

WILLIAM F. DEMAREST III
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September 10, 2024

VIA First Class Mail:

Town of Cairo Planning Board
Joseph Hasenkopf, Planning Board Chair
Edward Forrester, Member
Allen Veverka, Member
Beth Hansen, Member
Kevin Hicks, Member
Richard Lorenz, Alternate
P. O. Box 728
Cairo, NY 12413

**Re: Blackhead Mountain Lodge
64 Crows Nest Road
Site Plan/Special Use Permit Application (2022-1101P)**

Dear Chairman Hasenkopf and Planning Board Members:

This office has been retained by Friends of Round Top, Inc. ("Friends of Round Top") and the Sierra Club Atlantic Chapter in relation to the site plan and special use application filed by RCBG JV Manager LLC (the "Applicant") for the Blackhead Mountain Lodge (the "Application"). Friends of Round Top was formed as a grassroots collection of Town of Cairo residents located on and around Round Top in response to the Blackhead Mountain Lodge redevelopment project (the "Project"). Friends of Round Top was recently incorporated as a not-for-profit corporation. Sierra Club Atlantic Chapter is a volunteer-led, environmental organization with 40,000 members statewide, dedicated to protecting New York's air, water, and remaining wild places. We write to encourage the Planning Board to promptly complete the State Environmental Quality Review Act ("SEQRA") Environmental Assessment Form ("EAF") Parts 2 and 3, to complete the determination of significance and, in so doing, issue a Positive Declaration of Significance.

The regulations and guidance make clear that SEQRA is intended to introduce environmental considerations into the review of a project at the outset. A determination of significance is intended to be reached early in the review of the application. Where a significant environmental impact appears likely, a Positive Declaration, Scoping, and Environmental Impacts Statement ("EIS") are required to evaluate those potential impacts while giving the public a structured and informed opportunity to provide comment and feedback.

The Applicant and Planning Board's protracting and delaying the determination of significance is clearly being done with the intent to conjure up a Negative Declaration for a project that clearly deserves and requires a Positive Declaration. The current approach is inconsistent with the terms and intent of SEQRA.

Application Background

The current Application for site plan approval and special use permit was submitted on or about December 21, 2023. The Applicant "presented an initial proposal" to the Planning Board at the January 4, 2024, meeting. The Planning Board appears to have correctly determined that the Project is a Type I action under SEQRA requiring a coordinated review and declared itself lead agency.¹ Despite not having completed the SEQRA process, a public hearing was scheduled for March 2024 and, upon information and belief, remains open.²

Since March 2024, the Project has been addressed at several Planning Board meetings with the Applicant serially presenting new, changed, and updated details to the Planning Board. However, in the grand scheme, the nature, scale, and scope of the Project has not changed. Upon information and belief, while the Planning Board has expressed interest in further information and asked questions of the Applicant, the Planning Board has not determined that the current information is insufficient for it to make a Determination of Significance.³

SEQRA Calls for a Determination of Significance Early in the Review of the Project.

The primary purpose of SEQRA is "to inject environmental considerations directly into governmental decision making."⁴ In analyzing the potential risk for an adverse environmental impact, the Planning Board must take a "hard look" at the potential risks "including both the short-term and long-term effects, as well as the primary and secondary effects of an action on the environment."⁵ As set forth in the regulations, "the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact

¹ Upon information and belief, no other involved agency objected to the Planning Board acting as lead agency or asserted its intent to act as lead agency. The Planning Board has, therefore, properly acted as lead agency since February 2024.

² As noted in this office's March 6, 2024, letter, the opening of a public hearing was premature under the Town of Cairo Zoning Law as the Application cannot be deemed complete until SEQRA is complete via either a Negative Declaration or a final EIS, therefore, it must remain open or a new public hearing scheduled after SEQRA is complete.

³ The March 6, 2024, letter noted the existence of errors and inaccuracies in the EAF Part 1 submitted with the initial application. The EAF has since been amended on several occasions. Upon information and belief, the Planning Board should have sufficient information with which to issue a Positive Declaration of Significance.

⁴ *Akpan v. Koch*, 75 N.Y.2d 561, 569 (1990) (quoting *Matter of Coca-Cola Bottling Co. v. Bd. Of Estimate of City of N.Y.*, 72 N.Y.2d 674, 679 (1988)).

