

November 8, 2024

Fred Reichle, Chairman
Town of Montgomery Planning Board
110 Bracken Road
Montgomery, NY 12549

Neelytown Business Park
Tax Lots 36-1-33, 36-1-11.221, 36-1-11.23, 36-1-11.212, 36-1-11.211, 36-1-10.1, & 33-1-91
Town of Montgomery, Orange County, New York
Colliers Engineering & Design Project No. 21000327A

Dear Mr. Reichle,

Our office is in receipt of review letters regarding the above-mentioned project. Below please find our responses (**IN BLUE**) to the comments outlined in said letters. The comments have been repeated for clarity.

MHE Engineering Review Letter, October 25, 2024

MHE DEIS Scope Comments, June 23, 2023

3. Section A. Potential Impacts – 2. identifies a net 15,000 cubic feet of cut from the proposed earthwork, which is noted to be used for the proposed berms on the Northwest side of the site. Did the cut and fill analysis contemplate the proposed berms on the Northwest side of the site?

Response: The DEIS identifies a net fill (import) of 860 cubic feet. There is not a 15,000 cubic foot cut (export) proposed within the DEIS and is further clarified by the cut-fill map. It is indicated in multiple sections such as within Chapter 2: Description of Proposed Action and Chapter 3: Existing Conditions/Environmental Setting, Anticipated Impacts, and Proposed Mitigation Measures that the imported soil and soil movement activities on site include the construction of proposed berms on the northwestern side of the site.

4. Under Section A. Potential Impacts – 2. - the applicant should include the various cuts and fills depths anticipated for the site.

Response: Various cut and fill depths are illustrated within the Cut Fill Exhibit dated August 30, 2024. The exhibit has been revised to include the various percentages of soil movement throughout the site.

6. Pursuant to Section C. Potential Impacts – 3. - the applicant should provide a Cut & Fill Map.

Response: The Cut & Fill Map is provided within Appendix H.

15. Section D. Surface Water & Wetlands - Mitigation Measures – 2. - the applicant should identify the need to restrict use of salt or sand for road and parking areas snow removal.

Response: Practices to reduce/restrict the use of salt and sand are already included within Section D - Surface Water & Wetlands, in accordance with Dutchess County EMC and Cary Institute of Ecosystems studied entitled "road salt, the problem, the solution, and how to get there (2010)." Refer to the SWPPP for more information. Salt notes were also added to Sheet 7 of the plan set in Appendix D describing the procedures to be used on site.

20. Section F. Potential Impacts - the applicant should identify the existing pressures and availability of the existing water infrastructure to supply the required sprinkler flow and pressure.

Response: As indicated within Section F - Water Supply, the existing water supply will not be adequate to meet the sprinkler demands of the proposed buildings. Therefore, a 180,000-gallon external water tank is proposed between the two buildings dedicated to fire protection water supply.

MHE SWPPP Comments, June 23, 2023

2. If the detention basins are not utilized for infiltration, it should be ensured that the lowest outlet is at the same elevation as the basin bottom so the basin does not maintain standing water.

Response: Statement of fact. The detention basin has an outlet control structure with a low-flow orifice at the same elevation as the bottom of the basin. The OCS detail #6 on sheet 38, shows the low-flow orifice. Additionally, the callout on Sheet 11, referring to the OCS structure for the detention basin has been revised to include the orifice elevation as the same elevation as the bottom of the basin.

3. The GI Worksheets provided for the infiltration chamber practices do not account for the limited void space, this should be revised to ensure they are sized properly.

Response: The grading and drainage design has been revised to no longer include infiltration chambers. All proposed stormwater management measures are above ground infiltration and bioretention basins.

5. The proposed bioretention basins show outlets at 0.5' above the bottom of the basin. This would provide an average ponding depth of 0.25'. For the average ponding depth of 0.5' stated in the GI worksheets, the catch basins should be placed 1.0' above the bottom of the basin.

Response: The OCS B-5A structure within Bioretention basin 5A has been revised to raise the outlet to 1' above the bottom of the basin to comply with the average ponding depth of

0.5' stated within the GI worksheets. The corresponding sections of the DEIS and the SWPPP report have also been revised per this comment.

6. It should be ensured that adequate soil tests are performed for each proposed infiltration practice. One deep and infiltration test per every 5,000 sf of practice area is required, with a minimum of four of each per practice.

Response: Statement of fact.

8. The applicant should be aware of the Erosion & Sediment Control comments from Vice – Chairman Beaumont.

Response: Statement acknowledged. Coir Baffles have been added to the Soil Erosion and Sediment Control Plans and a detail provided.

NPV DEIS Scope Comments, October 28, 2024

Chapter 1: Executive Summary

1. General - At a minimum, there should be graphics in this section which show the overall layout of the site, including key features that are intended to serve as mitigation, e.g., noise barrier, berms, etc. The document is not supported by graphics upon which the public can rely upon when evaluating the content of the DEIS. **The graphic has been added to the preliminary information, not the Executive Summary. Please move to the appropriate section.**

Response: The executive summary has been revised to include an additional graphic including key features that are intended to serve as mitigation.

5. Page 6 - Groundwater – according to the geotechnical report and given the various cuts and fills across the site, it appears that groundwater is being encountered from construction, and that methods for dewatering are required. This does not appear to be discussed, including the impact to water quality. There should be a discussion of the potential contamination sources during construction, including the potential underground oil tanks that are referenced in the Environmental Site Assessment, but not discussed in the DEIS. **The potential contamination has not been discussed here.**

Response: As indicated on page 10, within the Water Resources section, per the Groundwater Identification Exhibit, in Appendix J, dewatering of the site is not anticipated to be necessary as the proposed grade will not disturb existing groundwater tables. While there is the potential that impacts from ice/snow treatment methods may occur, those would be mitigated with standard dewatering practices. Additionally, within this section, it is stated that mitigation techniques by the DEC and NYS are proposed to reduce any potential contamination sources caused by the proposed action. The Stormwater Pollution

Prevention Plan is also referenced in this section to capture any potential erosion that could contaminate groundwater.

6. Page 7 - Topography discussion – same comment as above. Steep slopes are not avoided. The Executive Summary should provide a more realistic description of the amount of soil and topographic disturbance occurring. This section as well as the DEIS does not provide any discussion of the proposed topographic changes. For example, by the proposed overflow parking lot, the site plan shows 50-foot cuts and 75 feet of fill in places. This is considered a significant adverse impact which is not described. Details regarding changes to the grade are not described or shown in the DEIS. The conclusions regarding impacts cannot be reached absent a detailed analysis. The mitigation measures need to be considered relative to the significant changes to existing topography that are occurring on portions of the site. **The reference to steep slopes should not have been removed entirely. There should be a realistic summary of what is occurring, and that should include the impacts to steep slopes.**

Response: Page 9 has been revised to include more detail as to the amount of soil that will be disturbed in creating the Proposed Action. Additional information has been added on the impacts of moving soil and reducing the impact of existing steep slopes.

