therein would reach the "ecological point of no return." It gives no consideration to acceptable limits for development. It indicates, for example, that development in the territories at issue would surpass the available water supply even before 2025, but, impermissibly, "[l]ike the proverbial ostrich . . . put[s] out of sight and mind a clear environmental problem." Thus, even if SEQRA only required an EIS to serve as a mere "disclosure document" to assess potential significant adverse impacts, it would fail that purpose. Under SEQRA, an EIS must fulfill a far more "action-forcing" or "substantive" requirement -- it must propose concrete mitigation measures.

As the Courts hold, municipalities cannot "opt[] for maximum development of the land area involved without proposing any substantively salutary mitigating measures which would minimize the adverse environmental effect of its decision." The DGEIS, however, fails to identify any meaningful mitigation measures or thresholds for further environmental review that would lead to the identification of mitigation measures. The only apparent mitigation the DGEIS appears to offer is further environmental review by the Village down the road. Aside from all other problems with this approach, it would be irrational for the Boards to rely on this "mitigation" because the Village's history provides no reasonable basis to believe that such review would ever happen.

Thus, even if the DGEIS had rationally assessed the significant adverse environmental impacts posed by the Proposed Annexation, respectfully, it would still be a meaningless document under SEQRA.

I. United Monroe Submits These Comments Under A Reservation Of Rights

Initially, United Monroe makes clear that it is submitting these comments under a full reservation of its rights to object to these proceedings, if necessary, at a later date.

A. Annexation Would Violate Establishment Clause

As explained in greater detail in a Letter from United Monroe to the Monroe Town Board, dated May 15, 2014, annexed hereto as Exhibit "A", the Annexation would violate the Establishment Clause of the United State Constitution. The Annexation would constitute an improper delegation of political power based upon religious criteria. The Town would be ceding, and the Village would be assuming, "important, discretionary governmental powers,'" which the United States Supreme Court has already recognized is a political subdivision whose franchise is determined by a religious test. See Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet, 512 U.S. 687, 114 S. Ct. 2481 (1994).

Simply put, the Boards cannot "draw[] political boundaries on the basis of people's faith." Id. at 2505 (Kennedy, J., concurring). The Boards should consider the constitutionality of the Annexation before they waste further time or resources on it. See Cappelli Assocs. V v. Meehan, 247 A.D.2d 381, 667 N.Y.S.2d 914, 915 (2d Dept. 1998) (holding that town board "did not need to complete the SEQRA review proceedings" where it determined, in its legislative capacity, that the proposed action "would be incompatible" with the community's objectives).

B. Village Is Unable To Properly Serve As Lead Agency Under SEQRA

The Village's review under SEQRA is illegitimate because DEC erred in selecting the Village as Lead Agency for the review. As further described below, it is clear that the Village has little regard for land use laws and environmental regulations, let alone any respect for its obligations under SEQRA. This poor track record shows that the subject SEQRA review, with the Village at the helm as Lead Agency, cannot be trusted to adequately study the potential significant adverse impacts of the Proposed Annexation on the environment and community.

Moreover, the Village's track record shows that it will not give due consideration to public input in the environmental review, as SEQRA requires. Indeed, the Village's disregard for public input in the SEQRA process was already demonstrated by its insistence on holding its Scoping Session on the night of a major snow storm. Despite numerous pleas for the Village to adjourn the Scoping Session (such as requests from public officials including the Orange County Executive), if only for public safety's sake, the Village cynically proceeded with the Scoping Session.[2]

Respectfully, the DGEIS itself further evidences the Village's intent to misuse of the SEQRA process to rationalize a pre-ordained result.

C. The 507-Acre And 164-Acre Petitions Are Fatally Flawed

By letter dated June 10, 2015 to the Town and Village Boards, United Monroe explained why the 507-acre Petition and 164-acre Petition (the "Petitions") are both facially invalid under Article 17 of the New York State General Municipal Law. These invalidities include, but are not limited to, unqualified signatures and ambiguous descriptions of the territories at issue.

The Petitions are further invalid because, *inter alia*, they are being advanced with the clear aim of avoiding compliance with the Town's duly adopted current zoning. It is axiomatic that municipalities are not permitted to use annexation to evade existing zoning laws. See, e.g., Bd. of Trustees of Spring Valley v. Town of Ramapo, 264 A.D.2d 519, 694 N.Y.S.2d 712, 714 (2d Dept. 1999) ("Annexation may not be used as a means by which the owner of land in one municipality may escape the effect of that municipality's local legislation by having the land transferred to an adjoining municipality."); Bd. of Trustees, Vill. of Pomona v. Town of Ramapo, 567 N.Y.S.2d 791, 793, 171 A.D.2d 861, 863 (2d Dept. 1991) ("[T]he Village may not use annexation to subvert the development of an adjoining municipality's property pursuant to a lawfully enacted zoning ordinance."); Vill. of Skaneateles v. Town of Skaneateles, 115 A.D.2d 282, 496 N.Y.S.2d 185, 186 (4th Dept. 1985) ("We have found no precedent approving the use of annexation as a device by which the owner of land in one municipality may escape the effect of that municipality's local legislation by having the land transferred to an adjoining municipality.").

The DGEIS recognizes that the Village harbors the improper intent, if the Proposed Annexation were approved, of changing the zoning in the land at issue to substantially increase density. (See DGEIS at 3.1-16 ("With annexation, the DGEIS assumes the parcels proposed to be annexed to the Village of Kiryas Joel will be developed pursuant to the Village zoning to accommodate a greater portion of the projected growth demands of the community to the year 2025.").) As discussed further below, the DGEIS concedes that the Village has no effective zoning regulations. The very first page of the DGEIS states that "[t]here is no maximum density (units per acre) provision in the [Village] code." (DGEIS at 1-1.) This means that development can take

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[2] The last speaker at the Scoping Session was the Highway Superintendent for the Town of Monroe, who had to advise the public to drive with extreme caution in light of the weather conditions, warning that "you could skid off the road in a minute." Conditions were so bad that "[i]f you ha[d] a survival kit in your car and you [couldn't] get out of your car," the Highway Superintendent advised that you "please use it."

place in the Village virtually without limitation. Moreover, the Village has no legitimate planning process to implement reasonable density restrictions, even if they existed.[3]

Moreover, New York Courts have repeatedly rejected "'baroque' annexations which result in 'irregular and jagged indentations of the boundaries between the municipalities.'" See, e.g., Common Council of Middletown v. Town Bd. of Wallkill, 143 A.D.2d 215, 532 N.Y.S.2d 17, 19 (2d Dept. 1988) (multiple citations omitted). The Annexation is void *ab initio* because it would improperly result in a highly irregular, jagged border between the Town and the Village.

Also, as the DGEIS recognizes, Annexation "would result in a number of parcels remaining in the Town of Monroe but surrounded by annexed land." (DGEIS at 3.1-17.) In addition to improperly creating baroque boundaries, the Annexation would significantly harm the unity of community of the Town residents left behind in this isolated "island."

II. The DGEIS Is Fatally Flawed

A. SEQRA

"SEQRA's fundamental policy is to inject environmental considerations directly into governmental decision making." Merson v. McNally, 90 N.Y.2d 742, 665 N.Y.S.2d 605, 609 (1997) (citation omitted), quoting Coca-Cola Bottling Co. of N.Y. v. Bd. of Estimate of the City of N.Y., 72 N.Y.2d 674, 536 N.Y.S.2d 33, 35 (1988); see also Jackson v. N.Y. State Urban Dev. Corp., 67 N.Y.2d 400, 503 N.Y.S.2d 298, 303 (1986) ("SEQRA makes environmental protection a concern of every agency.").

SEQRA's "basic purpose" is to require agencies, such as both Boards here, to incorporate the consideration of environmental factors into their decision making processes. 6 N.Y.C.R.R. § 617.1(c) ("The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time.").

In enacting SEQRA, the State Legislature made clear its intent that all agencies, including the Town Board and the Village Board, "conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources," and that they are specifically "obligat[ed] to protect the environment for the use and enjoyment of this and all future generations":

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[3] The Village's lack of any density regulation, when understood in conjunction with the Village's serial disregard for land use laws and SEQRA, enables development without any regard for its impact on the public health, safety, or general welfare. Annexation lawfully cannot be used to avoid the Town's lawfully enacted zoning laws, particularly where, as here, it is intended to allow unfettered development, without mitigation.

> It is the intent of the legislature that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that *they have an obligation to protect the environment for the use and enjoyment of this and all future generations.*

N.Y. Envtl. Conserv. Law § 8-0103(8) (emphasis added); see also 6 N.Y.C.R.R. § 617.1(b) ("In adopting SEQR, it was the Legislature's intention that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that *they have an obligation to protect the environment for the use and enjoyment of this and all future generations*." (emphasis added)).

The Legislature further intended that all agencies, including both Boards, must give "due consideration" to "preventing environmental damage" when considering actions that may, like the Annexation, adversely impact the environment:

> It is the intent of the legislature that all agencies which regulate activities of individuals, corporations, and public agencies which are found to affect the quality of the environment *shall regulate such activities so that due consideration is given to preventing environmental damage.*

N.Y. Envtl. Conserv. Law § 8-0103(9) (emphasis added).

The State Legislature further intended that "to the fullest extent possible" all laws, including Article 17 of the State General Municipal Law (the "Municipal Annexation Law") be implemented in accordance with SEQRA's salutary purposes. N.Y. Envtl. Conserv. Law § 8-0103(6) ("It is the intent of the legislature that *to the fullest extent possible* the policies, statutes, regulations, and ordinances of the state and its political subdivisions should be interpreted and administered in accordance with the policies set forth in [SEQRA]." (emphasis added)).

SEQRA was specifically enacted to compel agencies, such as both Boards, to "strike a balance" between social and economic goals and legitimate concerns about the environment. Jackson, 503 N.Y.S.2d at 303. Agencies, such as the Boards here, are required to consider environmental factors together with social and economic factors:

> It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities.

N.Y. Envtl. Conserv. Law § 8-0103(7); 6 N.Y.C.R.R. § 617.1(d) ("[I]t is the intention of this Part that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes of state, regional and local agencies."); see also Jackson, 503 N.Y.S.2d at 303 ("In proposing action, an agency must give consideration not only to social and economic factors, but also to protection and enhancement of the environment.").

Respectfully, the DGEIS evinces a willful disregard for the State Legislature's goals in enacting SEQRA.

B. The EIS Process Is The "Heart" Of SEQRA

"The heart of SEQRA is the Environmental Impact Statement (EIS) process," which is required for any action, such as the Annexation, which "'may have a significant effect on the environment.'" Jackson, 503 N.Y.S.2d at 304, quoting N.Y. Envtl. Conserv. Law § 8-0109(2); see also Akpan v. Koch, 75 N.Y.2d 561, 555 N.Y.S.2d 16, 19 (1990) ("The primary purpose of SEQRA is 'to inject environmental considerations directly into governmental decision making'." (citation omitted)).

The EIS process obligates both Boards to assess environmental impacts and develop enforceable mitigation measures specifically to avoid "ecological points of no return." Williamsburg Around the Bridge Block Ass'n v. Giuliani, 223 A.D.2d 64, 644 N.Y.S.2d 252, 257 (1st Dept. 1996) ("The purpose of an EIS is to act as an 'environmental "alarm bell"', the purpose of which is to alert public officials to environmental shifts before those changes reach 'ecological points of no return.'" (citation omitted)).

To that end, SEQRA mandates the preparation of an EIS when a proposed development project "may have a significant effect on the environment" to ensure that appropriate mitigation measures are developed.

> The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time. *To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement.*

6 N.Y.C.R.R. § 617.1(c) (emphasis added); see also N.Y. Envtl. Conserv. Law § 8-109(1) (affirmatively establishing that "[a]gencies *shall* use all practicable means to realize the policies and goals set forth in [SEQRA] article, and *shall act and choose alternatives which*, consistent with social, economic and other essential considerations, *to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process*." (emphasis added)).

As the Village, in particular, must be aware, Courts will not accept inadequate environmental review, no matter how well packaged or by whom it was performed. See Cnty. of Orange v. Vill. of Kiryas Joel, 11 Misc. 3d 1056(A), 815 N.Y.S.2d 494 (Sup. Ct. Orange Cnty. 2005) ("One cannot presume that the requisite 'hard look' was taken based on the thickness of the DEIS or because the [agency's] consultants were highly regard in their fields."), aff'd as modified, 44 A.D.3d 765, 844 N.Y.S.2d 57 (2d Dept. 2007). As the Appellate Division, Second Department held in County of Orange, which concerned the Village's proposed water pipeline:

- The Village did not "fully identif[y] the nature and extent of all of the wetlands that would be disturbed or affected by the construction of the proposed water pipeline, how those wetlands would be disturbed, and how such disturbance, if any, would affect the salutary flood control, pollution absorption, groundwater recharge, and habitat functions of those wetlands;"

- "[N]either the DEIS nor the FEIS fully identified the location, nature, or extent of the bodies of surface water into which wastewater from the proposed treatment plant would be discharged, and which State classes and standards of quality and purity apply to those water bodies;"

- "Nor did the DEIS or the FEIS adequately identify how much effluent would be discharged into those bodies of water over what periods of time, what the nature of the effluent might be, and what the effect upon those bodies of water are likely to be;"

- "[T]he DEIS and the FEIS were [also] rendered inadequate by the absence of a site-specific and design-specific phase 1–B archaeological study;" and

- "[T]he DEIS and the FEIS provided no demographic analysis or projections with respect to the effect of the availability of a steady and stable supply of potable water on population movement into or out of the Village."

Id. at 61-62. For these reasons, the Second Department held that the Village Board of Trustees failed to take the requisite "hard look" under SEQRA. Id. at 62. It is unclear why the Village would expect the similarly flawed environmental review here to pass muster.

C. Supplementation Is Required To Provide Opportunities For The Boards And The Public To Comment Upon The Substantial Information Missing From The DGEIS

Where, as here, significant new information is required subsequent to the filing of a draft environmental impact statement, an supplemental environmental impact statement ("SEIS") is required:

> The law recognizes that in situations in which significantly new information has been discovered subsequent to the filing of a draft EIS, which new information is relevant to the environmental impact of the proposed action, a supplemental EIS containing this information should be circulated to the relevant agencies so as to insure that the decision making authorities are well informed.

Horn v. Int'l Bus. Machines Corp., 110 A.D.2d 87, 493 N.Y.S.2d 184, 192 (2d Dept. 1985), appeal denied, 67 N.Y.2d 602, 499 N.Y.S.2d 1027 (1986). Of particular relevance here, the Village must, as a matter of law, subject the multiple unaddressed issues outlined herein and in the comments of other impacted agencies and individuals to further public review:

> [C]ourts have cautioned that the omission of required information from a draft EIS cannot be cured by simply including the required data in the final EIS since the abbreviated comment period for the final EIS "is not a substitute for the extended period and comprehensive procedures for public and agency scrutiny of and comment on the draft EIS."

Horn, 493 N.Y.S.2d at 192, quoting Webster Assocs. v. Town of Webster, 59 N.Y.2d 220, 228, 464 N.Y.S.2d 431 (1983).

To ensure that the Town Board, other impacted agencies, and the public have an opportunity to comment on the substantial information and analysis that is missing from the DGEIS, the Village must require a supplemental GEIS ("SGEIS") that contains this missing information.

D. DGEIS Fails To Incorporate Any Mitigation Measures Or Concrete Thresholds For Further Review, Violating SEQRA Generally, And The GEIS Process Specifically

Ultimately, respectfully, the DGEIS is a meaningless document under SEQRA. It fails SEQRA's fundamental purpose of developing legitimate mitigation measures to address the significant adverse environmental impacts of the Proposed Annexation. Aside from all other problems affecting the vague and illegal mitigation it ultimately purports to propose -- i.e., further environmental review by the Village down the road -- it would be irrational for the Boards to rely on this "mitigation" because the Village's history provides no reasonable basis to believe that such review would ever happen.

At the end of the SEQRA process, both the Village Board and the Town Board will each need to certify that, *inter alia*, they have considered and adopted all practicable mitigation measures. See 6 N.Y.C.R.R. § 617.11(d). The DGEIS's failure to propose any meaningful mitigation measures or thresholds for further review leaves the Boards without any objective factual basis to make their necessary findings. See Halperin v. City of New Rochelle, 24 A.D.3d 768, 809 N.Y.S.2d 98, 105 (2d Dept. 2005) (establishing that an agency's land use determination can only be deemed rational "if it has some objective factual basis"), leave to appeal denied by 6 N.Y.3d 890, 817 N.Y.S.2d 624 (Table), and by 7 N.Y.3d 708, 822 N.Y.S.2d 482 (Table) (2006).

"SEQRA is not merely a disclosure statute; it 'imposes far more 'action-forcing' or 'substantive' requirements on state and local decisionmakers than [the federal National Environmental Policy Act] imposes on their federal counterparts." Jackson, 503 N.Y.S.2d at 303; N.Y.S. D.E.C., SEQR Handbook, at 3 (3d ed. 2010) (stating that SEQRA "mandates that agencies act on the substantive information produced by the environmental review"). SEQRA's "action forcing" requirement "can lead to project denial if the adverse impacts are overriding and adequate mitigation or alternatives are not available." SEQR Handbook, at 3.

Courts will vacate SEQRA review where "*the municipality has opted for maximum development of the land area involved without proposing any substantively salutary mitigating*

measures which would minimize the adverse environmental effect of its decision." Save the Pine Bush, Inc. v. Planning Bd. of Albany, 130 A.D.2d 1, 518 N.Y.S.2d 466, 468 (3d Dept. 1987) (emphasis added), leave to appeal denied by 70 N.Y.2d 610, 522 N.Y.S.2d 111 (1987). The Boards cannot take action that would set the stage for maximum development of the territories at issue without proposing mitigation measures.

1. Lack Of Mitigation Measures

The DGEIS is completely devoid of meaningful mitigation measures.

In addition to all other flaws in the Land Use and Zoning Section, for example, the only apparent mitigation measure offered is that it "anticpate[s] that the Village of Kiryas Joel will establish a master plan committee to study opportunities and constraints of the 507 acres as it relates to the Village goals for its existing and future residents, and make specific recommendations for future land use decisions." (See DGEIS at 3.1-18.) Given the Village's historical and demonstrable poor track record of land use and environmental compliance, the notion that the Village would form a "committee" that would establish a reasonable framework for development in the Annexation territories is irrational.

Moreover, deferring the development of mitigation measures to an indefinite time where it would be addressed by an unknown "committee" violates SEQRA on multiple grounds. First, it is axiomatic that by "deferring resolution" of potential environmental issues until after the conclusion of the SEQRA process, an agency "fail[s] to take the requisite hard look at [] area[s] of environmental concern." Penfield Panorama Area Cmty., Inc. v. Town of Penfield Planning Bd., 253 A.D.2d 342, 688 N.Y.S.2d 848, 854 (4th Dept. 1999) (annulling Planning Board's approval for, *inter alia*, deferring resolution of hazardous waste remediation issue); see also Silvercup Studios, Inc. v. Power Auth. of N.Y., 285 A.D.2d 598, 729 N.Y.S.2d 47 (2d Dept. 2001).

As stated in a seminal SEQRA Decision, H.O.M.E.S. v. N.Y. State Urban Dev. Corp., agencies, like the Boards, simply cannot "[l]ike the proverbial ostrich . . . put out of sight and mind a clear environmental problem." 69 A.D.2d 222, 418 N.Y.S.2d 827, 831-32 (4th Dept. 1979) (finding that the agency failed to take "hard look" where it "vaguely recognized" the existence of potential adverse environmental impacts, but, in an "Alice-In-Wonderland manner," simply "relied upon general assurances that after the problems developed [other entities] would adequately mitigate them by some unspecified action").

Second, the analysis and development of meaningful mitigation measures to address the adverse impacts of the Proposed Annexation on Land Use and Zoning (as well as all other areas of environmental concern) cannot be delegated to another municipal agency or entity, such as the unknown "committee" referred to in the DGEIS. See Coca-Cola Bottling Co. of N.Y. v. Bd. of Estimate of City of N.Y., 72 N.Y.2d 674, 536 N.Y.S.2d 33, 37 (1988) (holding that an agency responsible for reviewing environmental impacts of an action under SEQRA cannot delegate its review responsibilities to another agency; final determination of relevant issues must remain with the agencies charged with evaluating them under SEQRA). The SGEIS must propose mitigation measures for the Proposed Annexation's adverse impacts on Land Use and Zoning (and other areas of environmental concern), for the Boards to consider.

Similarly, the public has a right to comment on mitigation measures proposed to address the adverse impacts caused by the Proposed Annexation on Land Use and Zoning (as well as all other areas of environmental concern). The Court of Appeals has affirmed that "mitigation measures of undisputed importance [cannot] escape" public comment and agency review under SEQRA. Bronx Comm. for Toxic Free Sch. v. N.Y. City Sch. Const. Auth., 20 N.Y.3d 148, 958 N.Y.S.2d 65, 69 (2012). In Bronx Committee, the Court of Appeals held that an agency erred in postponing detailed consideration of long-term maintenance and monitoring measures relating to a proposed school project on a contaminated site. Similarly, here, the Boards cannot defer consideration of concrete mitigation measures needed to address the clearly foreseeable significant adverse environmental impacts posed by the Proposed Annexation.

The DEC's SEQR Handbook gives "examples of routine mitigation measures that should be considered in a generic EIS," including:

> - The establishment of performance standards, conditions or impact thresholds which could apply to future site or project specific reviews. An agency could require submission of stormwater management plans with site-specific project applications, including criteria relating to run-off, retention or disposal. Similarly, *in an area where public water supply and waste water treatment are not available, an agency could consider maximum allowable residential densities to control cumulative impacts on a groundwater aquifer.*
>
> - Careful timing or phasing of development. For projects involving stream disturbances, the agency should consider timing of in-water work so as to avoid critical fish migration periods. *Where future development will require substantial land clearing, the agency should consider work sequences and schedules* that would minimize acreage cleared at any one time and ensure construction of stormwater management features in advance of other construction activities.
>
> - Monitoring. An agency may *require monitoring of specific impacts (air, water, traffic, etc.)* during construction or operation of the multiple projects or phases addresses by the generic EIS, *to ensure that cumulative thresholds established in the generic EIS are not exceeded.*

SEQR Handbook, at 147 (emphasis added). The GEIS should consider, and more importantly, recommend, specific mitigation measures in each of these categories.

The SGEIS should consider if the problem of unregulated development could best be avoided by rejected the Proposed Annexation. The SGEIS should consider when the environment, including the human environment, would be best protected by maintaining the Town's stewardship over the territories at issue. The SGEIS should also consider if the adverse impacts could be avoided by abiding by the currently zoning.

The SGEIS, for example, should consider clear and enforceable thresholds for future project specific reviews. The SGEIS should consider at what point development in the territories at issue would outpace the capacity of the environment. See N.Y. Envtl. Conserv. Law

§ 8-0103(5). The SGEIS should consider at what point development in the territories at issue will surpass the capacity to provide water for it. The SGEIS should also address the capacity of the impacted environment, including water services and the Ramapo River, to handle development. The SGEIS should develop enforceable mitigation measures related to those critical thresholds. The SGEIS should consider an enforceable monitoring program to ensure that critical thresholds related to development, including sewer and water, are not surpassed. See id.

The SGEIS should also address how any thresholds identified in it would be enforced or could be relied upon in light of the Village's extremely faulty history of environmental and land use compliance and enforcement.

The SGEIS should similarly address what thresholds are needed to meet SEQRA's policy of "[p]romoting patterns of development" that "minimize adverse impact on the environment." See N.Y. Envtl. Conserv. Law § 8-0101(3)(c). Similarly, the SGEIS should consider phased development, to tie development to an enforceable monitoring program, as well as to reduce environmental impacts.

2. Lack Of Thresholds For Further Environmental Review

The State Legislature specifically recognized that the "*capacity of the environment is limited*," and that agencies implementing SEQRA must "*identify any critical thresholds for the health and safety of the people of the state* and take all coordinated actions necessary to prevent such thresholds from being reached:"

> *The capacity of the environment is limited*, and it is the intent of the legislature that the government of the state *take immediate steps to identify any critical thresholds for the health and safety* of the people of the state and *take all coordinated actions necessary to prevent such thresholds from being reached.*

N.Y. Envtl. Conserv. Law § 8-0103(5) (emphasis added). Thus, SEQRA requires agencies, such as both Boards, to adopt mitigation measures to prevent critical thresholds from being surpassed.

Thus, SEQRA specifically requires that GEISs consider, among other things, "[t]hresholds and conditions that would trigger the need for supplemental determinations of significance or site-specific EISs." SEQR Handbook, at 146; see also 6 N.Y.C.R.R. § 617.10(c) (providing that GEISs and their findings must "set forth conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQR compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS"). Of special relevance here, DEC further states that "*[t]he generic EIS should identify upper limits of acceptable growth inducement in order to provide guidance to the decision maker*." SEQR Handbook, at 147 (emphasis added).

The one-page discussion of thresholds in the DGEIS fails to satisfy SEQRA's mandate. (See DGEIS at 4-1.) This section, as the DGEIS as a whole, fails to establish concrete mitigation measures.

As it now stands, the DGEIS simply relies on the illusory premise that, after Annexation, the Village would conduct SEQRA review on a case-by-case basis. (See DGEIS at 4-1.) This premise is irrational because, as discussed immediately below, the Village has historically avoided compliance with land use and environmental laws, including SEQRA. Moreover, it fails to assess the critical thresholds at issue here or discuss what the capacity of the affected environment is. The SGEIS should discuss what actions are required to prevent critical thresholds related to development in the territories at issue from being reached.

E. DGEIS Fails To Identify, Much Less Take a "Hard Look" At, The Village's Historic Disregard For Land Use And Environmental Laws Intended To Protect The Public Health, Safety And General Welfare

As United Monroe wrote in its comments on the draft Scoping document, the Village's history of noncompliance with basic land use and environmental laws is a critical line of inquiry where the subject action (i.e., the Proposed Annexation) would give the Village jurisdiction over the development of additional territories. (See Letter from Daniel Richmond, Esq., to Tim Miller Associates, dated Mar. 10, 2015, at 5-6 & 8-9; see also N.Y.S. D.E.C. Commissioner's Policy, "Record of Compliance Enforcement Policy," at 3.) As set forth below, the Village has demonstrated its routine failure to comply with SEQRA, its failure to satisfy local planning and zoning requirements, and its repeated violation of federal and state environmental laws.

Under SEQRA, agencies must: (i) identify the relevant areas of environmental concern, (ii) take a "hard look" at them, and (iii) make a "reasoned elaboration" of the basis for their determinations. Jackson, 503 N.Y.S.2d at 305. The "hard look" requirement "recognizes the intent of the Legislature in SEQRA that its concerns that environmental issues are serious and that in making decisions which may have the potential to cause a material adverse environmental effect, they should take such concerns seriously." Nash Metalware Co. v. Council of City of N.Y., 14 Misc. 3d 1211(A), 836 N.Y.S.2d 487 (Sup. Ct. N.Y. Cnty. 2006). The DGEIS, however, fails to identify, much less take seriously, the environmental implications of the Village's historic record of environmental and land use noncompliance.

Absent a functioning planning process, future development under the Village's jurisdiction will continue to proceed without limitation or concern for environment, the surrounding community, much less the residents of the Village itself. The Village's failure to enforce environmental requirements causes adverse impacts. The DGEIS's failure to address the Village's pattern of noncompliance with established planning, zoning and environmental laws, regulations, and practices, or to discuss the potential adverse environmental impacts that may flow from the Village's consistent disregard for legally mandated requirements, is irrational. This flaw is particularly inappropriate given that the so-called mitigations discussed in the DGEIS depend on the Village's adherence to land use and environmental requirements. (See DGEIS at 3.1-18 & 4-1.)

1. Kiryas Joel Was Created 40 Years Ago To Avoid The Town's Zoning Laws

As Town Supervisor William C. Rogers' ruling in 1976 on the original petition to incorporate the Village of Kiryas Joel makes clear, the Village was created with the express purpose of avoiding Monroe's zoning laws. (See Decision on Sufficiency of Petition in the Matter of the Formation of a New Village To be Known as "Kiryas Joel," Dec. 10, 1976, annexed hereto as Exhibit "B".) In response to the illegal conversion and illegal construction of housing in the subdivision known as Monwood, the Town commenced legal proceedings to compel conformance with its zoning laws. (See id. at 3-4.) "Arduous opposition [was] thrown up" to the Town's enforcement efforts by Monwood business leaders, who were concerned that the Town's zoning laws would interfere with their marketing strategy. (Id. at 4.) Residents of the illegal dwellings were apparently unwitting victims of the business leaders' evasion of the law. (Id.)

Rather than comply with the Town's zoning laws, the leaders of the Satmar community in Monwood sought to "slip away from the Town's enforcement program" through the village incorporation procedure under State law. (Id. at 7.) Supervisor Rogers deemed this action to be "almost sinister and surely an abuse of the right of self incorporation." (Id.)