⁵ *Chinese Staff and Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 365 (1986).

on the environment and may require an EIS.”⁶ Moreover, the EIS is “‘the heart’ of the SEQRA process.”⁷

In the case of a Project requiring coordinated review, the SEQRA regulations call for a determination of significance within 20 days of establishing lead agency or “receipt of all information it may reasonably need to make the determination of significance.” 6 NYCRR § 617.6 (b)(3)(ii). Admittedly, the period for such determination, like most SEQRA time limits, is directory, not mandatory. However, the intent of SEQRA is to make the determination of significance early in the review of a Project. In fact, the SEQR Handbook, published by the New York State Department of Environmental Conservation (“NYSDEC”) clearly states “a determination of significance should be made as early as possible in the formulation of plans for an action.”⁸ “By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.”⁹

The Scoping and EIS process provide established and required means of public comment. As the SEQR Handbook explains, the “EIS procedures . . . provide the means for public review and comment about a proposed action.”¹⁰ As the EIS is the heart of SEQRA, public comment is at the heart of the EIS process. The public is entitled to comment both on the Scoping and the draft EIS to aid the lead agency’s consideration of a final EIS and Findings.

The SEQR Handbook explains that “[t]he regulations require public involvement in scoping to reduce the likelihood that unaddressed issues will arise during public review of the draft EIS. Early public review and input can ultimately shorten the SEQR review process by raising potentially contentious issues early on, allowing the lead agency and project sponsor to address them in a timely manner.”¹¹ Furthermore, scoping “is intended to: [e]nsure public participation in the EIS development process; [a]llow open discussion of issues of public concern; and [p]ermit inclusion of relevant, substantive public issues in the final written scope.”¹²

Likewise, “one of the major purposes of a draft EIS is to give the public an opportunity to comment on the environmental issues raised, as well as the possible alternatives and mitigation offered to address those issues, settling on a resolution of one or more issues prior to public review would be counter to the intent of SEQR.”¹³ The draft EIS provides an organized and theoretically complete statement regarding the Project and its potential impacts. It also provides an analysis of alternatives and potential mitigation. “The EIS process guarantees comprehensive review of a

⁶ 6 NYCRR § 617.4(a)(1). See also *Shawangunk Mountain Environmental Ass’n v. Planning Bd. of Gardiner*, 157 A.D.2d 273, 275 (3d Dept. 1990) (stating that for a “Type I project, there is a relatively low threshold for requiring an EIS”).

⁷ *Matter of Munash v. Town Bd. of the Town of East Hampton*, 297 A.D.2d 345, 347 (2d Dept. 2002) (quoting *Matter of Jackson v. New York State Urban Dev. Corp.*, 67 N.Y.2d 400, 415 (1986)).

⁸ SEQR handbook p. 78 (emphasis added), available at https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

⁹ SEQR handbook. p. 3.

¹⁰ SEQR Handbook p. 97.

¹¹ SEQR Handbook p. 106

¹² SEQR Handbook p. 100.

¹³ SEQR Handbook p. 128.

project's adverse environmental effects, consideration of less intrusive alternatives to the proposed action, including 'no-action', and consideration of mitigation measures.”¹⁴ Prior to the EIS process, the Planning Board should only consider mitigation to the extent it eliminates the risk of a significant environmental impact and not merely lessens them or provides alternative improvements.¹⁵

The adoption of a Positive Declaration, which brings a requirement for public comment and consideration of mitigation and alternatives, provides the better forum for receipt of public comment than the review process by a lead agency pre-determination of significance (negative or positive declaration).¹⁶

The Planning Board Should Not Avoid the EIS Process or Applicant Should Not be Allowed to Manufacture a Negative Declaration.

As is clear from the foregoing discussion and the NYSDEC guidance regarding SEQRA, the submission of a Project to the EIS process and concomitant public comment on Scoping and a draft EIS is fundamental to the salutary purpose of SEQRA. As noted, in the Planning Board minutes, the Town of Cairo Planning Board has not issued a Positive Declaration of Significance or required an EIS on any recent projects.¹⁷ This suggests a practice of ignoring *potential* environmental impacts or willfully avoiding the EIS process. The Planning Board should not seek cover to once again issue a Negative Declaration of Significance despite the scale and scope of the Blackhead Mountain Lodge Project.

While avoiding the EIS process can be seen as a benefit to the Applicant and potentially to the Planning Board, it is not to the benefit of the public or the environment of the Town of Cairo. The Planning Board should neither participate in nor countenance an effort to prolong the determination of significance to allow the Applicant to make minimal changes and avoid the EIS process. While the Applicant's changes may result in some mitigation of environmental impacts, it certainly will not eliminate all significant impacts and short-circuits the Planning Board's and public's consideration of alternatives and mitigation that could be identified in the EIS process.

The Planning Board Should Issue a Positive Declaration and Require an EIS.

For a Type 1 action like this Project, “[a] lead agency must prepare a positive declaration if it finds, based on comparing the information in the EAF to the criteria in the SEQR regulations (617.7(c)), that one or more adverse environmental impacts may be significant.”¹⁸ As noted, Type 1 projects are presumed to have a potentially significant environmental impact requiring a Positive Declaration of Significance and EIS. Given its scale and scope, the Project clearly presents a risk

¹⁴ *Shawangunk Mountain Environmental Ass'n*, 157 A.D.2d at 275-76.

