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New York State DEC
Issues Conferences
Sloatsburg, New York

RE: Scenic Development's NYS DEC Permit Applications
Stream Disturbance; Dam and Impound Structures; and
Water Quality Certificate for Proposed Patrick Farm
Development in the Town of Ramapo, Rockland County

Thank you for holding today's issues conference. I am Susan Hito Shapiro, an attorney with offices located in the Town of Ramapo. I am representing my parents, Dr. Sonya and Milton Shapiro who are life long residents of the Town of Ramapo, and have lived for the past 40 years adjacent to the Patrick Farm on Scenic Drive.

I am very familiar with Patrick Farm site having grown up next it and **I am concerned that many substantive and significant issues which have not yet been properly addressed. Therefore, I am respectfully requesting the DEC to hold an Adjudicatory Hearing to insure protection of the Patrick Farm, an environmentally sensitive and important site.**

Today many of our neighbors and experts witnesses, including engineer Andy Willingham of Clouser Associates and wetlands specialists Kim Copenhaver, will present to you in detail, **significant and substantive evidence and information about many issues which warrant a full Adjudicatory Hearing.** I will briefly outline a few.

WETLANDS MAPPING:

Over six months ago ROSA petitioned the DEC to amend its wetlands map to include the **Contiguous Pond Wetlands area of over 15 acres. Until the DEC makes a final determination on this Petition it would be**

improper for the DEC to issue the any Permits. The DEC has **not updated Rockland County's wetlands made since January 28, 1987**, even though all of the other neighboring counties, Westchester, Orange, Putnam, Ulster maps have been more recently updated. Given the intense water issues in the County today, ROSA's petition should be granted.

Failure to identify all wetlands, floodplains and waters of the United States on site impacts all DEC permits, including Dam, Stream Crossing and SWPPP. The Ramapo Town Board, as lead agency was required by SEQR §617.9(a)(7)(i)(a)-(c); §617.6(b)(6); §617.7(b)(6) to make sure all the wetlands and floodplains were properly mapped and considered. Ramapo did not do this, and **accepted the Applicant's misleading and inaccurate statements that had obtained a ACOE JD, when no such JD was ever existed or was even requested.** Scenic falsely based their claim of having an ACOE JD on their own attorney's opinion, even though the ACOE clearly told Scenic it needed to apply for a JD since their proposed development changed from 139 single-family homes to 497 units, including 314 multi-family units.

The Nationwide Permit Scenic is improperly claims to be a JD was granted in 2007 for a plan of 139 as part of an enforcement Cease and Desist action against Scenic for improperly filling ACOE wetlands, yet these same wetland are not even mapped in Scenic current permit applications.

It should also be noted that Scenic's presentation of misleading or knowingly false statements could be considered "filing a false instrument, which is a class "D" felony in New York State.

The Town's own Engineer, as well as many members of the public, repeatedly notified the Town that there were unmapped wetlands, but Ramapo failed to investigate or address this concern.

The ACOE Guidance advises that in the absence of a definitive, official determination identifying the limits of navigable waters of the United States **on a project site, all waters and wetlands that would be affected in any way by the Project must be treated as if they are jurisdictional waters of the U.S.**

Since there is no JD, the DEC must consider all waters on the wetlands on the Site to be jurisdictional waters of the United States, for its SEQRA analysis as and its Water Quality Certification determination.

DEC MUST CONDUCT INDEPENDENT SEQRA REVIEW

The Town violated SEQR §617.9(8) “**The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it, therefore, we are respectfully requesting that the:**

- a) DEC conduct you own comprehensive SEQR review; or**
- b) DEC conduct your own supplemental SEQR review; or**
- c) DEC take over as lead agency to prevent irreparable harm to the environment.**

Under NYS Law Chapter 43-B 8-0109(9) Preparation of Environmental Impact Statement, requires that for any action found to have **a significant impact on special groundwater protection area, such as federally protected sole source Ramapo River Basin Sole Source Aquifer System, shall meet the requirements of the most detailed environmental impact statement** required by this section.

In 1992 the EPA determined that “**Any incident of surface water contamination may potentially impact wells tapping the aquifer. On that basis, the Ramapo River Basin, which encompasses the recharge areas and streamflow source areas for the Ramapo River Basin Aquifer Systems is designated as a Sole Source Aquifer**”.

Additionally and uniquely this interstate sole source Aquifer provides drinking water for 1/3 of Rockland County and up to 1 million people in both New York and New Jersey. As such the DEC has the additional responsibly of insuring its quality and quantity under Interstate Commerce.

There are many Significant and substantive issues for which the **DEC must conduct an independent SEQRA review and which require an Adjudicatory Hearing, in order to protect this important and irreplaceable water resource, including:**

Extensive clear cutting of the site, without adequate tree mapping, will have an adverse impact on the aquifer by increasing sedimentation and directly impact Stream Disturbance Permits and Water Quality Certification.

Extensive re-grading of 450,000 cubic yards of cut and fill, disturbing over 50% of the site and making 63 acres impermeable.

Failure to provide a written assessment of water supply adequacy as **required by Adam Peterson of the DEC.**

Failure to use the Best Management Practice as required by United Water to insure recharge of Rockland's drinking water supply.

Failure to provide groundwater recharge set forth as a critical component of the Ramapo SEQR Finding Statement, invalidates the underlying required SEQRA review for all of the proposed permits.

Attempt to lower the Dam Hazard Classification while at the same increasing the volume of water to be stored in the Pond due to removal of infiltration basins and failure to consider current down stream flooding issues and increasingly extreme weather conditions.

IMPROPER SEGEMENTATION

Scenic is attempting to improperly segment its permit applications by only providing partial and minimal information in it's application to the DEC.

Scenic did not even apply for a required Water Quality Certificate.

Scenic is attempting to force the DEC make piecemeal determinations instead of presenting the entire subdivision and site plans for a required comprehensive review of the cumulative environmental impacts.

Scenic omitted multiple Stream Disturbances, and attempts to claim it will not be disturbing the stream even though there it has not provided a approved JD to delineate the stream banks and beds limitations.

The DEC must review the entire project, not just the segmented applications which Scenic submitted, as impacts of stream crossings and dam must be reviewed in light of the entire project of 497 homes and potential of over 5,000 new residents. **This attempted of improper segmentation requires an adjudicatory hearing to insure that the cumulative environmental impacts of the project by fully reviewed.**

I, respectfully, submit to you that an Adjudicatory Hearing is absolutely necessary to insure protection of the Patrick Farm which has long been recognized as an environmentally sensitive site.

The DEC, as the State agency responsible enforcement of **EPA environmental review under NEPA, the federal Clean Water Act and Safe Drinking Water Act, must DEC conduct it's own independent SEQR review to take a hard look at cumulative impacts of the Subdivision and Site Plan** for this proposed development to insure that water quality and supply issues are adequately protected and that mitigation measures are implemented prior to approving any permit applications or certifications.

Thank you for you thoughtful consideration.

Respectfully,

Susan Hito Shapiro
On behalf of
Dr. Sonya and Milton B. Shapiro