

Village of Kiryas Joel Board of Trustees

State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Date: December 4, 2012

This notice is issued pursuant to the State Environmental Quality Review Act, Article 8 of the NYS Environmental Conservation Law and its implementing regulations at Part 617 of the New York State Code of Rules and Regulations (collectively referred to as "SEQRA").

The Village of Kiryas Joel, as the lead agency of a coordinated review under SEQRA, has determined that the proposed action described below will not have a significant adverse environmental impact and a draft environmental impact statement will not be prepared.

Name of Action: Mountainville Well Field

Applicant: Village of Kiryas Joel

SEQR Status: Type I Coordinated Review

Description of Action:

The "action" triggering this SEQRA review is the development of a well field on property owned by the Village on NYS Route 32 to provide adequate capacity for the Village's public water supply system.

The project anticipates an increase in the Village's permitted water supply to 2.54 mgd with the construction of new wells to accommodate the Village's peak water supply demand, both current and projected, and will assure an adequate backup supply as required for the Village's Catskill Aqueduct connection.

The project site is also the location of a pump station being constructed as part of the Village's NYC Aqueduct connection and pipeline project which was reviewed under SEQRA as part of an Amended FEIS accepted on or about March 3, 2009.

At the request of the NYS Department of Environmental Conservation ("NYSDEC"), the action also involves the consolidation of the Village's existing NYSDEC water supply well permits into a single permit, a ministerial Type II SEQRA action.

Location:

The project site is located on Village-owned property (SBL 36-1-56) on NYS Route 32, Town of Cornwall, Orange County, New York.

SEQRA Procedural Background:

The Village of Kiryas Joel initially identified the action as Unlisted under SEQRA based on its review of the thresholds set forth in 6 NYCRR §§ 617.4 and 617.5. Due to the potential for financing the project work through the Drinking Water State Revolving Fund program, NYS Department of Health (“NYSDOH”) requested the Village treat the project as a Type I action with a full Environmental Assessment Form (“EAF”) and coordinated review. Besides the Village, which is serving as the SEQRA lead agency, the other involved agencies for the project are the NYSDEC and NYSDOH with respect to the approval of the water supply permits for development of the well and NYS Environmental Facilities Corporation (“NYSEFC”) with respect to financing under the Drinking Water State Revolving Fund (“DWSRF”) program. A SEQRA Lead Agency Notice was distributed to the other involved agencies with a full Environmental Assessment Form (“EAF”) with supplement on or about November 9, 2012. No objections have been received regarding the Village serving in the lead agency role for this action.

In making this significance determination, the Village considered the following supporting documentation, among other things: Full EAF (Parts 1 and 2 with supplement)(Nov. 8, 2012); NYSDEC Application for Public Water Supply Permit (LBG; Nov. 2011, updated Nov. 2012); 72-Hour Pumping Test for Well W-1 (LBG; Aug. 2011); Site Plan and Water Supply System Details (LBG); Habitat Suitability Assessment Report for Threatened and Endangered Species (Ecological Solutions, LLC; Oct. 2011); Phase 1A/1B Archaeological Investigation (Historical Perspectives, Inc.; Oct. 2011); documentation on State and federal wetlands; Storm Water Pollution Prevention Plan (“SWPPP”) prepared by CDM Smith (Oct. 2012); flood plain maps; Orange County Amended Final Environmental Impact Statement for Harriman WWTP (Jan. 2010); Orange County DPW quarterly flow report for Harriman WWTP (July-Sept. 2012); KJWWTP monthly flow reports (July and Aug. 2012); and various comments from NYSDEC contained in correspondence dated June 1, 2012; October 22, 2012; and November 21, 2012 and discussed in meetings with the NYSDEC regarding the water supply permit.

The Village also considered its previous Amended Final Environmental Impact Statement (“FEIS”) (March 3, 2009) and Amended Findings Statement (March 24, 2009) for the Aqueduct connection and pipeline project. The Village considered the need for a supplement to the Amended FEIS and determined that no significant adverse environmental impacts not addressed or inadequately addressed in the Amended FEIS have arisen from the development of the Mountainville Well Field project. 6 NYCRR 617.9(a)(7).

Reasons Supporting this Determination:

The SEQRA regulations provide that “[f]or all Type I and Unlisted actions the lead agency making a determination of significance must: (1) consider the action as defined [under SEQRA]; (2) review the EAF, the criteria contained in subdivision (c) of this section and any other supporting information to identify the relevant areas of environmental concern; (3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and (4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.” 6 NYCRR § 617.7(b).