¹⁵ *Id.*

¹⁶ See 6 NYCRR §§ 617.8(d) and 617.9(a)(3).

¹⁷ See Planning Board Minutes of July 11, 2024 (stating “the board does not recall making a positive declaration in recent past.”).

¹⁸ SEQR Handbook, p. 86 (emphasis added). See also *Matter of UPROSE v. Power Authority of State of New York*, 285 A.D.2d 603, 608 (2d Dept. 2001) (“Because the operative word triggering the requirement of an EIS is ‘may,’ there is a relatively low threshold for the preparation of an EIS”) (quoting *Matter of Omni Partners v. County of Nassau*, 237 A.D.2d 440, 442 (2d Dept. 1997)).

of significant environmental impacts. Specifically, according to the most recent EAF, the Project includes:

- Over 63 acres of disturbance;
- Replacement of mature forests with young ornamental trees;
- Over 16.5 acres of impervious surfaces, over 11 acres of which are new;
- 87 new structures amounting to over 275,000 sq. ft. of space to be heated and cooled and requiring over 1.5MW of electrical demand per year, which may exceed current infrastructure capacity;
- An over 477% increase of the existing use;
- A substantial increase in traffic on current roads including more than 100 vehicle trips during a peak window;
- Over 250 parking spaces;
- No public transportation located within a half mile of the site;
- Creation of a 1.77-acre impoundment;
- More than half the site is on slopes exceeding 10%, raising the risks of stormwater runoff and erosion;
- Over 46,000 gallons of water used and wastewater generated per day¹⁹;
 - Water drawn from on-site wells, one of which will be new;
 - Wastewater will be discharged into on-site stream and ultimately into the Shingle Kill; and
- Up to 1,300 tons of solid waste will be generated per month.

It is implausible to suggest that a \$300 million dollar resort development with the foregoing features on the northeastern slope of the Catskills, along an important trout stream, adjoining the Catskill Park, and directly under the historic Catskill Escarpment Trail will not have a significant impact, worthy of an environmental impact statement under SEQRA. This massive development, if completed to plan, will more than double the population of Round Top and that impact alone in terms of traffic, water usage, and waste production should give any planning board pause and require greater scrutiny. Therefore, the issuance of a Positive Declaration of Significance, Scoping, and a draft EIS is appropriate and necessary for the Project.

I thank the Town of Cairo Planning Board for its consideration of these comments on behalf of the Friends of Round Top and Sierra Club Atlantic Chapter as part of its review of the Application. I request that this letter be added to the record of the Application.

Yours truly,



William F. Demarest III, Esq.

¹⁹ It is our understanding that members of the public have raised significant questions regarding the accuracy of the Applicant's calculation of proposed water usage.

Cc: Friends of Round Top, Inc.
Sierra Club Atlantic Chapter

Dear Donna,

Attached is a letter I wish to submit to the Planning Board in advance of tomorrow's meeting. Its topic is the Blackhead Mountain Lodge development proposal. While the topic won't be discussed tomorrow, I understand that the public hearing is still open and the Planning Board may receive comments. Please distribute my letter to all Planning Board members and add it to the growing record of BHML comments.

Thank you.

Sincerely,

Jackie Dinan

P.S. In case you're wondering, my initials on the last page appear a bit funky because I signed electronically with a mouse.

To: Town of Cairo Planning Board Members cc: Donna Vollmer
From: Jacqueline Dinan
Re: Blackhead Mountain Lodge/Special Use Permit Application 2022-1101P
Date: November 6, 2024

In light of the Planning Board's decision to postpone the Blackhead Mountain Lodge public hearing for the third consecutive month, I respectfully submit the following questions for the board's consideration and response when the public hearing reconvenes.

On Rogue Developers. In 2022, Coxsackie officials discovered that the developer of the James Newbury Hotel ignored his original permit and incorporated unapproved structural changes to the site, including an extra floor to house a rooftop bar and restaurant. Further scrutiny revealed the developer had underreported construction costs by 82%, thus skimming \$45,000 off his fees owed to the town. A consultant to the project contended because revenue projections had changed since submitting the original permit application, the hotel "profit centers" had to expand for the project to remain financially viable. When the developer implicitly threatened to abandon the half-finished site if the town didn't retroactively approve new permits for the unapproved changes, the Coxsackie Planning Board capitulated.¹

QUESTION #1: How will the Cairo Planning Board ensure that construction at the Blackhead Mountain site conforms to site plans submitted by the Applicant and that they will not be railroaded into undesirable modifications?

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On Energy Usage. According to Central Hudson Gas & Electric, the completed BHML development will require 1.5–1.76 million watts of electricity delivered by 1.2 miles of new 3-phase infrastructure, at an estimated cost of more than \$500,000.² The Cairo Town Board minutes of February 21, 2024, includes a summary of remarks by Joseph Hasenkopf: "They [the developer] are also paying Central Hudson to run 3 phase power all the way up to the site."

