



November 20, 2014

VIA EMAIL AND FIRST CLASS MAIL

James E. Quigley 3rd
Supervisor
Town of Ulster
1 Town Hall Drive
Lake Katrine, NY 12449

Martin Brand
Regional Director
NYS Department of Environmental Conservation Region 3
21 South Putt Corners Road
New Paltz, NY 12561

Re: SEQRA Coordinated Review for Niagara Water Bottling Facility Project

Dear Supervisor Quigley and Regional Director Brand:

Riverkeeper, Inc. (Riverkeeper), in collaboration with the Woodstock Land Conservancy (WLC) and the Esopus Creek Conservancy (ECC), respectfully submits the following comments and attached expert report regarding the environmental review of the proposed Niagara Water Bottling Facility project (Niagara project) pursuant to the State Environmental Quality Review Act (SEQRA), N.Y. E.C.L. §§ 8-0101, et seq and 6 NYCRR Part 617. It is our understanding that on November 20, 2014, the Town of Ulster Town Board (Ulster Town Board) will take action on the questions of lead agency and the determination of significance for the coordinated SEQRA review of the Niagara project.

For the reasons set forth below and in the attached expert report, prepared by Carpenter Environmental Associates (CEA) at the request of Riverkeeper in affiliation with WLC, Riverkeeper, WLC and ECC urge the Town of Ulster Town Board, as the lead agency that will oversee the SEQRA review of this action, to issue a Positive Declaration of Significance and require the preparation of a draft environmental impact statement (DEIS) which will identify and fully evaluate all of the potential impacts associated with the Niagara project. In addition, we call on the Town to initiate a public scoping process to guide the preparation of the DEIS, and we continue to strongly recommend that the applicant's description of the action be expanded to include the whole action that must be reviewed, consistent with the recommendations of both

New York State Department of Environmental Conservation (DEC) and New York City Department of Environmental Protection (DEP). That expanded description is necessary to ensure that all of the impacts associated with the action are evaluated in the DEIS including, but not limited, to those impacts related to the construction and operation of the plant itself in the Town of Ulster, to the sale of the water necessary to Niagara's bottling operations by the City of Kingston and associated impacts on Kingston's overall water supply for its residents and future development, and to the acquisition of that water from the City of Kingston's water supply infrastructure in the Town of Woodstock and any modifications to that infrastructure or increases in withdrawals from Cooper Lake and /or Mink Hollow Brook that may be necessary to meet the potential full build-out needs of the project.

Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. As a signatory to the New York City Watershed Agreement, we have a commitment to ensure that development projects in the watershed do not adversely impact the surface water resources that provide unfiltered drinking water to consumers. Accordingly, Riverkeeper is very concerned with any project in the New York City watershed that proposes potentially significant disturbance of streams, wetlands, or their buffers or other impacts to water quality. Over the last four years, Riverkeeper has also been engaged, with Lower Esopus communities, including the Town of Ulster and other stakeholders, in advocating for the protection of the Lower Esopus Creek from adverse water quality impacts related to Ashokan Reservoir operations.

The core mission of WLC is to permanently protect and steward open lands, natural resources, scenic areas, and historic sites in Woodstock and neighboring communities in the surrounding eastern Catskills; to connect people, especially children to nature and the land through education, outreach, and communication; and to model sustainability in our operations, our stewardship, and our communities, including intelligent adaptation to and mitigation of the effects of climate change.

The mission of ECC is to conserve significant natural landscapes in the lower Esopus Creek watershed and in the Saugerties area by protecting the rural character of the environment, by conserving and protecting natural habitats, by promoting biodiversity, and by sharing an appreciation of our natural resources with the community through public outreach, education and advocacy.

As Riverkeeper has previously communicated to the Town of Ulster and DEC Region 3 in letters dated October 14, 2014 and October 24, 2014, given the number of sensitive resources at risk of being impacted by the proposed project, we believe that it is imperative that a complete and comprehensive environmental review of the project be conducted before any approvals, decisions or commitments are made by any involved agency or funding authority. Given the potential for significant environmental impacts associated with the project that were examined by CEA, and evaluated in their report, it seems clear that the issuance of a Positive Declaration and the preparation of an environmental impact statement are required by SEQRA, and we commend the Town of Ulster Town Supervisor for recommending to the Town Board that it take that action at its Town Board meeting on November 20, 2014.

In addition, Riverkeeper reiterates our strong recommendation, made in our October 24, 2014 letter, that when the Town issues its positive determination of significance for the proposed action, it also initiate a public scoping process which will precede and guide the preparation of the DEIS, pursuant to 6 N.Y.C.R.R. §617.8. We further request that the scoping process afford the public an adequate opportunity to review and comment on the draft scope, once it is made available by the applicant, by providing a reasonable period of time for involved and interested agencies and the public to submit written and/or oral comments. *See* 6 N.Y.C.R.R. §617.8(e).

Finally, with respect to a significant issue that has yet to be addressed, Riverkeeper, WLC, ECC, Kingston Citizens and other key stakeholders continue to request that the applicant's description of the proposed action presented in its Environmental Assessment Form dated September 15, 2014 be modified and expanded to include the entire action which is subject to SEQRA review, as noted by both DEC and DEP in their recent letters to the Town of Ulster dated October 24, 2014 and November 12, 2014 respectively. (DEC: "Any Determination of Significance should address the full build-out of the facility, specifically the source of the estimated 1.75 MGD of water that will be required from the City of Kingston." DEP: "While the bottling facility lies outside of New York City's Watershed, the source of the water that would be supplied by the City of Kingston originates in NYC's watershed. The project study area for this environmental review should be expanded to include the source waters and conveyance, storage and treatment infrastructure in addition to the bottling plant location.")

If the list of involved agencies is expanded, based on the applicant's revised description of the proposed action, and/ or there are additional agencies that meet the regulatory definition of "involved" as a result of the City of Kingston Water Department's identification of water supply infrastructure improvements necessary to the project, we believe that a new lead agency coordination process must be initiated, pursuant to 6 NYCRR §617.6(b)(3).

Riverkeeper, WLC and ECC urge the Town of Ulster and DEC Region 3 staff to use the CEA report in the context of the scoping process to assist with the identification of all potentially significant adverse environmental impacts that must be examined in the DEIS as the environmental review of this significant, multi-jurisdictional project begins. Because of the regional and statewide significance of the potential impacts of the Niagara project and because of DEC's broad powers, capabilities and expertise with evaluating the environmental resources potentially affected by that project, we welcome DEC's assurance, in its recent letter to the Town of Woodstock dated November 18, 2014, that it intends to continue to be actively engaged in the environmental review of the project as it moves forward.

We also look forward to being an active participant in that review and in a process that provides involved and interested agencies alike, and the public, with a full opportunity to participate in each stage of that review.

Thank you for your consideration of our comments and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Kate Hudson". The signature is fluid and cursive, with a prominent loop at the end.

Kate Hudson
Watershed Program Director

Cc: Daniel Whitehead, NYSDEC Region 3 Permit Administrator
City of Kingston Water Department and Board of Water Commissioners
City of Kingston Common Council
Town of Woodstock
David Warne, New York City Department of Environmental Protection