The SEQRA regulations further provide that “to determine whether a proposed Type I or Unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in this subdivision [6 NYCRR 617.7].” 6 NYCRR § 617.7(c). Each criterion is discussed in more detail below.

For the reasons discussed below, the Village Board concludes that the project will not have any significant adverse environmental impacts and the preparation of an EIS is not required. Moreover, by virtue of this negative declaration, the Village has also determined that construction of the water supply well and its connection to the Aqueduct pipeline does not require a supplement to the Amended FEIS for the construction of the pipeline as no significant adverse environmental impacts not addressed or inadequately addressed in the Amended FEIS have arisen from the development of the Mountainville Well Field project.

a. Agricultural Resources

The project will not have a significant adverse impact on agricultural resources. The project site is not currently being utilized for agricultural purposes and is not located in a designated agricultural district. The project is located in a Planned Commercial Development zoning district and is owned and controlled by the Village for water supply purposes.

b. Aesthetics

The above-ground water supply well improvements for this project identified on the site plan are minor and will be screened or landscaped to remain consistent with existing rural character of the area.

For the reasons set forth above, the project will not have a significant adverse impact on aesthetic resources.

c. Noise

The project will not result in any significant adverse noise impacts. While construction of the project may result in temporary noise levels exceeding ambient conditions, any impacts will be temporary in duration and generally limited to day-time. Once the project is fully constructed, noise will generally be limited to vehicles entering and exiting the facility. Any noise from the pump station and well will be avoided or mitigated by enclosures.

d. Stormwater

The Village has incorporated this site into the SWPPP it developed for the Aqueduct connection and pipeline project (phase I). Erosion and sedimentation control measures will be employed during and after project construction to avoid any potentially adverse impacts from stormwater runoff. The measures include, among other things, use of rain gardens, prompt vegetative stabilization of disturbed areas, limits of clearing and grading, use of sedimentation fencing and protection of stockpiled materials.

The NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001) will apply to the project. A copy of the SWPPP was filed with NYSDEC on or about October 5, 2012. Comments received from NYSDEC have been incorporated into the final SWPPP. A copy of the SWPPP will remain on site. A copy of the SWPPP was also provided to the Town of Cornwall as the local MS4 incorporating this site on or about November 2, 2012. A SWPPP acceptance form from the Town is pending. The Notice of Intent will be filed prior to commencement of construction. Compliance with the NYSDEC General Permit supports the reasonable conclusion that there will be no significant adverse stormwater impacts.

For the reasons set forth above, the project will not have a significant adverse stormwater impact.

e. Wetlands, Streams and Other Water Bodies

The project will not result in any significant adverse impacts to wetlands, streams or other water bodies. Identified streams, federal wetlands and flood plains identified on the site will be avoided. As noted above, stormwater management controls have been included in the SWPPP to further protect these resources.

f. Archaeological and Historic Resources

A Phase 1A/1B archaeological and historic resources investigation was completed on behalf of the Village by Historical Perspectives, Inc. and submitted to the State Historic Preservation Office ("SHPO") of the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP"). By letter dated December 5, 2011, SHPO responded by indicating that the "project will have No Impact upon cultural resources in or eligible for inclusion in the State and national Register of Historic Places."

Comments were received from the NYSDEC (November 21, 2012) identifying a known cultural resource, the Seven Springs Farmstead Site (A07120.00300) as being located on the project site. The Seven Springs Farmstead Site is not located on the Mountainville Well Field site but rather is located on County Route 44 in the Town of Woodbury, in the vicinity of the phase I pipeline route. This site, along with protection measures therefor, was identified by Historical Perspectives, Inc. in its Phase 1A/1B investigation for the phase I pipeline corridor. An August 10, 2012 OPRHP letter acknowledges and confirms that the phase I pipeline project will have no adverse impact on historical resources provided the identified avoidance and protection measures are implemented. At the request of NYSDEC, these measures have been added to the final construction plan sheets which were filed with NYSDEC on November 12, 2012.