Supervisor Rogers rued the fact that, unlike the Boards here, he could not comment on how the public interest would be affected by the 1976 village incorporation petition. (Id. at 8 ("As much as I would like to deal with the public interest question of this proposal and how I feel that it will endanger an otherwise rural residential neighborhood of Monroe, by law, I cannot.").) He felt constrained to only pass on the sufficiency of the petition. (Id. at 8-9.)

Presciently, Supervisor Rogers predicted "more confrontations as bitter as th[is] one" if the Kiryas Joel community continued to avoid Monroe's laws:

> For the Satmars to believe that they are above or separate from the rules and regulations that Monroe has chosen to live by or try to impose their mores upon the community of Monroe, or to hide behind the self-imposed shade of secrecy or cry out religious persecution when there is none, will only lead to more confrontations as bitter as the one this decision purports to resolve.

(Id. at 9.) History has, unfortunately, validated Supervisor Rogers' concerns.

2. 40 Years Later, The Village Still Ignores Applicable Environmental And Land Use Laws

It is not surprising that a municipality incorporated for the express purpose of avoiding local land use requirements has flouted its legal obligations ever since. The Village perpetuates a systemic disregard for environmental and land use laws, as well as other laws affecting the public interest. The result is unregulated, poorly planned development, which adversely impacts residents of the Village and of the Town alike. Annexation would simply allow this pattern of unregulated development to expand to even more territories. The victims of this

would include all area residents. The impacts of this unbridled development would also reach beyond the Village's municipal boundaries, and would adversely impact residents of the remaining Town area.

Throughout the Annexation process, it has become clear that the Village still systematically disregards environmental regulations and other laws affecting the public interest, which allows unregulated development and accompanying adverse impacts, including:

- Routine failure to implement required environmental review under SEQRA;
- Serial violation of basic municipal planning and zoning requirements, including that the Village's Planning and Zoning Board members do not satisfy the State-required training programs;
- Regular failure to refer land use matters to the Orange County Planning Department, as required by Section 239-m of the New York State General Municipal Law; and
- Repeated violations issues by the DEC and the U.S. Environmental Protection Agency ("EPA") of applicable environmental protection requirements.

United Monroe has, for example, confirmed that the Village does not adhere to basic, critical land use requirements. In a written request pursuant to the State Freedom of Information Law ("FOIL"), dated August 18, 2014, United Monroe asked the Village to provide basic information relating to its planning processes, including:

(i) the identities of the members of the Village Planning Board and Zoning Board;

(ii) documents relating to Village Planning Board and Zoning Board Members' satisfaction of applicable training requirements since January 2012;

(iii) all Planning Board and Zoning Board agendas, minutes, and resolutions since January 2012; and

(iv) copies of all referrals made to the Orange County Planning Department pursuant to Section 239-m of the New York State General Municipal Law since January 2012.

(See Letter from Daniel Richmond, Esq., to Gedalye Szegedin, Village Clerk, dated Aug. 18, 2014, annexed hereto as Exhibit "C".)[4] The Village's response demonstrated that it routinely violates municipal planning and zoning requirements, including that its Planning and Zoning Board

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[4] Further evidencing the Village's disregard for the law, the Village initially did not even acknowledge United Monroe's August 18th FOIL Request. The Village's failure to respond constituted a constructive denial of the request. As such, United Monroe was compelled to commence an administrative appeal by letter dated September 15, 2014, which finally compelled compliance.

members do not satisfy the State-required training programs, and that it never refers land use applications to the Orange County Planning Department, as required by law.

Similarly, United Monroe confirmed that the Village regularly ignores SEQRA. In its August 18th FOIL Request, United Monroe also requested copies of all determinations made by any Village agencies under SEQRA, such as positive declarations, negative declarations, conditional negative declarations and/or findings statements. In response, the Village did not produce *any* determinations made under SEQRA. (See Letter from Javid Afzali, Esq., to Daniel Richmond, Esq., dated Sept. 29, 2014 (without exhibits), annexed hereto as Exhibit "D"; Letter from Javid Afzali, Esq., to Daniel Richmond, Esq., dated Nov. 10, 2014 (without exhibits), annexed hereto as Exhibit "E"; E-mail from Javid Afzali, Esq., to Krista Yacovone, Esq., dated Nov. 19, 2014, annexed hereto as Exhibit "F".)[5]

Furthermore, both DEC and the EPA have found repeated violations in the Village of fundamental environmental protection requirements. These include violations of the Clean Water Act and failure to comply with State permitting requirements during construction activities and operations of its wastewater treatment plant. (See Letter from Daniel Richmond, Esq., to the Honorable Vincent L. Briccetti, dated Nov. 24, 2014, annexed hereto as Exhibit G"; Letter from Krista Yacovone, Esq., to Robert L. Ewing, dated Dec. 3, 2014, annexed hereto as Exhibit "H"; Letter from Krista Yacovone, Esq., to Patrick Ferracane and Jennifer Zunino-Smith, dated Dec. 16, 2014, annexed hereto as Exhibit "I".)[6]

3. DGEIS Irrationally Fails To Consider The Village's Serial Noncompliance With Basic Environmental And Land Use Laws, And The Attendant Adverse Impacts This Causes

The SEQRA review of the Proposed Annexation must be sufficient to assist the Boards in determining whether Annexation is in the overall public interest. Clearly, the GEIS needs to consider how the overall public interest would be affected if, as can be reasonably anticipated, the Village's poor track record of compliance with fundamental land use, zoning, and environmental laws, and the attendant unregulated development, were broadcast to a larger area through Annexation. The DGEIS audaciously ignores this critical issue.

The SGEIS must consider the potential significant adverse impacts that unregulated, high-density development in the Annexation territories would have on residents of the Village and of the remaining Town. See N.Y. Gen. Mun. Law § 711(1) (requiring that Boards entertaining annexation petitions consider, *inter alia*, potential effects on "the territory proposed to be annexed" as well as "the remaining area of the local government or governments in which the territory is situated"). The Village's lack of functioning planning and zoning processes, and its disinclination to abide by State-mandated environmental review processes, would significantly

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[5] Again, the Village's poor track record in implementing SEQRA is well-documented. See Cnty. of Orange, 815 N.Y.S.2d 49.

[6] The DGEIS failure to assess the Village's historic environmental noncompliance with respect to wastewater treatment plant operation is particularly irrational inasmuch as the DGEIS's conclusion that the Proposed Annexation would not affect the Ramapo River is premised on the proper operation of such plants.

adversely impact residents of both the Village and the Town, as well as neighboring municipalities. The SGEIS must consider these impacts.[7]

The DGEIS's failure to consider that the Village's poor track record of complying with *any* legal requirements is arbitrary and irrational. If left uncorrected, both Boards will lack substantial evidence they each need to issue SEQRA Findings, see 6 N.Y.C.R.R. § 617.11, as well as to assess whether the Proposed Annexation is in the overall public interest. See N.Y. Gen. Mun. Law § 711. When properly considered, the Village's poor track record of environmental and land use compliance and enforcement, standing alone: (i) warrants rejection of the Proposed Annexation under SEQRA because its environmental costs far outweigh any social or economic benefit it might provide, and (ii) is sufficient grounds to reject the Proposed Annexation as being contrary to the overall public interest.[8]

F. Irrational Failure To Study Past 2025

The DGEIS's arbitrary use of 2025 as the outside date for analysis is irrational. (See, e.g., DGEIS at 1-2.) "SEQRA mandates the consideration of all 'impacts which may be reasonably expected to result from the proposed action," and this includes subsequent actions which are 'likely to be undertaken as a result thereof.'" Schulz v. N.Y. State Dept. of Envtl. Conservation, 200 A.D.2d 793, 606 N.Y.S.2d 459, 461 (3d Dept. 1994) (citations omitted). It is not even possible for the Boards to consider meaningful mitigation measures without consideration of clearly foreseeable and contemplated build-out scenarios. See Halperin, 809 N.Y.S.2d at 105 (holding agency land use determination can only be deemed rational if they have "some objective factual basis").

It is irrational to use a ten (10)-year window for analysis where, as here, the Boards are aware that the impacts of the Proposed Annexation would range well past that date. See Develop Don't Destroy (Brooklyn), Inc. v. Empire State Dev. Corp., 94 A.D.3d 508, 942 N.Y.S.2d 477, 479 (1st Dept.), leave to appeal denied by 19 N.Y.3d 806, 950 N.Y.S.2d 104 (2012). In that case, the Court held that the respondent agency acted arbitrarily when it based its analysis on a ten (10)-year build-out scenario despite the fact that it was aware of a Development Agreement that

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7 Stormwater management during and after construction, for example, is just one area where the Village's environmental mismanagement could adversely impact residents of neighboring municipalities. Absent the Village's implementation of stormwater controls, mismanaged runoff from increased impervious surfaces in the Annexation area could negatively impact neighboring properties in Monroe, causing flooding, damaging water quality and affecting other natural resources.

8 Any suggestion that the Religious Land Use and Institutionalized Person Act ("RLUIPA") would be implicated if the Boards reject the Annexation has no support in the law. RLUIPA only applies to "land use regulation," which RLUIPA defines as "a zoning or landmarking law." 42 U.S.C. § 2000cc-5(c). Annexation is legally and statutorily distinct from zoning and landmarking laws, and is not subject to RLUIPA. Cf. Faith Temple Church v. Town of Brighton, 405 F. Supp. 2d 250, 255 (W.D.N.Y. 2005) (holding that RLUIPA does not apply to eminent domain proceedings because "[t]he simple fact is that Congress chose to limit the application of RLUIPA to cases involving 'a zoning or landmarking law'").

provided for a significantly extended substantial completion date, twenty-five (25) years from the study date. See Develop Don't Destroy (Brooklyn), 942 N.Y.S.2d at 479.

Here, both Boards, and certainly the Village Board, are aware that the Village is relying on growth projections for the Annexation lands through the year 2045. The Village's Updated Budget Analysis, which the Village submitted to the State Environmental Facilities Corporation ("EFC") in connection with the bonding of the Aqueduct Connection Project (EFC #16906), relied on projections through the year 2045. In particular, the Village projected that there would be 8,550 new residential connections and 1,500 new commercial connections by the year 2045. (See Budget Analysis, annexed hereto as Exhibit "J".) Assuming six (6) people would live in each new residence, this contemplates the addition of 50,000 people.

In response to this analysis, EFC asked the Village if "the growth projections for the Village [in the Budget Analysis could] be viewed as reasonable given that the available space within the Village does not support the long-term projections." (See Aqueduct Connection Project Business Plan Supplement II, dated Jan. 31, 2014, annexed hereto as Exhibit "K".) In response, the Village advised EFC about the proposed Annexation, and stated that "if indeed annexed into the Village, that opportunity [to rezone or develop the subject properties] exists and *would reasonably accommodate the anticipated growth described in the Business Plan*." (Id. (emphasis added).) In the same paragraph, the Village noted the maximum allowable development under existing Town Zoning, and added that "[t]his does not account, however, for potential rezoning for increased densities." (Id.)[9]

As such, not only did the Village make clear to EFC that its business model for the bonding of the aqueduct depended upon illegally increasing the allowable density of the Annexation area, but it also unambiguously signaled that this increase in density would be sufficient to accommodate the full development projected in the Budget Analysis -- 8,550 new residential connections and 1,500 new commercial connections by the year 2045. The build-out scenarios considered in the SGEIS must include the development projected by the Village to EFC -- i.e., 8,550 new residential connections and 1,500 new commercial connections by the year 2045. Again, assuming six (6) people living in each new household, this could inject more than 50,000 people into the annexed areas. As such, at minimum, the SGEIS needs to consider the adverse impacts of this extraordinarily intense high-density development on the environment and neighboring communities.[10] This applies to every section of the SGEIS, including with respect to Land Use and Zoning, Demographics and Fiscal, Community Services and Facilities, and Community Water and Sewer Services.

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9 Again, the Village's representations to EFC obviously conflict with the maxim that municipalities are not permitted to use annexation to evade current zoning constraints. See, e.g., Bd. of Trustees of Spring Valley, 694 N.Y.S.2d at 714; Bd. of Trustees, Vill. of Pomona, 567 N.Y.S.2d at 793; Vill. of Skaneateles, 496 N.Y.S.2d at 186.

10 Thus, this is not a case where development after ten (10) years was nothing more than "unsupported speculation;" instead, as established by the Village's representations to EFC, high-density development through 2045 is clearly foreseeable. Cf. Fisher v. Giuliani, 280 A.D.2d 13, 720 N.Y.S.2d 50, 55 (1st Dept. 2001).

The SGEIS also needs to consider the significant adverse impacts of development at the densities discussed below in sections H.2 and H.3 of this Letter.

As the Village implicitly recognized when it issued the Positive Declaration requiring the instant DGEIS, this is not a situation where the environmental review of an annexation should be limited because development objectives are unknown. Cf. City Council of Watervliet v. Town Bd. of Colonie, 3 N.Y.3d 508, 789 N.Y.S.2d 88, 93-94 (2004). To the contrary, the Village has already represented to a State agency that it will promote development at least through 2045 at intense levels on the territories it would like to annex in order to fund significant infrastructure expansion. As such, the environmental review should "be more extensive" and "address the specific use of the property [that the Village laid out for EFC] in evaluating the related environmental effects." City Council of Watervliet, 789 N.Y.S.2d at 94.[11]

The artificial use of 2025 as the end date for analysis, for example, results in an artificial capping of projected development of 3,825 units. (See DGEIS at 2-7 & 3.1-15.) The SGEIS must set forth how many units can be anticipated through 2045. If there is any discrepancy between the number produced as the result of this analysis and the projections the Village made to EFC, the SGEIS must explain this discrepancy.

Ultimately, the DGEIS's use of the year 2025 as an end date for analysis appears intended to avoid grappling with issues that would clearly arise after that date, such as insufficient infrastructure. Regardless of the motivation for using 2025 as an end date, it improperly and irrationally constrains the analysis, and must be corrected.

G. DGEIS Fails To Show Need For The Annexation

The DGEIS fails to show a need for the Annexation because it states that projected growth of the Hasidic community could be accommodated in the existing Village. (See DGEIS at 2-12 (stating that projected demographic growth necessitates the expansion of the existing Kiryas Joel community, *either in greater density through more and larger buildings within the existing Village or over a wider land area beyond current Village bo*undaries." (emphasis added)).) The SGEIS should discuss why the Village thinks it is necessary to expand the boundaries of the Village government to accommodate natural growth.

If the only asserted reason for expanding the Village government's jurisdiction is to change the zoning of the territories at issues, then the purported need for the Proposed Annexation, as discussed above, is illegitimate. See Bd. of Trustees of Spring Valley, 694 N.Y.S.2d at 714; Bd. of Trustees, Vill. of Pomona, 567 N.Y.S.2d at 793; Vill. of Skaneateles, 496

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11 Notably, the SEQRA Findings adopted by the Village in connection with the development of the water supply pipeline, which is the subject of the Village's discussion with EFC, state that "*[t]he project does not involve the expansion of the Village's distribution system into previously undeveloped or subserviced areas* but will allow the existing Village to be served with a new source of water supply." (Resolution Adopting Amended Findings Statement (Mar. 31, 2009), at 4 (emphasis added), annexed hereto as Exhibit "L".) The Findings indicate that the pipeline was not intended to serve areas outside the Village's present boundaries. Certainly, no environmental review has been conducted in this regard.

N.Y.S.2d at 186. The SGEIS should address whether Annexation would be pursued by the Village if, as the law requires, it would abide by the existing zoning.

United Monroe understands that the Village has extended water and sewer service to developments in the Town, including the Forest Edge and Vintage Vista subdivisions. The SGEIS should explain whether the Village would offer these services to other developments outside the Village without the Proposed Annexation. It should discuss legal and engineering mechanisms that could be used to enable the Village to provide sewer and water services to residents outside of its jurisdiction.

The SGEIS should discuss any contracts the Village has with the owners of properties in the territories at issue regarding the provision of water. The SGEIS should list each such property with which the Village has a contract. The SGEIS should discuss all legal implications of such contracts.

Similarly, the stated "unity of purpose" set forth in the DGEIS is suspect. (See DGEIS at 2-12 (stating that "unity of purpose" relates to a claim that "[o]wners of the properties proposed for annexation seek to avail themselves of the benefits of numerous municipal and other community services that are provided or are otherwise available to Kiryas Joel residents").)

The SGEIS should discuss how many residents of territories proposed for Annexation actually intend to remain in their residences after the Annexation. Many of the signatories to the Annexation are corporate entities. The SGEIS should discuss these corporate entities interest in the Proposed Annexation. The SGEIS should also discuss how many of the Petitioners intend to take advantage of the illicit re-zoning of the territories at issue after Annexation by redeveloping their properties for high density development. The SGEIS should also clarify whether the build-out scenarios discussed in the DGEIS are premised on the replacement of existing single family and other low density residential development with high-density development.

Moreover, the DGEIS fails to consider how the Proposed Annexation would upset the "unity of purpose" of Town residents, particularly those who would be left isolated from the Town as the result of the Annexation. As the DGEIS recognizes, "[t]he proposed annexation would result in a number of parcels remaining in the Town of Monroe but surrounded by annexed land." (DGEIS at 3.1-17.) The SGEIS must address how Annexation would adversely impact residents left behind in this isolated area. See N.Y. Gen. Mun. Law § 711(1) (requiring that Boards entertaining annexation petitions consider, *inter alia*, potential effects on "the remaining area of the local government or governments in which the territory is situated"). This analysis should specifically address how the Proposed Annexation would affect the unity of purpose residents left in this isolated "island" now have with the Town of Monroe.

H. Other Issues With DGEIS's Land Use and Zoning Analysis

1. Failure To Consider Development Potential In Other Areas To Accommodate Natural Growth

The SGEIS should address how the natural growth of the Satmar and/or other Hasidic communities can be accommodated under the existing zoning in the area. Because GEISs do not focus on detailed site- or project-specific scenarios, SEQRA requires that GEISs consider, *inter alia*, "[h]ypothetical scenarios as alternatives that could occur under the proposed action, *including all reasonable alternatives that could achieve the project sponsor's objectives*." SEQR Handbook, at 146; 6 N.Y.C.R.R. § 617.10(c).

As a map commissioned by the Village itself shows[12] the natural growth anticipated by the DGEIS of the Hasidic community could almost certainly be accommodated without the Annexation.

The Map, entitled "Map of Hasidic Jewish Land Owners Surrounding Kiryas Joel," shows that there are Hasidic-owned properties outside Kiryas Joel totaling approximately 900 acres in Monroe, 1,100 acres in Woodbury and 1,300 acres in Blooming Grove. (See Map, annexed hereto as Exhibit "N".) The DGEIS fails to assess whether the Hasidic community's natural growth in the area could not be accommodated in these areas under existing zoning. The development of the areas shown on the Map under the existing zoning should be assessed as an Alternative in Section 6 of the SGEIS. This Alternative must be described and evaluated at a level of detail sufficient to permit a comparative assessment to the Proposed Annexation. See 6 N.Y.C.R.R. § 617.9(b)(5)(v).

Again, the SGEIS should explain why the Village feels it is necessary to expand the political boundaries of the Village government to accommodate natural growth.[13]

2. Irrational And Inconsistent Density Projections

Rational analysis must be premised on a "reasonable worst-case scenario" for development under the Annexation. See Chinese Staff & Workers' Ass'n v. Burden, 88 A.D.3d 425, 932 N.Y.S.2d 1, 3 (1st Dept. 2011). The DGEIS is flawed because it fails to consider the level of development foreseeable with the Proposed Annexation.

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12 See Gary Buiso, "Village in New York Puts Out Map 'Where The Jews Live,'" N.Y. Post, May 18, 2014, annexed hereto as Exhibit "M") ("Information about the religion of landowners came from the village [of Kiryas Joel], which commissioned the map, according to James Feury, a managing partner with AFR Engineering and Land Survey, which created the map.").

13 The DGEIS states that "[t]he resident population of Kiryas Joel consists predominately of Hasidic Jews of the Satmar sect." (DGEIS at 2-11.) The SGEIS should indicate whether any non-Hasidic Jews live in Kiryas Joel, and whether any individuals not in the Satmar sect live in Kiryas Joel.

The DGEIS states that if the Proposed Annexation proceeds, "theoretical maximum residential development density on the annexation land" would change to allow up to twenty (20) dwelling units per acre." (DGEIS at 3.1-18.) First, the SGEIS should explain how this statement correlates to the statement on the first page of the DGEIS that "[t]here is no maximum density (units per acre) provision in the [Village] code." (See DGEIS at 1-1.) Both of these statements should be considered in the SGEIS in light of the Village's poor track record of land use and environmental compliance.

In any event, even accepting a maximum residential development of twenty (20) dwelling units per acre, (see DGEIS at 3.1-18.), extrapolating from this, the DGEIS indicates that over 10,000 dwelling units could be built in the territories proposed for annexation. Multiplied by the stated average family size of 5.9 persons, (see DGEIS at 3.2-3 & 3.2-4), this would suggest that up to nearly 60,000 people could be placed in housing in the territories at issue. Given the Village's faulty development record, unfortunately, development at this level under the Annexation is foreseeable, and must be considered as a reasonable worst case scenario. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3. The SGEIS should assess the environmental impacts of this level of development, and propose appropriate mitigation measures to prevent critical thresholds from being surpassed.

The Kiryas Joel Comprehensive Plan states that, at the time of its writing, "[t]here are eight major vacant parcels suitable for residential development totaling 185 acres." (Comprehensive Plan for the Village of Kiryas Joel, Summary of Findings and Proposals, at ¶ 11.) It adds that "[a]t the current type and density of development in the Village, between 1,400 and 1,800 dwelling units could be built on these parcels." (Id.) Extrapolating from this, the Village's Comprehensive Plan suggests that almost 5,000 dwelling units could be built in the territories proposed for annexation. Multiplied by the stated average family size of 5.9 persons, (see DGEIS at 3.2-3 & 3.2-4), this would suggest that up to nearly 30,000 people could be placed in housing in the territories at issue. The SGEIS should assess the environmental impacts of this level of development, and propose appropriate mitigation measures and thresholds for further environmental review. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3.

The SGEIS needs to assess how many units could reasonably be developed in the territories proposed for annexation in light of recognized environmental constraints, including sewer and water capacities. See N.Y. Envtl. Conserv. Law § 8-0103(5). It should discuss patterns of development that would avoid significant adverse impacts on the environment. See N.Y. Envtl. Conserv. Law § 8-0101(3)(c).

The SGEIS should also consider the American Planning Association's adopted Policy Guide on Smart Growth, including its policy that "[s]pecial consideration should be given to the location and timing of infrastructure extensions in rural areas so as not to encourage growth that will promote inefficient and unsustainable development patterns; [and] create the need for additional inefficient and costly infrastructure."

3. Failure To Rationally Assess Future Growth As The Result Of "In-Migration" From Other Areas

Consideration of growth inducing impacts is critical here. See SEQR Handbook, at 147 (stating that a "generic EIS should describe any potential that proposed actions may have for 'triggering' further development"). As DEC states, "[i]f such a 'triggering' potential is identified, the anticipated pattern and sequence of actions resulting from the initial proposal should be assessed." Id.

The DGEIS's assumption that demographic growth would be the same with or without Annexation conflicts with past patterns of development in the Village. (See, e.g., DGEIS at 3.2-2, Table 3.2-1 (showing far more growth in the Village in the 1990s, when more land was available, and, correspondingly, there was more in-migration from other areas).) The DGEIS states that "in-migration [to the Village] in the early years was high," but fails to explore the reasons for this. (DGEIS at 3.2-1.) The SGEIS should discuss why in-migration was much higher in the early years of the Village. It should consider, for example, whether the reason in-migration was high in the Village's early years was the fact that land was available for unregulated development. The SGEIS should also consider whether in-migration would increase again if, as the result of the Proposed Annexation, substantially more land became available for unregulated development. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3.

Finally, the SGEIS should consider the analysis of New York University Professor Dr. Richard Hull, Ph.D., which anticipates the possibility of mass migration to Kiryas Joel and the surrounding areas as the result of housing challenges and cultural conflicts in Brooklyn.

4. Irrational Consideration Of Loss Of Majority Of Town's UR-M Zoning District

The DGEIS acknowledges that the Proposed Annexation would result in the loss of "approximately 53 percent of the total area of UR-M district lands now in the Town." (DGEIS at 3.1-17.) Other than to recognize this loss, however, the DGEIS contains no analysis of how this loss would impact the remaining area of the Town. But see N.Y. Gen. Mun. Law § 711(1) (requiring that Boards entertaining annexation petitions consider, *inter alia*, potential effects on "the remaining area of the local government or governments in which the territory is situated"). Would this loss, for example, affect the Town's ability to provide a reasonable mix of housing opportunities to Town residents, including affordable housing?

I. Demographics And Fiscal Resources

For the reasons discussed above, the Demographics and Fiscal impacts section of the DGEIS is inherently flawed by virtue of its use of an arbitrary 2025 outside date for analysis, its failure to consider a reasonable worst case for density projections. The SGEIS must consider the significant adverse environmental impacts posed by a reasonable worst case development scenario, and use 2045 as an outside date for analysis, and propose concrete, enforceable mitigation measures to prevent the area from reaching an ecological point of no return. See Williamsburg Around the Bridge Block Ass'n, 644 N.Y.S.2d at 257; N.Y. Envtl. Conserv. Law § 8-0103(5).

Moreover, the DGEIS discussion of census data omits from discussion housing data available from U.S. Census Bureau. (See DGEIS at 3.2-2 to 3.2-3.) The SGEIS should include an analysis of the housing data provided by the Census Bureau. The SGEIS should also indicate what the Village population in 2010 would be calculated by multiplying an average family size of 5.9 persons (see DGEIS at 3.2-3 & 3.2-4) by the number of units reported in the Village by the U.S. Census. This analysis should also assess housing unit growth in the Village between 2000 and 2010. If the housing unit growth rate during this period differs from the population growth for the same time period by the U.S. Census, the SGEIS should explain why this might be.

The DGEIS also acknowledges that analysis prepared by Orange County reveals a significantly higher growth rate for the Village, and indicates that 10,000 more people would be residing in the Village than the DGEIS indicates by 2025. (See DGEIS at 3.2-3 to 3.2-4.) The DGEIS, however, fails to explain how it arrived at far lower projections for population growth than Orange County. The SGEIS should correct this deficiency and assess potential environmental impacts, including on water and sewer capacities through 2045, consistently with the County's projections.

J. Community Water And Sewer

For the reasons discussed above, the Community Water and Sewer Section of the DGEIS is inherently flawed by virtue of its use of an arbitrary 2025 outside date for analysis and its failure to address reasonable worst case build-out scenarios and density projections. These include the Village's representations to EFC, and those set forth in the Village's Comprehensive Plan, as well as the potentially more than 10,000 dwelling units alluded to in the DGEIS itself. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3. This information is particularly relevant to this section of the GEIS. The SGEIS must re-present both the water and sewer analysis showing what the Village's water and sewer demands would be if the Proposed Annexation occurs using 2045 as an outside date for analysis, and using the projections presented to EFC, the analysis set forth in the Village's Comprehensive Plan, as well as the potentially more than 10,000 dwelling units (and 60,000 users in the territories at issue) alluded to in the DGEIS itself.

This section should show what water and sewer demand would be based on projected growth rates extrapolated from housing data available from Census Bureau. Similarly, the section should show what water and sewer demand would be expected to be in 2025 and 2045 based on the growth rates projected by Orange County. (See DGEIS at 3.2-3 to 3.2-4.)[14]

1. Other Particular Water Issues

The DGEIS outside date of 2025 for analysis is particularly inapt with respect to potential water usage. Even using the DGEIS's figures, the DGEIS fails to address how the Village

[14] Moreover, this section of the DGEIS appears to present conflicting scenarios for population growth by 2025. (Compare DGEIS at 3.5-13 (projecting population increase of 12,307 persons by 2025, and 2.31 million gallons per day ("mgd") of future water use), with DGEIS at 3.5-17 (projecting population growth of 19,663 persons by 2025 with 2.79 mgd of future water use).) The SGEIS should explain this apparent discrepancy. The SGEIS should also explain the basis for the former projection.

would provide adequate water for Village residents past 2025. Indeed, the DGEIS actually indicates that the Village would outstrip available water capacity *before* 2025. The DGEIS fails to discuss what coordinated actions are necessary to prevent development in the territories at issue from surpassing the capacity of the environment to supply water. See N.Y. Envtl. Conserv. Law § 8-0103(5).

The DGEIS recognizes that, regardless of its use of the Aqueduct, "[t]he Village would be required to maintain 100 percent back-up for the volume of its taking with existing and new groundwater wells." (DGEIS at 3.5-4.) The DGEIS claims that "the Village currently has permitted capacity of 1.93 mgd and expects to expand that capacity with the addition of the Mountainville well field to 2.54 mgd." (DGEIS at 3.5-6.) The Village, however, has not obtained permission to access and withdraw groundwater from the Mountainville well field. As such, even assuming the Village's apparent claim that it will have access to wells with a capacity of 2.54 mgd, it would appear that 2.54 mgd is the limitation on the Village's access to water. The SGEIS needs to address when this capacity limitation will be reached. The SGEIS needs to assess what level of development the 2.54 mgd limitation could reasonably support. The SGEIS needs to explain how the Village can rationally anticipate that it can satisfy a water demand of 2.79 mgd. Cf. H.O.M.E.S., 418 N.Y.S.2d at 831-32. In light of the 2.54 mgd limitation stated in the DGEIS, the SGEIS should set forth what the Village's anticipated water demand past 2025 and through 2045 would be, with and without the Proposed Annexation, using a reasonable worst case scenario. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3.