7. Page 7 - Stormwater discussion – there is no discussion of the types of pollutants that could enter groundwater and surface water from the activities occurring on site, including those that would be within the runoff typically occurring from warehouse sites, oils, etc. No discussion of how these would be attenuated is provided. Also, check “aborted” and “containments” for spelling. Also, there is no summary of discussion of construction and post-construction practices to be used. **Even if pre-treatment addresses most concerns, there still needs to be some discussion on what these pollution concerns are. Potential contaminants discussion still needs to be expanded.**

Response: Refer to page 10 through 12 for an expanded discussion on pollutant control and remediation.

8. Page 7 - The discussion of wetland impacts is incomplete. There is generic reference to green infrastructure, and that impacts are minimized to the maximum extent, but no discussion of how this is actually achieved. There should also be a discussion of whether jurisdictional determinations have been received regarding the accuracy of the wetlands delineation. We also question whether a small pocket of wetland still exists along the shared property line with FedEx Ground property. **The reference to green infrastructure is still not addressed, vague and requires explanation.**

Response: See corresponding section for expanded discussion on wetland impacts and green infrastructure proposed for this project. Please find the correspondence regarding the PCN with the ACOE included within Appendix I.

9. Page 8 - Water and wastewater management sections are lacking detail. The summary should discuss how much wastewater generated/water demanded, how service will be provided, whether there have been determinations that there is sufficient water/wastewater. Also, here or elsewhere, there needs to be a discussion of the existing individual wells and septic systems that are reported in the Environmental Site Assessment. No discussion of proper closure, etc., is provided. This also relates to groundwater and contamination. **Not addressed.**

Response: Additional detail has been provided identifying the amount of wastewater generated/water demands and how service will be provided. It has also been added that the wells and septic systems identified within the ESA are to be capped and decommissioned in accordance with NYS and DEC regulations.

11. Page 9 - The land use and zoning section is generic and does not go into detail with regard to compliance with the regulations, and specific land uses surrounding the site. Also, there is no discussion on any impacts to the water tank, whether there appears to be an easement to access it, what will occur during construction, and what will exist post-construction. There should be some evaluation and discussion of any town wells in proximity to the site, and potential impacts related to same. **There is still no discussion of the surrounding land uses or proximity to any town wells and impacts.**

Response: Additional detail has been provided regarding surrounding land uses, compliance with regulations, specific land uses surrounding the site, the discussion of the water tower, along with discussion of the town wells in proximity to the site.

13. Page 9 - The DEIS is incomplete, as PM 2.5 and PM 10 have not been conducted as per the Scope. The DEIS indicates the studies will be submitted once they are complete. Again, more detail is required in the Executive Summary that indicates how ACMs will be mitigated. The DEIS does not address lead paint which is documented in the Environmental Site Assessments. **PM 2.5 and PM 10 have been conducted. However, more detail is required in regard to ACM mitigation and the presence of lead paint.**

Response: As indicated in the Air Quality subsection of the Executive Summary, mitigation techniques will be in accordance with State Law. As described, contractors will receive proper notification to remove, dispose, and clean up any found ACMs to ensure air quality impacts are minimal and mitigated to the maximum extent practicable.

15. Page 10 - Community facilities - It does not appear that many of the providers were contacted to assess impacts. This needs to occur. **Responses from the police department and ambulance services have been included. The Applicant is still awaiting the response from the fire department. We note that the ambulance provider information was not updated to indicate that 1,128,270 square feet is being constructed – the providers were told two smaller warehouses were proposed totaling 778,570 sf.**

Response: Each of the municipal departments, such as the police department, fire department, and ambulance, as well as water and sewer services, have all been notified of the latest site plan. The correspondence with these departments is included within Appendix M. Numerous phone calls and voicemails have been left to the fire department; however, they have not responded to our inquiries. The applicant is open to addressing any comments provided to the Town by the fire department throughout the review and approval process.

16. Page 10 - The fiscal section is generic. It should document assumptions regarding any potential PILOT or 485-b reductions, the assessment and taxes to be generated. It does not appear that the tax assessor was contacted to vet the proposed assessed value. Also, there is no discussion of potential costs to community service providers. Did the fire department indicate they would have to purchase a new truck? Would the police department require additional personnel, etc. What were the outcomes, in terms of impacts. Most of the narrative addresses existing conditions. **Police and ambulance have indicated there will not be a need for increased personnel, and the Applicant is awaiting a response from the fire department. The Applicant states that the PILOT is discussed in the Community Impact Study in the Appendix. There should be reference and summary in the DEIS.**

Response: This section has been revised to reference the PILOT and provide a summary of the overall Community Impact Statement within Appendix M.

17. Page 12 - It is unclear where the reptilian habitat will occur – the entire site, except for the wetlands and a CHE&G easement along Beaver Dam Road, is being disturbed. Where are these microhabitats? There does not appear to be any adjoining upland being retained to help preserve the species. Be more specific in the DEIS. Please also show the “corridors” graphically that are being preserved. All of the woodland is being removed, so it is unclear where these corridors are, and what they are linking to. **There should be greater discussion on the microhabitats here and where they occur. A graphic indicating their location would be useful - if there is no remaining habitat and the wetlands will be isolated, state to that effect.**

Response: The majority of habitat for reptilians is in the ponded wetland area located adjacent to Neelytown Road. This area will be slightly impacted for access into the site. Almost all of the reptilian species observed on the site were in the wetlands or adjacent to them. The habitat impacts on the site will cause the loss of some useful habitat to these species. The wetland complex and surrounding uplands toward the south end of the site will provide habitat for these species although there is a net loss of habitat on the site. Both the Corridor Identification Exhibit and the Forest Patch Preserved Area Exhibit are referenced in this section. Both of these exhibits, within Appendix I as previously stated, identify the preserved microhabitat area for the surrounding wildlife.

Chapter 2: Project Description

2. General Comment - Provide a map(s) of the site, its location in the region, existing zoning, existing conditions, the proposed layout, and adjoining uses in the DEIS. As per the Scope, the specific adjoining uses are to be identified, as well as their condition. **Maps should be provided in this section, at least to give a general idea of the project. Surrounding uses have also not been included - not addressed. At a minimum, reference the maps that are appendices, e.g., Appendix M which identifies adjoining land uses.**

Response: Additional maps have been provided including zoning, location of the site, Surrounding Uses along with their corresponding Appendix references.

3. General Comment - The scoping document required, "...a brief statement of the steps in the SEQRA process as it relates to the Proposed Action." This does not appear to be present. **Partially addressed - should describe the May 2023 DEIS submission and the change from 3 to 2 warehouses starting on p. 3.**

Response: The corresponding section been revised to describe the May 2023 submission and provide more detail on the above-mentioned General Comment.

