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VIA EMAIL (tim@timmillerassociates.com)

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Re: Public Comment in advance of preparation of Draft
Generic Environmental Impact Statement
Village of Kiryas Joel, New York

To Whom It May Concern:

I¹ write in opposition to the proposed annexation of approximately 507 acres of land currently located within the unincorporated Town of Monroe into the Village of Kiryas Joel (the "Project Site"), as proposed in the *Petitions for Annexation of Territory* pursuant to New York State General Municipal Law Article 17 (collectively, the "Petitions"), dated December 23, 2013 (the "507 Acre Action") and August 20, 2014 (the "164 Acre Action"), respectively (collectively, the "Actions")², filed by Monroe KJ Consulting LLC (the "Applicant").

Coordinated Review and Selection of Lead Agency

The Actions are classified as "Type 1" actions³ under the New York State Environmental Quality Review Act ("SEQR"; codified in Article 8 of the Environmental Conservation Law with implementing regulations at Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York [6 NYCRR Part 617]). As such, coordinated review is required; more than one year after the Board of Trustees of the Village of Kiryas Joel (the "Village") issued a "Notice of Intent to Establish Lead Agency," with respect to the 507 Acre Action, such status was designated by Commissioner Joseph J. Martens of the New York State Department of Environmental Conservation (the "DEC"). In my opinion, the DEC's designation of the Village as Lead Agency, on the DEC's finding that it, "has the broadest governmental powers for investigation of the impact(s) of the proposed actions and hence greater

¹ The writer's parents have lived in the unincorporated Town of Monroe since 1979.

² On November 14, 2014, the Village of Kiryas Joel issued a final written scope for a draft generic environmental impact statement (a "DGEIS") with respect to the 164 Acre Action, which contemplated the annexation of 164 acres of land fully included within the 507 Acre Action, in clear violation of SEQR's segmentation regulations (6 NYCRR Part 617.2[ag]). Because the Village of Kiryas Joel now seeks to expand the scope of its SEQR review to encompass both petitions, I respectfully request that my comments herein apply to both Actions.

³ Type 1 actions are those projects that are likely to have a significant environmental impact (6 NYCRR Part 617.4).

capacity to review impacts of development that may be a consequence of annexation,"⁴ is improper. 6 NYCRR Part 617.6(b)(5) directs that the commissioner will use the following criteria, in order of importance, to designate lead agency status:

- (a) whether the anticipated impacts of the action being considered are primarily of statewide, regional, or local significance...;
- (b) which agency has the broadest governmental powers for investigation of the impact(s) of the proposed action; and
- (c) which agency has the greatest capability for providing the most thorough environmental assessment of the proposed action.

As evidenced by the range of interested agencies having appeared and the coverage provided by news media, the anticipated impacts of the Actions are primarily of regional, not local, significance. All of the land slated for annexation is currently within the jurisdiction of the unincorporated Town of Monroe (not the Village), and therefore any investigation of impacts conducted by the Village (as both applicant and Lead Agency) is subject to bias or predisposition, as worst, or ignorance, at best. It is the lead agency's responsibility to ensure that SEQR procedure is followed and completed; the lead agency assumes administrative responsibility for the documentation of the review procedures; and the lead agency issues the determination of significance, which is binding on all other involved agencies. Given the Village's longstanding failure to abide by both environmental and land use laws,⁵ it is both thoughtless and negligent to entrust an entity with a serial disregard for environmental and land use regulations with such responsibility. Additionally, it is my opinion that the Village is acting by and through the Applicant in seeking approval of the Actions.

Scoping

By way of a press release dated February 11, 2015, the Village of Kiryas Joel announced that a public scoping session would be held on March 3, 2015, just twenty days later. While the DEC suggests that a *minimum* 20 day period for public review of the draft scope would be reasonable under *most* circumstances, such a short review period is inappropriate in light of (i) the controversy surrounding the Action; and (ii) the inclement weather on March 3rd. As a result, members of the public and other interested agencies were not provided with a reasonable opportunity to participate in the scoping process in advance of the March 10th deadline for submitting comments.

The Full Environmental Assessment Forms (EAFs)

In reviewing the EAFs submitted in support of the Actions, I found a number of inconsistencies:

⁴ *New York State Department of Environmental Conservation Commissioner's Determination of Lead Agency Under Article 8 of the Environmental Conservation Law*, dated January 28, 2015.

⁵ See *United States of America v. Kiryas Joel Poultry Processing Plant, Inc. and Kiryas Joel Meat Market Corp.*, U.S. District Court, S.D.N.Y., Case No. 14-cv-8458, Docket No. 4 (proposed consent decree) and Docket No. 6 (letter); and *County of Orange v. Village of Kiryas Joel*, 11 Misc.3d 1056(A), 815 N.Y.S.2d 494 (Sup. Ct. Orange Cty. 2005) (holding that the Village did not take the requisite "hard look" under SEQR 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).