Bearing in mind the 2.54 mgd water limitation stated in the DGEIS, the SGEIS should identify critical thresholds for development in the Village, the Annexation territories, and the surrounding areas to ensure that all action necessary to prevent such thresholds from being reached are taken. See N.Y. Envtl. Conserv. Law § 8-0103(5). The SGEIS should specifically identify upper limits of acceptable growth with the 2.54 mgd limitation stated in the DGEIS in mind. See SEQR Handbook, at 147.

The DGEIS also fails to consider water usage by the poultry plant in the Village. The SGEIS should address whether production at this facility will increase to match projected population growth. The SGEIS should discuss how much additional water the poultry plant will require by 2025, and by 2045.

Again, the DGEIS fails to explain why the Proposed Annexation is necessary. The DGEIS concedes that "extending water service to land outside the Village is a discretionary action of the Village," such that the Village could "extend water service to land outside the Village on a case by case basis." (DGEIS at 3.5-11.) The SGEIS should explain if, without the Annexation, growth could be accommodated using the Village's water services.

The DGEIS also fails to consider rational mitigation measures for the Proposed Annexation's potential significant adverse impacts on water. See Save the Pine Bush, Inc., 518 N.Y.S.2d at 468 (rejecting SEQRA review where "*the municipality has opted for maximum development of the land area involved without proposing any substantively salutary mitigating measures which would minimize the adverse environmental effect of its decision*" (emphasis added)).

The DGEIS states that "[c]onnection to the Catskill Aqueduct will also mitigate potential water supply impacts." (DGEIS at 3.5-19.) First, again, the SGEIS should consider the American Planning Association's adopted Policy Guide on Smart Growth, including its policy that "[s]pecial consideration should be given to the location and timing of infrastructure extensions in rural areas so as not to encourage growth that will promote inefficient and unsustainable development patterns; [and] create the need for additional inefficient and costly infrastructure."

In any event, the DGEIS states, however, that "the use of Aqueduct water is strictly limited to the territorial boundaries of the Village." (DGEIS at 3.5-19.) The SGEIS needs to explain if the Village believes this means that, with Annexation, it would be able to use Aqueduct water for the territories at issue. If the Village does believe if can use Aqueduct water for the territories at issue, the SGEIS should explain how this correlates with the SEQRA Findings adopted by the Village in connection with the development of the water supply pipeline, which states that "[t]he project does not involve the expansion of the Village's distribution system into previously undeveloped or subserviced areas but will allow the existing Village to be served with a new source of water supply." (See Exhibit L.)

Also, if the Village believes it can use Aqueduct water for the territories at issue, the SGEIS should discuss whether the Village has made this belief clear to the New York City Department of Environmental Protection ("DEP"). Any relevant correspondence to this point should be produced in the SGEIS. To the extent DEP has not been notified as an Interested Agency in this proceedings, going forward, it should be included.

Moreover, the DGEIS acknowledges that the engineering plans for this connection are still subject to the review and approval of DEP. (DGEIS at 3.5-19.) Even if the Village believes it can use Aqueduct water for the territories at issue, it should consider whether it is rational to rely on an unapproved mitigation measures.

If the Village accepts that it cannot lawfully use Aqueduct water for the territories at issue, the SGEIS should explain why the purported Aqueduct connection has any relevance to the Proposed Annexation. The SGEIS should also explain how the prohibition against using Aqueduct water outside the Village will be enforced.

Ultimately, the DGEIS analysis of water is flawed because it fails to assess the level of development that could reasonably be supported given the limitations on available water. See N.Y. Envtl. Conserv. Law § 8-0103(5). This should include correlating maximum allowable residential densities to environmentally sound sewer and water capacities. The SGEIS also needs to discuss patterns of development that would avoid overstretching the available water supply. See N.Y. Envtl. Conserv. Law § 8-0101(3)(c).

The SGEIS should propose concrete mitigation measures to address significant adverse impacts posed by the Proposed Annexation, and to prevent the area from reaching an ecological point of no return. See Williamsburg Around the Bridge Block Ass'n, 644 N.Y.S.2d at 257.

The SGEIS, for example, should consider clear and enforceable thresholds for future project specific reviews and monitoring programs. See SEQR Handbook, at 147. This

discussion should include the merit of phased development tied to any such thresholds or monitoring programs. See id.

Finally, the SGEIS should discuss whether it would be rational for either Board to rely in their respective SEQRA Findings on mitigation measures, such as development limitations, in light of the Village's history of environmental and land use noncompliance. See Chinese Staff & Workers' Ass'n, 932 N.Y.S.2d at 3.

2. Other Particular Sewer Issues

The DGEIS specifically recognizes that "the quality of the wastewater treatment plant effluent" is "dependent upon the proper operation and maintenance of the facility as it was designed." (DGEIS at 3.5-27.) As such, it is particularly egregious that this section of the DGEIS fails to consider the Village's poor track record of environmental compliance, especially with respect to the operation and maintenance of wastewater treatment plants.

As discussed above, both DEC and the EPA have found repeated violations in the Village of fundamental environmental protection requirements particularly with respect to the operation of wastewater treatment plants. These include violations of the Clean Water Act and failure to comply with State permitting requirements during construction activities and operations of its wastewater treatment plant. (See Exhibits G-I.) In light of this history, the DGEIS is entirely irrational in suggesting that "there are no significant impacts to the receiving water body (Ramapo River) as a result of the proposed annexation." (See DGEIS at 3.5-27.) The SGEIS needs to re-evaluate the potential for significant adverse impacts to the Ramapo River in light of this history.

Moreover, the DGEIS's statement with respect to wastewater that "[t]he demand for wastewater treatment" either with or without the Proposed Annexation "will be generally the same" fails to consider the growth inducing impacts of the Annexation, discussed above. (See DGEIS at 3.5-27.)

K. Community Services and Facilities

Perhaps the most fundamental community service to the public health, safety and welfare is a functioning planning process and responsible environmental stewardship. Again, however, the Village systematically disregards environmental regulations, land use laws, and other laws affecting the public interest, which allows unregulated development and accompanying significant adverse impacts. The DGEIS, again, fails to address this topic. The SGEIS should discuss what planning process residents of the territories at issue could reasonably expect, and how this would affect residents of the Village, the territories to be annexed, and the rest of the Town. The SGEIS should also discuss whether a complete absence of planning processes and environmental enforcement is in the public interest.

The DGEIS claims that the tax revenues generated by new development in the territories at issue will support the increased need for services, such as fire protection, ambulance and health services. (DGEIS at 3.3-14 to 3.3-16.) The SGEIS must provide greater detail about

anticipated tax revenues and apportionment to these services, including details on the current budget needs and potential equipment upgrades.

Furthermore, the SGEIS should discuss existing telecommunication, electric, and natural gas lines in surrounding areas, and describe the ability of these utility providers to service each potential development scenario. Possible utility improvements to service the area under the potential development scenarios must be proposed. Sewer and water issues, as discussed above, warrant special consideration.

L. Traffic and Transportation

The DGEIS makes many assumptions about projected traffic patterns based on religious and cultural norms in the Kiryas Joel community, namely, that most residents do not drive from sundown Friday to sundown Saturday (DGEIS at 3.4-5, 3.4-7) or during religious holidays (DGEIS at 3.4-7), and that women residents do not drive (DGEIS at 3.4-8.) These assumptions lead the DGEIS to falsely conclude that traffic impacts will be "very low." (DGEIS at 3.4-7.) Although the male residents may not drive on the Sabbath or other religious holidays, and although the female residents may never drive, the DGEIS recognizes that taxi and car services and public buses are common transportation substitutes. (DGEIS at 3.4-8 to 3.4-9.) Thus, the traffic analysis must address increases in cars and buses on the roads at all peak and off-peak hours, including use of cars and buses operated by non-Hasidic drivers during the Sabbath and religious holidays.

An influx of up to 60,000 people in the territories at issue -- a number that will surely grow once the SGEIS accounts for the likely possibility of in-migration from other Hasidic communities -- would greatly increase the number of taxis, buses and other shared modes of transportation on the roads, even during the Sabbath and/or religious holidays. The SGEIS must realistically incorporate the use of these shared modes of transportation into its trip analyses and must specifically recognize and address the heightened use of taxis particularly by all women in the community. The SGEIS also must address noise and air quality impacts from the increase in vehicles on the road, including proposing mitigation measures for noise and air quality.

M. Natural Resources

The DGEIS asserts that, were the Proposed Annexation approved, Town Code provisions intended to protect sensitive resources, such as Chapter 56 ("Wetlands"), would no longer be applicable. (DGEIS at 3.6-7.) Again, the Village cannot lawfully evade Town Code requirements through the annexation process. In any event, the GEIS must assess the potential adverse impacts of this evisceration of these Town Code requirements.

Moreover, Section 3.6 of the DGEIS was apparently based on mapping provided by Orange County and DEC, which do not necessarily reflect current conditions. In connection with the preparation of the SGEIS, a field survey is required to accurately determine wetlands and other sensitive resources.

The DGEIS also does not indicate if both the U.S. Fish and Wildlife Service and DEC were contacted in connection with wildlife and sensitive habitats in the territories at issue. The SGEIS should address this deficiency.

N. Cultural Resources

A discussion of visual impacts and community character is crucial to the analysis under the State Municipal Annexation Law as to whether the proposed annexation is "in the over-all public interest." See N.Y. Gen. Mun. Law § 711. As the Court of Appeals has held, SEQRA analysis is not limited to the physical impacts of a proposed action. Chinese Staff & Workers Ass'n v. City of New York, 68 N.Y.2d 359, 509 N.Y.S.2d 499, 503 (1986). It is well-settled that the environmental concerns covered by SEQRA include socio-economic concerns and impact on existing community character. N.Y. Envtl. Conserv. Law § 8-0105(6) (defining "environment" as "*physical conditions which will be affected by a proposed action, including . . . existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character*" (emphasis added)). As the Court of Appeals has held:

> [T]he impact that a project may have on population patterns or existing community character, with or without a separate impacts on the physical environment, is a relevant concern in an environmental analysis since the [SEQRA] statute includes these concerns as elements of the environment.

Chinese Staff, 509 N.Y.S.2d at 503. This includes "the potential displacement of local residents and businesses," regardless of whether the Proposed Annexation may effect these impacts primarily or secondarily or in the short terms or in the long term. Id. at 503-04.

It is also well-settled law that the environmental concerns covered by SEQRA include aesthetics and visual impacts. See, e.g., WEOK Broad. Corp. v. Planning Bd. of Lloyd, 79 N.Y.2d 373, 583 N.Y.S.2d 170, 176 (1992) (indicating that consideration of "negative aesthetic impacts," such as the visual effect of radio transmission towers on the local community, can be an important factor in SEQRA review and can constitute a sufficient basis upon which to base SEQRA determinations); Scenic Hudson v. Town of Fishkill Town Bd., 258 A.D.2d 654, 685 N.Y.S.2d 777, 780 (2d Dept. 1999) (annulling town board rezoning, and indicating that EIS should have been prepared where proposed action would have a "significant negative impact on the region's visual environment," air quality and public health and safety, among other things).

The DGEIS does not fully consider the impacts that the proposed Annexation, as well as each potential development scenario, would have on the character of the adjoining areas. (See DGEIS at 3.7-3 (concluding that "future development could disturb virtually all of the developable land in some fashion").) This analysis should include potential impacts on existing patterns of population concentration, distribution, or growth. See N.Y. Envtl. Conserv. Law § 8-0105(6). The SGEIS must go farther and explain the consequences of converting rural land to high density development, specifically rezoning the land for 8,550 new residential connections and 1,500 new commercial connections by 2045. The SGEIS should also review such a conversion for consistency with all applicable planning documents, including the comprehensive plans of both

the Town and the Village, the Orange County Comprehensive Plan, the Orange County Greenway Compact, the Orange County Open Space Plan, and the Ramapo River Watershed Management Plan.

The SGEIS should discuss the potential displacement of Town residents, including displacement resulting from declining home values. In addition, this section should include a discussion of lighting impacts as a result of each proposed development scenario on surrounding communities. Unlike the mitigation measures proposed in the DGEIS, the SGEIS should include concrete mitigation measures to limit potential adverse impacts on these communities. In light of the Village's complete lack of any functioning planning process, the SGEIS cannot rely on individual site plan and subdivision reviews to require implementation of mitigation measures. The SGEIS must discuss landscaping, buffering and other tactics to avoid impacts to sensitive resources and to Village and Town residents.

The SGEIS should also include a review of aesthetic and visual impacts to surrounding communities in both the Town and the Village. Specifically, the SGEIS should identify in text and photographs the visual characteristics and significant visual resources in the proposed Annexation area, as well as in proximate areas with affected viewsheds, including, but not limited to, viewsheds from scenic resources. The SGEIS should include a viewshed analysis based on the potential heights of buildings under each proposed development scenario, identifying the worst case viewsheds and conditions that could have a clear line of sight toward the developments. Mitigation measures should be proposed to limit any potential adverse impacts on visual resources, including scenic views.

In addition to the Highlands Trail/Long Path and Gonzaga Park, the SGEIS must also study potential impacts to the Heritage Trail, Crane Park, and the new Village private park on Larkin Drive.

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Conclusion

We would be pleased to expound on any of the statements set forth in this Letter for the Boards or to answer any questions the Boards may have at a mutually convenient time. At this point in time, however, all evidence shows that the Proposed Annexation must be rejected.

Please let us know if you have any questions.

Very truly yours,

ZARIN & STEINMETZ

By: ______________
Daniel Richmond
Krista Yacovone

DMR/mth
encs.
cc: United Monroe
Harley E. Doles III, Town Supervisor and the Members of the Town Board
Michael Donnelly, Esq.
Mary Ellen Beams, Town Clerk

EXHIBIT A

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OF COUNSEL

May 15, 2014

By Facsimile and Federal Express

Harley E. Doles III, Town Supervisor and the
Members of the Town Board
Town of Monroe
Town Hall
11 Stage Road
Monroe, New York 10950

Re: Constitutional Issues Concerning Proposed Annexation of Portions of Town; Proposed Ca. 510 Acre Land Annexation by Village of Kiryas Joel from Town of Monroe

Dear Supervisor Doles and Members of the Town Board:

This Firm has been retained by United Monroe to represent its interests, concerns, and objections to the above-referenced Proposed Annexation. While United Monroe has a variety of concerns about the Proposed Annexation, it wishes to advise your Board that the proposal appears fundamentally flawed from the onset. Any Town Board action in favor of the Proposed Annexation would violate the Establishment Clause of the United States Constitution.

The United States Supreme Court's Decision in Board of Education of Kiryas Joel Village School District v. Grument, et al. ("Kiryas Joel"), 512 U.S. 687, 114 S. Ct 2481 (1994) is highly instructive in this regard. In that case, the Supreme Court held that a New York State legislative Act, which created a separate school district solely to serve the Village of Kiryas Joel's "distinctive population" (the "School Act"), violated the Establishment Clause of the First Amendment of the United States Constitution. The Court held that such action was "tantamount to an allocation of political power on a religious criterion and neither presupposes nor requires governmental impartiality toward religion." 114 S. Ct. at 2485.

By way of background, the Establishment Clause "'compels the State to pursue a course of "neutrality" toward religion,' favoring neither one religion over others nor religious adherents collectively over nonadherents." Id. at 2487 (citations omitted). A governmental entity violates the "wholesome neutrality" guaranteed by the Establishment Clause when its actions cause a "'fusion of governmental and religious functions' by delegating 'important, discretionary governmental powers' to religious bodies, thus impermissibly entangling government and religion." Id. at 2487-88. Based on this premise, the Supreme Court held that the School Act violated the Establishment Clause, because it was "substantially equivalent to defining a political subdivision and hence the qualification for its franchise by a religious test, resulting in a purposeful and forbidden 'fusion of governmental and religious functions.'" Id. at 2490 (citation omitted).

The Supreme Court noted that it was irrelevant that the School Act generically delegated power to "residents of the 'territory of the Village of Kiryas Joel,'" rather than containing an "express reference to the religious belief of the Satmar community." Id. at 2489. "[T] he context here persuade[d the Court] that [the Act] effectively identifies these recipients of governmental authority by reference to doctrinal adherence, even though it does not do so expressly." Id. As the Court noted, "[i]t is undisputed that those who [initially] negotiated the Village boundaries when applying the general village incorporation statute drew them so as to exclude all but Satmars, and that the New York Legislature was well aware that the village remained exclusively Satmar in 1989 when it adopted [the Act]." Id.

In his concurring opinion, Justice Kennedy noted that the Court was not addressing the constitutionality of the Village of Kiryas Joel itself. Id. at 2504. Justice Kennedy noted, however, that the process for incorporating a Village was largely procedural, and did not necessitate any discretionary action by the government. Id. By contrast, here, the annexation process specifically requires the Town to make a discretionary determination as to whether the proposed annexation is in the over-all public interest. See N.Y. Gen'l Muni. L. § 705. A determination by your Board that the annexation is in the public interest would effectively be a decision to cede electoral territory to Kiryas Joel, which would result in a constitutionally suspect delegation of political power to the Village. See Kiryas Joel, 114 S. Ct. at 2494 (holding that School Act impermissibly delegated political power "to an electorate defined by common religious belief and practice, in a manner that fails to foreclose religious favoritism"). Such a determination could improperly cause "the forced separation that occurs when the government draws political boundaries on the basis of people's faith." Id. at 2505 (Kennedy, J., concurring).

In sum, a determination by your Board in favor of annexation would be "tantamount to an allocation of political power on a religious criterion, and impermissibly result in the "'fusion of governmental and religious functions' by delegating 'important, discretionary governmental powers'" to a political subdivision whose franchise is, in effect, determined by a religious test. See id. at 2485, 2487-88, 2490 & 2494.

Accordingly, before your Board proceeds to expend substantial municipal funds considering the Proposed Annexation, United Monroe respectfully submits that your Board should carefully consider the constitutionality of this course of action.

We would be pleased to amplify these principles to your Board or to answer any questions your Board may have at a mutually convenient time.

Please let us know if you have any questions.

Very truly yours,

ZARIN & STEINMETZ

By:
Daniel Richmond

cc: United Monroe

EXHIBIT B

SUPERVISOR, TOWN OF MONROE
ORANGE COUNTY, NEW YORK
---x

IN RE MATTER OF THE FORMATION OF A NEW VILLAGE TO BE KNOWN AS

"KIRYAS JOEL"

Decision On Sufficiency Of Petition

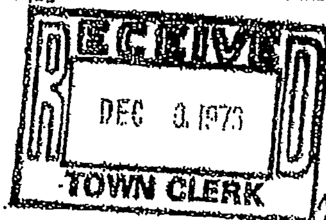
---x

ROGERS, W.C., Supervisor

There has been presented to the undersigned a petition framed under the provisions of the Village Law of this State to form a new village within the bounds of the Town of Monroe. The name of the village is proposed to be KIRYAS JOEL, which roughly translated means the "Community of Joel".

The petition was presented to me on November 8, 1976. Notice of the required public hearing on that petition was published in the Monroe Gazette on November 11th and November 18th, 1976. A copy of the same Notice was posted in five public places within the territory to be carved out as a new village on November 15, 1976. The public hearing on the petition was held on December 2, 1976 in the basement of Garden Apartment #5 on Quickway Road in Section I of the Monwood Subdivision, the principal area of the village to be. The petition, affidavits of posting and publishing, written objections and the verbatim transcript of the testimony of the hearing are filed herewith.

Before relating to the technical niceties of the petition and the objections thereto, the reasons for this new birth should somehow



be set down so that present and future residents of this 177 year old Town[1] may know why there is now a third village in their midst.[2] This decision seems to be a most appropriate place to do so.

The traditional elements that underlie the self incorporation of a new municipality are principally the desire and need of residents of a more densely populated area for municipal services which in the past were usually not available at the hands of a Town or County. The desired services were usually water supply, police protection, fire protection and sewer systems. The laws of this State have changed considerably in the last 50 years and all these services are now available through the Town, and in many cases are being supplied by both Town and Counties throughout the State. Thus, the need for self-incorporation into villages has, for the most part, disappeared. A cursory review of State records indicates that there have been only nine villages formed in the entire State since the end of World War II. The area to be included in this new village is now served by a town water and sewer district (privately maintained but subject to Town takeover). It will shortly be incorporated into the operation of Orange County Sewer District #1. It finds police protection from the nearby barracks of the New York State Police. It has fire protection from the Mombasha Fire Company, the same Company that serves the Village of Monroe. Its roads are more than adequately maintained by the Town of Monroe Highway Department and the area is subject to

1. Monroe was created by act of the Legislature adopted in 1799 under the name "Cheesecocks".

2. The Village of Monroe was incorporated in 1894; the Village of Harriman in 1914.

every Town wide protective ordinance or local law that this Town has enacted. Why then is there a need to incorporate?

The answer to this question lies in the makeup of the individuals who will reside within this new village, should I approve this petition. These residents are and will be all of the Satmar Hasidic persuasion. They dress, worship and live differently from the average Monroe citizen. In and of itself these facts are of no moment. Perhaps the Satmar Hasidic manner of dress, means of worship and way of life are more noble than mine or the rest of Monroe's citizenry. Perhaps not. That is not in issue. However, the Satmar believe in large, close knit family units and sociological groups and are accustomed to a highly dense urban form of living, having for the most part been residents of the Borough of Brooklyn in the City of New York since the end of World War II. Furthermore, the sociological way of life for the Satmar Hasidic is one of distained isolation from the rest of the community. These factors are at the root of their need to incorporate.

When the Satmar leadership chose Monroe as a future place of residence for some of their community, they purchased an already approved but unbuilt upon subdivision that lay within a rural, residential, low-density zoning district set aside for single family homes on 25,000 sq. ft. lots (R-150 district). This district also permitted 80 multiple units of garden apartments. This subdivision was and is still called "Monwood". In constructing the dwellings in Monwood, the Town Board and the Town Building Department felt strongly that many of the dwellings were converted into two and some three family

units and that dwellings under construction were being constructed for two and three units each. We felt these conversions and new construction to be surreptitious and illegal and commenced legal proceedings to compel a reconversion and halt future residential construction until zoning conformance was had. It was a bitter contest opposed at every conceivable step by the Satmars. The legal contest virtually consummed this Town for five months and the cry went up from the other residents of this Town, particularly those of the Northeast area where the Monwood subdivision lies, to enforce our Zoning and Building Codes. The most salient observation was, "If I have to obey the Zoning Law, so do the Satmars".

The Town Board never really understood the reason for the arduous opposition thrown up by the Satmar community to its code enforcement position but felt it lay buried deep in an economic reality that the business leaders could not market the dwellings to their membership unless the cost of maintaining them could be shared by two or three tenants (and their families), whether or not they were related in family groups or were no more than income tenants. Perhaps zoning enforcement might have meant financial ruin for the Monwood business leaders. We felt that those who actually bought or contracted to buy the dwellings had no idea of the Town's zoning restrictions and were unsuspecting objects of the enforcement action.

We also felt that the Town's enforcement position was a rallying point for the Satmar's ingrained feeling of persecution against the Jewish faith. The more the Town sought to enforce, the more it was

accused of persecuting the Hasidic Jews. Of course, nothing could be further from the truth. The Satmars were and are welcomed in Monroe as any new group would be. Their customs were respected and accommodated. They received approval to build a large Synagogue on Forest Road, as well as a private educational complex and religious bath facility. A temporary bath was allowed as were the use of the basements in the garden apartments for schooling pending completion of the permanent facilities. Indeed, there was no problem at all relative to the Satmars in Monroe until the zoning issue. Perhaps this fictitious "persecution" syndrome clouded the real issue more than anything else. It was an erroneous and distincly unfair invective to toss at the Town's zoning enforcement program.

At any rate the Town's zoning position is well documented in the several law suits that arose in this controversy. (i.e., In the Matter of the Application of Andrew W. Barone; Buchinger v. Moore; Schwartz v. DeAngelis; United Talmudic Association v. Town of Monroe; Monfield Homes, Inc. v. Moore; Hirsch v. Moore; and the several applications decided by the Zoning Board of Appeals.

At the height of the dispute the Satmars presented to me a petition to form a new village of very large dimensions which included many properties and people not of the Satmar belief. The Town Board felt that that attempt at self incorporation was a use of the Village Law to escape the accusing finger of the Town which would at the same time allow the Satmars to enact their own zoning laws designed to suit their economic and sociological needs. The Town realized the strength

of the Satmar move in that the Board was, by law, foreclosed from passing upon the public good - or lack of it - in forming such a village, yet (by a split vote) the Board decided to attack the very law that enabled the formation of a village without a decision by the Town from whence it would be carved upon the public good of such a creation.

At the same time a petition was presented to the Town Board and the Village of Monroe Board of Trustees by the Northeast property owners to annex land around the core of the Monwood subdivision into the Village of Monroe and to do so before action was taken on the new village application, thereby precluding the formation of the new village (a new village cannot be formed within the bounds of another). This led to an attack on that proceeding in United States District Court by means of a "civil rights" suit (Schwartz, etal. v. DeAngelis, etal), and that in turn led to compromise negotiations between the Satmar leadership and the residents of the northeast section of Town.

After strenuous negotiations virtually all the Northeast property owners and the Satmar group agreed to the formation of a new village on a much smaller scale than originally proposed and one that would not include any one who did not want to be within its bounds. It was limited to 320± acres owned by the Satmar community. The Town Board acquiesed in that agreement and the present petition is an outgrowth of that compromise.

To me, and I believe to the Town Board, the compromise is almost as distasteful as the dispute it settled. The Satmar Hasidim has

taken advantage of an obviously archaic State statute to slip away from the Town's enforcement program without the Town having the slightest possibility of commenting on the inappropriate reasons for formation of the new village. Were the village proposed prior to the accusations or after they were adjudicated, it would be a different matter, but to utilize the self incorporation procedure during the pendency of a vigorously litigated issue in which the Town has accused the Satmar community of serious and flagrant violations of its Zoning Law, is almost sinister and surely an abuse of the right of self incorporation. I do not believe that the authors of the 106 year old Village Law ever dreamed it would be used for this purpose.

Be that as it may, I am left with the hollow provisions of the Village Law which allow me only to review the procedural niceties of the petition itself. Those niceties are politely set forth in Section 2-206 of the Village Law.

At the public hearing objections were raised as to the validity of the corporate signatures. The essence of the objection is that there is no certificate of authenticity evidencing the signators authority to sign and affix the corporate seal. It is true, there is none. It is also true that for the corporation "Monfield Homes, Inc.", owner of the bulk of the land within the territory, the signature itself is virtually illegible and it is not identified by a typewritten or printed name under the signature itself. This is strange in that all the individual signators are so identified. Yet

it is noted that the corporate seal for each corporation is affixed. That in and of itself is a presumption that the signator had authority of the Board of Directors to sign and affix the seal (Section 107 Business Corporation Law). Furthermore, the legislature did not require a certificate of authenticity when specifically setting down how the petition was to be executed (Section 2-202 Village Law). Any such certificate would be surplussage and would evidence proof more than is called for. Cf. Skidmore College v. Cline, 58 Misc. 2d 582, 296 N.Y.S.2d 582 (Sup. Ct., Broome Co., 1969). There was no proof put forth at the hearing to rebutt the presumption of Section 107 Business Corporation Law and the dictates of the statute were carried out. I reject this objection.

The balance of the objections put forth at the hearing and outlined in the written objections of Lillian Roberts submitted at that hearing go to the questionable public interest of that proposal. While the boundaries of the new village may be distorted and the property rights of the objectant somewhat endangered, I am foreclosed from entertaining or ruling on such objections, cf. Rose v. Barraud, 61 Misc. 2d 377, 305 N.Y.S.2d 721, aff'd. 36 A.D.2d 1025, 322 N.Y.S.2d 1000. As much as I would like to deal with the public interest question of this proposal and how I feel that it will endanger an otherwise rural residential neighborhood of Monroe, by law, I cannot. I therefore must reject these objections also.

Although not in writing, there were objections put forth at the hearing relating to the failure of the map submitted with the petition to show the Monwood Lake or pond and the corresponding property rights

of the objectants to that Lake or pond. There is no requirement for a boundary map, no less the showing of ponds or other topographical features. A boundary map is optional (Section 2-202 1.c (1) Village Law), if the petition is supported by a metes and bound description. Aside from the fact that it is not in writing, I must reject this objection also. I find the petition to otherwise conform with the requirements of Section 2-202 of the Village Law.