General Comment - The applicant should include a statement regarding the use that it will "not expand to uses such as a factory, truck terminal or other uses beyond the conventional definition of warehouse and/or distribution center" as is stated in the scoping document. **On p 5 of the Executive Summary, it states no other principal uses will occur. The Executive Summary is only to summarize the items already addressed in the main portions of the DEIS. This needs to be added to Project Description if not done.**

Response: This section has been revised to include the statement as stated in the scoping document.

4. Page 16 - We question the applicability or relevance of the paragraph that begins "Importantly, due to the significant costs...." As per the SEQR Handbook: "An EIS has been required because potentially significant adverse impacts of the sponsor's proposed project have been identified. An analysis of alternative project configurations or designs will enable the lead agency to determine if there are reasonable, feasible alternatives that would allow some or all the adverse impacts to be avoided while generally satisfying the sponsor's goals. A project sponsor generally develops its project proposal based solely on its own goals and objectives. These goals and objectives may not include maximum protection of environmental factors and are not always shared by the reviewing agencies or the public. Requiring that reasonable alternatives be discussed allows a reviewer to independently determine if the proposed action is, in fact, the best alternative for that project when all environmental factors have been considered." The Applicant's purchase and development of the property is at its own risk, and the Planning Board reviews environmental impacts, and requires alternatives where there are adverse significant impacts. Decreasing project size may reduce profit but does not make a project infeasible (p. 120 of the SEQR Handbook). The statement provided in the DEIS cannot be a

basis for eliminating a review of alternatives. Also, much of the discussion should be expressed as "It is the Applicant's opinion"... The Planning Board Attorney should opine. **DEIS states that the "Applicant maintains" thus it now appears more like an opinion. We will address the Planning Board Attorney.**

Response: The corresponding section has been revised to further explain why alternatives that decrease the overall square footage of the development will not be feasible.

5. Page 16 - The applicant should clearly state if there are any "easements, fee ownership of any utility installation on the Project Site, or private agreements that may affect the proposed use of the site." as noted in the scoping document. The subsections of the Design and Layout Section should have the same titles as included in the scoping documents and the applicant does not provide the following information as outlined in the scoping document for the Design and Layout section:
- a. Total Site Area
 - i. Proposed impervious surface areas
 - ii. Amount of land to be cleared by type
 - iii. Amount of open space
 - iv. Area of Project Site proposed for disturbance
 - b. Structures
 - i. Site plans, floor plans, and architectural plans/building elevations
 - ii. Drainage plans
 - iii. Underground utilities
 - iv. Fire protection measures including fire equipment access
 - v. Sewage disposal
 - vi. Water supply
 - vii. Retaining walls
 - viii. Sound walls, berms, and other barriers
 - c. Parking
 - i. Pavement area
 - ii. Vehicle and pedestrian circulation
 - d. Landscaping plan

Please state explicitly what easements exist. The headings have not been updated. On p. 18, it states there are no easements or agreements that would affect proposed use of the site. Elsewhere, it is suggested there is an easement for access to the water tank. Please include a description of all easements.

Response: The corresponding section has been revised to state, "There are two easements that would affect the proposed use of the site. First, the presence of a Central Hudson Gas and Electrical easement along the western frontage on Beaver Dam Road which indicates that gas service exists along the frontage as well. Second, the municipal water tank, water line, access easements, and propane facility located to the north of the site which will remain undisturbed."

7. Page 18 - Reference to the numbered driveways should be shown on a map, with the number designations provided. It is also unclear from the narrative and maps which warehouses have access to which driveways, as they are interconnected. This needs to be clear for the traffic analysis. A detailed discussion of circulation should be provided since the facility is entirely interconnected. **The driveway numbers are still unclear as to which driveway is being referenced. Specifically reference Appendix E in the document.**

Response: The Driveway Identification Exhibit is referenced in this section along with Appendix E. This section clearly describes which warehouses have access to which driveway.

12. Page 21 - *"Therefore, there is no significant surplus or deficit anticipated for the Proposed Action, resulting in minimal trucking of soil import or export. All anticipated soil movement will be limited to within the boundaries of the Project Site."* Soil import/export suggests that soil will be leaving the project site. According to the scoping document, the applicant should be discussing where soil will be taken if it does need to be moved off site. The Applicant has confirmed that soil is not anticipated to leave the site.

We understand that the applicant does not have definite tenants for the proposed warehouses. Despite this, some assumptions need to be made. The applicant has not provided the following information for the Operations as outlined in the scoping document:

- Type of operation (one was provided for one building but what might the other two be?)
- Schedule of operations (3 shifts is not descriptive)
- Discuss what type of storage may occur on site... and discuss material handling

Not entirely addressed – the Planning Board should assess how much detail should be provided. However, we will raise a substantive discussion that industrial manufacturing is not anticipated – the DEIS does not evaluate the impacts of such a use and same would not be approved without further evaluation. See also general comments.

Response: The DEIS does not evaluate the impacts of industrial manufacturing use because the Proposed Action is not designed to anticipate a manufacturing tenant at this time. The intended design of this facility would be to serve as a distribution center.

Chapter 3: Existing Conditions, Environmental Impacts and Mitigation Measures

A. Geology

2. Page 26 - Please enlarge the graphic and text, and for this and prior map, provide a project site outline. **Please edit 3.A.1 to make legible.**

Response: Figure 3.A.1 has been revised accordingly.

6. Page 39 - There is no discussion of fill or other materials that may need to be imported, and truck activity and trips associated with same. It appears some materials are needed for

construction that will need to be imported? **The DEIS now states there will be 860 cubic yards of fill - addressed. Please ensure the construction section addresses truck trips.**

Response: The Operation subsection, within Section D - Construction and Operation, includes the maximum anticipated construct truck trips of 85 deliveries (or a total of 170 truck trips).

B. Soils

- 4. Page 35 - The DEIS states that topsoil “should” be stockpiled – please indicate if it will, how, and where. Soil horizons are not discussed. **This should be a statement of whether or not topsoil will be stockpiled, not a recommendation. Please give a direct answer as well as include discussion on soil horizons.**

Response: The corresponding section been revised to provide more detailed discussion of soil stockpiles and soil horizons.

- 5. Page 39 - We did not see information on the landscaping plans regarding depth to bedrock and maintaining 30 inches of planting soil. There is no discussion of whether soil material needs to be imported. **Appendix H includes information on depth to bedrock. However, this information does not make any note of depth to bedrock in regard to landscaping.**

Response: Per the Bedrock Identification Exhibit located in Appendix H, no plantings will be impacted by the bedrock as the maximum depth for a tree planting is 36” while the depth to depth to bedrock from the proposed grade far exceeds 36” throughout the site.