For the reasons set forth above, the project will not have a significant adverse impact on archaeological or historical resources.

g. Traffic

The project will not create any significant adverse traffic impacts. The project will utilize an existing curb cut and gravel access road off of NYS Route 32. Adequate site and stopping distances exist at the curb cut location. NYSDOT has approved the use of the curb cut as part of its highway work permit for phase I of the pipeline project. Traffic generated by the construction of the well and pump station will involve limited construction vehicles and be temporary in duration. Traffic generated from operation of the well and pump station will be limited to maintenance personnel and be negligible.

h. Community Character

The project will not have a significant adverse impact on community character. The water supply well and pump station is an essential public utility operation. Above ground improvements will be negligible. The majority of the site will remain undeveloped open space.

i. Wildlife

The project will not have a significant adverse impact on wildlife. A Habitat Suitability Assessment Report for Threatened and Endangered Species (Oct. 2011) was prepared for the project site on behalf of the Village by Ecological Solutions, LLC and submitted to the NYSDEC in November 2011. The assessment indicated that there were no protected species or suitable habitat identified on the project site. Specifically, with respect to Timber rattlesnakes, the assessment identified no snakes on the parcel and concluded that none are likely to travel to the parcel from the closest known den site on Shunnemunk Mountain because of the barrier presented by the NYS Thruway. With regard to the Indiana bat, the assessment identified no hibernacula on the project site. Likewise, the report indicated that characteristic habitat for Indiana bat roosting,

foraging, or maternal colony formation was not observed on the project site and no trees over 5 inches diameter existed in the project area. The assessment concluded, therefore, that there will be no direct impact to Timber rattlesnakes or Indiana bats from the project.

Comments were received from NYSDEC on November 21, 2012 referencing other NYSDEC correspondence purporting to identify protected species (specifically the Timber rattlesnake and Indiana bat) proximate to the project site. Closer scrutiny of these and other NYSDEC letters (including June 1 and October 22, 2012) reveals that the NYSDEC comments related to the Aqueduct pipeline project west of the NYS Thruway rather than the current project site. Nevertheless, consistent with recent discussions with NYSDEC, the Village has incorporated species avoidance and protection measures into its project plans. These measures include the following:

- i. All trees over 9 inches dbh with exfoliating bark that will be removed at the well site or along the pipeline route will only be cut from October 1 to March 31.
- ii. Areas of the pipeline route west of NYS Route 87, west of NYS Route 32 and north of CR 44 will incorporate the following temporary avoidance measures during active construction:
 - a. To the extent practical, necessary vegetation clearing and ground disturbance work will be conducted between November 1 and March 31;
 - b. Where not practical to limit ground disturbance to the time period noted above, a temporary barrier (1/4 in. wire mesh; 48 in. high) will be installed along the westerly side of NYS Route 32 and northerly side of CR 44 during active excavation of unimproved areas in the ROW along the non-roadway limits of construction.

At the request of NYSDEC, these measures have been added to the final construction plan sheets which were filed with NYSDEC on November 12, 2012.

For the reasons set forth above, the project will not have a significant adverse impact on wildlife.

j. Public Safety

Public safety concerns are not implicated by the project. The project will not entail: (1) the risk of explosion or release of hazardous substances; (2) the burial of hazardous wastes; (3) storage of large quantities of hazardous material or flammable or explosive materials; or (4) excavation or disturbance near a site used for the disposal of solid or hazardous waste.

For the reasons set forth above, the project will not have a significant adverse impact on public safety.

k. Air Quality

Potential adverse air quality impacts are not anticipated from the project. The project will not generate any large quantity of traffic or associated air emissions. It will not change air quality to such a degree that it will jeopardize attainment of the National Ambient Air Quality Standards for this region. No other air emissions (i.e. other than mobile sources) will occur as a result of the project.

During construction, construction vehicles will be equipped with factory installed muffler and emission control devices. Dust will be suppressed as necessary. Construction will be short in duration.

For the reasons set forth above, the project will not have a significant adverse impact on air quality in the area or the region.

l. Wild, Scenic and Recreational Rivers

There are no federal or State designated wild, scenic or recreational rivers on or adjacent to the site. As a result, the project will not have a significant adverse impact on these resources.

m. Ground Water

No significant adverse impacts to groundwater quantity or quality will occur from the project. The project is not located over a USEPA designated Sole Source Aquifer, or within the stream flow source of a Sole Source Aquifer. Likewise, the project is not located over a "Primary Water Supply Aquifer." "Primary Water Supply Aquifers" are defined by NYSDEC as "Highly productive aquifers presently being utilized as sources of water supply by major municipal water supply systems." The project is located over a "Principal Aquifer" (the full EAF mistakenly indicated that the site was not located over a Principal Aquifer). "Principal Aquifers" are defined by NYSDEC as "Aquifers known to be highly productive or whose geology suggests abundant potential water supply, but which are not intensively used as sources of water supply by major municipal systems at the present time." NYSDEC Division of Water Technical and Operational Guidance Series 2.1.3. There are no prohibitions on the use of the Principal Aquifer.