Accordingly, I will approve the petition as I must within the limits of the law I am given to work with. With this approval I hope that a new era of well being will spring up between the Satmar community and the rest of Monroe and that the Satmar will realize that in order to survive at all in Monroe or elsewhere they must begin to adopt to some of the ways of life of the people in whose midst they have chosen to reside. For the Satmars to believe that they are above or separate from the rules and regulations that Monroe has chosen to live by or try to impose their mores upon the community of Monroe, or to hide behind the self-imposed shade of secrecy or cry out religious persecution when there is none, will only lead to more confrontations as bitter as the one this decision purports to resolve. I hope that will not be the case.

The petition is approved and the Town Clerk is hereby directed to begin the procedures for an election within the subject territory, in the manner proscribed by law.

Dated: December 10, 1976
Monroe, New York

WILLIAM C. ROGERS
SUPERVISOR, TOWN OF MONROE

EXHIBIT C

ZARIN & STEINMETZ
ATTORNEYS AT LAW
81 MAIN STREET
SUITE 415
WHITE PLAINS, NEW YORK 10601

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JEREMY E. KOZIN
KRISTA E. YACOVONE

MARSHA RUBIN GOLDSTEIN
HELEN COLLIER MAUCHΔ
LISA F. SMITH*
OF COUNSEL

August 18, 2014

By Certified Mail, Return Receipt Requested

Gedalye Szegedin, Village Clerk
Village of Kiryas Joel
Village Hall
P.O. Box 566
Monroe, New York 10949

Re: FOIL Request

Dear Mr. Szegedin:

This is a request pursuant to New York State's Freedom of Information Law, Public Officers Law § 84 et seq. ("FOIL"), on behalf of our client, John Allegro.

Please provide the undersigned with the opportunity to review and, if desired, to copy any and all Records (as that term is defined by FOIL) in the Village of Kiryas Joel's ("Village") possession regarding or relating to the following items:

(1) Identities of the members of the Village Planning Board;

(2) All documents relating to Village Planning Board Members' satisfaction of applicable training requirements since January 2012 (see N.Y. Village Law § 7-718(7-a));

(3) All agendas prepared or issued by the Village Planning Board since January 2012;

(4) All minutes prepared in connection with Village Planning Board Meetings since January 2012;

(5) All resolutions issued by the Village Planning Board since January 2012;

(6) Identities of the members of the Village Zoning Board of Appeals;

(7) All documents relating to Village Zoning Board of Appeals Members' satisfaction of applicable training requirements since January 2012 (see N.Y. Village Law § 7-712(7-a));

(8) All agendas prepared or issued by the Village Zoning Board of Appeals since January 2012;

(9) All minutes prepared in connection with Village Zoning Board of Appeals Meetings since January 2012;

(10) All resolutions issued by the Village Zoning Board of Appeals since January 2012;

(11) Copy of the Village comprehensive planning document(s);

(12) Copy of the Village Zoning Code or Ordinance;

(13) Copies of all determinations by any Village agency(ies) pursuant to the New York State Environmental Quality Review Act ("SEQRA"), including positive declarations, negative declarations, conditioned negative declarations, and/or findings statements; and

(14) Copies of all referrals made to the Orange County Planning Department pursuant to Section 239-m of the New York State General Municipal Law since January 2012.

We will, of course, pay all appropriate photocopying costs.

Thank you for your attention to this matter. Please contact me with any questions.

Very truly yours,

ZARIN & STEINMETZ

By: ______________
Daniel Richmond

cc: John Allegro (via email)
Javid Afzali, Esq. (via email)

EXHIBIT D

WHITEMAN
OSTERMAN
& HANNA LLP

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518.487.7600 phone
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Javid Afzali
Associate
518.487.7666 phone
jafzali@woh.com

September 29, 2014

VIA First-Class

Daniel Richmond
Zarin & Steinmetz
81 Main Street
Suite 415
White Plains, New York 10601

Re: RE: FOIL #0818-14-001
DATE RECEIVED: August 18, 2014

Dear Mr. Richmond:

This letter responds to your request for access to records under New York State's Freedom of Information Law (FOIL) dated August 18, 2014 and subsequent Appeal of Denial dated September 15, 2014.

Please find attached documents (total 238 pages) in partial response to your request. Due to the breadth of your request, the Village continues to review its records to identify additional non-exempt responsive documents. The Village will provide you with such documents within a reasonable timeframe given the extensiveness of the request.

If all records are not provided because the records are excepted from disclosure, you will be notified of the reasons and of your right to appeal the determination.

Very truly yours,

Javid Afzali

JA/alw

Encls.

cc: Village of Kiryas Joel

EXHIBIT E

WHITEMAN
OSTERMAN
& HANNA LLP

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jafzali@woh.com

November 10, 2014

VIA First-Class

Daniel Richmond
Zarin & Steinmetz
81 Main Street
Suite 415
White Plains, New York 10601

Re: RE: FOIL #0818-14-001
DATE RECEIVED: August 18, 2014

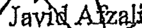
Dear Mr. Richmond:

This letter responds to your request for access to records under New York State's Freedom of Information Law (FOIL) dated August 18, 2014 and subsequent Appeal of Denial dated September 15, 2014.

Please find attached documents in response to your request.

If all records are not provided because the records are excepted from disclosure, you will be notified of the reasons and of your right to appeal the determination.

Very truly yours,



Javid Afzali

JA/alw

Encls.

cc: Village of Kiryas Joel

EXHIBIT F

Krista Yacovone

From: Afzali, Javid <JAfzali@woh.com>
Sent: Wednesday, November 19, 2014 11:08 AM
To: Krista Yacovone
Subject: RE: FOIL Response

Hi Krista,

The Village has not withheld any documents and will not be producing any further records.

Best Regards,
Javid

Javid Afzali, Esq. | Whiteman Osterman & Hanna LLP
Associate
One Commerce Plaza | Albany | New York | 12260
| o | 518.487.7666 | f | 518.487.7777
| e | jafzali@woh.com | w | www.woh.com

From: Krista Yacovone [mailto:kyacovone@zarin-steinmetz.com]
Sent: Monday, November 17, 2014 4:08 PM
To: Afzali, Javid
Cc: Daniel Richmond
Subject: FOIL Response

Dear Javid,

We are in receipt of your letter, dated November 10, 2014, providing Records in response to the FOIL request made to the Village of Kiryas Joel on behalf of United Monroe on August 18, 2014.
Please confirm that you are not producing any further Records. Please also confirm whether any Records are being withheld as exempt from disclosure under FOIL. If this is the case, Public Officers Law Section 89 requires that the Village provide us with a written explanation as to why it is withholding these Records.

Thank you,

Krista

Krista E. Yacovone, Esq.
Associate

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Add to address book | *Bio*

EXHIBIT G

David J. Cooper
Jody T. Cross ◦
Marsha Rubin Goldstein
Jeremy E. Kozin
Helen Collier Mauch ▲
Daniel M. Richmond
Brad K. Schwartz
Lisa F. Smith ◦
David S. Steinmetz ▫
Krista E. Yacovone
Michael D. Zarin

▫ Also admitted in D.C.
◦ Also admitted in CT
▲ Also admitted in NJ

November 24, 2014

Via ECF Only

Hon. Vincent L. Briccetti
United States Courthouse
300 Quarropas Street, Room 630
White Plains, New York 10601

Re: ***United States v. Kiryas Joel Poultry Processing Plant, Inc., and Kiryas Joel Meat Market Corp., No. 14-cv-8458(VB)***
Comments on Consent Decree

Your Honor:

This Firm represents United Monroe, a group committed to transparent and open government, whose members include residents of the Town of Monroe and others who live in the surrounding community. Pursuant to 28 C.F.R. § 50.7, we respectfully submit these comments on the Consent Decree proposed in the above-referenced Action brought by the United States of America against the Kiryas Joel Poultry Processing Plant, Inc. ("KJPPP") and Kiryas Joel Meat Market, Inc., for violations of the Clean Water Act. We write to alert the United States to the apparent relationship between KJPPP and the Village of Kiryas Joel (the "Village" or "Kiryas Joel"), a municipality with a longstanding history of environmental violations and serial failure to follow federal, state and local laws.[1] The penalties imposed by the Consent Decree should be high enough to promote environmental compliance by not only KJPPP, but the Village as well.

The Village Has Close Ties To KJPPP Management

It appears that the Village is the actual impetus behind multiple private entities conducting business within its borders, including KJPPP, and/or that there is a close relationship between the Village and such entities. Upon information and belief, KJPPP's president Mayer Hirsch was a Village Trustee from 1982 to 1990, and Chairman of the Planning and Zoning Boards from 1990 to 1997. During this time, upon information and belief, he was also Chairman of the Kiryas Joel Municipal Local Development Corporation, a quasi-governmental agency; and later served as Vice Chairman of the same corporation. Upon information and belief, he has also served as a Trustee of the United Talmudical Academy, the private school system in the Village, and is now CEO of Burdock Realty Corp., which owns property within an area adjacent to the Village

[1] The Village is located within the Town of Monroe's borders. As such, United Monroe is concerned with governance practices in the municipalities of both Monroe and Kiryas Joel.

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that the Village is seeking to annex.[2] In 1989, upon information and belief, Hirsch incorporated Vaad Hakiryah of Kiryas Joel, Inc., which owns several hundred acres of land in Orange County. The current Mayor of the Village, Abraham Wieder, was apparently president of Vaad Hakiryah in the early 1990s. During his tenure as president, upon information and belief, Wieder was also serving as Deputy Mayor of the Village, as well as president of Congregation Yetev Lev, the local synagogue, and president of Board of the Kiryas Joel Village Union Free School District, a public school district for special education students in the Village. Like Hirsch, upon information and belief, Wieder was also a Trustee of the United Talmudical Academy. Wieder has been Mayor of the Village since 1995.

Given the apparent connection between KJPPP and Village officials, any representations by KJPPP that it will observe the Compliance and Mitigation Requirements, as well as Reporting Requirements, imposed under the Consent Decree must be analyzed in light of the Village's history of noncompliance with federal, state and local laws. Moreover, respectfully, the Court should recognize that it is not enough to compel compliance from KJPPP. The penalty should also be sufficiently high to encourage the Village to obey all environmental laws, as well.

The Village Systemically Fails To Abide By Environmental Laws

The Village has routinely flouted applicable land use and environmental laws and regulations, resulting in a pattern of disregard for the environment and its citizens. Exactly one year ago, the U.S. Environmental Protection Agency found that "the Village has violated and remains in a state of noncompliance with [Clean Water Act] Section 301, 33 U.S.C. § 1311, for failing to comply with the conditions and limitations of the MS4 General Permit." The factual findings in the made in the subsequent Administrative Consent Order demonstrate that the Village failed to fulfill fundamental requirements, such as failing to map its storm sewersheds, failing to implement and enforce requirements pertaining to obtaining coverage under the Construction General Permit, a lack of any procedures for review of Stormwater Pollution Prevention Plans, inaccurate records in a variety of areas, and a lack of a training program to ensure that staff receives necessary training.

Similarly, the Village has continuously failed to comply with state environmental regulations, including the New York State Environmental Quality Review Act ("SEQRA"). See, e.g., Cnty. of Orange v. Vill. of Kiryas Joel, 11 Misc.3d 1056(A), 815 N.Y.S.2d 494 (Sup. Ct. Orange Cnty. 2005) (holding that the Village did not take the requisite "hard look" under SEQRA at the potential adverse environmental impacts of a proposed water pipeline), aff'd as modified, 44 A.D.3d 765, 844 N.Y.S.2d 57 (2d Dept. 2007). Moreover, once the Kiryas Joel Wastewater Treatment Plant was constructed and operational, the New York State Department of Environmental Conservation ("DEC") found that it was in noncompliance with the State Pollutant Discharge Elimination System ("SPDES") Permit and Article 17 of the New York State Environmental Conservation Law. By letter dated May 16, 2013, DEC issued a Notice of

2 United Monroe is opposing the Village's action for annexation, which has taken the form of two Petitions for Annexation: one Petition to annex 507 acres of land, and another Petition to annex 164 acres of land. Again indicative of the relationship between the Village and local businesses, the Village is hiding behind Simon Gelb, a developer who is the supposed "petitioner" for annexation.

Violation to the Village Mayor and Board of Trustees. The findings in this letter reflect a serial disregard for environmental conditions. By way of example, the letter states that DEC had previously noted that certain improvements were required at the Plant to prevent rags and other solids from entering the system, and that DEC had previously required these improvements be completed by March 1, 2008. More than five years later, however, as of the date of the DEC letter, these improvements still had not been effectuated.

Courts consider an agency's history of noncompliance with environmental regulations when, for example, reviewing the adequacy of any environmental review. See, e.g., Citizens Advisory Comm. on Private Prisons, Inc. v. U.S. Dept. of Justice, 197 F. Supp. 2d 226, 251 (W.D. Pa. 2001), aff'd, 33 F. App'x 36 (3d Cir. 2002) ("[I]n cases where the agency has already violated [the National Environmental Policy Act], its vow of good faith and objectivity is often viewed with suspicion."); Natural Res. Def. Council, Inc. v. U.S. Army Corps of Eng'rs, 457 F. Supp. 2d 198, 222 n.178 (S.D.N.Y. 2006) (citing Citizens Advisory Comm. on Private Prisons when discussing federal regulations prohibiting agencies from preparing an environmental impact statement simply to justify decisions already made, and requiring agencies to show a good faith and objective review of potential environmental impacts of the proposed action). Here, your Honor, and Plaintiff the United States, should consider the Village's history of poor environmental stewardship before approving and/or entering into a final Consent Decree with KJPPP.

Recent FOIL Response Confirms Village's
Continued Failure To Comply With The Law

A recent response from Kiryas Joel to a request made by United Monroe under the New York State Freedom of Information Law ("FOIL") raises further doubts about the Village's ability and willingness to comply with federal, state and local regulations. By letter dated August 18, 2014, United Monroe requested that the Village provide basic information relating to its planning processes pursuant to FOIL, including: (i) the identities of the members of the Village Planning Board and Zoning Board; (ii) documents relating to Village Planning Board and Zoning Board Members' satisfaction of applicable training requirements since January 2012; (iii) all Planning Board and Zoning Board agendas, minutes, and resolutions since January 2012; (iv) copies of all determinations by any Village agency(ies) pursuant to SEQRA; and (v) copies of all referrals made to the Orange County Planning Department pursuant to Section 239-m of the New York State General Municipal Law since January 2012.

This information would reflect Kiryas Joel's compliance with the most basic land use and environmental laws, and should be neither difficult to locate, nor onerous to produce. Kiryas Joel, however, did not even send United Monroe an acknowledgment of its FOIL request, let alone produce any responsive documents. Accordingly, on September 15, 2014, United Monroe appealed Kiryas Joel's constructive denial of its August 18th FOIL request. In response, on September 29, 2014, Kiryas Joel provided a copy of its 1999 Comprehensive Plan and its Village Code. On October 28, 2014, United Monroe sent another letter to Kiryas Joel, inquiring as to whether it would be producing any further documents in response to the August 18th FOIL Request. On November 10, 2014, Kiryas Joel responded by producing all agendas and minutes prepared in connection with Village Planning Board Meetings since January 2012. Kiryas Joel

did not produce any determinations under SEQRA, any documents indicating compliance with New York General Municipal Law 239-m, any showing of Board members' satisfaction of state law requirements, or any relevant documentation from the Zoning Board of Appeals. On November 19, 2014, counsel for Kiryas Joel confirmed that there would be no further documents forthcoming, and that none were being withheld as exempt under FOIL. Thus, Kiryas Joel's limited response to United Monroe's August 18th FOIL request further demonstrates its routine failure to comply with local and state land use and environmental laws.

Conclusion

KJPPP appears to be closely connected with the Village of Kiryas Joel. Accordingly, the penalty imposed by the Court should be sufficient to compel compliance by both KJPPP and the Village.

Please do not hesitate to contact us should you have any questions.

Respectfully submitted,

ZARIN & STEINMETZ

By: ______________________
Daniel M. Richmond (DR2652)
Krista E. Yacovone

cc:
(via overnight mail) Preet Bharara, Esq.
United States Attorney for the Southern District of New York
Tomoko Onozawa, Esq.
Assistant U.S. Attorney, Southern District of New York
Ellen Mahan, Esq.
Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Dep't of Justice
Eric Schaaf, Esq.
Regional Counsel, U.S. Environmental Protection Agency, Region 2
Edward Scarvalone, Esq.
Doar Rieck Kaley & Mack
Mayer Hirsh
President, Kiryas Joel Meat Market, Inc.
Chaim Oberlander
Vice President, Kiryas Joel Poultry Processing Plant, Inc.
John Allegro
United Monroe

EXHIBIT H

David J. Cooper
Jody T. Cross ◊
Marsha Rubin Goldstein
Jeremy E. Kozin
Helen Collier Mauch ▲
Daniel M. Richmond
Brad K. Schwartz
Lisa F. Smith ◊
David S. Steinmetz ◘
Krista E. Yacovone
Michael D. Zarin

◘ Also admitted in D.C.
◊ Also admitted in CT
▲ Also admitted in NJ

December 3, 2014

Via Overnight Mail

Robert L. Ewing
Environmental Analyst II
New York State Department of Environmental Conservation
Division of Environmental Permits, 4th Floor
625 Broadway
Albany, NY 12233-1750

Re: ***Lead Agency Dispute***
Proposed Land Annexation from
Town of Monroe to Village of Kiryas Joel

Dear Mr. Ewing:

As you know, this Firm represents United Monroe, a group of concerned residents committed to transparent and open government. Its members include residents of the Town of Monroe (the "Town") and others who live in the surrounding community. United Monroe submits this letter in connection with the Lead Agency Dispute that remains pending before your Department regarding the proposed annexation of 507 acres of land by the Village of Kiryas Joel ("Kiryas Joel" or the "Village") from the Town. Kiryas Joel has, once again, failed to abide by environmental laws and regulations, further demonstrating that it is unfit to serve as Lead Agency for the annexation.

By letter dated November 7, 2014, your Department issued a Notice of Violation ("NOV") to the Village in connection with a recent "Unsatisfactory" rating at Kiryas Joel's municipal Wastewater Treatment Plant following a Comprehensive Annual Compliance Inspection. (A copy of the NOV and accompanying Municipal Wastewater Facility Inspection Report is annexed hereto.) The NOV noted that Kiryas Joel is currently operating its Wastewater Treatment Plant without a valid SPDES Permit, and has been doing so since July 31, 2014. The NOV also requested that the Village submit a corrective action plan by December 1, 2014, to remediate certain deficiencies at the Plant, including: (i) solid handling problems as a result of the

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White Plains, NY 10601
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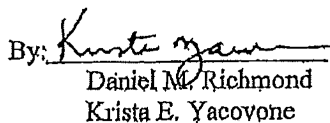
pump house's broken mechanical screen, which has been out of service since June 1, 2014; (ii) incorrect calculations of reported discharge values in the May 2014 Discharge Monitoring Report; (iii) failure to produce the April 2014 laboratory reports; and (iv) failure to correct other deficiencies at the Plant cited in the Department's last inspection letter, dated August 26, 2013.

In light of this information, respectfully, United Monroe reiterates its position that it would be improper and irresponsible to allow Kiryas Joel to serve as Lead Agency for the annexation.

Please feel free to contact us should you have any questions.

Respectfully submitted,

ZARIN & STEINMETZ

By: 
Daniel M. Richmond
Krista E. Yacovone

Encl.
cc: John Allegro (via email)
Emily Convers (via email)

New York State Department of Environmental Conservation
Division of Water, Region 3
100 Hillside Avenue • Suite 1W, White Plains, New York 10603-2860
Phone: (914) 428-2505 • FAX: (914) 428-0323
Website: www.dec.state.ny.us

Joe Martens
Commissioner

November 7, 2014

Mayor and Village Trustees
Village of Kiryas Joel
P. O. Box 566
51 Forest Road
Monroe, NY 10950

Re:. Annual Compliance Inspection – Notice of Violation
Kiryas Joel Wastewater Treatment Plant
SPDES Permit No.: NY0250520
Order on Consent: Case No. R3-20080229-14, R3-20080229-14-A15, R3-20030930-124

Dear Village Officials:

On September 17, 2014, a compliance inspection of the above referenced facility was performed for the purpose of evaluating compliance with the State Pollutant Discharge Elimination System (SPDES) Permit and Article 17 of the Environmental Conservation Law. Please refer to the attached copy of the inspection report for detailed information and note the unsatisfactory rating.

The mechanical screen at the pump station has been out of service since June 1, 2014 and as a result problems with solid handing still persist at the wastewater treatment plant. Please submit to the Department a corrective action plan and schedule for repair or/and replacement of the mechanical screen. In addition some of the issues noted in the last inspection letter dated August 26, 2013, have not been satisfactorily addressed. Please refer to the inspection report for detailed information on the deficiencies at the wastewater treatment plant. According to 6 NYCRR Part 750-2.8, the permittee shall at all times, properly operate and maintain all disposal facilities which are installed or used by the permittee to achieve compliance with the conditions of the permit.

The reported value for Phosphorus on the May 2014 Discharge Monitoring Report (DMR) was not correctly calculated. Recompute the monthly average from the laboratory report results and submit an amended DMR to the Department. The April 2014 laboratory reports were also not available for review. Please ensure that adequate provision is made for access to records that must be kept under the conditions of the SPDES permit during compliance inspection and within a reasonable time.

The SPDES permit for this facility expired on July 31, 2014 and therefore, the facility has been operating without a SPDES permit. This is a violation of Article 17 of the NYS Environmental Conservation Law which states it shall be unlawful to discharge pollutants to the water of the state from any outlet or point source without a SPDES Permit or in a manner other than as prescribed by such permit.

Please provide the Department with a corrective action plan to correct the aforementioned deficiencies by December 1, 2014.

Your cooperation in operating and maintaining this facility, complying with your SPDES Permit and the protection of New York's waters is appreciated. Should you have any questions, please contact me at (914) 428-2505, Ext 365.

Very truly yours,

Adedayo Adewole, P.E.
Environmental Engineer 1

cc: Shohreh Karimipour, P.E., Regional Water Engineer
Manju Cherian, P.E. NYSDEC White Plains
Carol Krebs, Esq., Assistant Regional Attorney

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER

MUNICIPAL WASTEWATER FACILITY INSPECTION REPORT - COMPREHENSIVE (Part I)

Purpose of Inspection Comprehensive	DEC Region 3	Date of Inspection 09/17/14
SPDES No. NY0260520	Facility Name (V) Kiryas Joel WWTP	Location (C,T,V) ((V) Kiryas Joel
County Orange	Name of Inspector Adedayo Adewole	Part II Attached? ☑ Yes ☐ No

Summary Rating: Unsatisfactory

Weather Conditions: Sunny, 60s

Rating Codes: S = Satisfactory U = Unsatisfactory M = Marginal NI = Not Inspected NA = Not Applicable

Items	Rating	Comments (Note units out of operation/outstanding operation/etc.)
A. General 1. Buildings/Grounds/Housekeeping	M	Hoses to RBC influent from thickener overflow/ sand filter backwash
2. Flow Metering	S	Calibrated 07/14
3. Stand-by Power	S	Monthly Test
4. Alarm Systems	S	
5. Odors/Odor Control	S	
6. Influent Impact on Operations	M	Rags
7. Preventive Maintenance	U	see comments B2, B4-B6, C2
8. Safety	M	Accessibility to clarifiers and thickeners hampered by railings.
B. Preliminary/Primary 1. Influent Pumps	NA	
2. Bar Screen/Comminutor	M	
3. Disposal of Grit/Screenings	S	
4. Grit Removal	NA	
5. Settling Tanks	U	Broken Skimmer system. Weir Fouling. Short-Circuiting.
6. Scum/Sludge Removal	U	Excessive scum /rag build up
7. Effluent	M	Scum in effluent weirs.
8.		
C. Secondary/Tertiary 1. RBC	S	
2. Secondary Clarifiers	U	excessive solids in effluent wiers
3. Sand Filters	S	
4. Post Aeration	S	
5.		
6.		
7.		
8.		
D. Effluent 1. Disinfection	S	
2. Effluent Condition	S	
3. Receiving Water Condition	S	
4.		
E. Sludge Handling/Disposal 1. Digesters	NA	
2. Sludge Pumps	M	One primary pump is oos and one secondary pump needs repair.
3. Sludge Dewatering	NA	
4. Sludge Disposal	S	
5. Sludge Thickener	U	Weir Fouling. Short-Circuiting. Excessive scum.

Signature of Inspector: [signature]	Title: Environmental Engineer I	Date: 09/17/14
Name of Facility Representative: Ed Grogan	Title: Operator	Date: 09/17/14

DWCP-5-1 (7/2001) Version 1.0

MUNICIPAL WASTEWATER FACILITY INSPECTION REPORT - COMPREHENSIVE (Part II)

Facility Name	SPDES Number	Comments
(V) Kiryas Joel WWTP	NY0250520	

A. Collection System

(1) 100 % Separate ______% Combined

(2) Did sewer overflows occur upstream of the plant in the past year? __Yes __No ✓N/A

(3) Reason for overflow(s).

No information available. OCSD #1 keeps records.

(4) Was overflow sewage chlorinated? __Yes __No ✓N/A

(5) Were there any unpermitted overflows/bypasses? __Yes __No ✓N/A

(6) Were appropriate agencies notified promptly, when required, of each overflow? __Yes __No ✓N/A

(7) Is the capability for bypass designed into the plant? __Yes __No ✓N/A

If so, list units which can be bypassed.

(8) Does sewage by-pass the plant? ✓Yes __No __N/A

Define conditions under which bypass occurs (e.g. what flow):

Diversion of flow to OCSD #1 Harriman WWTP.

Bypass frequency (times per year): __________

Average duration of bypass (hours): __________

(9) Infiltration/Inflow problems, e.g., is sewage ordinance enforced with respect to illegal stormwater connections?

Explain as needed (include reference to corrective action or lack thereof).

(10) Is there a BMP/Wet Weather Operations Plan? __Yes ✓No __N/A

(11) Number of pump stations in system: 1

Number inspected this inspection: 1

Comments (consider access, ventilation, lighting, emergency power, safety, etc):

Pump Station - Accessible, Standby Generator, mechanical screen.

The mechanical screen has been out of service since June 1, 2014.

B. Industrial Waste

(1) Are industrial waste loadings causing problems at this facility? __Yes ✓No __N/A

Explain as needed (describe nature of problem an extent and adequacy of measures to address the problem):

(2) Is there a sewer use ordinance? ✓Yes __No __N/A

Date: OCSD #1

Based on Model: ______________

Is it being enforced to control Industrial Waste? ✓Yes __No __N/A

(3) Does this facility accept septage? __Yes ✓No __N/A

How much?

How is it introduced?

C. Laboratory Information

(1) Is the permittee using an ELAP certified laboratory? __Yes ✓No __N/A
Details:

(2) Is a commercial laboratory used? ✓Yes __No __N/A
Lab Name: Environmental Labworks

Lab Address: P O Box 733, Malboro, NY 12542

(3) Pertaining to SPDES Self-Monitoring:

(a) Does the permittee have a written sampling plan? __Yes ✓No __N/A
If yes, are they following their plan? __Yes __No ✓N/A
(b) Is testing done for all parameters at required frequency and punctually reported? ✓Yes __No __N/A
(c) Do sampling techniques meet requirements and intent of permit? __Yes ✓No __N/A
(d) Are EPA-approved procedures used? ✓Yes __No __N/A
(e) Is calibration and maintenance of instrumentation and equipment satisfactory? ✓Yes __No __N/A
(f) Is quality control used? (Spiked/duplicate samples) __Yes ✓No __N/A
(g) Should sampling frequencies/types be modified? __Yes ✓No __N/A
If yes, please explain:

(h) Are lab records satisfactory? ✓Yes __No __N/A
(i) Is a minimum of 3 years data kept? ✓Yes __No __N/A

(4) Pertaining to Process Control:

(a) Is testing performed for all necessary parameters? ✓Yes __No __N/A
(b) Is testing performed at necessary frequencies? ✓Yes __No __N/A
(c) Are procedures technically sound? ✓Yes __No __N/A
(d) Is sampling adequate? ✓Yes __No __N/A

Activated Sludge Facility:

(e) Does the facility operator test for the following:
MLSS? __Yes __No ✓N/A
Dissolved Oxygen? __Yes __No ✓N/A
Settleability? __Yes __No ✓N/A
Microscopic Analysis of Sludge? __Yes __No ✓N/A
Final Clarifier Sludge Blanket Depth? __Yes __No ✓N/A
Process Control "Target Values"? __Yes __No ✓N/A
(f) Does the facility operator calculate the following process control parameters:
MCRT? __Yes __No ✓N/A
Sludge Age? __Yes __No ✓N/A
(g) Is the testing applied towards process control adjustments? __Yes __No ✓N/A
(h) What approach (if any) is used to determine changes in:
Sludge Age?
NA

Waste Sludge Flow?
NA

(i) Was laboratory information used to prepare the DMR and Monthly Operating Report properly? ✓Yes __No __N/A

(5) Explanation as needed for any of the above:

DWCP-5-3 (7/2001) Version 1.0

D. Personnel Information

(1) Is staffing and training adequate? (Consider all aspects, including management/supervision, operations, laboratory, maintenance, safety, availability of training, development of staff, etc). ✓Yes __No __N/A

(2) Certified Operators:

Chief Operator - Name, Certificate Number, Grade, Renewal Date:

Name	Certificate Number	Grade	Renewal Date
Mike Tremper	8015	4A	07/01/2015

Assistant Operator - Name, Certificate Number, Grade, Renewal Date:

Name	Certificate Number	Grade	Renewal Date
Ed Grogan	11335	3	11/01/2015
Ed Alexander	12647	3	09/06/2017

(3) Is operational staff certified at the appropriate level(s)? ✓Yes __No __N/A

Explain if needed:

(4) Do facility operators have renewal certification and/or training records? ✓Yes __No __N/A

(5) Plant Classification: ____________

(6) Plant Score: ____________

(7) Explain as needed for any of the above:

E. Additional Information

(1) Is treatment facility properly operated and maintained? __Yes ✓No __N/A

Details: See Section F, Inspector's Comments.