- 8. Page 41 - The entire site, outside the CHEG easement and wetlands, is being disturbed. Disturbance has not been minimized, and reference to “sensitive land development practices” is not accurate, given the mass grading over a portion of it. This should be restated. **“Minimize disturbance” and “sensitive land development practices” has not been restated.**

Response: This section has been revised accordingly.

C. Topography

- 4. Page 46 - Please add a total for each slope category being disturbed relative to the percent of the slope range. For example, 19.98 acres of the 20 acres of slope that is 15-25 percent is being disturbed. **Not addressed – see below example.**

	Area on Site	Disturbed	Percent of Slope Category
0-15	93.91	67.9	72.3
Etc....			

Response: This section already includes a total for each slope category being disturbed relative to slope range. The table was provided within Section C - Topography and also within the Potential Impacts section. It breaks down the slope categories into 0-15%, 15-25%, 25-50%, and 50-100% subsections.

5. Page 46 - Please provide maps to illustrate how the pre-and post-drainage conditions will be maintained – narrative is not provided, only that it will be. Show the pre- and post-watersheds. This is important relative to on-site wetland hydrology, as well as adjoining wetlands and town wells. **Narrative is generic – provide detail.**

Response: This section already provides pre-development drainage conditions map (Figure 3.D.5) and post-development conditions map (Figure 3.D.7). Additionally, this section analyzes both pre- and post-development conditions breaking down the narrative into existing conditions, describing the water shed areas, describing the design points, mitigation measures, and potential impacts. This section also includes Table 3.D.9, which analyzes the pre- vs post-development conditions. Following Table 3.D.9, the thorough narrative analysis continues. Throughout this section, the SWPPP is referenced supporting all of the conclusions stated.

6. Page 48 - The DEIS does not address the following as per the Scope: aesthetics of the retaining walls and /or sloped embankments, wall material specifications, shape (and size) of block, repairs, inspections, etc., related to safety and quality. Provide specifics in the narrative. **Retaining wall details have been included in Appendix D, but narrative is generic – narrative is not definitive by using words such “should be repaired.”**

Response: The section has been revised accordingly.

7. Page 48 - The DEIS does not address Appendix H and many of its findings, including a discussion relative to shoring of the excavations. It states that the two-tier wall will be close to the property line, likely requiring excavation over the line for construction of a cantilever wall or requiring tie backs extending onto the adjacent property for temporary shoring or for permanent installation of a soil-nail or soldier pile wall. Is this required? If so, provide a graphic of where this is occurring, and which properties are affected. As per Appendix H, the following is stated: **“The exception is the proposed retaining wall system parallel to the north side of the northwest building; the proposed two-tiered wall will be close to the property line, likely requiring excavation over the line for construction of a cantilever wall, or requiring tie-backs extending onto the adjacent property for temporary shoring or for permanent installation of a soil-nail or soldier pile wall.”** Where does this potential encroachment occur? Does the Applicant have consent from adjoiner – remains unaddressed.

Response: The two-tiered wall is no longer proposed. The revised design eliminates the need for any intrusion onto the neighboring properties for construction. The Geotechnical Report in Appendix H and full set of plans in Appendix D have been revised accordingly.

8. Page 48 - It is our understanding that an access road to access a fire tank to the north of the site traverses this project site. How will it be maintained now, during construction, and in the future? What earthwork and construction activities are occurring in proximity to it? The DEIS does not specifically address impacts to this specific tank. **No detail on how access to this tank will be maintained and any impacts to it. Discussion should be held with the Town Engineer at this time and included in the DEIS.**

Response: As stated in this section and throughout the DEIS, the existing water tower structure is approximately 1,000 ft. north of the northern property limits and thus not at risk of any disturbance due to grading on the project site. The water tank, water line, and access easements north of the site will remain undisturbed.

D. Water Resources

1. Page 52 - The groundwater existing conditions section does not include a discussion of how the Water Quality Volume (WQv) and Runoff Reduction Practices (RRv) will be addressed in accordance with the Requirements of the NYS Stormwater Design Manual as required by the scoping document. **Still not provided – what is specifically being incorporated?**

Response: As described within this Section D - Water Resources, in accordance with the NYS Stormwater Design Manual, the following specific methods will be incorporated. The first of which are identified as “Green Infrastructure Planning General Categories and Specific Practices” (Table 3.1), “Runoff Reduction Techniques” (Table 3.2) and “Planning Practices for Preservation of Natural Features and Conservation” (Table 5.1) within the NYSSMDM.

3. Page 50 - The graphics are not legible at this scale. **Still not legible**

Response: The graphics have been revised to ensure they are legible.

6. Page 53 - Has the applicant received confirmation regarding the location of the wetlands on the Project Site? The scoping document stated that this section will also include the NYSDEC wetland boundary certification or proof that the certification was timely requested from NYSDEC. This is not directly called out in this section. **Please add language from the Nowicki report as to discussions with NYSDEC.**

Response: A Preconstruction Notification, which included the wetland delineation and Wetland Delineation Report, was submitted to the USACE for review and comment as part of the approval process under NWP #39 for Commercial Developments. The PCN was submitted on September 22, 2024. The USACE must request additional information within 30 calendar days of submission. As of today, there has been no request for additional information from the USACE and the 45-day notification period expired on Wednesday November 6, 2024. An email confirmation was sent to the ACOE verifying that the proposed project is authorized, and has been added to Appendix O. Correspondence with the DEC and for the PCN are provided within Appendix O.

The type of salt substitutes is to be determined as part of the SEQR process, not at a later date. **This will be raised as a substantive comment.**

Response: Practices to reduce/restrict the use of salt and sand are already included within Section D - Surface Water & Wetlands, in accordance with Dutchess County EMC and Cary Institute of Ecosystems studied entitled "road salt, the problem, the solution, and how to get there (2010)." Refer to the SWPPP for more information. Salt notes were also added to Sheet 7 of the plan set describing the procedures to be used on site.

9. Page 54-55 - The total project site is 112.4 acres – Table 3.D.3 totals 94.37 acres. Please include graphics or pre-and post-construction watersheds with identifiers. Please also describe the stream which is a part of the wetland complex. The figures are not legible at this scale. **Stream not addressed – graphic not legible. The stream appears on the NYSDEC Environmental Resource Mapper and should be noted.**

Response: The graphic has been revised to ensure it is legible. The stream is already noted within this section as Otterkill Creek.

11. Page 56 - The potential impacts section does not include the following as outlined in the scoping document:
- o Jurisdictional determinations or proof that such determinations were timely requested from NYSDEC and USACE and/or qualified delineations of the wetlands **Not addressed.** Identification of the types of permits required, the status of any permit applications prepared, and/or submitted to the agencies and the individual agency review status at the time of writing **Not addressed.**

Response: A Preconstruction Notification, which included the wetland delineation and Wetland Delineation Report, was submitted to the USACOE for review and comment as part of the approval process under NWP #39 for Commercial Developments. The PCN was submitted on September 22, 2024. The USACE must request additional information within 30 calendar days of submission. As of today, there has been no request for additional information from the USACE and the 45-day notification period expired on Wednesday November 6, 2024. An email has been sent to the USACE verifying that the proposed project is authorized, and a copy has been added to Appendix O. Correspondence with the DEC and for the PCN are provided within Appendix O.