Question	Answer(s) (<i>emphasis added</i>)	Discussion
C.3. Zoning (c) Which fire protection and emergency medical services service the project site?	<u>164 Acre Action:</u> <i>Mombosha⁶ Fire Co.</i> Fire Department with mutual aid from the Orange County Mutual Aid Network <u>507 Acre Action:</u> <i>Monroe Fire Department</i> with mutual aid from the Orange County Mutual Aid Network	Inconsistency.
E. Site and Setting of Proposed Action 1. Land uses on and surrounding the project site b. Land uses and covertypes on the project site -Other (describe)	<u>164 Acre Action:</u> mixed impervious / developed lands (14 acres) <u>507 Acre Action:</u> rural residence (33 acres)	Different categories used; vague.
E. 3. Designated Public Resources On or Near Project Site e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places? <i>If Yes:</i> i. Nature of historic / archaeological resource:	<u>507 Acre Action:</u> No. i. Archaeological Site	Inconsistency.

In reviewing the petitions and the EAFs, it is blatantly obvious that annexation is simply the first step in the Applicant’s broader goal. This larger intention is hinted at throughout the FEAF; for example, in response to the question, “If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water,” the Applicant responded, “Annexation *itself* will not generate wastewater.”⁷ (emphasis added) In fact, the project description within the *Draft Scoping Outline for Proposed 507-Acre Annexation to Village of Kiryas Joel*, adopted February 6, 2015⁸ (the “DSO” or the “507 Acre Plan DSO”), summarizes the real objective. In pertinent part:

⁶ The correct spelling is “Mombasha.”

⁷ FEAF for the 507 Acre Action, Question D.2. Project Operations, § d.v. (p. 6).

⁸ *The Draft Scoping Outline for Proposed 164-Acre Annexation to Village of Kiryas Joel*, preliminary draft dated September 5, 2014, was adopted on November 14, 2014 (the “164 Acre Action DSO”).

The annexation is proposed so that petitioners' properties will be within the Village and *provided with Village services, including central water and sewer services, public schools, public safety and fire protection services, full-time paid EMS, daily sanitation pick-up, day care and head start services, pedestrian friendly communities with access to sidewalks and public transportation, use of Village parks, streetlights, municipal water supply for fire protection (hydrants), and affordable housing and health care services with specialty care to accommodate larger families, among other services.*" (emphasis added)

Simply put, the Actions are limited by the law under which the Petitions operate, a fact that the Applicant uses to its advantage. New York State General Municipal Law Article 17 *only allows for the redrawing of political borders* (by shifting 177 tax lots from the unincorporated Town of Monroe into the Village of Kiryas Joel); it does not *explicitly* authorize future development. However, by authorizing the Actions (and the inevitable development that will follow), particularly if their secondary and cumulative impacts are ignored, continued disregard for environmental and land use laws is being invited, with potentially disastrous impacts for the entire region.

I respectfully request that the following technical areas be addressed in the DGEIS (with a view towards the Applicant's stated purpose:

- Land Use, Zoning and Public Policy: The Applicant states that this area of concern, as listed in the "Land Use and Zoning" section of the DSO, will be addressed in the DGEIS. I suggest that public policy be incorporated into the assessment, as such policies may help determine whether or where land uses might change as the result of the Actions, and any future development as a result of the Actions. In addition, the assessment of "future assessed property values of annexation lands, including relative affordability," must be expanded to include the lands abutting the Project Site.
- Socioeconomic Conditions: The Applicant states that this area of concern, as listed in the "Demographics and Economics" section of the 164 Acre Plan DSO and the "Demographics Fiscal Resources" section of the 507 Acre Plan DSO, will be addressed in the DGEIS. I suggest that the assessment must consider the change in development potential for the Project Site and its relevant impacts, as evidenced by the Applicant's stated goal of providing "affordable housing and health care services with specialty care to accommodate larger families, among other services." Thus, although the physical form of any future projects stemming from the Actions is yet unknown, its potential characteristics must be identified for the analysis by predicting likely, reasonable scenarios that could result if the approval is granted, such as the substantial direct or indirect displacement or addition of population, employment or businesses; substantial changes in the character of businesses; substantial differences in population or employment density from the prevailing condition; or a significant socioeconomic conditions impact, such as a substantial increase in the number of persons receiving public assistance.