(2) Check Adequate/Inadequate as appropriate:

Item	Adequate	Inadequate
(a) Preventive maintenance schedules exist and are followed?	__Adequate	✓Inadequate
(b) Records are kept for maintenance, repairs and replacement?	__Adequate	✓Inadequate
(c) Spare parts inventory is maintained?	__Adequate	✓Inadequate
(d) O&M Manual exists and is available?	✓Adequate	__Inadequate
(e) O&M Manual kept up-to-date?	✓Adequate	__Inadequate
(f) As-built plans and specifications exist and are available?	✓Adequate	__Inadequate
(g) Manufacturers' O&M specifications exist and are available?	✓Adequate	__Inadequate
(h) Other records kept as needed (e.g. flow recorder charts)?	✓Adequate	__Inadequate
(i) Alarm system for power or equipment failures is properly maintained and tested?	✓Adequate	__Inadequate
(j) Standby power system exists and is routinely tested?	✓Adequate	__Inadequate

(3) Current copy of Part I and Part II of SPDES permit on premises? ✓Yes __No __N/A

(4) Has facility been subject of complaints (odors, others)? __Yes ✓No __N/A

If yes, describe:

The SPDES permit expired on 07/31/14.

(5) Is sludge disposal satisfactory and are required permits in force? ✓Yes __No __N/A

(a) Name and location of sludge disposal site (and/or name and permit number of scavenger):

Coppola, NJ-790

(b) Is there an alternate sludge disposal site or contingency plan? ✓Yes __No __N/A

If yes, please describe:

Marangi

(6) Does facility have effective administrative structure and adequate financial systems (e.g. Repair Reserve Fund, Uniform Accounting System)? ✓ Yes __No __N/A

(7) Is progress on compliance schedule(s) (e.g. Upgrading, CSO, Pretreatment) satisfactory? __Yes ✓ No __N/A

(8) Explanation as needed for any of the above:

Consent order requirements have not been fully implemented.

F. Inspector Comments

Hoses used to connect convey thickener overflow/ sand filter backwash to RBC Influent.

Weir fouling, short-circuiting and floating sludge in primary clarifiers, secondary clarifiers and thickeners.

A preventive maintenance schedule needs to be developed and kept on-site.

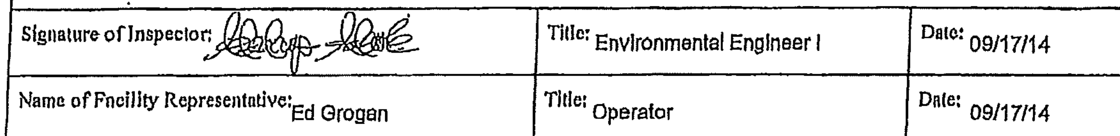
Construction work has started on the sand filter backwash holding tank. The Department should the notified when the tank is put into service.

The mechanical screen has been out of service since June 1, 2014. Submit a corrective action plan and schedule for repair or/and replacement.

April 2014 laboratory reports were not available for review.

The reported value for Phosphorus on the May 2014 Discharge Monitoring Report (DMR) was not calculated correctly . Please recompute the monthly average from the laboratory report results and submit an amended DMR to the Department.

The SPDES permit expired on July 31, 2014. Operating a wastewater treatment plant with an expired permit is a violation of the SPDES permit and Article 17 of the NYS Environmental Conservation Law.



Signature of Inspector: [signature]	Title: Environmental Engineer I	Date: 09/17/14
Name of Facility Representative: Ed Grogan	Title: Operator	Date: 09/17/14

EXHIBIT I

David J. Cooper
Jody T. Cross ◊
Marsha Rubin Goldstein
Jeremy E. Kozin
Helen Collier Mauch ▲
Daniel M. Richmond
Brad K. Schwartz
Lisa F. Smith ◊
David S. Steinmetz ¤
Krista E. Yacovone
Michael D. Zarin

¤ Also admitted in D.C.
◊ Also admitted in CT
▲ Also admitted in NJ

December 16, 2014

Via Overnight Mail

Patrick Ferracane
Jennifer Zunino-Smith
New York State Department of Environmental Conservation
Division of Water, Region 3
100 Hillside Avenue, Suite 1W
White Plains, NY 10603-2860

Re: *Potential SPDES Violation*
Illegal Construction Activity Between Prag Blvd. and Rimenev Ct.
Village of Kiryas Joel, Orange County, New York

Dear Mr. Ferracane and Ms. Zunino-Smith:

This Firm represents United Monroe, a group of concerned residents committed to transparent and open government. Its members include residents of the Town of Monroe and others who live in the surrounding community. This Letter serves to inform your Department that upon information and belief, the Village of Kiryas Joel ("Kiryas Joel" or the "Village") has potentially caused a violation of your laws and regulations governing stormwater discharges.

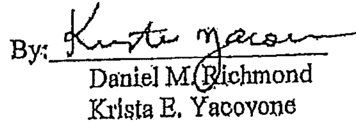
By letter dated November 26, 2013, your Department issued a Notice of Violation and Cease and Desist Order ("NOV") to the Village in connection with an inspection of construction activity on Village-owned land between Prag Boulevard and Rimenev Court (the "Site"). (A copy of the NOV and accompanying Construction Stormwater Inspection Report is annexed hereto.) The NOV ordered Kiryas Joel to immediately cease and desist all construction activity at the Site for failing to gain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). As you know, coverage under the General Permit and subsequent compliance with its terms through erosion and sediment controls is crucial to prevent contravention of water quality standards.

Upon information and belief, the Village has recently resumed construction activities at the Site. United Monroe has no knowledge of Kiryas Joel ever obtaining coverage under SPDES General Permit GP-0-10-001 for such activity. Accordingly, any construction activity resulting in disturbance greater than one acre would be unpermitted. This would directly violate your Department's orders, as well as state environmental laws and regulations governing land disturbance and stormwater discharges.

Please feel free to contact us should you have any questions.

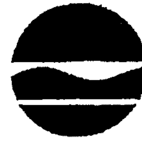
Respectfully submitted,

ZARIN & STEINMETZ

By: 
Daniel M. Richmond
Krista E. Yacovone

Encl.
cc: Robert Ewing, NYSDEC, Division of Environmental Permits
John Allegro (via email)
Emily Convers (via email)

New York State Department of Environmental Conservation
Division of Water, Region 3
100 Hillside Avenue – Suite 1W, White Plains, New York 10603-2860
Phone: (914) 428-2505 • **Fax:** (914) 428-0323
Website: www.dec.ny.gov



Joseph Martens
Commissioner

NOTICE OF VIOLATION/CEASE & DESIST

November 26, 2013

Mayor and Village Board
Village of Kiryas Joel
P.O. Box 566
Monroe, New York 10949

Re: **Construction activity between Prag Boulevard and Rimenev Court**
Village of Kiryas Joel, NY

Dear Mayor and Village Board:

An inspection of the above referenced site was performed on November 25, 2013. At the time of inspection it appeared that construction activity has resulted in greater than one acre of disturbance. Construction projects which result in site disturbances of one or more acres are required to gain coverage under, and comply with, this Department's SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). Our records do not indicate that this project has gained coverage under that General Permit.

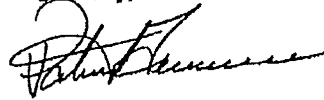
Failure to gain coverage under the General Permit is a violation of Article 17 of the New York State Environmental Conservation Law which is subject to penalties of $37,500 per day, per violation. This Notice of Violation also serves as a Cease and Desist Directive for continued activities being performed in violation of Article 17. To obtain coverage under the SPDES GP the Notice of Intent (NOI), which can be found at http://www.dec.ny.gov/docs/water_pdf/noipgr10.pdf, must be completed and submitted to the address at the top of the form, with a copy to this office, immediately. Additionally, a Stormwater Pollution Prevention Plan, prepared in accordance with the requirements of the SPDES GP, must be submitted to this office immediately. The Cease and Desist Directive shall remain in effect until the Department determines that project is in compliance with Article 17 of the NYSECL.

This Department directs you to immediately Cease and Desist all construction activity at the site, exclusive of that work necessary to maintain erosion and sediment measures and prevent the contravention of the Water Quality Standards, until this Department notifies you in writing that the Cease and Desist directive has been lifted. This also excludes any remediation necessary due to improper erosion and sediment controls. Failure to comply with this Cease and Desist directive will result in additional enforcement action by this Department.

Proper erosion and sediment controls must be designed, constructed and maintained at the site to prevent contravention of receiving waters. Contravention of the New York State Water Quality Standards (6 NYCRR Chapter X, Part 703.2) in the receiving water is a violation of Article 17 of the Environmental Conservation Law, and subject to penalties of up to $37,500 per day, per violation.

If you have any questions, I can be reached at the above phone number, extension 359.

Sincerely,



Patrick Ferracane
Division of Water

cc: Jennifer Zunino-Smith, NYSDEC, Division of Water
Gedalye Szegedin, Village Administrator

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER

Construction Stormwater Inspection Report for SPDES General Permit GP-0-10-001

Project Name and Location: Prag Boulevard and Rimenev Court	Date: 11/25/13
Municipality: Kiryas Joel County: Orange	Weather: CLEAR
	Permit # (If any): N/A
	Entry Time: 1:15 Exit Time: 2:40
Name of SPDES Permittee: N/A Contacted: Yes ☐ No X	Inspection Type: ☐NOT ☐ Compliance ☐Referral xComplaint
On-site Representative(s) and Company(s): N/A Phone Number(s): N/A	

SPDES Authority

	Yes	No	N/A		Citation
1.	☐	x	☐	Does the project have permit coverage?	GP-0-10-001: I.A & II. B.
2.	☐	☐	x	Is a copy of the NOI and Acknowledgment Letter available on site and accessible for viewing?	GP-0-10-001: II.C. 2.
3.	☐	☐	x	Is a copy of the MS4 SWPPP Acceptance Form available on site and accessible for viewing?	GP-0-10-001: II.C. 2.
4.	☐	☐	x	Is an up-to-date copy of the signed SWPPP retained at the construction site?	GP-0-10-001: II.C. 2. & III.A.4.
5.	☐	☐	x	Is a copy of the SPDES General Permit retained at the construction site?	GP-0-10-001: II.C. 2.
6.	☐	☐	x	Does the NOI accurately report the number of acres to be disturbed?	GP-0-10-001: II.B.5.

SWPPP Content

	Yes	No	N/A		Citation
7.	☐	☐	x	Does the SWPPP describe and identify the erosion and sediment control measures to be employed?	GP-0-10-001: III.B.1.c
8.	☐	☐	x	Does the SWPPP provide an inspection schedule and maintenance requirements for the E&SC measures?	GP-0-10-001: III.B.1 h. & i.
9.	☐	☐	x	Does the SWPPP describe and identify the stormwater management practices to be employed?	GP-0-10-001: III.B.2.
10.	☐	☐	x	Does the SWPPP identify the contractor(s) and subcontractor(s) responsible for each measure?	GP-0-10-001: III.A.6.
11.	☐	☐	x	Does the SWPPP identify at least one trained individual from each contractor(s) and subcontractor(s) companies?	GP-0-10-001: III.A.6.
12.	☐	☐	x	Does the SWPPP include all the necessary Contractor Certification Statements and signatures?	GP-0-10-001: III.A.6.
13.	☐	☐	x	Is the SWPPP signed by the permittee?	GP-0-10-001: VII.H.2.
14.	☐	☐	x	Is the SWPPP prepared by a qualified professional (if post-construction stormwater management required)?	GP-0-10-001: III.A.3.
15.	☐	☐	x	Do the SMPs conform to the Enhanced Phosphorus Removal Standards (projects in TMDL watersheds)?	GP-0-10-001: III.B.3.

Recordkeeping

	Yes	No	N/A		Citation
16.	☐	☐	x	Are self-inspections performed as required by the permit (weekly, or twice weekly for >5 acres disturbed)?	GP-0-10-001:IV.C.2.a. & b.
17.	☐	☐	x	Are the self-inspections performed and signed by a qualified inspector and retained on site?	GP-0-10-001:II.C.2.,IV.C.6 & VII.H.3
18.	☐	☐	x	Do the qualified inspector's reports include the minimum reporting requirements?	GP-0-10-001: IV.C.4.
19.	☐	☐	x	Do inspection reports identify corrective measures that have not been implemented or are recurring?	GP-0-10-001: IV.C.5.

Visual Observations

	Yes	No	N/A		Citation
20.	☐	x	☐	Are all erosion and sediment control measures installed properly?	GP-0-10-001: VII.L.
21.	☐	☐	x	Are all erosion and sediment control measures being maintained properly?	GP-0-10-001: IV.A.1
22.	☐	☐	x	Was written authorization issued for any disturbance greater than 5 acres?	GP-0-10-001: II.C.3.
23.	☐	☐	x	Have stabilization measures been implemented in inactive areas per Permit (>5acres) or ESC Standard?	GP-0-10-001: II C.3.b & III.B.1.f.
24.	☐	☐	x	Are post-construction stormwater management practices constructed/installed correctly?	GP-0-10-001: II.C.1. & III.B.2.
25.	☐	☐	x	Has final site stabilization been achieved and temporary E&SC measures removed prior to NOT submittal?	GP-0-10-001: V.A.2.
26.	☐	x	☐	Was there a discharge from the site on the day of inspection?	
27.	☐	x	☐	Is there evidence that a discharge caused or contributed to a violation of water quality standards?	ECL 17-0501, 6 NYCRR 703.2 & GP-0-10-001: I.B.

Water Quality Observations

Describe the discharge(s): location, source(s), impact on receiving water(s), etc.: N/A

Describe the quality of the receiving water(s) both upstream and downstream of the discharge: N/A

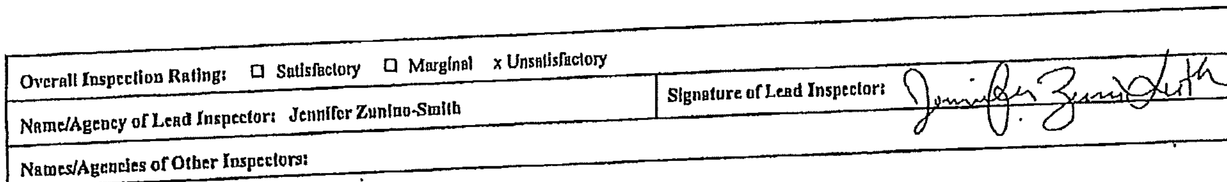
Describe any other water quality standards or permit violations: See 'Additional Comments'

Additional Comments

No coverage under the Department's SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001).

No Erosion and Sediment Control measures on-site.

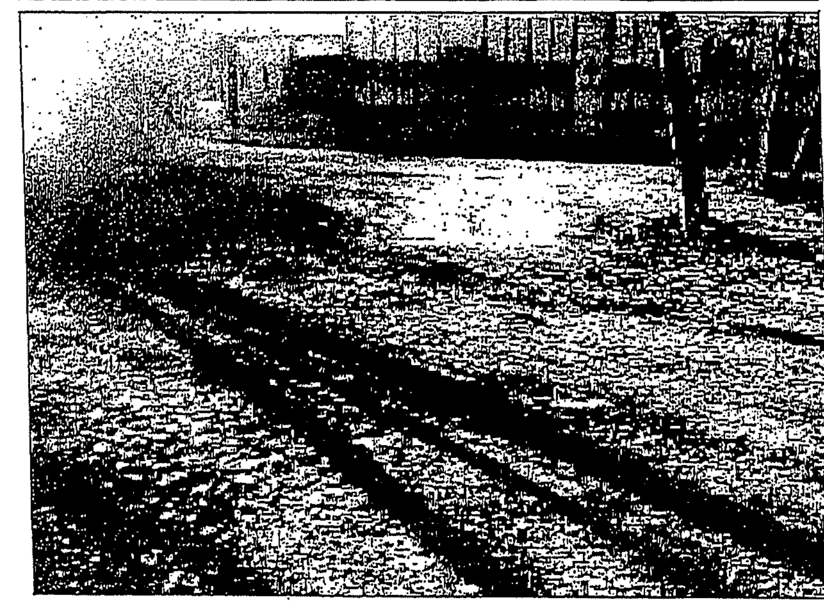
x Photographs attached

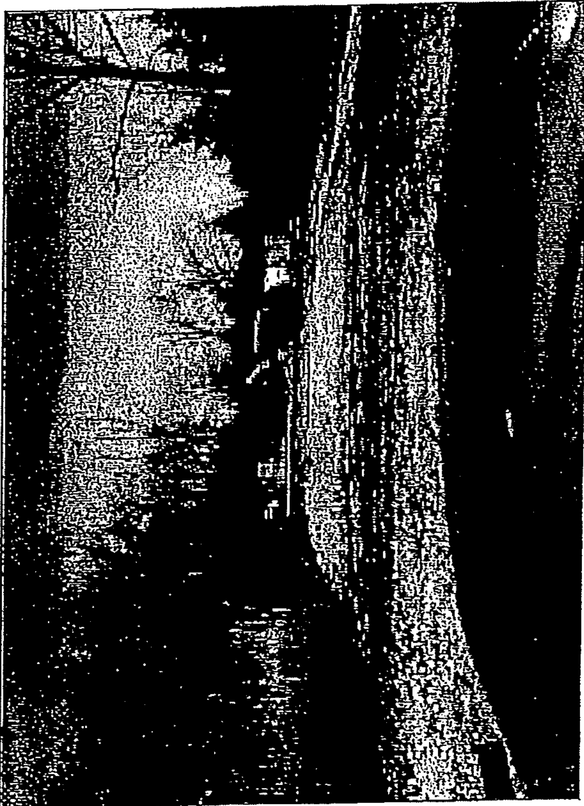


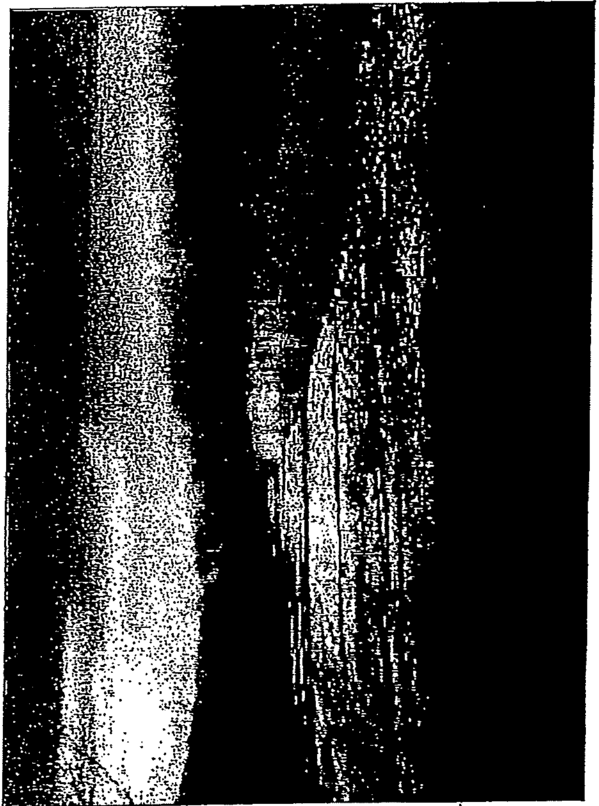
Overall Inspection Rating: ☐ Satisfactory ☐ Marginal x Unsatisfactory	Signature of Lead Inspector: [signature]
Name/Agency of Lead Inspector: Jennifer Zunino-Smith	
Names/Agencies of Other Inspectors:	

Revised 03-19-10

Site Disturbance







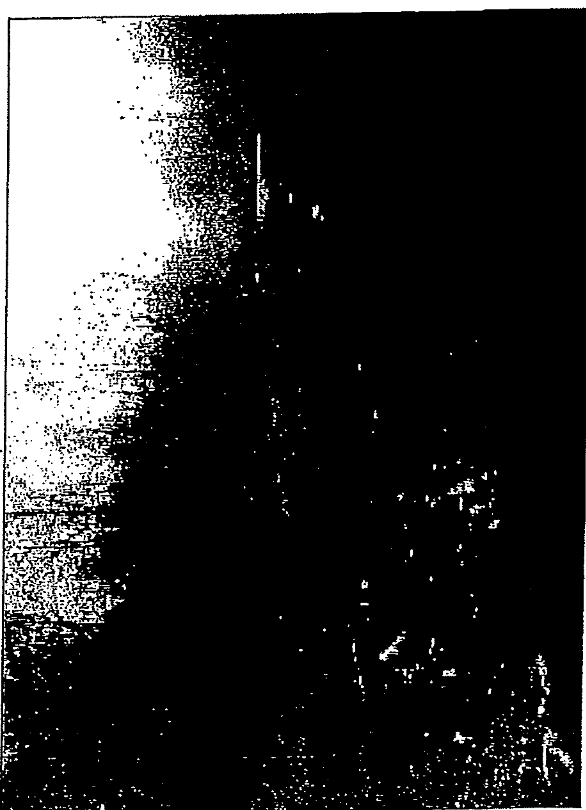


EXHIBIT J

Village of Kiryas Joel (Updated Budget Model)						
Orange County, New York						
EFC Project #16908 Analysis						
Fiscal Year Ended May 31:	Actual 2012	Actual 2013	2014 (9)	2015	2016	2017
Base Usage Assumptions:						
Residential:						
Annual Water Sold (gallons):	395,509,000	395,095,000	399,260,472	421,408,797	443,557,122	465,705,447
Total Water Connections:	3,889	4,058	4,056	4,281	4,506	4,731
Annual Water Sold per Connection:	101,699.41	97,410.01	98,437.00	98,437.00	98,437.00	98,437.00
Existing Water Rents (per kgal):	$2.75	$2.75	$2.75	$3.75	$3.75	$3.75
Increase/(Decrease) Water Rents (per kgal):	$0.00	$0.00	$1.00	$0.00	$0.00	$0.00
Total Residential Water Rents:	$2.75	$2.75	$3.75	$3.75	$3.75	$3.75
Commercial/Industrial:						
Annual Water Sold (gallons) (1):	154,207,400	144,387,500	146,117,098	155,419,395	164,721,691	174,023,988
Total Water Connections (1):	155	161	N/A	N/A	N/A	N/A
Annual Water Sold per Connection (1):	994,886.45	896,693.17	N/A	N/A	N/A	N/A
Existing Water Rents (per kgal):	$2.75	$2.75	$2.75	$5.50	$5.50	$5.50
Increase/(Decrease) Water Rents (per kgal):	$0.00	$0.00	$2.75	$0.00	$0.00	$0.00
Total Commercial/Residential Water Rents:	$2.75	$2.75	$5.50	$5.50	$5.50	$5.50
Fees to NYC Water Supply System (per kgal) (2):	$1.33230	$1.33230	$1.49876	$1.58357	$1.70867	$1.78898
New Improvement Charges (per connection) (3):	$0.00	$0.00	$6,000.00	$6,000.00	$6,000.00	$10,000.00
Annual Expenditures:						
Debt Service from Project (4):	$0.00	$0.00	$61,172.00	$144,405.00	$2,815,000.00	$2,815,000.00
Project cost: $44,862,313	(Incl. in O&M below)	(Incl. in O&M below)				
Operations & Maintenance (5):						
Old System (Maintenance):	$1,412,534.00	$1,705,564.20	$1,769,352.30	$1,835,526.08	$1,904,174.75	N/A
New System:	$0.00	$0.00	$0.00	$0.00	($104,297.53)	N/A
Total O&M:	$1,412,534.00	$1,705,564.20	$1,769,352.30	$1,835,526.08	$1,799,877.22	$1,867,192.63
Fees to NYC Water Supply System (per kgal):	$0.00	$0.00	$0.00	$0.00	$1,039,350.36	$1,144,484.42
Total Expenditures:	$1,412,534.00	$1,705,564.20	$1,830,524.30	$1,879,931.08	$5,654,227.58	$5,826,657.05
Annual Revenues:						
Existing Residential Customers:						
Water Rents to Customers (Base)	$1,087,649.75	$1,088,511.25	$1,097,966.30	$1,580,282.99	$1,663,339.21	$1,746,395.43
Increase to Charged Water Rents (6)	$0.00	$0.00	$165,874.50	$0.00	$0.00	$0.00
Existing Commercial/Industrial Customers:						
Water Rents to Customers (Base)	$424,070.35	$397,010.90	$401,822.02	$854,806.67	$905,969.30	$957,131.93
Increase to Charged Water Rents (6)	$0.00	$0.00	$172,648.70	$0.00	$0.00	$0.00
New Customers (7):						
New Residential Connections:	-	-	225	225	225	225
New Commercial/Industrial (in EDUs):	-	-	40	40	40	40
New Improvement Charges (per connection):	$0.00	$0.00	$556,500.00	$1,590,000.00	$1,580,000.00	$2,650,000.00
Water Rents to New Residential Customers (6):	$0.00	$0.00	$70,082.36	$83,056.22	$83,056.22	$83,056.22
Water Rents to New Commercial/Industrial Customers (6):	$0.00	$0.00	$32,732.33	$46,290.00	$46,290.00	$46,290.00

Total Revenues:		$1,511,720.10	$1,483,522.16	$2,497,527.21	$4,154,435.88	$4,288,654.73	$5,482,873.58
Annual Operating Surplus/(Deficit):		$99,186.10	($222,042.05)	$667,102.91	$2,174,504.80	($1,365,572.85)	($343,783.48)
Cumulative Surplus/(Deficit) (8):		$656,186.10	$434,144.05	$1,101,246.96	$3,275,751.76	$1,910,178.91	$1,566,395.43

(1) Annual water sold to commercial/industrial properties is based off the assumption that 42% of the Village's water user base is comprised of this category of users.
The annual increases in the amount of water sold to commercial/industrial users is calculated by adding 42% of the year over year increase in residential water sold to the previous year's commercial/industrial water sold.
(2) Rate for water provided to users outside City of New York by the NYC Water Board, effective July 1, 2013 and assumes the NYC Water Board's projected growth of 5.8% in 2015; 7.9% in 2016, 4.7% in 2017 and 2% ann
Projected rate increases are particularly high in the next few years due to NYC pension cost spikes and capital improvements to the system.
(Source: NYC Water Board Report on Cost of Supplying Water to Upstate Customers for the 2014 Rate Year, draft dated May 14, 2013.)
(3) Assumes new improvement charge of $6,000 for the second half of 2014, all of 2015 and 2016 and increases to $10,000 in 2017. The increase in the new improvement charge will be partially offset by the elimination of th
charge upon the retirement of the Village's existing EFC loan in August 2018. (There will be a 2-year overlap).
(4) Years 2014 through 2016 assume required principal and interest payments due to financing through short-term loans during this period.
Assumes long-term bonds issued in March 2015 with first impact of debt service occuring in the Village's 2016 fiscal year.
Interest rates on long-term bonds based off of 'AAA' MMD on 10.23.13 plus 20 bps for EFC's pricing spread plus an additional 50 bps for potential market movement.
(5) Assumes that the portion of O&M that changes with water demand (i.e., power and chemicals) increases at +/- 6%. The remainder of the O&M will increase at 2%. Blended rate is 3.74%.
(6) The 2014 increase in water rents to existing customers and water rents to new customers assumes the Village increases water rates as of January 1, 2014 generating five months worth of increased revenues in the 2014
(7) The Village expects the growth of users in the system to be more parabolic than is represented in this table. As such, the Village believes the new customer growth estimated in this table to be conservative.
(8) Cumulative surplus/(deficit) represents the carry over over the system's prior year operations. These figures include the Village's estimated fund balance in its water fund of approximately $857,000 at May 31, 2012.
(9) Base Usage for 2014 is equal to total usage in 2013. New customers added to the system in 2014 (and thereafter) are shown below in those corresponding years.