- o The amount of open space to be protected, if any, on the Project Site (if there is none, state so) **Status not provided.**

Response: Both the Corridor Identification Exhibit and the Forest Patch Preserved Area Exhibit are referenced in this section. Both of these exhibits, within Appendix I, identify the protected open space area for the surrounding wildlife.

- Mitigation measures related to salt and sand.

Response: Practices to reduce/restrict the use of salt and sand are already included within Section D - Surface Water & Wetlands, in accordance with Dutchess County EMC and Cary Institute of Ecosystems studied entitled "road salt, the problem, the solution, and how to get there (2010)." Refer to the SWPPP for more information. Salt notes were also added to Sheet 7 of the plan set describing the procedures to be used on site.

- The applicant states they will use BMPs to minimize the water quality impacts. Which and how will these be implemented? **Incomplete.**

Response: The corresponding section has been revised to include specific BMPs that will be implemented.

13. Page 62 - The stormwater management existing conditions section does not include the following as outlined in the scoping document:

- To the extent a resiliency study being conducted by Orange County is made available (draft or otherwise) during preparation of the EIS, the stormwater analysis will discuss the recommendations of that study, and the project's consistency with same **not addressed - indicate status**

Response: A conclusion of the Orange County Resilience study has already been included under this corresponding Stormwater Management section. As stated within the corresponding section, in review of the Orange County Climate Resilience Study, there is no indication that the subject site will be impacted by heavy precipitation, extreme heat, extreme storms and/or inland/coastal flooding as identified as the areas of concern illustrated in the Resilience Study.

E. Wastewater Management

3. Page 58 - With reference to "prior project" - was this prior calculation for 2 warehouses? This should be noted if this is the case. Also, Figure 3.E.2 is not legible.

Response: The corresponding section has been revised accordingly.

F. Water Supply

3. Page 69 - Will there be any irrigation for landscaping? **Applicant states that there will be - how does this affect water calculation - not included?**

Response: The irrigation for the landscaping of the site is included within the wastewater water demand calculation.

4. Page 70 - Closure of any private wells needs to be documented and described. **Closure not described here – which specific standards?**

Response: This section has been revised to note the seven (7) existing private wells to be properly abandoned in accordance with NYSDEC regulations.

G. Traffic and Transportation

1. Appendix E - Based on the Final Scope, the following sections of the Traffic Study are incomplete:
 - The ATR data was not collected during the dates of the manual count program as requested on item 7 of the scope. Please provide a justification in the TIS.
 - The write-up provided in the DEIS for Items G 16, 17, 18, 19, 20 and 21 should be included in the Traffic Impact Study.
 - The TIS did not address construction related traffic as requested in the Final Scope.
 - **Construction traffic is general, and does not address trips from all construction activities, e.g., import of fill. This will be raised as a substantive comment.**

Response: Section III.K - Construction Impacts of the TIS has been updated to include a reference to Construction Operation Section of the DEIS (Chapter 2, Section D). The number of anticipated truck deliveries of fill material (approximately 45 truck deliveries) and a qualitative analysis of the associated construction impacts “the anticipated construction traffic would be significantly less than the estimated traffic for the proposed warehouse as analyzed in the Traffic Impact Study.” See Section III.K within Appendix E.

H. Noise

3. Page 91 - Project outline is not in red on the graphic. Also, there are few industrial facilities on Neelytown Road - the facilities are mostly warehouses.

Response: The graphic has been revised to show the project outline in red.

4. Page 93 - The Town of Montgomery has adopted a noise law – this needs to be referenced and compliance with same examined. **This comment has been addressed under “Regulations/Goals.” Provide addresses for the sensitive receptors.**

Response: The addresses of the three nearby residential receptors is as follows:

***476 Beaver Dam Road
470 Beaver Dam Road
456 Beaver Dam Road***

5. Page 91 - There is not a discussion of the graphic and what Points 1, 2 and 3 represent, especially relative to sensitive noise receptors. That should be discussed here or move the graphic closer to the discussion. **Add the noise modeling locations to Figure 3.H.1.**

Response: The noise modeling locations graphic has been added as Figure 3.H.1. Additional discussion is provided.

6. Page 94 - There should be some discussion of the LMax and sources. **The discussion is minimal and does not address specific sources.**

Response: Additional discussion of the LMax and sources have been provided to this section.

8. Page 96 - The analysis should take into consideration the removal of 42 acres of forested land, which may have been attenuating noise from I-84. **Substantive comment.**

Response: Additional details and discussion have been added to this section, specifically under the subsection of Sound Level Survey.

9. Page 100 - It is unclear whether other ambient noises, including passenger vehicles, coupling-decoupling as per the Scope were considered for a cumulative analysis.

Decoupling addressed, but not passenger vehicles.

Response: Passenger vehicles, while more numerous than trucks, are significantly lower in sound level than a driving truck and were not included in the acoustical model. Passenger vehicles utilized different areas of the site, farther away from the residential receptors of concern. For these reasons, passenger vehicles will not negatively impact the results and conclusions of the sound study.

10. Page 97 - Are the timeframes representative of a worst-case analysis? Along Neelytown Road, warehouse drivers often leave early in the AM (4-5 AM) to get on the road before typical rush hour. This should be examined in more detail, using available hourly traffic data for Neelytown Road and discussed if not provided. **Not discussed - With regard to most sensitive hours, please address the ATR counts, and whether they support the time periods examined.**

Response: Additional details have been added to this section. Specifically, models of maximum truck sound levels and average sound levels from 59 trucks both concluded no negative impact with respect to project goals and NYDEC guidelines. The PM peak truck trip count of 59 was evaluated as if it were to occur at any hour, not just the peak PM. To address concerns about night operations, the average background (L₉₀) ambient sound level across the entire survey was about 50 dB(A). Conservatively comparing this level to projected maximum truck emissions of 50-to-54 dB(A) shows there will be no negative impact even during the nighttime hours.

11. Page 103 - The analysis of construction noise is incomplete. It is conclusory and does not consider potential adverse impacts, including duration, of construction noise on adjoining sensitive receptors. **Addressed, except the “consider the mitigation measures” will be raised as a substantive comment.**

Response: Noted.