QUESTION #2: What's your plan to confirm the actual cost of the of the 3-phase infrastructure installation required by the BHML development and to ensure the Applicant pays Central Hudson for the installation rather than such costs being passed on to Central Hudson customers, including Cairo residents?

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On Water Usage. The Cairo Town Board minutes of February 21, 2024, includes a summary of remarks by Joseph Hasenkopf: "They [the developer] will also be using less water than when the golf course was using when they were running." However, according to the water report prepared by Crawford & Associates (April 22, 2024, pp. 2-3), water usage will increase 223%

¹ <https://www.timesunion.com/hudsonvalley/catskills/article/Developer-seeking-approvals-for-hotel-he-already-17209787.php> and <https://theupstater.com/news/months-later-community-changes-its-tune-on-hotel-project/>

² Response from KARC, Agency and Consultant Response Letter (April 22, 2024), page 19/39.

from 14,310 gallons per day at the former site versus 46,192 anticipated daily gallons at the new development.

QUESTION #3: Why did Chairman Hasenkopf characterize the anticipated water usage as “less” than the former site? I ask him to clarify his remarks.

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On Conflicts of Interest. In my public comments to the Planning Board on August 1, 2024, I pointed out that the Kelly Libolt of KARC Planning Consultants LLC also owns Eastern Construction Materials, a company that sells erosion and sediment control materials as well as stormwater, water supply, and sanitary sewer system materials. Precisely the construction materials the Applicant will need in substantial amounts should the project go forward. The approved minutes of that Planning Board meeting included a discourse on conflict of interest by town attorney Tal Rappleyea, who limited his remarks to a board member’s (or family member’s) business with the Maassmaan family rather than expanding potential conflicts of interest to include future business with RCBG JV Manager and Henry Courtemanche.

QUESTION #4: Has the Planning Board inquired whether Ms. Libolt, in her role as owner of KARC Planning Consultants and Eastern Construction Material, has any *agreement in principle* with RCBG JV Manager LLC, Henry Courtemanche, or another party for future construction business related to the BHML development? If you inquired, what was Ms. Libolt’s response? Likewise, I ask any board member to publicly acknowledge any *agreements in principle* (i.e., anticipated or pending construction business as a contractor or subcontractor) with the proposed BHML development.

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On the Timely Availability of Accurate Public Hearing Materials., KARC hasn’t updated its Dropbox folder with BHML public hearing submissions since July 24, 2024. This means a significant number of residents remains in the dark about comments and the content of letters submitted at the August 1st public hearing. As noted above, Planning Board minutes from August 1st, include Mr. Rappleyea’s remarks but no one else’s, even though about a dozen people spoke on the record about the BHML proposal, including me. A similar bias appears in two versions of the March 7, 2024, petition letter organized by Friends of Round Top. While KARC uploaded the letter to the Dropbox folder, they erased the names of all 156 signatories, diminishing the petition’s impact on visitors to the Dropbox file. Pressured by Friends of Round Top, the Planning Board eventually uploaded the complete petition letter including all signatories. Minutes of the October 3rd Planning Board meeting were posted on the board’s webpage more than four weeks after it took place, while the agenda for their November 7th meeting was still unaccounted for at 3:00 pm on November 6th.

QUESTION: #5: An engaged citizenry depends on timely access to accurate information from their government officials. I ask the Planning Board to scan and upload their record of BHML submissions in its entirety to the board’s webpage, or make other arrangements for supervised public viewing to supplement time-consuming FOIL requests?

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In closing, I ask the Planning Board to issue a positive SEQRA declaration for the BHML proposal and require a comprehensive scoping process and Environmental Impact Statement that will identify problems and protect the residents of Cairo. I also ask that my letter be added to the record.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to be 'Jacqueline Dinan', written over a horizontal line.

Jacqueline Dinan
229 Hearts Content Road

Dear Members of the Cairo Planning Board:

I would like to add a comment to the record of the Blackhead application in regard to the November 2024 submission documents, specifically the "Water Supply Hydrogeologic Report" by Sterling Environmental Engineering.

I live across the street from the project site (approximately 1/8th mile) at 136 Crows Nest Road. My well is 430 feet deep, which is more similar in depth to the site wells than any of the six offsite wells Sterling included in their report.

During the second week of June 2024, I experienced a sudden and unprecedented change in my well water. My water became bubbly/foamy/frothy and excessively aerated at all taps. It remained that way for about three months before subsiding, but my water is still not the same quality as it was prior. I reported my water changes to the NYDOH. **Please note that four wells were drilled/installed on the project site between June 6 and June 14, including Wells 4 and 5.**

The foamy water did not just appear at my property taps—it also appeared in the "unnamed stream," a class C protected stream that flows off the Blackhead property. This photo, which I took at the curve of Crows Nest Rd across the street from the Blackhead entrance, is dated **June 7:**



Despite my proximity to the project site and a sudden adverse change to my well water that is correlated with drilling timelines, I was NOT invited to participate in well-monitoring during Sterling/KARC's 72-hour pump test in November of Well 5, which is one of two wells identified by Sterling as the operational well system for the Blackhead project. The data that resulted from that November test is featured in the "Well Supply" report you are now reviewing.