2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
487,853,772	512,463,022	537,072,272	561,681,522	586,290,772	610,900,022	635,509,272	660,118,522	684,727,772	709,337,022	733,946,272
4,956	5,206	5,456	5,706	5,956	6,206	6,456	6,706	6,956	7,206	7,456
98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00
$3.75	$3.75	$3.75	$4.00	$4.00	$4.00	$4.00	$4.00	$4.25	$4.25	$4.25
$0.00	$0.00	$0.25	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00	$0.00	$0.00
$3.75	$3.75	$4.00	$4.00	$4.00	$4.00	$4.00	$4.25	$4.25	$4.25	$4.25
183,326,284	193,662,169	203,998,054	214,333,939	224,669,824	235,005,709	245,341,594	255,677,479	266,013,364	276,349,249	286,685,134
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
$5.50	$5.50	$5.50	$5.75	$5.75	$5.75	$5.75	$5.75	$6.00	$6.00	$6.00
$0.00	$0.00	$0.25	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00	$0.00	$0.00
$5.50	$5.50	$5.75	$5.75	$5.75	$5.75	$5.75	$6.00	$6.00	$6.00	$6.00
$1.82476	$1.86128	$1.89848	$1.93645	$1.97518	$2.01468	$2.05498	$2.09608	$2.13800	$2.18076	$2.22437
$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00
$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
$1,937,025.63	$2,009,470.39	$2,084,524.59	$2,162,589.55	$2,243,470.38	$2,327,376.19	$2,414,420.06	$2,504,719.37	$2,598,395.87	$2,695,575.88	$2,796,390.42
$1,224,743.60	$1,314,280.34	$1,406,908.66	$1,502,716.38	$1,601,793.57	$1,704,232.96	$1,810,129.10	$1,919,578.39	$2,032,683.65	$2,149,544.24	$2,270,266.18
$5,976,769.23	$6,138,750.73	$6,306,533.24	$6,480,305.94	$6,660,264.07	$6,846,609.15	$7,039,549.16	$7,239,298.76	$7,446,079.52	$7,660,120.12	$7,881,656.60
$1,829,451.55	$1,921,736.33	$2,014,021.02	$2,246,726.09	$2,345,163.09	$2,443,600.09	$2,542,037.09	$2,640,474.09	$2,910,093.03	$3,014,682.34	$3,119,271.66
$0.00	$0.00	$134,268.07	$0.00	$0.00	$0.00	$0.00	$165,029.63	$0.00	$0.00	$0.00
$1,008,294.56	$1,065,141.83	$1,121,989.30	$1,232,420.15	$1,291,851.49	$1,351,282.83	$1,410,714.17	$1,470,145.51	$1,596,080.19	$1,658,095.50	$1,720,110.81
$0.00	$0.00	$50,899.51	$0.00	$0.00	$0.00	$0.00	$63,919.37	$0.00	$0.00	$0.00
250	250	250	250	250	250	250	250	250	250	275
45	45	45	45	45	45	45	45	45	45	50
$2,850,000.00	$2,950,000.00	$2,850,000.00	$2,850,000.00	$2,950,000.00	$2,950,000.00	$2,950,000.00	$2,850,000.00	$2,950,000.00	$2,950,000.00	$3,250,000.00
$92,284.69	$92,284.69	$98,437.00	$98,437.00	$98,437.00	$98,437.00	$98,437.00	$104,589.31	$104,589.31	$104,589.31	$115,048.24
$51,433.33	$51,433.33	$53,771.21	$53,771.21	$53,771.21	$53,771.21	$53,771.21	$56,109.09	$56,109.09	$56,109.09	$61,720.00

$5,931,464.23	$6,080,595.28	$6,423,486.11	$6,581,354.45	$6,739,222.79	$6,897,091.13	$7,054,959.47	$7,450,267.00	$7,616,871.62	$7,783,476.24	$8,266,150.70
($45,305.00)	($58,154.45)	$116,952.87	$101,048.51	$78,958.72	$50,481.98	$15,410.31	$210,968.23	$170,792.10	$123,356.12	$384,494.11
$1,521,090.43	$1,462,935.98	$1,579,888.85	$1,580,937.36	$1,759,896.08	$1,810,378.06	$1,825,788.37	$2,036,756.60	$2,207,548.70	$2,330,904.83	$2,715,398.93
ual growth thereafter.										
e Village's $3,000 sewer improvement										
fiscal year.										

2029	2030	2031	2032	2033	2034	2035	2035	2037	2038	2039	2040	2041
761,016,447	788,086,622	815,156,797	842,226,972	869,297,147	896,367,322	923,437,497	950,507,672	977,577,847	1,004,648,022	1,034,178,122	1,063,710,222	1,093,241,322
7,731	8,006	8,281	8,556	8,831	8,106	9,381	9,656	9,931	10,206	10,506	10,806	11,106
98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00	98,437.00
$4.25	$4.50	$4.50	$4.50	$4.50	$4.50	$4.50	$4.75	$4.75	$4.75	$4.75	$4.75	$5.00
$0.25	$0.00	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00
$4.50	$4.50	$4.50	$4.50	$4.50	$4.50	$4.75	$4.75	$4.75	$4.75	$4.75	$5.00	$5.00
298,054,608	308,424,081	320,793,555	332,163,028	343,532,502	354,901,975	366,271,449	377,640,922	389,010,396	400,379,869	412,782,931	425,185,993	437,589,055
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
$6.00	$6.00	$6.25	$6.25	$6.25	$6.25	$6.25	$6.50	$6.50	$6.50	$6.50	$6.50	$6.75
$0.00	$0.25	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00	$0.00	$0.00	$0.00	$0.25	$0.00
$6.00	$6.25	$6.25	$6.25	$6.25	$6.25	$6.50	$6.50	$6.50	$6.50	$6.50	$6.75	$6.75
$2.26886	$2.31424	$2.36052	$2.40773	$2.45589	$2.50501	$2.55511	$2.60621	$2.65833	$2.71150	$2.76573	$2.82104	$2.87747
$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00	$10,000.00
$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
$2,900,975.42	$3,009,471.90	$3,122,026.15	$3,238,789.82	$3,359,920.67	$3,485,581.70	$3,615,942.46	$3,751,178.70	$3,891,472.79	$4,037,013.87	$4,187,998.19	$4,344,629.32	$4,507,116.46
$2,402,885.75	$2,539,902.00	$2,681,437.74	$2,827,618.85	$2,978,574.83	$3,134,437.91	$3,295,344.07	$3,461,432.71	$3,632,846.75	$3,809,732.78	$4,001,906.00	$4,200,242.25	$4,404,911.19
$8,118,861.17	$8,364,373.89	$8,618,463.89	$8,881,408.87	$9,153,495.50	$9,435,019.61	$9,726,286.53	$10,027,611.41	$10,339,319.54	$10,661,746.65	$11,004,904.19	$11,359,871.57	$11,727,029.64
$3,234,319.90	$3,546,389.80	$3,668,205.59	$3,780,021.37	$3,911,837.16	$4,033,652.95	$4,155,468.74	$4,514,911.44	$4,643,494.77	$4,772,078.10	$4,912,350.83	$5,052,623.55	$5,468,206.61
$190,254.11	$0.00	$0.00	$0.00	$0.00	$0.00	$230,859.37	$0.00	$0.00	$0.00	$0.00	$265,927.56	$0.00
$1,788,327.65	$1,856,544.49	$2,004,959.72	$2,076,018.93	$2,147,078.14	$2,218,137.35	$2,289,196.55	$2,454,665.89	$2,528,567.57	$2,602,469.15	$2,683,089.05	$2,763,708.98	$2,853,726.12
$0.00	$77,356.02	$0.00	$0.00	$0.00	$0.00	$91,567.86	$0.00	$0.00	$0.00	$0.00	$106,296.50	$0.00
275	275	275	275	275	275	275	275	275	300	300	300	300
50	50	60	50	50	50	50	50	50	50	50	50	50
$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,250,000.00	$3,500,000.00	$3,500,000.00	$3,500,000.00	$3,500,000.00
$121,815.79	$121,815.79	$121,815.79	$121,815.79	$121,815.79	$121,815.79	$128,583.33	$128,583.33	$128,583.33	$140,272.73	$140,272.73	$147,655.50	$147,655.50
$61,720.00	$64,291.67	$64,291.67	$64,291.67	$64,291.67	$64,291.67	$66,863.33	$66,863.33	$66,863.33	$72,941.82	$72,941.82	$75,747.27	$75,747.27

$8,646,437.44	$8,916,397.76	$9,109,272.76	$9,302,147.75	$9,495,022.75	$9,687,897.75	$10,212,539.19	$10,415,024.10	$10,617,509.01	$11,087,761.80	$11,308,654.42	$11,911,959.34	$12,143,335.50
$527,576.28	$552,023.87	$490,808.87	$420,738.88	$341,527.25	$252,878.14	$486,252.67	$387,412.59	$278,189.47	$426,015.16	$303,750.24	$552,087.77	$416,305.86
$3,242,975.21	$3,794,999.07	$4,285,807.95	$4,706,546.83	$5,048,074.07	$5,300,952.22	$5,787,204.88	$5,174,617.57	$6,452,807.05	$6,878,822.19	$7,182,572.43	$7,734,660.20	$8,150,966.06

2042	2043	2044	2045
1,122,772,422	1,152,303,622	1,181,834,622	1,211,365,722
11,406	11,706	12,006	12,306
98,437.00	98,437.00	98,437.00	98,437.00
$5.00	$5.00	$5.00	$5.25
$0.00	$0.00	$0.25	$0.00
$5.00	$5.00	$5.25	$5.25
449,992,117	462,395,178	474,798,241	487,201,303
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
$6.75	$6.75	$8.75	$7.00
$0.00	$0.00	$0.25	$0.00
$6.75	$6.75	$7.00	$7.00
$2.93501	$2.99371	$3.05359	$3.11488
$10,000.00	$10,000.00	$10,000.00	$10,000.00
$2,815,000.00	$2,815,000.00	$2,815,000.00	$2,815,000.00
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
$4,675,684.69	$4,850,655.29	$5,031,866.08	$5,220,161.59
$4,616,086.78	$4,833,847.44	$5,058,576.09	$5,290,460.31
$12,106,771.47	$12,499,502.74	$12,905,642.15	$13,325,621.90
$5,613,862.11	$5,761,517.61	$5,909,173.11	$8,359,670.04
$0.00	$0.00	$295,458.66	$0.00
$3,037,446.79	$3,121,167.46	$3,204,888.13	$3,410,409.12
$0.00	$0.00	$118,699.56	$0.00
300	300	300	300
50	50	50	50
$3,500,000.00	$3,500,000.00	$3,500,000.00	$3,500,000.00
$147,655.50	$147,655.50	$155,038.28	$155,038.28
$75,747.27	$75,747.27	$78,552.73	$78,552.73

$12,374,711.67	$12,606,087.84	$13,261,810.46	$13,503,670.16
$267,940.20	$106,585.10	$356,156.30	$178,048.26
$8,418,908.26	$8,525,491.37	$8,881,659.57	$9,059,707.93

EXHIBIT K

AQUEDUCT CONNECTION PROJECT BUSINESS PLAN
SUPPLEMENT II

JANUARY 31, 2014

At the request of the New York State Environmental Facilities Corporation ("NYSEFC"), on or about October 28, 2013, the Village of Kiryas Joel ("Village") submitted a Business Plan in support of the Village's request for extension of its existing short term financing with NYSEFC. On or about December 4, 2013, the Village submitted Supplement I which responded to questions raised by NYSEFC with regard to that Plan. This Supplement II now responds to additional comments and requests for information by NYSEFC contained in an email dated January 7, 2014. The content of that email is incorporated herein below. Village responses are identified in bold italics with relevant appendices attached.

NYSEFC Concerns:

1. Can the growth projections for the Village be viewed as reasonable given that the available space within the Village does not support the long-term projections and limited historical basis to perform an analysis.

   Yes, Village options for accommodating projected internal population growth include redevelopment of existing lots, increasing existing density by allowing for increased building heights and other zoning law amendments, and annexation/expansion of Village boundaries. The annexation option is now coming to fruition. On December 27, 2013 the Village received a certified petition from a number of property owners in the Town of Monroe seeking to annex approximately 500 acres of land in the Town into the Village. That petition is in the initial stages of review by both the Town and Village, including a full SEQRA review. A copy of the annexation petition is attached hereto as Appendix SIIA. Based on the time frames provided in Article 17 of the General Municipal Law, it is anticipated that a decision by the respective municipal boards could be resolved in late summer 2014, with a special election thereafter. While there are no immediate plans to rezone or develop such properties, if indeed annexed into the Village, that opportunity exists and would reasonably accommodate the anticipated growth described in the Business Plan. Indeed, owners of many of these parcels have already requested and agreed to purchase water from the Village at rates consistent with the local law and Business Plan, either as out of district purchases or via annexation. Based on current Town of Monroe zoning, the "as of right / build per zoning" totals 1264 dwelling units in the annexed lands. This would equate to over $31 million in new connection fees over time. This does not account, however, for potential rezoning for increased densities. Copies of the model water purchase agreement and a confidential listing of property owners under contract are included in Appendix SIIB hereto.

2. Should future annexation or service to outlying areas be accepted as the alternative to growth within the Village boundaries.

Yes, future annexation or expansion of the Village is a viable alternative to be considered in addition to the aforenoted increased density and redevelopment scenarios within the current Village boundaries. As previously described to NYSEFC, the growth in Village population is internally and culturally driven and therefore inevitable and will be accommodated in the variety of ways described herein. The latest petition for annexation described above appears to bear this out.

3. What steps should the Village pursue to have a viable project, and how does that timeframe for those steps impact the availability of funds pursuant to the current financing.

   The general steps for a viable project are set forth below. The plan of finance to support these steps is set forth later in this supplement and in the cost summaries prepared by CDM Smith and attached hereto in Appendix SIIE.

   i. *Completion of Phase I (pipeline to Mountainville) (July 2014);*
   ii. *Control of phase IA by receipt of final NYSDEC Water Supply Permit (June 2014);*
   iii. *Completion of Phase IA construction (Mountainville Wells) (July 2015);*
   iv. *Interim connection of pipeline to Mountainville Wells supply (August 2015);*
   v. *Control of Phases II & III by receipt of final approvals for construction of Phases II & III (Fall 2014);*
   vi. *Execution of Water Supply Agreement with NYCDEP (Fall 2014);*
   vii. *Completion of Phases II& III construction (May 2016);*
   viii. *Connection to Aqueduct supply (June 2016).*

4. Based on the current information provided, growth of new EDU's on available acreage is only supported until 2022.

   This conclusion fails to acknowledge the Village's explanation regarding increased density on existing developed lots which could be achieved through change in zoning densities and height restrictions and redevelopment of existing underutilized lots. For example, the owner of a property on Acres Road recently merged two lots and replaced the existing 2 single family residences (sfr) with multi-family housing. Another property on Lemberg Court was redeveloped from sfr to a condominium complex of 250 units; a like parcel on Van Buren Drive was redeveloped with 18 units; two separate properties on Quickway Road and another on Fillmore Court were also redeveloped from sfr to over 20 units each. These planning tools should also be considered in conjunction with the current annexation proposal now before the Village and Town.

5. Phase I (Southern Transmission Main) gets the new pipeline to Mountainville. In order to determine how the Village plans on funding Phases 1A (Mountainville Wells & Ridge Road Pump Station and Phases II & III (Northern Transmission Main, TAP Aqueduct Facilities & Water Filtration Plant), a Plan of Finance including a listing of sources and uses and updated cash flows must be developed and submitted to EFC for review.

See response including the plan of finance below.

As a result of the discussion points above, the following information was provided by the Village and Consultants.

1. According to the Village, approx. 500 acres in the Towns of Monroe and Woodbury are owned by Developers who are willing to annex such land to the Village. The Village indicated it has approx. 100 acres for development. It is unknown if either Town will approve annexation.

1. According to the Village, annexation is an intense process and might be challenged in Court. Legislative action would be required for annexation.

   As noted above, a petition has been recently filed for annexation of over 500 acres in the Town of Monroe alone. The Annexation Process is controlled by Article 17 of the General Municipal Law (GML) and the State Environmental Quality Review Act (SEQRA) process (Article 8 of the Environmental Conservation Law). The Village has identified its intent to serve as the SEQRA lead agency. The Village intends to complete a Generic Environmental Impact Statement as part of the SEQRA proceedings. The Village anticipates scheduling a joint annexation and SEQRA hearing in conjunction with the Town in early April, consistent with GML and SEQRA timeframes. Pursuant to GML, a decision on annexation must be resolved by both the Town and Village within 90 days of the hearing, so it is anticipated that such decisions will be reached by July. Upon approval of the Town and Village, a special election of the electors within the annexed parcels will be scheduled within 90 days thereafter. Subsequent to the election, the Village will enact a local law to amend its boundaries to incorporate the annexed properties. It is reasonable, therefore, to anticipate that the annexation process can be fully completed by the end of 2014. Of course, the Village cannot predict whether the municipal boards and/or the electors will indeed approve the annexation or whether there will be any legal challenges to the process.

2. The Village would charge new residents as a result of annexation a $25,000 connection fee. This would serve as a commitment from those residents to pay for the costs of the pipeline. Current residents would pay a $6,000 connection fee.

   The Village has obtained commitments from property owners in the Town of Monroe seeking annexation into the Village to acquire connections to the Village water supply. These commitments reflect over 200 new connections and include over $1 million in current deposits and payments for previously approved development projects. The commitments have been made based on the model water supply agreement attached here as Appendix SIIB and clearly reflect connection fees consistent with the local law and Business Plan. These commitments will be serviced as out of Village district users until annexation is complete if necessary and then as Village users once annexed into the Village.

3. Phases 1 and 1A are expected to cost approx. $21.4 million. There are two sources of supply at the Mountainville site. The Mountainville & Star Well Fields. A manufacturing facility that has since closed existed on the Star Well Field. When the facility closed, the Village of Kiryas Joel bought the well field. The Village has filed a permit application with NYSDEC to increase the capacity to 100,000 gallons per day thereby doubling the water supply before connecting to the Aqueduct. NYSDEC has informed the Village that the permit is on hold because if the permit was granted, the Star Well Field in conjunction with Mountainville would result in an over-supply of water. Currently, NYSDEC is having the Village evaluate the condition of the Star Well Field pipe. This analysis should be complete by the end of January 2014.

   The Village is working with NYSDEC to reactivate the administrative hearing process for the Mountainville Wellfield. It is anticipated that this process can be completed and the final water supply permit issued by summer 2014, ahead of the anticipated time that construction of the pipeline will be completed to the Mountainville Wellfield property in the Town of Cornwall. The Village continues to assess the viability of the existing infrastructure at the Star Mountain wellfield property and continues to view this as a viable interim alternative and eventual backup water supply source for the future. A copy of the existing NYSDEC water supply permit for the Star Mountain wells is attached here as Appendix SIIC.

4. The Village owns and controls the pipeline, but NYCDEP controls who is the end user of NYC water. The Village has the right to sell off water to other municipalities, but cannot do so until permission is granted from NYCDEP.

   Limitations on the sale of water are applicable only with respect to Aqueduct water purchased from NYC. The Village is authorized pursuant to Village Law Section 11-1120 to enter into contracts to sell Village water outside of the Village district. Indeed, as noted, the Village already provides water to communities outside of the Village and as described above has recently entered into additional water supply contracts related to some of the properties that have petitioned the Village and Town for annexation into the Village. These contracts would be serviced as needed in the interim with water obtained from the Mountainville or Star Mountain wells and then eventually by the Aqueduct.

5. At this time, phases II and III are not within the Village's control since approvals have not been granted from NYSDOH or NYSDEC.

   Phase II and III applications are anticipated to be filed with the various agencies later this spring. These permits will be consistent with those obtained for Phase I and will also include the execution of the water supply agreement with NYCDEP. As the same agencies have already approved the design and work for Phase I, the Village does not anticipate delays in obtaining these approvals.

6. Village would use monies from the County to fund Phase 1A. These monies would come from sewer rents charged to the County for treatment of wastewater. WWTP is leased to OCSD #1.

Ideally, the Village would prefer to utilize the short term financing secured through NYSEFC to finance completion of Phase IA. In the event the timing for gaining control over the construction of Phase IA is not completed by the time the pipeline construction is completed to Mountainville, the Village would not delay construction of the Mountainville Wells but would be prepared to fund the construction through excess revenues on hand as a result of its sewage treatment facility lease with Orange County Sewer District #1.

7. A resolution to pass the new water rate structure was going to the Village Board on Friday December 21, 2013.

   A copy of the local law as adopted on December 20, 2013 and filed with the NYS Department of State is attached as Appendix SIID.

8. CDM Smith informed that 23,000 lin.\ft. out of 36,000 lin.\ft. of pipeline had been installed thus far.

   Construction is scheduled to resume in March, 2014.

9. Work is scheduled to resume in mid-March with the remaining 13,000 lin.\ft. of pipeline including final paving to be completed by July 2014.

Disbursement #32 was released on December 26, 2013 in the amount of $2,002,653.55. Please be advised that any future disbursements are contingent upon satisfaction of the terms expressed in the extension of this short-term financing. EFC continues to have concerns regarding the viability of the project as mentioned above. It is our hope and expectation that the Village & Consultants will continue to work with EFC and DOH to continue to develop project viability and affordability. In the immediate future, please submit the following information so that our analysis may continue without further delay. Specifics are as follows:

1. A plan of finance that addresses the sources of funding for each major component of the project along with an associated timetable for execution.

   Please see the steps below for the plan of finance:

   i. *Fund Phase I with existing short term financing.*
   ii. *Obtain approval of revised project (Phase IA) scope and costs by NYSEFC. This will require the Village to demonstrate control over the revised project. The Village intends to resume the administrative hearing and permit review process for the Mountainville wellfield later this winter and anticipates this process would be completed and the final water supply permit issued by the NYSDEC by early summer, ahead of the completion of the pipeline which is expected to reach the wellfied site by*

July 2014. As the costs of the completion of Phase I and IA are within the total approved loan, NYSEFC approval will not require additional financing.

iii. *Fund approved project costs in the near term through NYSEFC short-term note program until a significant portion of project costs have been incurred. The Village would make the required principal paydowns and interest payments due on the short-term financing during this period.*
iv. *Convert short-term financing to long-term, subsidized NYSEFC bonds once the final project costs are known for Phases 1/1A.*
v. *Obtain all approvals for control of Phases II & III.*
vi. *Apply for NYSEFC short term financing for Phases II & III.*
vii. *Fund approved project costs in the near term through NYSEFC short-term note program until a significant portion of project costs have been incurred. The Village would make the required principal paydowns and interest payments due on the short-term financing during this period.*
viii. *Convert short-term financing to long-term, subsidized NYSEFC bonds once the final project costs are known for Phases II & III.*

2. A detailed plan articulating how the Village intends to connect the Phase I pipeline to the new source (Mountainville Wells or NYC Aqueduct) for Phase 1A, along with an associated timetable for execution given that the Phase I component currently under construction is of no use until connected to a new source.

   A detailed engineering plan for development and connection of the pipeline to the Mountainville wells has been prepared by CDM Smith and is attached hereto as Appendix SIIE. NYSDOH has already reviewed and endorsed this plan (see Appendix SIIF). A copy of relevant SEQRA documents for the Mountainville Wellfield, including the full EAF and Negative Declaration, are attached as Appendix SIIG. The Draft Water Supply Permit issued by NYSDEC is attached as Appendix SIIH. NYSOPRHP sign off for the Mountainville Wellfield site is attached as Appendix SIII.

   In addition, CDM Smith has prepared a detailed cost plan for Phases I & IA as well as for the remainder of the overall project (Phases II & III) (see Appendix SIIJ). The Appendix SIIJ cash flows can also be used to estimate when and how much drawdown from the short term financing is needed, ahead of the Village making reimbursement requests. Likewise, the cost plans also correlate with the anticipated construction schedule for the various project phases.

3. Provide updated information regarding the new user charges and the annexation/"contracts"

   The Village has obtained commitments from property owners in the Town of Monroe seeking annexation into the Village to acquire connections to the Village water supply. These commitments reflect over 200 new connections and include over $1 million in current deposits and payments for previously approved

development projects. The commitments have been made based on the model water supply agreement attached here as Appendix SIIB and clearly reflect connection fees consistent with the local law and the Business Plan. These agreements will be serviced in the interim by the Mountainville wells supply (Phase IA) and ultimately by the Aqueduct supply either as outside of Village water district users or as in Village users upon annexation.

EXHIBIT L

NYS Environmental Conservation Law
Village of Kiryas Joel

SEQRA
Resolution Adopting Amended Findings Statement

Project # DWSRF 16906 Date: March 31, 2009

BE IT RESOLVED by the Board of Trustees of the Village of Kiryas Joel, as lead agency, in compliance with the applicable laws, rules and regulations, including the October 9, 2007 Decision and Order of the Appellate Division, Second Department, that an Amended Findings Statement as hereinafter set forth be and hereby is adopted.

On a motion by Mayor Wieder, seconded by Trustee LANDAU, this resolution is adopted on a vote of 5 Ayes, 0 Nays, 0 Abs.

NAME OF ACTION: Catskill Aqueduct Connection

SEQR STATUS: Type 1 X
Positive Declaration – August 6, 2002
DEIS Complete - October 7, 2003
SEQRA Hearing - November 14, 2003
FEIS Complete - May 4, 2004
Findings Statement – July 8, 2004
Amended FEIS Complete - March 3, 2009

DESCRIPTION OF ACTION: Construction of a tap of the Catskill Aqueduct and a transmission main to transport water supply to the Village of Kiryas Joel. The project will include a water treatment plant and pumping station.

LOCATION OF ACTION: The water supply pipeline will extend from the NYC Catskill Aqueduct connection in New Windsor, NY along Riley Rd, continuing east on NYS Route 94 to Vails Gate; then south along NYS Route 32 and west on County Route 44, terminating at a new water treatment facility in the Village of Kiryas Joel, Orange County, NY.

FOR FURTHER INFORMATION:

CONTACT PERSON: Hon. Gedalye Szegedin, Village Administrator

ADDRESS: PO Box 566, Monroe, NY 10950

TELEPHONE NUMBER: (845) 783-8300

State Environmental Quality Review Act ("SEQRA")
Amended Statement of Findings
Village of Kiryas Joel

Connection to the New York City Catskill Aqueduct

I. Introduction

On October 9, 2007, the Supreme Court of the State of New York, Appellate Division, Second Judicial Department ("Appellate Division"), affirmed, in part, a lower court decision that annulled the original Final Environmental Impact Statement ("FEIS") and Findings Statement issued by the Board of Trustees of the Village of Kiryas Joel ("Village"). In its Decision and Order, the Appellate Division remitted the matter to the Village "for the preparation and circulation of an amended final environmental impact statement ... which analyzes the impact of the project on wetlands, sewage facilities, and the discharge of wastewater and treated effluent into surface and ground waters, includes a phase 1-B archaeological study and review, analyzes the growth-inducing effects of the project, and analyzes those alternative to the project which were identified in the final environmental impact statement with respect to these impacts."

With respect to wetlands, the Appellate Division found that the Village needed to more fully identify the "nature and extent of all of the wetlands that would be disturbed or affected by the construction of the proposed water pipeline, how those wetlands would be disturbed, and how each disturbance, if any, would affect the salutary flood control, pollution absorption, groundwater recharge, and habitat functions of those wetlands."

Additionally, the Court directed the Village to identify "the location, nature, or extent of the bodies of surface water in which wastewater from the proposed treatment plant would discharged, and which State classes and standards of quality and purity apply to those water bodies" and "how much effluent would be discharged into those bodies of water over what periods of time, what the nature of the effluent might be, and what the effect upon those bodies of water are likely to be."

With respect to historical and archaeological resources, the Court directed the Village to prepare "a site-specific and design-specific phase 1-B archaeological study." Finally, the Court directed the Village to conduct a "demographic analysis or projections with respect to the effect of the availability of a steady and stable supply of potable water on population movement into or out of the Village" to support the prior conclusions that "the Village birth rate would continue to grow at a steady rate of 6% per year."

As directed by the Appellate Division, the Village retained additional consultants to expand on its original environmental impact analysis and to prepare an Amended FEIS. On March 3, 2009, after substantial review and study, the Village accepted the Amended

FEIS as complete. The notice of completion and Amended FEIS were subsequently distributed to all required agencies and others. Notice of completion was also published in the Environmental Notice Bulletin on March 11, 2009.

This document serves as the Amended SEQRA Findings Statement and decision by the Village as lead agency to undertake a water supply connection to the New York City Catskill Aqueduct (the "Project" or "Action"). It was prepared in compliance with Article 8 of the Environmental Conservation Law and its implementing regulations in 6 NYCRR Part 617. This Amended Findings Statement includes a description of the proposed Action, a summary of SEQRA procedural compliance, an identification of potentially significant adverse and beneficial environmental impacts anticipated as a result of the action, and a reasoned elaboration of how the Village, as Project sponsor and lead agency, will minimize or avoid potential adverse effects to the greatest extent practicable, in light of social, economic, and other essential considerations. It incorporates the Village's original Findings Statement and expands upon it as a result of the additional analysis undertaken at the direction of the Appellate Division.

SEQRA was designed to foster a careful review by all interested parties of any potentially significant environmental impacts at the earliest possible time, when discussion of such impacts has the most meaning. This review is conducted when the Project is still in its conceptual and formative stages, prior to any agency decisions. Notably, here, the City of New York has issued only conceptual approval for the planning of the Project. More detailed plans for the connection to the Aqueduct, the final pipeline route and the treatment facility still need to be developed. The Project is currently on the NYS Drinking Water State Revolving Loan Fund Readiness List for 2008-2009. Compliance with SEQRA is required before any funds may be released by the NYS Environmental Facilities Corporation. It is this initial agency action that has triggered the need to complete the SEQRA review.