13. Page 103 - A graphic is needed to show how equipment will be staged as per the mitigation measure, to determine if this is actually viable. Is this practical for Lot 3? Also, provide the hours of operation for construction operations. **Not addressed.**

Response: Additional details have been added to this section. Specifically, construction hours will be kept to those outlined under Section 162-7 of the Town noise code. Should construction hours be required to extend outside of these hours, construction sound would be required to meet Town noise code limits or seek a variance per Section 162-9. The viability of, or even the need for, specific construction mitigation measures have not been explored at this time as construction details are not known. Regardless, the Town noise code provisions provide clear direction as well as alternatives to ensure the project fully complies with the applicable code.

15. Page 103 - An analysis was not provided for the alternatives. **Not addressed – to the extent that this is not addressed, it would have to be done if the Applicant decided to pursue a different layout.**

Response: Statement noted.

I. Air Quality

3. Page 109- The DEIS states that if warranted, a CAMP can be implemented. Are conditions warranted? Is a CAMP needed? **The Applicant has indicated that a CAMP is likely not necessary. This will be raised as a substantive comment.**

Response: As indicated in this section, it is not anticipated a CAMP is needed, as there are no sensitive receptors in the surrounding area.

5. Page 110 - Please provide a source and cite regulations for the definition of sensitive receptors.

Response: The corresponding section has been revised accordingly. The source of the sensitive receptors is New York Technical Manual Code – Chapter 19: Noise.

J. Land Use & Zoning

2. Page 114 - Please provide a land use map, and describe in detail the land uses surrounding the property, e.g., single-family residences? **A land use map is not provided.**

There is no discussion of the water tank, the water wells, or the propane facility. **Not Addressed.**

Response: The corresponding section has been revised to reference the Surrounding Land Use Map Exhibit, located within Appendix M. Additional detail has been added for the surrounding land uses and discussion of water tank, water wells, and propane facility.

3. Page 114 - A legend should be provided with Figure 3.J.1 to show readers what the different colors signify on the provided portion of the zoning map. **Not Addressed.**

The project site appears to be located in an airport overlay as well. This is not discussed in this section and should be provided. **Comment addressed, however, the sentence regarding height should end "is not anticipated to have any impact on the allowable height of the warehouse buildings."**

Response: Figure 3.J.1 is clearly labeled and has been scaled up to ensure it is legible. The legend is within the figure, which shows exactly what each section of the map signifies. The comment regarding the airport overlay in relation to the warehouse building height has been addressed as well.

4. **Page 117** - Land uses within one half mile radius of the site **Comment not addressed.**

Response: The corresponding section has been revised accordingly.

K. Utilities

1. Please indicate whether any utility lines will be constructed through wetlands, even if short-term impacts. **Not addressed. Make clear statement one way or the other.**

Response: As illustrated on the utility plans, there will be no utility lines constructed through wetlands.

L. Community Services and Facilities

1. Page 120 - Provide a map of the location of the local community service providers. **Provided in Appendix O – please add the site location to the maps.**

Response: The corresponding maps have been revised to include the site location.

2. Page 121 - As a general statement, the potential impacts subsection lacks all requirements outlined in the scoping document. They are as follows:
 - o Police protection (state and local): Applicant will correspond with Town police department to evaluate potential impacts. **This discussion appears in the Mitigation section.**

Response: Montgomery Police has been contacted with recent site plans of the Proposed Action, and we are awaiting a response. The existing memo from the Police Department is located in Appendix O.

- Fire protection: Applicant will correspond with local fire company to evaluate potential impacts and to discuss fire water tank and sprinkler system and fire hydrant requirements. **Correspondence and a review of requirements is not provided.**

Response: Montgomery Fire Department has been contacted numerous times with recent site plans of the Proposed Action, and we are still awaiting a response. Correspondence with the Fire Department is located in Appendix O.

- Ambulance services: Applicant will correspond with Town VAC and Mobile Life Support Services to evaluate any impacts. **A discussion of impacts is not provided.**

Response: Montgomery Ambulance has been contacted with recent site plans of the Proposed Action, and we are awaiting a response. Existing memo from Ambulance in Appendix O.

- Employee illness/injury: List hospital/burn center/trauma center locations and level of care and emergency medical transportation options. **Not provided.**

Response: Location of hospital and burn center are discussed in Appendix M - Community Impact Statement. Discussion is included in EMS subsection relating to ambulance transport services and level of care.

We note that the potential impacts section remains incomplete. It contains a single sentence about the need for community services, but does not explain what, why or the extent of the need for those services. It appears that much of the information contained within "Mitigations" should be discussed within "Impacts."

The final sentence under "Existing Conditions: Police", is an impact not an existing condition.

Response: The corresponding section has been revised per this comment.

3. Page 122 - The DEIS does not disclose what demand will be placed on community service providers. Please specifically identify impacts as per discussions with the community service providers. **Not addressed.**

Response: Discussions with Montgomery Police indicated that the estimated 100 calls from the Proposed Action can be addressed by the existing force. No impacts to capital needs, personnel, or equipment. An updated request for response was sent to Montgomery Ambulance for comment. Existing data on file indicates no impact to existing service. Numerous efforts to contact Maybrook Fire Department have been

made to no avail. The applicant cannot determine impact if they do not respond, however we are open to discuss any review comment received during the final review process.

4. **Page 123** - How many fire hydrants will be on site? **Hydrant locations are described, a number is not provided. We will raise as a substantive comment.**

*Fire District officials will have the opportunity to perform a final review of the site plans during the site plan approval process. The officials should be reviewing the plans now in order to provide comment of possible impacts/changes that need to be done. **Comment remains relevant.***

The DEIS did not describe any potential impacts to community services/facilities.

Response: As described in this section, there are eight (8) hydrants in total, one placed at each corner of the warehouse. Montgomery Fire Department has been contacted numerous times with recent site plans of the Proposed Action, but we are still awaiting a response. Correspondence with the Fire Department is located in Appendix O.

5. **Page 121** - Correspondence with the Police Department is not found in Appendix O – please label the last 3 attachments in the digital appendices folder to Appendix O.

Response: The last three (3) attachments have been re-labeled, as requested within this comment.

6. **Page 122** - We note that waste stream is discussed under existing conditions but not under impacts. What is the anticipated added waste from this project, and how will it be handled?

Response: Additional detail has been added to this corresponding section under potential impacts. The anticipated daily wastewater demand is 5,205 GPD, in which the Orange County Sewer District #1 has indicated they have sufficient capacity per the Engineer's Report for Proposed Sanitary Sewer System located in Appendix L.

7. **Page 122** - What is the nature of anticipated calls to the police department by the project?

Response: Chief Hank of Montgomery Police indicated that for similar facilities, the department responds to calls for property damage, alarm calls, medical emergencies, and disputes.

8. **Page 123** - What is meant by “the proposed S-1 storage use”? Explain to the layperson who will read the DEIS.

Response: Definition of S-1 storage has been provided in the corresponding section.