I was excluded even though I made clear to Natalie Quinn/KARC in July that I wanted my well monitored once the well system was identified and testing would simulate full operational capacity, and that on **July 18**, Natalie wrote that I would have the opportunity to do so:

"We will be extending a second volunteer well monitoring opportunity (timing/scheduling not yet established) when the Applicant conduct's their formal 72-hour pump test of the system. This test will be completed in coordination with the NYSDOH and NYSDEC."

I expressed concerns to Natalie including the lack of testing for water *quality*, and asked if property owners would have access to data extracted from their wells. I requested

information for myself and the community, and Natalie responded: "We will get back to you with respect to a neighborhood meeting." None of my questions were answered and I never heard from Natalie or anyone from KARC again.

I have attached those emails between me and Natalie Quinn/KARC for your reference.

On **October 7**, KARC emailed a handful of my neighbors to announce:

"On behalf of Blackhead Mountain Lodge, Sterling Environmental Engineering, P.C. ("Sterling") is coordinating with neighbors to monitor nearby residential wells during an upcoming systemwide well pump test on the project site in mid-October (exact dates to be confirmed). There will be no new drilling associated with this testing. This test is a 72-hour pump test and is intended to simulate how the proposed water system will operate at full occupancy."

I was NOT included in this outreach. I only found out about the test weeks later, when a neighbor forwarded me the email they'd received from KARC.

KARC again reached out to a handful of my neighbors on **November 21** for another pump-test they are conducting this week on Well 4, the second well in their system. I was NOT included.

I have not received any communication from KARC or their contractors since July. There has been no public notice of pump testing. Further, KARC did not "coordinate" their testing with either the DEC or DOH. My understanding is that neither agency was even made aware the tests were occurring

I am submitting this comment to make the Planning Board/Lead Agency aware that the Blackhead applicant has **excluded** possibly affected residents like me from having their wells monitored during critical simulation tests. I also want to make sure the Board is aware that I experienced adverse changes to my well water that are synchronous with the fractured-bedrock drilling of four new wells at BHML in June.

I kindly request this letter be distributed to all members of the Cairo Planning Board and added to the application record in a timely manner. Public comments have not been updated since July, therefore dozens of comments—including letters from policy groups and experts—are still missing from the record four months later. The applicant did not include public comments from the August public hearing in the November submission. I urge the Planning Board, as lead agency, to update the record so that public comment is easily accessible. I, and others, have tried to access the "official" record at Town Hall and have been unsuccessful.

Thank you,
Jen Schwartz
136 Crows Nest Road, Round Top

From: Jen Schwartz <jensch72@gmail.com>

Sent: Thursday, July 18, 2024 12:25 PM

To: Natalie Quinn <natalie@karcpc.com>

Cc: Malcolm, James E (DEC) <james.malcolm@dec.ny.gov>; Kuzia-Carmel, Michael X (DEC) <Michael.kuzia-carmel@dec.ny.gov>

Subject: Well monitoring info session for Blackhead Mtn Lodge

Dear Ms. Quinn,

I received my letter from KARC yesterday soliciting my participation in the well monitoring program for Blackhead Mountain Lodge. I want to participate, but I have several questions pertaining to the process that are not addressed in the letter, including how data from my well will be used. For instance: It appears that my well will only be monitored for a 72-hour pump test on a single well on the property—and not for a pump test of the proposed full operational demand of the project. I would like to better understand the premise and methodology of the testing before I agree to it.

My neighbors and I would greatly appreciate if KARC would organize an informational meeting for the community about well testing and monitoring. This would be extremely helpful to everyone you have contacted for monitoring as well as for soliciting additional property owners who are interested in participating and may have wells with the right test conditions (that aren't included in the DEC's incomplete InfoMapper). I'm confident that a question and answer session would lead to better, more comprehensive outcomes for all of us. Please let me know if I can be helpful in spreading the word about an info session.

To that end, I am requesting that KARC extend the deadline to volunteer for participation beyond tomorrow, Friday, July 19.

Thank you,

Jen Schwartz

136 Crows Nest Road, Round Top

856-264-1433

On Wednesday, July 24, 2024, Natalie Quinn <natalie@karcpc.com> wrote:

Dear Ms. Schwartz,

Thank you again for your response. The Applicant extended a volunteer well monitoring program to the surrounding neighbors in direct response to specific requests by yourself and others. As described in the information mailed to you, this volunteer program will allow the installation of a data logger by Crawford Associates in your well to measure water levels while a single well on the proposed development site is pump tested for 72 hours. Additionally, Crawford Associates will monitor your well one week prior to and after the pump testing in order to record baseline levels.