There are no other public or private groundwater wells in the direct vicinity of the project or within the zone of influence of the proposed new wells. Moreover, there are no septic systems within a minimum 200 foot radius of the proposed wells. Well tests performed as part of the NYSDEC water supply permit process determined that there would be no adverse impact to the quality or quantity of the Principal Aquifer as a result of the

project. Finally, the Village has submitted a Water Conservation Plan to the NYSDEC as part of its water supply permit application.

For the reasons set forth above, the project will not have a significant adverse impact on groundwater quality or quantity.

n. Loss of Soil, Vegetation and Other Natural Material

The project will not result in any significant adverse impacts to natural resources or result in any significant loss of soil, vegetation or other natural material. No construction will occur on steep slopes of 15% or greater or where the general slopes exceed 10%. Moreover, no construction will occur where the depth to the water table is less than 3 feet. Construction will not occur where bedrock is exposed or generally within 3 feet of bedrock. No blasting will occur and there are no unique or unusual landforms that will be affected by the project. Finally, stormwater controls are designed to reduce the amount of runoff and related loss of soil experienced at the site.

For the reasons set forth above, the project will not have a significant adverse impact on soil, vegetation or natural resources.

o. Solid Waste Production

Construction of the project may result in the production of a nominal amount of non-hazardous solid waste which will be deposited at licensed facilities. The project will not, however, result in any measurable increase in solid waste production for the region and therefore will not have a significant adverse impact related to solid waste production.

p. Flood Plains

The project will not have a significant adverse impact on flood plains. Flood plain limits identified on the site plans will be avoided and as noted, stormwater control measures implemented.

q. Public Health

The project will not have a significant adverse impact on public health. The water supply well is being installed to enhance public health and to improve the Village water system. The water supply well will operate in accordance with NYSDEC and NYSDOH permits and standards.

r. Induced Growth

The project will not induce growth. The proposed water supply is intended to accommodate peak water demands in the Village service area and to serve as a required backup supply once the Village connects to the NYC Aqueduct. As analyzed in the Amended FEIS for the Aqueduct connection and pipeline project, the provision of

an adequate drinking water supply for current and projected populations has been demonstrated not to affect the growth patterns in the Village.

For the reasons set forth above, the project will not have a significant adverse impact on growth.

s. Demand on Services

The project is designed to meet public needs and will not create any demand for public services. Therefore, the project will not have a significant adverse impact on public services.

t. Surface Water Quality

The project will not create a significant adverse impact on surface water quality, human health or the aquatic environment. The potential for water quality impacts from increased water usage by the Village was previously considered in the DEIS, FEIS, AFEIS and Amended Findings Statement for the Aqueduct connection and pipeline project. The Mountainville Well Field project will not increase water usage beyond what was considered for the pipeline project. The Village currently has approval from NYSDEC to draw approximately 1.93 mgd from its existing groundwater wells. The Village's 2012 average daily water demand was only approximately 1.56 mgd and the maximum peak daily water demand for 2012 was approximately 2.19 mgd. Peak demand is rarely observed in a given calendar year (a few occasions per year). On those few occasions of peak demand, the Village was compelled to truck in water to serve its resident's needs as the demand exceeded the Village's permitted ground water taking.

As noted, the Village currently has approval from NYSDEC to draw approximately 1.93 mgd from its existing groundwater wells. It was previously determined by the NYSDEC that this volume would not have an adverse impact on wastewater treatment capacity or the Ramapo River. The project will increase the Village's permitted groundwater taking to a maximum peak volume of approximately 2.54 mgd. The increase is necessary to meet the Village's maximum peak demand formulated pursuant to NYSDEC and NYSDOH requirements and to provide required redundancy for the volume of water the Village is entitled to receive from the NYC Aqueduct. The entitlement volume is determined by multiplying the Village population, based on the most recent census (2010), by the daily per capita water consumption figures for NYC. For example, based on the 2010 census for the Village (20,175) and the 2010 NYC per capita usage figures (127 gpd), the Village would be entitled to approximately 2.56 million gallons per day from the Aqueduct and would be required to maintain 100% backup for this volume.

The increase is also necessary to accommodate anticipated peak demand needs by the Village until the completion of the Aqueduct connection. As noted above, the peak water demand is reached on only a few occasions during the year. Therefore, the permitted increase will not translate into an actual increase in daily water usage to the

2.54 mgd figure. Rather, current peak demand for 2012 was 2.19 mgd and forecasts for the build out of proposed projects in the Village over the next several years indicate a potential average daily water demand increase of less than .4 mgd; increasing the average daily water demand to approximately 1.95 mgd over the next several years, a level not far above that previously determined by NYSDEC not to result in adverse surface water impacts.