M. Fiscal and Employment Impacts

3. Page 124 - The applicant should provide sources for the value per square foot values used in the calculations in table 3.M.2. How were these determined? Are they general standards? Please clarify. **Not Addressed.**

Response: Values are an average of similar size warehouses in the region. They are compared to national averages for similar uses and construction.

5. Page 127 - The analysis does not match the Burchell-Listokin methodology – see steps for proportional valuation method. A refinement coefficient is also to be used. This analysis needs to align with the methodology included in the Fiscal Impact Handbook. Not addressed – this will be raised as a substantive comment.

Response: The analysis utilizes the per capita method as it appears in the Burchell, R.W., D.Listokin, & W.R. Dolphin “The New Practitioner’s Guide to Fiscal Impact Analysis” published by the Center for Urban Policy Research (CUPR): 1985, and the Burchell, R.W., D.Listokin, & W.R. Dolphin “Development Assessment Handbook” published jointly by CUPR and the Urban Land Institute: 1994. We find the proportional valuation method to be inaccurate and thus utilized the widely accepted per capita method.

6. Page 129 - The analysis of the potential impact of the warehouse on property values of residences should be further discussed. The analysis in the appendix is generic, and not specific to dwellings located adjacent to warehouses. It could be easily argued that the areawide increase in values is a result of COVID and inflation. This will be addressed as a substantive comment.

Response: The applicant is open to further discussion during the review and FEIS process. However, the analysis in the attached Appraisal Report is not generic and uses an adjacent village (Maybrook) as a case study and specifies 1.5 million square feet of industrial development along the Neelytown corridor, the same location of the proposed action. While COVID and inflation could have played a factor in home value increases, the Appraisal Report makes the case that there is no correlation between the industrial development and any fiscal impact (positive or negative) on the residential home prices. So, while it is not clear what the increase in value is a by-product of, there is clear evidence that there is no decrease because of industrial development. Further, the Appraisal Report studies home values from 2017 to present, so although there are three years (2020-2023) of PHEIC (Public Health Emergency of International Concern) there are also three years of evidentiary analysis prior to the Covid-19 pandemic.

7. Page 128 - In addition to the permanent positions as described in section 5 above. There is no labelled section 5; please correct and clarify. The applicant should further discuss the following out outlined in the scoping document:

- Analyze the potential impact of the warehouse on property values of residences within 1/2-mile of the Project Site. **This analysis must be provided in text, it is only found in the appendix.**

Response: The potential impact of property values has been expanded upon within this section. Specifically, the Potential Impact on property values subsection has been added which references the Appraisal Report located in Appendix M.

- Discuss workforce availability for the potential jobs to be generated by the Proposed Action. **We are unable to locate this information in the document.**

Response: A discussion of workforce availability is included in the Community Impact Statement on page 2 in Appendix M.

9. Page 131 - What is the source for the estimated salaries? **A source has been provided. It should be explained why data for Kingston NY was used to identify construction salaries and not Orange County. This can be addressed in the FEIS, we will raise it as a substantive comment. We note that the comment response to this question is inaccurate (p 41/48).**

Response: The source was incorrectly noted in the prior response, which should have referenced "U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistic for 2022 (Orange County, NY)." The source has been revised accordingly.

10. Page 131 - An element that is missing from the fiscal analysis is the cost of services that may have been expressed by community service providers. We do not see that any interviews were conducted with the service providers, in terms of personnel, equipment, or capital needs. **Substantive comment to be raised.**

Response: Discussion regarding personnel and equipment is already discussed within Section L - Community Services and Facilities under existing conditions. Discussion of capital needs and anticipated impacts is included within Section M - Fiscal and Employment Impacts under existing conditions.

N. Cultural Resources

11. Page 132 - The applicant has not addressed the following as outlined in the scoping document:

- Evaluate the potential for a mastodon to be found during construction based on environmental factors and existing conditions. **Comment addressed within the Appendix F Phase 1A/1B Archaeological Field Survey, Appendix D, and P 137 of the DEIS. We recommend the "Summation of Research" section of the DEIS containing this discussion be incorporated into the potential impacts section, as opposed to located after the mitigations section.**

Response: Statement acknowledged. The section has been revised accordingly.

- Correspond with the Montgomery Historic Preservation Commission and solicit comments on local landmarks and proximity of the Proposed Action to them. Comment not addressed.

Response: The team has sent several emails and left voicemails but have not received any response from the Montgomery Historic Preservation Commission/Town Historian (the historian is the chair of the commission). The details provided in February 2024 are within the Appendix. Our efforts in March of 2023 were subsequent to previous efforts.

O. Visual Resources

1. **General/Page 138** - Figure 3.O.1 is not legible. As a result, it is difficult to understand the viewpoints of the renderings that follow. The vantage point locations and a label for each warehouse should be legible. Perhaps a small illustration could be added under each rendering showing the location. **Figure 3.O.1 remains illegible, as well as labels on the viewshed renderings. Comment remains regarding location maps/illustrations. Also note that Appendix K has not been provided (we received digital appendices only).**

Response: Figure 3.O.1. and viewshed labels have been revised to ensure they are legible in the corresponding section of the DEIS as well as in the architectural drawings within Appendix K. A copy of Appendix K was immediately forwarded to NPV upon receipt of this letter.

3. **General** - The DEIS should note that the Planning Board has architectural review authority, and reference the design guidelines in the zoning. **Comment not addressed.**

Response: The corresponding section has been revised to note the warehouse design guidelines are to be in accordance with the Architectural Design ordinance section 150-50-35.

5. **Page 158** - Will the lights be visible from Beaver Dam Road homes? Since the overflow parking is elevated, does the berm block views of the fixtures? **A more in-depth discussion of the proposed lighting should be included. This should include discussion of location, lumen levels, kelvin values, heights of poles and mounts, and dark sky design.**

Response: Per the lighting plan within the full set of plans, located in Appendix D, no lights will be visible from Beaver Dam Road homes as the proposed fixtures, berms, and landscaping prevent the spillage of any footcandles onto the neighboring homes.

P. Animals, Plants, & Threatened and Endangered Species

1. **General** - A map of the habitats with the proposed disturbance limits shown on it, should be provided. The acreage of habitat, and how much of each type is being disturbed, is needed. **Partially Addressed. The habitat acreage and disturbance are provided starting on P 170, however, the requested map showing habitats is not provided.**

Response: The requested map showing the preserved habitat area is referenced under Potential Impacts in this section and corresponds to the Corridor Identification Exhibit and the Forest Patch Preserved Exhibit located within Appendix I.

2. It should be made clear whether Colliers and Ecological Solutions conducted portions of the ecological analyses as per Mr. Tesaurο's comment below.

Response: Ecological Solutions, LLC completed the ecological analysis.