Our team is installing monitoring equipment tomorrow (July 25, 2024) and Friday (July 26 2024). If you choose to participate in the initial volunteer monitoring program, **please provide the signed consent form by tomorrow July 25, 2024 by 12:00 PM.**

We will be extending a second volunteer well monitoring opportunity (timing/scheduling not yet established) when the Applicant conduct's their formal 72-hour pump test of the system. This test will be completed in coordination with the NYSDOH and NYSDEC.

We will get back to you with respect to a neighborhood meeting. We appreciate your offer to extend information about a possible meeting to the community.

Regards,

Natalie Quinn

KARC

PLANNING CONSULTANTS, INC.

WBE Certified NY and NJ

DBE Certified

US SBA WOSB and EDWOSB Certified

Natalie Quinn

Director of Planning

KARC Planning Consultants

PO Box 924

Poughkeepsie, NY 12602

845.874.7166 (Mobile)



Jen S <jensch72@gmail.com>

Well monitoring info session for Blackhead Mtn Lodge

Jen Schwartz <jensch72@gmail.com>

Thu, Jul 25, 2024 at 11:42 AM

To: Natalie Quinn <natalie@karcpc.com>

Cc: "Malcolm, James E (DEC)" <james.malcolm@dec.ny.gov>, "Kuzia-Carmel, Michael X (DEC)" <Michael.kuzia-carmel@dec.ny.gov>, Kelly <kelly@karcpc.com>, "Rod Morrison (rmorrison@lrccconsult.com)" <rmorrison@lrccconsult.com>

Hi Ms. Quinn,

Thanks for getting back to me.

The request from myself and others is, and has always been, for KARC to facilitate a well-monitoring program that is designed to capture potential changes in offsite wells based on realistic water demands of the development. My understanding is that monitoring an offsite well network during a 72-hour pump test of a *single exploratory well* will not answer that question. And that the time for me and my neighbors to participate in a monitoring program is only after the proposed water system is identified in full and tested at maximum operational demand. (Including demand for irrigation and the newly proposed 45,000-gallon storage tanks, neither of which are accounted for in your 46,000 gpd water-demand estimate.)

Monitoring my well during an exploratory pump test on a single, potential supply well might help the applicant discern if they will have enough water for *their* needs—but it is not sufficient to assess whether my neighbors and I will have enough water for *our* needs when the development is fully operational and consistently pumping multiple wells at once.

The hydrologists and permit experts at the DEC can please clarify that distinction if I have it wrong. This is also why I have strongly suggested in email and through public comment that KARC host an informational session with the community *before* asking us to make a decision on our participation for well monitoring. This is especially important because KARC refuses to answer questions during planning board meetings. I have questions such as:

- Can volunteer participants such as myself have access to the raw data and all analyses for our individual wells?
- How and when will the results be shared? Considering this testing is not part of a DEC or DOH permit application, we have no idea what protocols you are following.
- Will the other four wells proposed for the onsite water system be monitored in a similar method to the offsite wells?
- Will the applicant also be testing monitored wells for water quality, considering the potential for contamination and other issues?
- Will the applicant commit to allowing an independent hydrologist oversee the well testing and monitoring? (This question was asked in March 2024 in a public comment letter signed by over 130 residents; we have not received an answer.)

My concern, and my neighbors' concern, is that our participation in the pump test of a single exploratory well, which may or may not be included in the final water system, could be used by the applicant to continue arguing to the Cairo Planning Board/Lead Agency that the applicant has done their due diligence by engaging the community and that there is no significantly adverse effects to the community. That is why, in May and June, I requested on the record for exploratory pump tests and associated well monitoring to be *paused* until the Lead Agency makes a declaration of significance on SEQRA and puts contingencies in place.

Based on KARC's application documents from December-July, the applicant is not intending to apply for a water withdrawal permit with the DEC. If that's the case, the requirements of Article 15 part 601 would not be accounted for during potential future testing of the full water system. (I am not familiar with the requirements of the DOH permit). This is a big concern in our community.

I have made clear that I want to participate in well-monitoring because I know that more data will help experts at the involved agencies better understand how the applicant's extensive deep drilling and significant water demands will affect the surrounding community, both now and into the future. But the design, methodology, purpose, and oversight of your well-monitoring plan does not appear to meet the needs of the community per NYS laws, and until it does, I cannot consent to participating.

Thank you,
Jen

To: Cairo Planning Board
From: David Palka
Re: Extreme Well Disruptions
Dec. 2, 2024

My name is David Palka and I live at 22 Bald Hills Road N, Round Top. I am right at the intersection of Bald Hills Rd and Crow's Nest Road, so directly in front of the Blackhead Mountain entrance. I have been a resident of Round Top for 8 1/2 years.