This environmental review, including the additional areas of analysis directed by the Appellate Division, has afforded the Village an even clearer understanding of the potential adverse environmental impacts that might arise from the actual construction and operation of the Project. The Village has carefully and thoroughly reviewed the information contained in the Amended FEIS, together with the original Draft and Final Environmental Impact Statements and associated appendices, as well as oral and written comments thereon received from the general public and government agencies. The Village found it to be a complete and adequate examination of all important potential impacts which may result from the Project and responsive to the Appellate Division's direction.

On balance, and after careful consideration of all relevant documentation and comments, the Village believes it has more than adequate information to evaluate all of the benefits and potential adverse environmental impacts of the Project.

The Village will continue to work closely with the City of New York and other involved agencies to ensure that all appropriate steps are taken to avoid or minimize any risk to

public health and the environment that might arise from the proposed Project and to implement any necessary mitigation.

II. Proposed Action

A. Public Need.

The Village is an incorporated village in the Town of Monroe, Orange County, New York, approximately 45 miles north of New York City. The Village depends on groundwater wells for its entire supply of potable water-to its residents. While average per-capita consumption of water in Kiryas Joel is substantially lower than in Orange County and New York State as a whole, the Village has had difficulty providing a sufficient and reliable volume of groundwater for its residents. This is due, in part, to internal growth of the Village population, as well as increased regional pressure on limited groundwater resources.

Since the completion of the original FEIS, due to the delay in constructing the Project, the Village was compelled to increase its available water supply and reliance on groundwater wells through the expansion of its Brenner well-field by an additional 621,000 gpd, enabling the Village to draw in excess of 1.9 mgd, depending on environmental conditions.

As the rate of groundwater withdrawal in the vicinity of Kiryas Joel increases in comparison to the groundwater recharge rate, it will become increasingly difficult for a groundwater-dependent system to maintain an adequate and reliable water supply for a growing community. To increase the reliability of its potable water supply, without adversely affecting its neighbors who also draw on the same groundwater resource, the Village needs access to an alternative source of potable water. Based, in part, on the conclusions supported by this environmental impact analysis, connecting to the NYC Catskill Aqueduct ("Aqueduct") is the most viable source of such water. Accordingly, satisfying the public's need for a more reliable, safe and adequate source of drinking water remains a priority and obligation of the Village.

B. The Project.

The Village proposes to connect to the Aqueduct near Riley Road in the Vails Gate section of the Town of New Windsor. The Vails Gate location is preferred to other locations because it is just upstream of the point where the Aqueduct descends more than 1,000 feet to cross under the Hudson River and it provides for the most efficient and direct choice of routes to the Village for installation of the transmission pipeline.

Water will be withdrawn from the Catskill Aqueduct using a vacuum priming system, and the water will be conveyed to a pump station. The untreated water will be pumped through a 12-13-mile pipeline that would follow one of two proposed alternative routes. Alternative Route A would run east from Riley Road along NYS Route 94 to Vails Gate; then south along NYS Route 32 and West on County Route 44, terminating at a new water treatment facility on an undeveloped lot in the Village of Kiryas Joel south of

Seven Springs Road (CR 44) and west of Bakertown Road. Alternative Route C also continues along NYS Route 94 to County Route 27 to NYS Route 208 to County Route 17 to Shunnemunk Road in the Village of Kiryas Joel, terminating at a new water treatment facility at the site of the existing water treatment facility on Berdichev Road in the Village. After treatment, the Aqueduct water would be fed into the Village's existing water distribution system. The Project does not involve the expansion of the Village's distribution system into previously undeveloped or subserviced areas but will allow the existing Village to be served with a new source of water supply.

In September 2000, the Village of Kiryas Joel filed an official request with the New York City Department of Environmental Protection ("NYCDEP") for conceptual approval to establish a connection to the Aqueduct that would be designed to withdraw up to 2.0 mgd of water. As set forth in the NYC Administrative Code, the volume of water the Village is entitled to withdraw is calculated by multiplying the Village population - - as reported in the most recent Census - - by the per capita consumption of NYC residents. On November 27, 2000, NYCDEP conceptually approved the Village's request. Final approval of the proposed connection to the Aqueduct must still be obtained from the City of New York. As an involved agency, NYCDEP provided comments on the DEIS which were carefully reviewed by the Village and responded to in the FEIS and considered in preparing this Amended Findings Statement.

III. SEQRA Procedural Compliance

Project planning began with the examination of alternative potential technologies, pipeline routes, water treatment plant and pump station locations, pipeline sizes and the preparation of a series of environmental documents in compliance with SEQRA procedures.

As the agency directly undertaking the Project, the Village determined that the Project was a Type I action subject to SEQRA. On or about July 2, 2002, the Village commenced the SEQRA coordinated review process by preparing and distributing Part I of the full Environmental Assessment Form ("EAF") to all other involved and interested agencies that it was able to identify, notifying them of its desire to serve as lead agency. All involved agencies assented to the Village serving as lead agency and, on or about August 6, 2002, the Village formally assumed the lead agency role for the coordinated review. Based on the EAF, and other Project information, the Village prepared, filed and published a Positive Declaration indicating its intention to prepare a Draft Environmental Impact Statement ("DEIS"). On April 2, 2003, the Village issued a Draft Scoping Document for the DEIS followed by a 23-day comment period. Written comments were accepted and the Final Scoping Document was issued by the Village on June 3, 2003. On October 7, 2003, the DEIS was accepted as complete and made available for agency and public review. Notice was provided to all involved and interested agencies and persons and published in the Environmental Notice Bulletin ("ENB") on October 15, 2003. A properly noticed public hearing was held at the Ezras Choilim Health Center in the Village of Kiryas Joel on November 14, 2003. Written comments were received until the end of the DEIS comment period on November 24, 2003.

Public and agency comments on the DEIS were carefully reviewed and thoroughly considered and responses to all substantive comments received were incorporated into the original FEIS. The Village accepted the original FEIS as complete on May 4, 2004 and subsequently filed the FEIS with all involved and interested agencies on or about May 5 and 6, 2004. Notice of completeness of the FEIS was published in the ENB on May 12, 2004. The Village subsequently issued and distributed its original Findings Statement on or about July 9, 2004.

The original FEIS and Findings Statement were subsequently challenged by Orange County. On October 20, 2005, Supreme Court, Orange County, (Rossenwasser, J.), granted Orange County's petition and annulled the FEIS and Findings Statement. On October 9, 2007, the Appellate Division, Second Department, affirmed in part and remitted the matter to the Village for the preparation and circulation of an amended final environmental impact statement. The Village undertook the required studies and analysis as directed by the Appellate Division and caused its environmental consultants to prepare an Amended FEIS which was accepted as complete on March 3, 2009. Notice of completeness of the Amended FEIS was published in the ENB on March 11, 2009. While not expressly required by the Appellate Division Order, this Amended Findings Statement is intended to complete the Village's SEQRA review. In accordance with SEQRA, the Village's findings and decision-making are required to incorporate suitable consideration and balance to the protection and enhancement of the environment, human and community resources, social and economic factors.

IV. Significant Beneficial and Adverse Impacts

Sections 2 and 3 of the DEIS describe the existing conditions, potential impacts, mitigation measures and alternatives considered for the Project. It included analyses of groundwater and surface water resources; ecological resources; geologic and topographic resources; air quality; agricultural resources; historic and archaeological resources; socioeconomics; land use; transportation and traffic; noise; aesthetics; utilities; energy; solid waste management; hazardous materials; and cumulative impacts.

It is evident that the majority of potential adverse environmental impacts identified will be short-term in duration and related to construction. These include impacts related to noise, dust, traffic, soil erosion, wetlands and stream crossings. Potentially adverse long-term impacts are focused primarily on growth inducement, cultural resources, wastewater treatment and pipeline maintenance. In direct response to the Appellate Division Decision and Order, the Amended FEIS also included additional analyses of wetlands, archaeology, sewage treatment, and population growth with respect to the alternatives.

The following narrative identifies the considerations that the Village has weighed and the reasoning behind its decision to move forward with the Project. It identifies the potential environmental impacts of the Project and describes mitigation measures that will be incorporated into the final Project plans to avoid or minimize those impacts. This section

has been expanded to account for the additional analyses, field work and reports prepared by the Village at the direction of the Appellate Division.

A. *Groundwater Resources.*

Under existing conditions and the no action alternative, the Village would continue to rely entirely on groundwater resources as its sole drinking water source. To accommodate the forecasted growth in the Village, the Village would be compelled to develop new and higher yielding wells which may not be viable and would place an increased burden on the limited resource and ultimately the surrounding communities that share this resource. Indeed, since the completion of the FEIS and original Findings Statement, due to the delay in the Project caused by the litigation brought by Orange County, the Village obtained approval from the New York State Department of Environmental Conservation ("NYSDEC") for additional groundwater wells, increasing its available capacity to 1.9 mgd. Because the Project will provide the Village with a new primary surface water source of potable water, no adverse impacts on the groundwater resource are anticipated to result from the Project. Rather, after completion of the Aqueduct connection, the Village of Kiryas Joel's dependence on groundwater would decrease, with the existing wells functioning entirely as a required backup system. The decrease in daily withdrawal would reduce stress on the aquifer and, therefore, provide a beneficial impact not only to the Village but the surrounding communities and the resource.

B. *Surface Water Resources.*

Potential impacts on surface water resources identified in the DEIS and Amended FEIS include impacts from stream crossings and erosion caused by construction of the pipeline as well as the potential for increased generation of wastewater once operating.

1. Stream Crossings.

There are a number of stream crossings along both alternative routes. The major streams crossed by the pipeline include Moodna Creek and Woodbury Creek, both NYSDEC Class C streams. As described in the DEIS and Amended FEIS, mitigation measures will be employed at these and other minor crossings to avoid potential adverse impacts to streams at these crossings. Where practical, the water main will be attached to the underside of the bridge crossing the stream. This will not affect the flow of water under the bridge. Where attaching the pipeline to the bridge is not practical, the water main will be jacked beneath the stream following standard engineering practices. Construction will be a minimum of 50 feet from the stream bank and the top of the water main will be at least 5 feet beneath the stream bottom to ensure that there is no permanent disturbance to the stream. Any affect on the flow or water quality of the streams at these locations would be temporary and construction-related. Mitigation measures including sediment traps, sediment barriers, erosion control blankets, rip-rapping, drainage diversions, vegetative restoration and minimizing land disturbance will be incorporated into the final construction plans. None of the streams that will be crossed are regulated by NYSDEC and, therefore, there is no requirement for a Protection of Waters permit from NYSDEC.

A NYSDEC SPDES General Permit for stormwater discharges associated with construction activities will be required. Compliance with the General Permit (GP-0-08-001), the technical standards for erosion and sediment control and the required stormwater pollution prevention plan will further protect surface water resources. Similar mitigation measures as those listed directly above will be incorporated into the Project.

2. WWTP Capacity and Potential for Water Quality Impacts

The Village of Kiryas Joel is within Orange County Sewer District ("OCSD") No.1 and is entitled to discharge its wastewater to the Harriman Wastewater Treatment Plant ("WWTP"). Expansion of the Harriman WWTP to 6.0 mgd has recently been completed and is now on line. This additional capacity is available for use by residents of municipalities served by OCSD No. 1. In August 2008, the Orange County Supreme Court, Environmental Claims Part, issued a Decision and Order enjoining the County from selling over 1.0 mgd of the newly created capacity to any communities outside of OCSD No.1 until such time as it was determined that there was adequate capacity first to accommodate the District, including the Village. It is, therefore, further evident that there is now an adequate, secure and dedicated capacity available to accommodate the potential increase in wastewater to be generated by the Project now and into the foreseeable future.

Even before the most recent Harriman WWTP expansion, it was evident that there was adequate capacity available to the Village between the Village WWTP and the Harriman WWTP to accommodate the potential increase in wastewater generated by the Project. On March 9, 2005, subsequent to the completion of the original FEIS and Findings Statement, NYSDEC approved a new groundwater well (Well #27) that increased the Village's water supply (and corresponding wastewater production) by 135,000 gpd. In addition, on August 17, 2005, NYSDEC approved another new groundwater well for the Village (Well #28) with an output of 486,000 gallons per day. In total, both approvals by NYSDEC represented an addition of 621,000 gpd of new water supply to the Village. As a result, the Village now has approval to draw in excess of 1.9 mgd from its existing wells, with a corresponding potential volume of wastewater generated. In authorizing this significant increase in the Village's water supply and corresponding wastewater generation potential, NYSDEC expressly determined that this expanded water supply would have no adverse impact on the Harriman WWTP or the Ramapo River. Significantly, in response to public comments regarding the potential impact of this additional water supply on growth, wastewater and the Ramapo River, NYSDEC stated:

> *In regards to the concern about growth impacts, particularly upon the sewage treatment capacity in the Ramapo River Basin, this Department carefully reviewed its files in regards to the capacity of both the Village's Sewage Treatment Plant and Orange County's Harriman Sewage Treatment Plant to treat this additional wastewater. We determined that there is sufficient excess capacity to treat this additional water, without adverse impacts on the Ramapo River.*

Also since the time the DEIS and FEIS were completed in 2006, Orange County engaged CDM to complete the "Harriman Wastewater Treatment Facility Membrane Bioreactor Pilot Study" pursuant to a grant from the New York State Energy Research and Development Authority ("NYSERDA Study"). The NYSERDA Study assessed the feasibility, effectiveness, and cost of implementing a membrane bioreactor treatment system at the Harriman WWTP. The Study concluded that facility capacity could be cost effectively increased an additional 3.0 mgd, from 6.0 mgd to 9.0 mgd. Additionally, the Study's results demonstrated that the anticipated discharge permit standards for such an increase are readily achievable and technologically feasible for the Harriman WWTP and will also actually increase the quality of the effluent discharged to the Ramapo River. The NYSERDA Study lends still further support for the conclusion that there is adequate treatment capacity to accommodate the Project and that there will be no adverse environmental impacts from the Project with regard to wastewater treatment capacity and no adverse environmental impact with regard to the receiving water body, the Ramapo River. As a result, all wastewater, including any wastewater from the water treatment plant, will be properly treated and not result in any adverse impacts to surface water resources.

Accordingly, considering the available 6.0 mgd capacity at the Harriman WWTP (including the recently constructed 2.0 mgd which remains exclusively available to OCSD No. 1) and the Village's own 0.97 mgd treatment plant, plus available technology for future expansion of the Harriman WWTP, sufficient wastewater treatment capacity is available to accommodate the gradual growth in wastewater generation in Kiryas Joel resulting from the proposed Aqueduct connection.

C. *Wetlands.*

The DEIS included a thorough desktop survey and field verification of federal and State wetlands in the vicinity of the alternative pipeline routes. As directed by the Appellate Division, State and federal wetlands were further delineated in the field. For the Amended FEIS, the Village's consultants delineated those wetlands located within or immediately adjacent to the roadway right-of-way s(50 feet on either side) for both Alternative A and C. All areas beyond the right-of ways will be avoided for both pipeline construction and any equipment staging. This delineation demonstrated that there is sufficient room within the right-of-ways to complete construction of the proposed pipeline without direct impact or alteration of any of the identified wetlands. Nevertheless, protective mitigation measures will be implemented to avoid any indirect impacts to wetlands in these areas where the wetlands are located near to the right-of-way.

Along Alternative Route A, thirty-eight wetlands units were delineated. Fourteen of these units were associated with stream crossings. As noted, none of the stream crossings are regulated by NYSDEC. No other NYSDEC regulated wetlands or buffers were identified in the vicinity of the right-of-ways for this route. Fifty-one wetland units were identified along Alternative Route C. As with Route A, eight involved stream crossings, none of which would require permits from NYSDEC. A number of NYSDEC regulated wetlands

and adjacent buffer areas were identified along Route C. None were located directly in the right-of-way. No construction activity will occur directly within any of these NYSDEC regulated wetlands. However, where there is the potential for temporary disturbance of the wetland buffer, a letter of permission will be obtained from NYSDEC. Conditions under the letter of permission require that any construction related impacts in a wetland adjacent area be temporary and that the excavated area be restored to its pre-construction condition.

The majority of the wetland units delineated along both alternative routes are presumed to be federal wetlands regulated by the U.S. Army Corps of Engineers ("ACOE"), though some appear to be isolated and may, therefore, fall outside of ACOE regulation. None of these wetlands were located directly within the right-of-way; instead being located at or adjacent to the limits of the visible roadway right-of-way. Because the pipeline will be installed either within the roadway right-of-way or the roadway bed itself where the right-of-way is not accessible, no loss of federal wetlands is anticipated. In the event that final construction plans require any of these identified federal wetlands to be encroached, the construction would be regulated by ACOE Nationwide Permit # 12, Utility Line Activity. Moreover, as noted, all appropriate protection measures will be utilized in the field during construction as part of the compliance with the NYSDEC SPDES General Permit.

Because no direct or indirect impacts to wetlands along the water transmission main route are anticipated (as well as at the sites of the Aqueduct connection and water treatment plant), no affects on flood control, pollution absorption, groundwater recharge and habitat function of the wetland units will result from the construction of the Project.

D. *Air Quality.*

The Project would generate minor, local, short-term increases in fugitive dust from exposed soil and use of operating machinery. Dust generation would be temporary and limited to areas of active construction. Standard dust suppression measures such as use of wind breaks, keeping areas wetted down, cleaning roadways, covering trucks, truck washing and reducing the size of disturbed areas will be employed to the greatest extent practical.

E. *Induced Growth.*

SEQRA requires the lead agency to discuss the growth-inducing aspects of a proposed action "where applicable and significant." When discussed, the EIS is required to describe the likelihood that the proposed action will cause significant increases in local population and trigger further development by increasing employment opportunities or providing public services or utilities that encourage people to move there. As noted, SEQRA requires this discussion where such growth impacts are a result of the proposed action and are significant.

In the DEIS, the Village considered its historic growth, future growth projections and remaining build-out potential. The Village also considered that: (i) the Project was not intended to provide water to areas outside the Village; (ii) the Project involves only a new water source tying directly into the existing distribution system; not creation or expansion of the distribution system; and (iii) the Project will not bring water to an undeveloped or unserviced area. The DEIS also recognized that once constructed, the Project will create limited permanent employment opportunities and thus job creation will not induce people to move into the Village. Based on these considerations, the Village concluded the Project will not significantly induce new growth inside or outside of the Village.

This conclusion is now further supported by a supplemental growth study conducted by AKRF for the Amended FEIS. That study continues to project routine natural internal growth consistent with historic trends and the community's religious culture. Events over the Village's relatively short history support the conclusion that the Village's population is not significantly affected by outside forces such as availability or lack of new utilities. For example, from the mid-1980's through mid-1990's, NYSDEC had imposed a moratorium on new sewer connections to the Harriman WWTP. Notwithstanding the fact that the Village was subject to that moratorium, there was no significant or noticeable leveling off or decline in Village population during this time period. Likewise, once the moratorium was lifted, there was also no subsequent significant or noticeable spike in internal population growth or in-migration. Similarly, with respect to water supply, at the time of the DEIS, the Village was experiencing difficulty satisfying demand for water supply with its existing inventory of groundwater wells. During this time, Village population continued to grow at consistent rates as shown by the AKRF study. More recently, since the completion of the original FEIS, the Village has increased its available groundwater supply through the expansion of its Brenner well-field. As noted in the wastewater discussion, the Village expanded its well-water supply capacity by an additional 621,000 gpd to a total in excess of 1.9 mgd. When compared to existing water demand in the Village, the new well capacity has created an actual surplus of over .3 mgd above peak demand and approximately .5 mgd above average daily demand. Notwithstanding this significant increase in available water capacity, the Village population has not experienced a corresponding surge in growth or in-migration. Instead, the Village's growth has remained constant and the level of in-migration has still continued its downward trend.

Notwithstanding the Project, internal growth will undoubtedly continue. Any potential change in the rate of increase once the Project comes on-line is not anticipated to be so significant to be quantifiable. Rather than a growth inducement, the Project is a carefully considered and measured response to meet the internal needs for reliable services as forecasted in the manner required of any responsible municipality. Therefore, the projected growth of the Village, as set forth in the DEIS and FEIS and now the Amended FEIS, will not be quantifiably different as a result of the proposed Project as it would be under the no action alternative.

Good planning practices require the Village to provide for the basic needs of the projected population resulting from the maturing of young men and women starting their

own family units. Therefore, the Village is undertaking the Project to assure an adequate potable water supply to meet the anticipated needs of a growing population. The Project is in full accord of the Village's comprehensive plan. The Village uses smart growth principles which provide for growth in central locations where needs and services may be provided efficiently. Moreover, in addition to the Village's zoning code and comprehensive plan, other growth management factors include New York City's formulaic allotment of entitlement water based on the current census record, the availability of sewage treatment capacity, and the current amount of developable land within the Village (as outlined in the original FEIS). Therefore, based on all of these considerations, the Village has determined that the provision of basic human services to its existing and growing internal population outweighs any minor or insignificant additional growth that could result directly from the provision of Aqueduct water.

F. *Historic and Archeological Resources.*

The final location and placement of the transmission pipeline has the potential to disturb historic and archeological resources. As noted in the original FEIS and Findings Statement, the Village adopted a mitigation protocol, approved by the New York State Office of Parks Recreation and Historic Preservation ("OPRHP") on or about March 16, 2004, that would avoid or minimize adverse impacts to such resources. The protocol, as set forth below, remains in place as a mitigation measure and condition to any future permit approval for the Project. The OPRHP-approved protocol is as follows:

1. The Stage 1-A investigation will be used to assess and identify general areas of potential archeological or historic sensitivity in the project corridor including alignment, staging areas, temporary access roads, etc. Maps of the preferred pipeline route shall also be assessed to confirm that construction will occur in areas of prior disturbance.

2. For the known archeological site locations and the areas of potential sensitivity identified in step 1, an evaluation based on construction drawings, USGS topographic maps, and observations made during a site visit will be completed to verify those areas that have been disturbed and can be eliminated from further consideration.

3. Stage 1B archeological testing, per Office of Parks, Recreation and Historic Preservation (OPRHP) guidelines, will be conducted at sites or areas of sensitivity within the preferred route that cannot be documented to have been disturbed. The archeological field-testing will be done sufficiently in advance of construction to allow appropriate consultation regarding potential impacts to archeological sites.

4. When Stage 1B evaluation results in the discovery of archeological materials, additional investigation will be carried out to determine the extent of archeological site integrity and significance. OPRHP shall be consulted and given the opportunity to review and approve avoidance or mitigation plans prior to the start of construction in the area.

5. The implementation of the work identified in steps 1-4 will be administered by an archeologist qualified pursuant to 35 CFR 61.

In its Decision and Order, the Appellate Division directed the Village to prepare a site-specific phase 1B archaeology study. In response to that directive, the Village expanded on its phase 1A study undertaking steps 1-3 of the mitigation protocol along alternative Routes A and C. A site-specific phase IB study was conducted for alternative Route A in the right-of-way along Route 32 in Cornwall, NY, immediately north of the Cornwall-Woodbury boundary line. In accordance with the protocol, the specific site was determined based the expanded phase 1A findings that this was an area along the route that appears sensitive for archeological resources and was not determined to have been previously disturbed. OPRHP was consulted on the location of the phase IB. The fieldwork found no precontact material in any of the thirty separate shovel tests. Historical and modern material was limited to a small assortment of 19th and 20th century artifacts, most post-dating the construction of Route 32 in the 1930s. A limited amount of 19th century material was found along the east side of Route 32. A stone foundation was noted about twenty-four feet east of the right-of-way boundary. A review of historical maps and atlases show that in 1851 a Toll Gate stood to the east of Route 32 in the approximate vicinity of the positive shovel tests, and that to the south of this was the F. Smith farmhouse. However, the exact locations of these former structures are uncertain given the age of the historic maps and changes to the landscape. Artifacts from these shovel tests are potentially related to one of these structures.

In the event that the final pipeline route is located on the east side of Route 32 in the vicinity of this sensitive area, then additional archaeological investigations and documentary research, pursuant to the approved protocol and in consultation with OPRHP, would be conducted to determine the significance of the site and to more firmly associate artifacts with a specific source. However, the preferred option would be to preserve the potential resource in place. This can be accomplished by locating the pipeline on the west side of Route 32 or under the roadway itself in this area, which would appear to be far enough removed and separated by significant amount of disturbed area to avoid potential impacts to these resources. Rerouting and redesign of final construction plans will also avoid potential impacts to any other sensitive sites.

Along Route C, the site-specific area identified for a phase 1B was located in the vicinity of a 19th century cemetery that was disturbed by the early 20th century rerouting of Route 208 directly across it. Although records indicate that graves were removed from the roadbed and reinterred when Route 208 was constructed, the archaeologist concluded that it is entirely possible that human remains that were not recovered at that time may still exist within the ROW. Due to the inherent difficulty and cost of conducting a phase IB study of an area that may disturb human remains, as well as the difficulty of completing construction and even avoiding such area, the decision was made to defer study of this area pending results from other areas and final determination that this route would continue to be the preferred route for the pipeline. In the event that this route remains as the preferred route, further 1B study will need to be conducted unless the Project can be rerouted and redesigned to completely avoid this area.

G. *Economics.*

It is anticipated that the Project will generate several jobs during construction. The construction of the Project will also generate an increased demand for necessary construction materials and secondary services to support the construction. Once operating, it is anticipated that the Project would employ a limited number of additional persons to help operate the treatment facility and maintain the pipeline and other equipment.

The proposed Project may create temporary disturbances to retail businesses along the pipeline route during construction. The number of businesses involved is anticipated to be small and mitigation measures will be employed including strategic construction sequencing, pre-construction notices to the affected businesses and maintaining continuous access to businesses. There will be no impacts on such businesses from the operation of the pipeline.

Operation of the Project would increase the cost of water in Kiryas Joel, since the existing groundwater pumping system would be maintained as backup to the Aqueduct connection.

H. *Traffic.*

In each of the alternate routes, the pipeline would be installed either in the highway right-of-way outside of the limits of the roadway (preferred); in the shoulder of the roadway; in one or two of the travel lanes; or a combination of all three. Traffic impacts associated with construction of the pipeline, including delays and modified traffic patterns, would be concentrated along the pipeline corridor during construction and be temporary in duration. It is anticipated that less than 300 feet of roadway would be closed at any one time and in most locations would only involve partial lane closures. A minor unavoidable impact to residents, businesses, emergency vehicles, school buses and public transit is anticipated. Appropriate pre-construction safety design and planning, including pre-construction notice, signage, lighting, safety personnel and fencing will ensure that conditions during pipeline construction would not be hazardous to pipeline workers and the traveling public. Comparatively, the potential impacts along each of the alternative routes would be similar in scope and intensity. Specifically, the area along the Rt. 32 corridor (Alternative A) contains the most consistent shoulder and right-of-way enabling less disturbance of existing roadway and thus fewer delays. However, this route would also temporarily create a potentially more significant impact to the 5-point intersection (Rts. 94/32) in Vails Gate. This intersection includes NYS routes 94, 300, and 32.

The New York State Department of Transportation ("NYSDOT") has jurisdiction for permitting any construction activity along its roadways. A NYSDOT Highway Work Permit will be obtained that will include traffic safety measures, a detailed work schedule and plans and profile of the water main to be installed.

In order to mitigate potential impacts to traffic safety, a number of mitigation measures will be employed, including among others, proper signage to alert motorist that construction activities are ahead, use of reflective barrels, flag persons to direct traffic as required, and reduction of speed through the construction zone. To mitigate disruption to traffic, contractors would be required to maintain one lane in operation at all times and, to the extent practical, two passable lanes would be provided at the end of each day. In order to avoid a major disruption in traffic at higher volume intersections, construction may be conduced in the overnight period. Similarly, construction will be sequenced so that the work for the day/night includes setting up the maintenance and protection of traffic devices, excavation, pipe installation, backfill excavated area, and the installation of temporary pavement or plates to enable continued traffic movement during non-construction periods of the day. To the extent practical, installation would be limited to only that length of pipe that could be installed and backfilled within the same day. This is typically 100-300 feet. Use of alternating one-way traffic in the vicinity of pipe installation is also anticipated. Additional strategic construction sequencing and timing (i.e., restrictions on construction activity during the morning and afternoon rush hours) will be employed where necessary. Access to residential and business driveways would be maintained at all times during construction. Regular contact with local governments, government agencies, emergency services, utility companies, television and radio to inform them of project status will also help to minimize impacts.

There will be no operational phase impacts on traffic.

I. *Noise.*

Noise generated by the Project would come primarily from the construction phase. Long-term operations noise would be limited to two sources: the pump station and the water treatment plant.

Construction noise impacts generally occur only during typical daytime working hours of 7:00 a.m. to 5:00 p.m., and would be highest during the clearing and trenching phases of construction. The noisiest equipment would likely be earthmoving equipment, such as dozers, graders, loaders and other heavy-duty diesel equipment. Proper maintenance and use of mufflers will help to reduce this noise. Noise levels decrease by 6 dBA for every doubling of distance from the source. It is anticipated that the daytime L_{max} noise levels will not exceed 80 dBA at 150 feet away and the daytime L_{eq} noise level would not exceed 75 dBA at 150 feet away.