3. **Appendix I**

- What are the number designations on Figure 2? **Figure 2 has been replaced by a recent site plan. We note the image quality is poor and labels are not visible.**

Response: Figure 2 has been revised to include the number designations and the image quality has been revised to ensure it is legible.

- Figure 3 does not include the entire site. **Comment not addressed. We also note that Figure 1 in this assessment does not include the entire site.**

Response: Figure 1 and 3 within the Natural Resources Survey already include the limits of the entire site.

- Again, location of photos are not documented. **Comment not addressed**

Response: See Natural Resources Survey/Assessment within Appendix I, page 25, Figure 9: Photographs

- Only one wetland data point is provided. **The project sponsor opines in the comment response memo (p 43/48) that only one data sheet is required by ACOE. We note that a site map showing sample point locations per the ACOE form is not provided or otherwise referenced.**

Response: The site map showing sample locations is now provided as the last page of the Natural Resources Survey in Appendix I.

4. Page 156 - It was our understanding that a Bald Eagle nest was present near Neelytown Road to the south of the Do-It-Best site. Please check with DEC on nest sites. **Comment not addressed. Correspondence with NYS DEC regarding potential nest sites is not provided.**

Response: The Natural Resource Survey/Assessment, which has been included within Appendix I, has been revised to incorporate a section on Bald Eagles, highlighting that our site should fall outside of the potential nesting sites for the Bald Eagle. The applicant has not received any Bald Eagle comments from the DEC, which should have been notified by the Town as an interested party.

5. Page 162 - Figure 3.P.3 is not legible. **Applicant indicates this comment has been addressed but we are unable to detect a difference. P 168**

Response: Figure 3.P.3 has been scaled up to ensure it is legible. Additionally, a description of Figure 3.P.3 has been provided to ensure the reader understands what the figure is illustrating.

6. Page 165 - Where is the forest patch preserved? Is this within the CHEG easement? Please map. What is its size?

The Forest Clearing sections remain unclear. P 167 of the revised DGEIS states that of 42.12 acres of forest habitat, 96% or 38.13 acres will be removed, leaving 3.99 acres (inferred). P 170 references the same calculation related to Mesophytic Forest Loss but then states that "forested area will be cleared, with the exception of a 1.2 acre area." Is this in addition to Mesophytic Forest loss or part of that calculation? Further, two new forest cover maps are provided in Appendix I. One shows a preserved corridor area of 18.14 acres and one shows a total forest patch preserved of 7.92 acres (both label the same shaded area, wetland A, with differing acreages). It is unclear how these maps are intended to relate to the discussions in the revised DEIS. Please clarify and include the relevant discussion and figures/references in the DEIS (addressing in the comment memo is not sufficient).

Response: The Forest Patch Preserved Exhibit, located in Appendix I, provides the preserved forest area. On page 2, the Existing Conditions Plan, you can see along Beaver Damn Road the existing limits of the CHEG easement. The easement's size can be seen on page 2 and is provided as 1.576 acres.

7. Page 166 - Turtles require upland as part of their life cycle. What upland habitat is being preserved around the wetlands? **Follow up comment #6 applies here. Loss of upland habitat is an unavoidable impact however, the relationship between the DEIS discussion and the Corridor Identification Exhibit in Appendix I is unclear.**

Response: The Natural Resource Survey/Assessment, within Appendix I, has been revised to include additional information on various turtles. There were no turtles observed on site during the ecological site survey.

8. Appendix I - We note that the data contained in the Natural Resources survey was limited to late spring - late summer (March-Mid August). It is unclear if this allows for an accurate conclusion regarding the yearlong occurrence of species on the site. **Comment noted by applicant. To be raised as a substantive comment.**

Response: Late Spring to late Summer is the optimal time to observe species.

9. Appendix I - I'm in concurrence that there is no bog turtle habitat (a federally-listed species, and thus has significant regulatory implications) on the site; however, it's typically incumbent upon the consulting biologist to do a formal Bog Turtle Phase I survey. (Note this is more of a

due diligence/formality, yet most appropriate for agency review.) **A Phase 1 Survey has not been prepared.**

Response: The substantive sections of a Phase 1 are summarized in the NRS; there is no bog turtle habitat. The Phase 1 is located in Appendix J and the Natural Resources Survey is located in Appendix I.

10. Appendix I - Ecological Solutions only addresses federally-listed species, of which there is one: bog turtle. The Colliers DEIS addresses the bog turtle and has a brief paragraph on the group of NYS Special Concern species that occur in the region: blue-spotted salamander, Jefferson salamander, marbled salamander, wood turtle, and spotted turtle. They neglected to mention northern cricket frog (Endangered) and eastern box turtle (Special Concern). A solid DEIS should a) discuss potential habitat resources for each of these species, even if some (i.e., northern cricket frog, Jefferson salamander, wood turtle are unlikely to occur based on habitat limitations) and b) present presence/absence survey data (i.e. survey methods, field efforts, observations) for those that have the potential to occur. **The northern cricket frog is not addressed in the revised DEIS.**

Response: The Natural Resource Survey/Assessment, in Appendix I, has been revised to include additional detail on the species referenced and is open to further discussion based on any comments that may be received by the various review agencies.

11. Appendix I - Based on my field visit to the site and review of satellite imagery and various mapping resources, spotted turtle and eastern box turtle have the highest potential to occur on the site. The Beaver Dam Creek headwater wetland east of the intersection of Beaver Dam and Neelytown roads (SW corner of the site) contains a solid 10 acres of potential spotted turtle habitat and habitat for many reptiles and amphibians. Box turtles are an upland species and could be anywhere on the site. **The revised DGEIS states that these species were not identified on site. This may be raised as a substantive comment.**

Response: The applicant is open to further discussion. However, an ecological site survey was performed, and no turtles were observed on site. Although the Town's consultant is stating there is potential to occur on site, it appears as if they also did not observe any turtles on site.

12. Appendix I - Nevertheless, I do not know of a precedent where any Special Concern species had a regulatory consequence for a project at the either state or municipal level. At minimum, the Town should ask for a more thorough report addressing all the species mentioned above. **This may be raised as a substantive comment.**

Response: The Natural Resource Survey/Assessment, in Appendix I, has been revised to include additional detail on some of the species referenced and is open to further discussion based on any comments that may be received by the various review agencies.

Chapter 5: Alternatives

1. Are any potential impacts of the proposed action better mitigated with the alternatives? **This needs to be explicitly stated for every identified unavoidable impact.**

Response: As stated within Chapter 5, the Comparison Summary Matrix within Appendix D considers each layout and concludes the proposed action provides the most mitigated potential impacts compared to the alternatives.

Chapter 7: Growth Inducing Aspects

2. There is no analysis of the support services available to the new facility. **This has not been addressed.**

Response: Correspondence emails with service providers are included in Appendix O.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Colliers Engineering & Design CT, PC



Justin Ferrazzano
Senior Project Manager | Associate