I am writing in reference to the extreme problems I have been having with my well water. Beginning on August 8th I began to notice silt from the water in my faucets, and immediately began to take samples of this water throughout Aug and Sept. I have been forced to change my filters anywhere from 3 to 7 times per week and still the water remains unpotable.

I have complied with pump tests executed at Blackhead starting from October 27 and have reached out to KARC regarding my issues. There has been no satisfactory solution to the problems I face with my well and water. This interruption in my basic resource is making it close to impossible to continue a "normal" life using my well. I will point out that I have never encountered problems of this nature prior to August 8th and I'm beginning to believe my well will remain unusable.

I am not sure what kind of drilling or testing has been done at Blackhead, but I do confirm that my issues are parallel to these tests.

Sincerely,

David Palka

A handwritten signature in black ink, appearing to read 'David Palka', written in a cursive style.







Donna Vollmer

From: Friends of Round Top Inc <friendsoftrt.inc@gmail.com>
Sent: Tuesday, December 3, 2024 2:38 PM
To: Donna Vollmer; Planning
Subject: [Possible Spam] Re: December 5th Planning Board Meeting

Dear Chairman Hasenkopf,

In light of the email I sent below (requesting the public hearing on the Blackhead Mountain project be reconvened December 5th), I was surprised not to see it on the draft agenda for Thursday's meeting. Can you please explain to me why our request to reconvene the public hearing was denied?

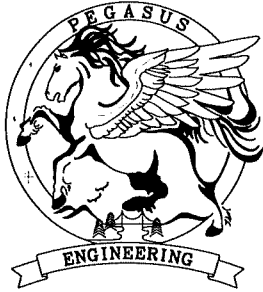
Sincerely,
Jackie Dinan, Secretary
Friends of Round Top, Inc.

On Mon, Nov 25, 2024 at 10:12 PM Friends of Round Top Inc <friendsoftrt.inc@gmail.com> wrote:
Dear Chairman Hasenkopf,

Friends of Round Top, Inc. request that the public hearing on Blackhead Mountain Lodge development project be reconvened and added to the agenda of your December 5, 2024 meeting. Members of our organization will attend to make oral comments for your consideration.

Thank you.

Sincerely,
Jackie Dinan, Secretary
Friends of Round Top, Inc.



546 Blydenburgh Road
Hauppauge, NY 11788
516-982-3439
jtacetta@optonline.net

Plan for Better Results

5 December 2024

Planning Board
Town of Cairo
512 Main Street
P.O. Box 728
Cairo, NY 12413

RE: Blackhead Mountain Resort
Crows Nest Road
Cairo, New York

Dear Planning Board:

I am writing to you to urge you to issue a Positive Declaration in regard to the proposed development of the Blackhead Mountain Resort as required under the State Environmental Quality Review Act (SEQRA).

The applicant is requesting permission for the construction of a gated resort containing (approximately) 126 units (or “keys” in industry parlance) with an overall bedroom count of 264. An undisclosed number of the units will be offered as condominiums to be held privately in fee simple. The development will also contain additional buildings containing amenities, utilities, maintenance and storage facilities. Overall, the applicant proposes constructing 93 structures having a total floor area of 310,935 square feet on 3 lots having a combined area of 102.31 acres (see Overall Site Plan, OP-1, dated the 21st of December 2023). The proposed lot coverage is approximately 19%. The proposed density is 0.81 acres per unit per 2 bedrooms. That is, the applicant is proposing an action that will, neglecting the supporting buildings, develop the property as if it were constructing 126 2-bedroom houses on 0.83 acre lots, in an area where the average density in the area is one dwelling on lots in excess of 5 acres.

Title 6 Part 617 of the Compilation of the Rules of the State of New York sets forth the SEQRA. Section 4 presents those actions that are “Listed” as having the “presumption that [any such action] is likely to have a significant adverse impact on the environment”. As per 6 CCR-NY 617 Section 4 the applicant’s proposal contains the following Type I Listed actions.

1. Paragraph (5)(ii) The construction of 50 or more residential units not to be connected to existing community or public water and sewerage systems.
2. Paragraph (6)(i). A project that involves the physical alteration of 10 acres.
3. Paragraph (6)(v). In a city or Town having a population of 150,000 persons or less, a facility with more than 100,000 square feet of floor area.

4. Paragraph (10). Any Unlisted action occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space exceeding 25% of the above thresholds. Specifically, 12 residential units, 2.5 acres and 25,000 square feet of gross floor area.

Considering Paragraph (10), regardless of the any Listed Type I action, applicant's proposal exceeds the relevant thresholds as follows.