Nighttime and weekend construction work does not appear to be generally necessary, and will be avoided to the maximum possible extent. Nighttime construction would be considered only if necessary to mitigate impacts to daytime traffic conditions. This will be evaluated further during final design; however, based on current traffic conditions, placing restrictions on construction during normal commuting hours is expected to sufficiently address daytime traffic control such that nighttime construction can be avoided.

The major long-term noise-generating piece of stationary equipment associated with the aqueduct connection component of the Project is the pumping station to be located on the west side of Riley Road at the New Windsor Water Treatment Plant. The maximum sound level from the pump station would be specified as 60 dBA at the property boundary (the nearest property boundary to the pump station is expected to be approximately 50 feet from the pump station). At the residence nearest the pump station, more than 300 feet from the site property line, the pumping station noise would be inaudible.

The nearest residential receptors to the proposed water treatment plant site on Berdichev Road are the boarding students at the UTA Mesivta rabbinical college, about 100 feet across Berdichev Road from the site property line. The nearest houses are on top of a hill overlooking the site, about 300 feet from the property line. At these distances, a minor to moderate increase in noise (3 to 6 dBA) is projected. The alternative water treatment plant site at the terminus of Alternative Route A is a 30-acre parcel located just off the intersection of Seven Springs Road and Bakertown Road. There is a single residence located across the street from the property. As noted in the DEIS, the treatment plant would be located well off of the road, out of site from this residence and there would be no increase in noise anticipated at this single nearby receptor during operations

State-of-the-art pumping station and water treatment plant equipment will be specified to keep noise generation as low as practical. Therefore, no significant permanent noise impact is anticipated.

J. *Energy.*

Approximately 4,900 kWh of electrical energy per day would be required to pump 2 mgd of water out the top of the Aqueduct, over to the proposed pumping station in Vails Gate, and from the pumping station through the proposed 12-13 mile pipeline to Village. Although significant, this is a small amount of electrical power in comparison to the total amount consumed in the region. Adequate electricity is available to accommodate the Project.

A 24-inch pipeline diameter was originally proposed primarily because less electrical energy would be required to pump 2 mgd of water through a 24-inch pipeline than through a 12-inch or 18-inch pipeline. After consideration of comments on the DEIS, the Village has determined that an 18-inch diameter pipeline would still provide sufficient capacity for Village needs, while increasing energy consumption about 10%. Once operating, most routine pumping from the Village's groundwater wells would cease, thereby reducing associated energy consumption there. This will partially offset the energy consumed by the Project.

K. *Other Issues*

Based on the environmental analyses of the Project described in the DEIS, no impacts are anticipated in the following areas:

Land use
Construction of the Aqueduct connection, pumping station and water treatment facility would be consistent with existing surrounding land uses. Improvement of the Village water supply infrastructure is consistent with the Orange County Comprehensive Plan.

Agriculture
No agricultural land would be affected at the sites of the proposed pumping station and water treatment facility. The pipeline would be constructed within the rights-of-way of existing roads, and thus no impact on agricultural resources would result.

Aesthetics
The pumping station and water treatment facility would be designed to be visually compatible with existing similar uses on the proposed sites. The pipeline would be underground in existing roads, except for bridge crossings. Very few trees would be removed for the pipeline construction.

Ecology
No regulated wetlands exist in the area of the proposed connection, pumping station and water treatment facility. As noted elsewhere, the pipeline will be designed to avoid to the extent practical placement in or adjacent to regulated wetland areas or associated buffers. No federal or State-listed or proposed endangered or threatened species are known to exist in the proposed area of construction.

Geology/topography
Geology and topography would be impacted only temporarily during project construction. No long-term changes to geologic features and topography would occur.

Cumulative Impacts
No projects similar to the proposed Aqueduct connection are planned within the area affected by the Project. The Village is not aware that Orange County and the NYS DOT have planned any major road and bridge improvement projects for the roads proposed for the pipeline during the time the pipeline would be constructed.

V. Alternatives Considered

The DEIS explored and described a range of reasonable alternatives to the proposed action-including the following:

1. *No Action Alternative.* Continuing reliance on groundwater and the drilling of additional groundwater wells would be required under this alternative. Given the limits on the groundwater resource, this alternative is not practical.

2. *Alternative Pipe Size.* Trench size, construction duration and potential adverse environmental impacts would be the same for a 24-inch diameter pipeline as for any other size pipeline. As noted previously, consumption of electricity would be about 10% less for the 24 inch pipeline. On the other hand, a smaller pipe would provide less capacity for future demand. Nevertheless, due to concerns expressed by NYCDEP that the pipe is

oversized, a reduction in pipeline diameter to 18 inches would provide sufficient capacity to meet the Village's objectives.

3. *Alternative Pipeline Route.* The Village has considered three alternative routes for bringing the pipeline from the Aqueduct connection in New Windsor to the water treatment plant in the Village.

Alternative Route A: NYS Route 32/County Route 44.

The easternmost alternative is the shortest alternative with a 12-12.5 mile route beginning at the New Windsor Aqueduct connection on Riley Road and continuing east on NYS Route 94 to Vails Gate; then south along NYS Route 32 and west on County Route '44, terminating at a new water treatment facility in the Village of Kiryas Joel south of Seven Springs Road and west of Bakertown Road. The land use along this route is a mix of residential, rural and commercial development. This route maximizes the use of State highways versus County and local roads. The Route 32 corridor contains the most consistent shoulder and right-of-way providing for less disturbance of existing roadway and therefore less disruption to local traffic patterns. However, this route would also create a potentially more significant temporary impact to the 5-point intersection in Vails Gate. This intersection includes NYS routes 94, 300, and 32. Here, traffic mitigation measures as described in the traffic section would likely be required. This route contains no NYSDEC regulated stream crossings and no NYSDEC regulated wetlands or wetland buffers at or within the affected right-of-ways. Likewise, this route contains significantly less delineated federal wetlands at or within the right-of-ways than Alternative Route C. The expanded phase 1A archaeology study (refinement study) for the Amended FEIS found that Route A has less archaeologically sensitive areas than Route C. The most significant difference between the two routes is that much of Route A travels along a road that has far fewer areas of historical sensitivity since it was laid out through what appears to have been undeveloped farmland. The site-specific phase 1B study conducted along this route found no precontact materials and only a limited amount of 19th century material on the south side of Route 32 in the general vicinity of a former 1851 tollgate. The area on the north side of Route 32 did not disclose any similar materials, thereby making this side of the road the preferable path for the pipeline.

Alternative Route C: County Routes 94/27/208.

The westernmost alternative is a 13 mile route that also begins at the New Windsor Aqueduct connection on Riley Road and continues on NYS Route 94 to County Route 27 to NYS Route 208 to County Route 17 to Shunnemunk Road in the Village of Kiryas Joel, terminating at the site of the existing water treatment plant on Berdichev Road. Land use along this route is a mixture of residential and rural with discrete pockets of commercial development. This route relies more on County highways than Alternative A. The shoulders along this route appear to be adequate. Similar traffic mitigation measures would be required to avoid or minimize any traffic impacts along the route. This route also contains no NYSDEC regulated stream crossings, but does contain a couple of NYSDEC wetlands and buffer areas adjacent to the right-of-ways in the vicinity of NYS Route 94 (Cornwall) and County Route 27 (Blooming Grove). A letter of permission may be required from NYSDEC for work along this area. Likewise, this

route contains more delineated federal wetlands at or within the affected right-of-ways. A preconstruction notice may be required to apply a nationwide wetlands permit for installation of the pipeline in such areas. The expanded phase 1A archaeology study found that Route C has more archaeologically sensitive areas than Route A. A significant difference between the two routes is that Route C also passes through a 19th century cemetery that was disturbed by the early 20th century rerouting of Route 208 directly across it. Although records indicate that graves were removed from the roadbed and reinterred when Route 208 was constructed, it is possible that human remains that were not recovered at that time still exist within the right-of-way. Due to the inherent difficulty and cost of conducting a phase 1B study of an area that may disturb human remains, as well as the difficulty of completing construction in such an area, the decision was made to defer a phase 1B study of this area pending the final determination that this route would continue to be the preferred route for the pipeline.

Alternative Route B: NYS Routes 87/County Route 44

A third alternative was identified in the DEIS that followed NYS Routes 87 (NYS Thruway) and 32 and County Route 44. Due to the impracticability of obtaining approval for locating the pipeline along the NYS Thruway, this alternative is no longer considered reasonable or feasible, considering the objectives and capabilities of the Village.

Based, in part, on the results of the additional studies and analyses conducted for the Amended FEIS, the Village finds that Alternative Route A is the preferred route for the proposed pipeline corridor and the alternative that would present the least potential for significant adverse environmental impact while being feasible and considerate of the objectives and capabilities of the Village.

4. *Alternative Location for Connection and Pump Station*. Locating the pump station on New York City-owned land adjacent to the Aqueduct would not reduce environmental impacts or construction cost and would require approval by New York City.

5. *Alternative Surface Water Sources*. Evaluation of Hudson River water as an alternative surface water source found this alternative to be prohibitive because the brackish water would require costly treatment and would generate a large quantity of wastewater requiring treatment.

None of the other examined alternatives would perform as well as the proposed project in meeting the Village's objective: to provide its residents with a reliable, high-quality source of potable water while minimizing environmental impact and conflict with other communities.

The Town of Blooming Grove and the Village of Washingtonville originally requested in comments to the DEIS that they be allowed to tap the proposed pipeline as an emergency backup water supply. The Project as proposed does not contemplate any

interconnections. Providing emergency access to the Aqueduct water through a connection from the proposed Village pipeline would require preparation of an application to NYCDEP accompanied by an environmental assessment of the potential effects of such an action. This type of arrangement would work best if the water were treated at the existing Aqueduct tap rather than at a new plant in Kiryas Joel. Formal consideration of such an action by the Village and other potentially involved agencies must await preparation of plans by Blooming Grove and Washingtonville and is subject to environmental review and requisite governmental approvals, including NYCDEP. Since the time of the Town and Village comments, each has passed a resolution to oppose the Project, thereby implying that they are no longer interested in water from the Aqueduct.

The NYCDEP and the NYSDEC suggested in comments to the DEIS that the Village consider the benefits and impacts of sharing the Town of New Windsor tap and/or joint use of the New Windsor water filtration plant. These alternatives were not analyzed in the DEIS/FEIS because ownership of the tap and treatment facility rests entirely with the Town of New Windsor. Nevertheless, upon consideration of these comments, discussions have taken place between the two municipalities regarding the viability of sharing the New Windsor tap and/or joint use of the New Windsor treatment facilities. The Village continues to explore these options, recognizing that any such change to the proposed Project would require approval by New York City and analysis of the environmental impact significance under SEQRA.

VI. Mitigation Measures.

In its preliminary plans for the Project, the Village identified a number of measures designed to mitigate or eliminate the potential for significant environmental impacts as a result of construction and operation of the Project. These mitigation measures, as well as mitigation measures identified in the public review process, are summarized below.

1. Soil erosion and sediment control measures such as sequencing of construction, limiting the extent of disturbance at any one time, the use of hay bales or silt fencing, and prompt re-vegetation and mulching will be implemented as necessary to prevent erosion and soil-laden runoff from exiting the site.

2. Soil stockpiles will be covered with tarps, straw or hay mulch when not in use to prevent erosion of the stockpiled materials. Should stockpiles remain in place over the winter, they will be seeded with an annual rye grass or winter wheat mixture to stabilize the soil. Removal and proper disposal of excess fill will be carried out.

3. Erosion control measures will be checked regularly for proper functioning during construction and maintained as needed.

4. To minimize impacts due to dust generation, natural vegetation at the limit of clearing will remain intact to serve as wind breaks. Cleared areas of the site will be

watered as necessary to reduce on-site dust. Trucks and offsite roadways will be cleaned as necessary.

5. Disturbed site areas will be re-vegetated. Existing trees and vegetative habitats will be protected in all areas beyond the limits of proposed construction.

6. A NYSDEC SPDES general permit for stormwater discharge associated with construction activity (GP-0-08-001) will be applied to the Project and required erosion and sediment controls will be employed as well as a stormwater pollution prevention plan.

7. During the operational phase of the Project the building architecture and planting will reflect existing site aesthetics and neighborhood character.

8. The contractor hired to construct the Project will be an experienced construction management firm.

9. Performance requirements on equipment noise output can be integrated in construction contracts to minimize community noise impacts. The maximum sound level for the pump station will be 60 dBA at the property boundary.

10. The Village has reduced the pipe size to 18 inches. Reduction in pipe size, however, will not result in a reduction of construction related adverse environmental impacts.

11. To the extent practical, the pipeline will be attached to bridges and culverts to avoid disturbance impacts from stream crossings. Where jacking beneath the stream is necessary, a minimum of 50 feet buffer between the stream and the entry/exit points will be maintained as well as a minimum of 5 feet beneath the stream bottom to the top of the pipe.

12. At stream crossings, where the pipeline is attached to the bridge, the pipe will be painted to blend visually with the bridge.

13. The pipeline will be re-routed to the shoulder of roads or under roadways, if necessary, to avoid impacts to delineated wetlands/buffers or sensitive archaeological sites.

14. To avoid impacts to archaeological resources, the Village will implement the OPRHP-approved protocol. The Village has selected Alternative Route A to avoid potential disturbance impacts to the area of the former cemetery along Route 208. The

Village will locate the pipeline on the west side of Route 32 or under the roadway in the area of the 1851 Toll Gate.

15. The Village and its construction contractor will develop a pre-construction schedule to avoid traffic and other construction related impacts to the greatest extent practical and notice of the schedule to affected municipalities, businesses, residences, NYSDOT and the news media.

16. The Village will employ traffic control measures such as peak hour restrictions, alternating one-way traffic, signage and compliance with the NYSDOT manual of uniform control devices to avoid or reduce impacts from traffic congestion and address safety issues. Specifically, contractors will be required to maintain one lane in operation at all times and, to the extent practical, two passable lanes would be provided at the end of each day. At higher volume intersections, such as the 5-point intersection (Rts. 94/32) in Vails Gate, construction may be conduced in the overnight period. Construction will be sequenced so that the work for the day/night includes setting up the maintenance and protection of traffic devices, excavation, pipe installation, backfill excavated area, and the installation of temporary pavement or plates to enable continued traffic movement during non-construction periods. To the extent practical, installation would be limited to only that length of pipe that could be installed and backfilled within the same day. Additional strategic construction sequencing and timing (i.e., restrictions on construction activity during the morning and afternoon rush hours) will be employed where necessary. Access to residential and business driveways would be maintained at all times during construction.

17. Construction noise controls will include appropriate scheduling, properly operating mufflers, and minimizing idling time.

18. Encouraging reuse and recycling of construction and demolition debris.

19. Storage of water treatment chemicals in accordance with applicable regulations and safety standards.

VII. Conclusions.

In issuing this Amended Findings Statement, the Village of Kiryas Joel has carefully examined and given due consideration to the Draft Environmental Impact Statement for the Proposed Connection to the New York City Catskill Aqueduct (October 2003); the Final Environmental Impact Statement for the Proposed Connection to the New York City Catskill Aqueduct (May 2004) (including public and agency comments on those documents); and the Amended Final Environmental Impact Statement prepared at the direction of the Appellate Division.

After careful and thorough consideration, the Village of Kiryas Joel finds the proposed Project examined in the above referenced documents to be environmentally sound and the

best alternative to provide a reliable and adequate replacement supply of high-quality potable water for the Village. Based on the analysis conducted for the Amended FEIS, Alternative A has been selected as the preferred pipeline route.

Specific conclusions that support these findings include:

- Existing resource limitations and projections of internal growth in Kiryas Joel establish the need for development of a dependable water supply to prevent the significant adverse effects of water shortages.
- Changes in the existing and forecasted patterns of growth in the Village are not expected to result from the Project and would remain the same as under the No Action alternative. Other limiting factors to future growth include limits on entitlement water by NYC; wastewater treatment capacities; limits on developable space within the Village; and the Village zoning code.
- The majority of the potential adverse environmental impacts identified is construction-related and therefore temporary or short-term and will be minimized or avoided by mitigation measures and project design.
- No alternatives identified for providing adequate water supply provide the significant advantages of the preferred alternative. The No Action alternative would not provide an essential service for a growing population.

Therefore, in consideration of the above, the Village of Kiryas Joel, as the Lead Agency in this matter, issues this Amended Statement of Findings, and certifies under Section 8-1019.8 of the Environmental Conservation Law and 6 NYCRR Section 617.11, that:

1. The Village has carefully examined and given due consideration to the relevant environmental impacts, facts, and conclusions disclosed in the Draft, Final, and Amended Final EIS on the Proposed Connection to the New York City Catskill Aqueduct and public and agency comments.
2. The requirements of Article 8 of the New York State Environmental Conservation Law, and regulations promulgated thereunder at 6 NYCRR Part 617, have been met and fully satisfied.
3. The Village has carefully weighed and balanced the relevant environmental impacts with social, economic, and other essential considerations.
4. The foregoing Amended Findings Statement sets forth the Village's judgment and basis for moving ahead with the proposed action.
5. Consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating, as conditions to the decision, those mitigation measures which were identified as practicable.
6. While the proposed action is one that, in fact, avoids or minimizes adverse environmental impacts, nevertheless, the imperative necessity to meet the current and anticipated basic need of the residents of Kiryas Joel to have a safe, reliable water supply is of such critical importance that the members of the Board of Trustees would be grossly negligent in their duty as elected representatives of the

people if they did not take responsible action, by means of this Project, to meet such need. The adverse impacts, human and environmental, of a failure to take such responsible action are manifest and inevitable. Therefore, the Board of Trustees does hereby legislatively determine that the undertaking of the Project by the Village of Kiryas Joel is in the public interest and that such public interest outweighs any balancing factors which might weigh against undertaking the Project.

Now therefore, Be It Resolved by the Board of Trustees of the Village of Kiryas Joel, Orange County, New York, that the Village of Kiryas Joel, be, and hereby is, authorized to undertake the Project. On a vote of 5 ayes, 0 nays, 0 abs., the foregoing Amended Findings Statement is adopted.

Dated: 3/31/09

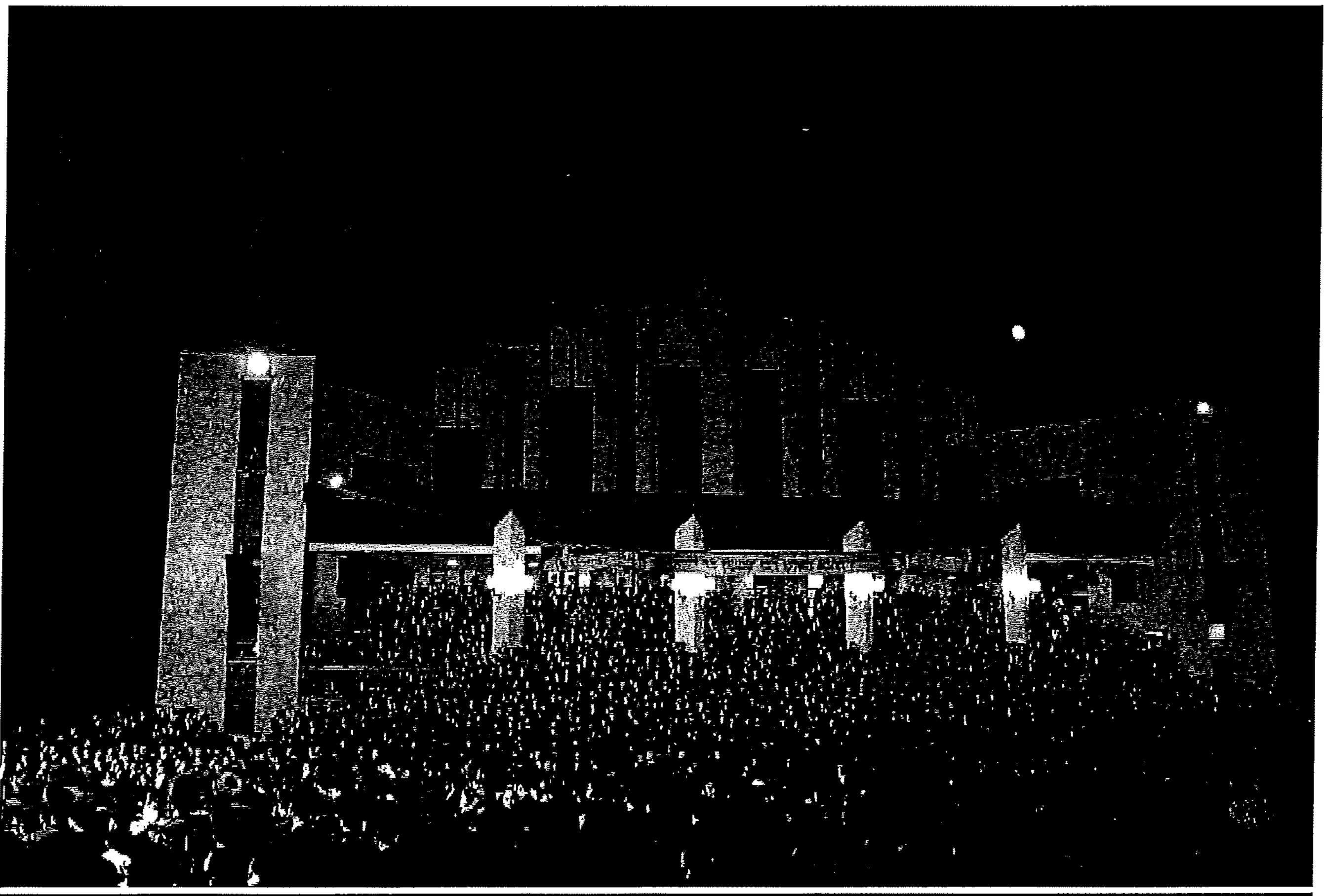
EXHIBIT M

NEWS

Village in New York puts out map 'where the Jews live'

By Gary Buiso

May 18, 2014 | 3:36am



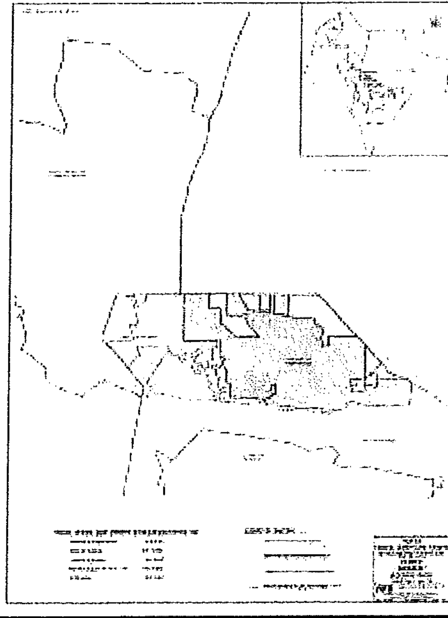
Thousands of members of an ultra-Orthodox Jewish community attend a bonfire celebration marking the Jewish holiday of Lag Baomer, Sunday, May 18, 2014 in Kiryas Joel.

Photo: AP

What are they, meshuggeneh?

As part of its controversial plan to annex 507 acres of land upstate, the ultra-Orthodox

village of Kiryas Joel commissioned a map highlighting "Hasidic Jewish landowners" surrounding the town — a move that angry sect members have compared to Hitler's record-keeping.



The map, which shows Hasidic and non-Hasidic owned lands, which has caused controversy.

"It reminds all of us of the 1940s, when the Nazis did exactly this — an account of every Jew, and their businesses," said one source who grew up in the Orange County village founded in the 1970s by the Satmar Grand Rabbi Joel Teitelbaum.

"Why do they need to know who's a Hasidic Jew and who's not? Why does it matter?"

The map was posted this month on the Orange County Web site. Residents whose homes fell within areas identified as "Hasidic" recoiled — particularly in light of the village's powder-keg land-grab petition, which came last December when 141 property owners in Kiryas Joel submitted their request to annex land from the surrounding town of Monroe.

The landowners claim the move is needed to accommodate the insular village's exploding population and presumably crafted the map to better understand "where the Jewish properties are, so that it should help them decide what to annex," a source said.

Opponents in Monroe argue that a land grab will ruin their quality of life and lower property values.

"Most of us bought our homes here because of the rural character, but this would immediately result in high-density development and a tremendous strain on our natural resources," said Emily Convers, chair of the opposition group United Monroe.

Chaim Rolnitzky, a Monroe resident and member of the Satmar sect, blasted the map.

"My reaction was disbelief and concern," he recalled.

Rolnitzky, 39, contacted the Lower Hudson Valley chapter of the New York Civil Liberties Union about the map.

"I'm scared for my family," he wrote in a May 7 letter, explaining he feared that his family could be a target for those opposed to the expansion.

"I and thousands of other landowners are being victimized for their ethnic background," he said. "Unfortunately, my property was included in the annexation request without my permission, but having my house identified by the owners' alleged religion is something that is reminiscent of segregationist South."

Annexation opponents were also baffled.

"Is this like, 'We own everything, you may as well give up now?' " said Convers, who noted the annexation could bring up to 40,000 new residents to the village of 22,000.

By May 8, the map was removed from the Orange County site. Officials there "did not think the labeling was appropriate," county spokesman Dain Pascocello explained.

He said the county had posted the map to "ensure as much information as possible about the proposed annexation would be made publicly available.

"Kiryas Joel created the map and sent it to us as part of its initial contribution to that effort," Pascocello said.

Information about the religion of landowners came from the village, which commissioned the map, according to James Feury, a managing partner with AFR Engineering and Land Survey, which created the map.

"We would have acquired that information from our client," he said.

Kiryas Joel officials did not return calls requesting comment. Steven Barshov, the lawyer for the property owners who submitted the petition, said his clients did not commission the map.

The state Department of Environmental Conservation must decide whether Monroe or Kiryas Joel — where all elected officials are of the Satmar sect — should be granted lead-agency status for a pending environmental review. Both boards at Kiryas Joel and Monroe

must approve the annexation measure for it to proceed. If the vote is split, the entity in favor can appeal.

A ruling by the DEC, obligated by state law to settle disputes over lead agency for the New York State Environmental Quality Review Act, was expected earlier this month but never arrived.

An agency spokeswoman would only confirm the obvious last week: "No decision has been made, yet."

FILED UNDER HASIDIC JUDAISM , KIRYAS JOEL , ORTHODOX JUDAISM

Sterling is also a big ...

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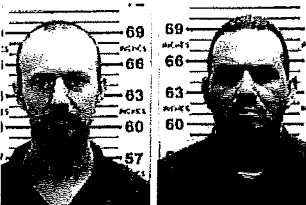

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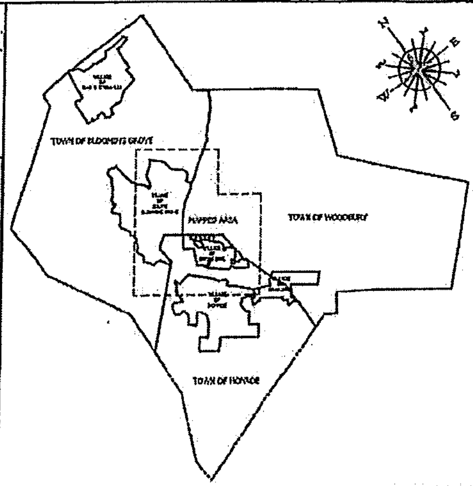
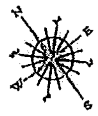
EXHIBIT N





TOWN OF BLOOMING GROVE

VILLAGE OF SOUTH BLOOMING GROVE

VILLAGE OF WOODBURY

TOWN OF MONROE

N.Y.S. ROUTE 17 & U.S. ROUTE 6

TOWN OF MONROE

VILLAGE OF MONROE

HASIDIC JEWISH LAND OWNERS SURROUNDING KIRYAS JOEL

TOWN OF BLOOMING GROVE	1,300± ACRES
TOWN OF MONROE	900± ACRES
TOWN OF WOODBURY	1,100± ACRES
EXISTING VILLAGE OF KIRYAS JOEL	700± ACRES
TOTAL AREAS	4,000± ACRES

LEGEND OF SHADING

- EXISTING VILLAGE OF KIRYAS JOEL PARCELS/LOTS
- HASIDIC JEWISH LAND OWNERS SURROUNDING KIRYAS JOEL (BOTH PRIVATELY AND VILLAGE OF KIRYAS JOEL OWNED)
- GOVERNMENTALLY AND PUBLIC UTILITY OWNED LANDS/PARCELS
- ANNEXATION BOUNDARIES AS SUBMITTED ON DECEMBER 27, 2013 TO THE VILLAGE OF KIRYAS JOEL AND THE TOWN OF MONROE

MAP OF
HASIDIC JEWISH LAND OWNERS
SURROUNDING KIRYAS JOEL
WITHIN THE TOWNS OF
MONROE
WOODBURY
BLOOMING GROVE
ORANGE COUNTY • NEW YORK

AFR Engineering and Land Surveying, P.C.

SCALE [illegible] DATE [illegible] SHEET [illegible]