- Community Services and Facilities: The Applicant states that this area of concern, as listed in the DSO, will be addressed in the DGEIS. I suggest that the assessment must consider whether the secondary and cumulative impacts of the Actions may cause a change in population that could affect the service delivery of public or publicly-funded facilities not listed in the DSO, such as publicly-financed day care centers.
- Open Space: The DSO does not address this area of concern; however, per the EIS, a portion of the project site is within the ORAN001 designated agricultural district, certified pursuant to New York State Agriculture and Markets Law, Article 25-AA, §§ 303-4. In my opinion, the impacts to this designated public resource must be addressed.
- Historic Resources: The DSO does not address this area of concern (aside from a passing reference to “historic/ cultural resources”), although the EAF lists an “archaeological site” as present, or substantially contiguous to, the Project Site. In my opinion, the impacts to this designated public resource must be addressed.
- Visual Resources: The DSO does not address this area of concern. However, the EIS makes reference to the “Pitch Pine-oak-heath Rocky Summit” located approximately 0.2 mi. off-site. In my opinion, the impacts to this designated significant natural community must be addressed, as any development resulting from the Actions may result in substantial direct changes to this visual feature, or to public visual access to this feature.
- Neighborhood Character: The DSO does not address this area of concern. I suggest that neighborhood character be included in the assessment of the Actions. In my opinion, any development resulting from the Actions may conflict with surrounding uses; conflict with land use policy and other public plans for the area; change land use character; or result in a significant land use impact, and must be assessed.
- Natural Resources: The Applicant states that this area of concern, as listed in the DSO, will be addressed in the DGEIS. The EAF indicates that the Project Site contains the Palm Brook Stream, Coronet Lake, and Federal wetlands (DEC Wetland No. MO-11), as well as the Ramapo Sole Source Aquifer. In addition, the Project Site is in a designated Floodway and within the 100 Year Floodplain. Further, the EAF indicates that a sensitivity area for the Alleghany woodrat (*Neotoma magister*), a New York State endangered animal, lies approximately one mile off-site. In my opinion, the potential impacts to these natural resources must be assessed.
- Infrastructure: The DSO does not list this area of concern individually, aside from a passing reference to “Road infrastructure and maintenance” within the “Community Services and Facilities” section. Given the potential impacts of the Actions, and any resultant development, to the level of service provided by these roads (and any bridges within the Project Site), in my opinion it is imperative that such impacts be addressed.

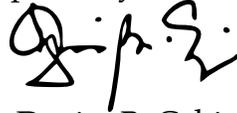
- Community Water and Sewer: The Applicant states that this area of concern, as stated in the DSO, will be addressed in the DGEIS. This category should be expanded to include solid waste. The DSO neglects to mention other solid waste and sanitation, including the collection and management of municipal solid waste, commercial solid waste, regulated medical wastes, and designated recyclable materials, as well as the ability of facilities to manage such waste, recover materials, or provide for the collection of special waste (such as motor oil, paint, and light bulbs). In my opinion, such potential impacts must be assessed.
- Energy: “Electric services” is mentioned by the Applicant within the “Community Services and Facilities” section of the DSO. I suggest that this category be included to include the impacts to the environment with respect to the energy sources typically used for heating and transportation, as any development resulting from the Actions may result in significant adverse effects on energy consumption.
- Traffic and Parking and Transit and Pedestrians: The Applicant states that these areas of concern, as listed in the “Traffic and Transportation” section of the DSO, will be addressed in the DGEIS. I believe that this category should be divided for proper assessment. The traffic and parking assessment should be used to determine whether any development resulting from the Actions can be expected to have a significant impact on the street and roadway conditions and on parking facilities, in particular: (i) traffic flow and operating conditions; (ii) parking conditions; (iii) goods delivery; and (iv) vehicular and pedestrian safety. The transit and pedestrians assessment should be used to determine whether any development resulting from the Actions can be expected to have a significant impact on public transportation facilities and services and on pedestrian flows, in particular: (i) bus service; and (ii) pedestrian flow and conditions, including sidewalks.
- Air Quality: The DSO does not list this area of concern. Any development resulting from the Actions may result in significant adverse effects on ambient air quality.
- Noise: The DSO does not list this area of concern. Any development resulting from the Actions may result in significant adverse noise impacts, such as that from mobile sources (such as vehicles), stationary sources (such as crowds of people), and construction activities.
- Construction Impacts: The DSO does not list this area of concern. Any development resulting from the Actions may result in significant adverse construction impacts, such as construction-induced traffic, lane closings, air quality, and noise associated with construction activities.
- Public Health: The DSO does not list this area of concern. Any development resulting from the Actions may result in potential impacts on public health

countywide, or on the health of the local community or certain groups of individuals (such as the users of a particular park).

- Alternatives: The DSO does not list an alternative site as an option. In my opinion, continued annexation is not sustainable.

Thank you for providing the opportunity to submit comments with respect to the Actions. I look forward to a transparent review process in which every stakeholder may pose questions and have them answered.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Denise B. Cahir', written in a cursive style.

Denise B. Cahir

/dbc