Wastewater generated in the Village is treated by Orange County Sewer District No. 1 at either the Harriman wastewater treatment plant (WWTP) or the Village of Kiryas Joel WWTP. An analysis of the adequacy of treatment capacity within the District to accommodate the NYC Aqueduct connection and the Village's projected need was contained in the DEIS, FEIS, and Amended FEIS for the NYC Aqueduct connection and pipeline project. Since the total water taking by the Village with the addition of the project's wells will not exceed the noted entitlement volume, the well field project does not affect that original analysis. In addition, Orange County has recently completed its own report of available treatment capacity for the District which is consistent with the Village analysis, demonstrating the adequacy of the District's treatment capacity to serve the current and future needs of the District's members, including the Village. The report was prepared as an Amended FEIS to support the County's plan to sell 1 mgd of treatment capacity to non-District communities as excess capacity. In addition, the Amended FEIS and County Legislature's Amended Findings Statement also expressed the County's obligation to expand treatment capacity in the future when needed. The County has already identified technology that can be implemented at its plant to significantly expand its capacity.

The most recent Orange County Department of Public Works monthly flow reports for the Harriman WWTP (Oct. 2012) indicate that, based on the current 12 month rolling average flow, the Harriman WWTP has available capacity of approximately 1.2 mgd. County DPW representatives have also recently indicated that they expect this figure to approach 2.0 mgd by year's end due to additional improvements. Likewise, the Kiryas Joel WWTP, pursuant to consent order with the NYSDEC, has planned and made significant plant improvements that have increased the effectiveness and efficiency of that plant's treatment capabilities and there presently remains approximately .3 mgd available capacity at this plant. Accordingly, based on available data, it is rational and reasonable for the Village to conclude that development of the Mountainville Well Field will not have an adverse impact on wastewater treatment capacity.

Finally, wastewater discharges to the Harriman WWTP are controlled and regulated by the Orange County Department of Public Works. Similarly, wastewater discharges from the plant are controlled by the plant operator and regulated by the NYSDEC under the SPDES permit program. Provided the plant is operated in accordance with its permit, there will be no adverse impacts to surface water quality, human health or the aquatic environment anticipated as a result of this project.

u. Community Plans

The project will not create a material conflict with the Village's current plans or goals as officially approved or adopted. Indeed, the project is necessary to meet the Village's current peak water supply demand and is intended to support the Village's larger public utility project of connecting to the NYC Aqueduct. The project is consistent with the Village's authority under NY Village Law for constructing a public water supply.

The project will also not create a material conflict with the Town of Cornwall's current plans or goals as officially approved or adopted. The project is consistent with the Town's definition of a permitted essential service. Copies of the project plans have been made available to the Town and no comments or objections have been received. The Village Board of Trustees has performed a balancing of public interests and determined that the provision of a safe and adequate public water supply for Village residents is not inconsistent with Town plans or restrictions and on balance would therefore be immune from any contrary local regulation.

For the reasons set forth above, the project will not have a significant adverse impact on community plans.

v. Cumulative Impacts

No significant adverse cumulative impacts are expected from this action. The project will not induce growth in the Village or Town or otherwise change the character of the property.

As required by SEQRA, the Board considered reasonably related long-term, short-term, direct, indirect and cumulative impacts including other simultaneous or subsequent actions which are: (1) included in any long range plan of which the project is a part; (2) likely to be undertaken as a result of the project or (3) dependent on the project. With the exception of the Aqueduct connection and pipeline project, no other actions were identified. As noted, the Village, as lead agency for both this project and the Aqueduct connection and pipeline project, considered the effects of the project on the Aqueduct project and determined, based on its review, that no significant adverse environmental impacts not addressed or inadequately addressed in the Amended FEIS have arisen from the development of the Mountainville Well Field project and thus a supplemental EIS is not required.

For the reasons set forth above, the project will not have any significant adverse cumulative impacts.

w. Miscellaneous

The project is an improvement to the existing public water supply system and enables the Village to have a more reliable ability to meet peak demands. Therefore, the project is expected to have a net positive benefit and impact.

x. Conclusion

For all of the reasons set forth above, the project, as described above, will not have any significant adverse impact on the environment and, therefore, the issuance of this negative declaration is warranted.

For Further Information:

Gedalye Szegedin, Village Clerk
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Fax: 845-783-8300

Filing and Publication:

A copy of this Determination of Non-Significance shall be filed, distributed and published as required by 6 NYCRR § 617.12.