1. The proposed 126 units exceed the 12.5 unit threshold by over 1000 percent.
2. The proposed disturbance of 19 acres (based on the conservative estimation of an 18,9% final lot coverage) exceeds the 2.5 acre threshold by 778%.
3. The proposed gross floor area of 310,935 square feet exceeds the 25,000 square foot threshold by over 1000%.

As seen by the above, the applicant's request is breathtakingly in excess of the thresholds presented in the SEQRA. I direct your attention to Section 7(c), Criteria for Determining Significance. Specifically, I point you to the following paragraphs.

1. (i) Substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, a substantial increase in solid waste production; a substantial increase in the potential for erosion, flooding, leaching or drainage problems.
2. (ii) The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources. Applicant proposes to fence the property, interfering with the movement of wildlife onto and off of the adjoining wilderness area.
3. (iv) The creation of a material conflict with a community's current plans or goals as officially approved or adopted. The proposed action is in direct conflict with the Town's Comprehensive Plan.
4. (v) The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
5. (vi) a major change in the use of either the quantity or type of energy
6. (viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
7. (ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
8. (x) the creation of a material demand for other actions that would result in one of the above consequences;
9. (xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or
10. (xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

In consideration of the forgoing it is clear that the proposed action demands the issuance of a Positive Declaration on the part of the Board and any other decision would constitute a violation of law and an abdication of the Board's authority.

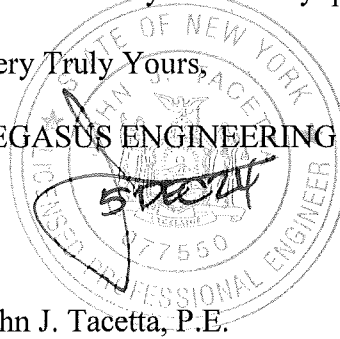
In closing, I want to be clear that the issuance of a Significant Declaration does not preclude the applicant from proceeding with development of the property. It only requires that the applicant consider the environmental impacts of the project, required mitigating factors and alternative approaches that could otherwise achieve the applicant's goals. Moreover, as the Board should be aware, the proposed action is not an "as of right" use and thus requires a Special Permit and the Board's appropriate review and consideration in order to gain approval.

Please do not hesitate to contact me should you have any questions or comments.

Very Truly Yours,

PEGASUS ENGINEERING

John J. Tacetta, P.E.
Principal



JJT:jjt

P:\Work Documents\0 Blackhead Mountain Resort\241205 - Request for Positive SEQRA Determination.docx

Donna Vollmer

From: Jeanine Morick <jpmorick@gmail.com>
Sent: Thursday, December 5, 2024 4:36 PM
To: Joseph Hasenkopf; Planning
Cc: Donna Vollmer; Jason Watts; dvandeusen@lamontengineers.com
Subject: Personal Comment to Planning Board - BHML Application

December 5, 2024

Dear Members of the Planning Board:

I would like to add a comment to the record of the BHML application regarding the November 2024 submission documents, specifically the Hydrogeological report.

I live in Round Top near the project site (approximately 1/10th of a mile) at 372 Blackhead Mtn. Rd. Like my neighbors, I depend on well water for my water source.

KARC has referenced Public Outreach to residents near the site to be part of a Well-Monitoring program in tandem with the drilling of wells at the BHML site and consequent 72 hour pump-testings.

The first and ONLY outreach that I became aware of was in July, 2024. I was traveling and heard from my neighbors that some residents had been contacted via MAIL about volunteer well-monitoring . I emailed Natalie Quinn/KARC on July 19th and requested more information and to inform her of my return date (July 25th). She responded on July 24th with attached consent forms and stated that the deadline for signed consent forms was 12:00pm on July 25th.

Unfortunately, I could not return until after the deadline on that day. Ms. Quinn assured me that they would extend a second volunteer well monitoring opportunity "when the Applicant conducts their formal 72-hour pump test of the system".

I was never contacted again nor did I receive any further information concerning drilling or well-monitoring. I find it concerning that Ms. Quinn and KARC have not followed through on extending well-monitoring opportunities to residents as myself who stand to be affected. I ask you to take this into consideration as you review their application documents.

*Email thread attached.

Thank you,

Jeanine P. Morick

From: Jeanine Morick <jpmorick@gmail.com>
Sent: Friday, July 19, 2024 11:10 PM
To: Natalie Quinn <natalie@karcpc.com>
Subject: Well Monitoring Round Top, NY

Dear Ms. Quinn,

I am currently traveling and will not be returning to my home in Round Top until July 25th. I understand that some of my neighbors have received letters from KARC concerning offers for well-monitoring. If you have tried to contact me, I would appreciate an extension on my decision plus any additional information/communication from KARC concerning this testing process and what type of oversight will be enforced during the testing.

Thank you,

Jeanine Morick

372 Blackhead Mountain Rd.

P.O. Box 370

Round Top, NY 12473

7/24/2024

Dear Ms. Morick,

We have received your response. As described in the information mailed to you (and attached), this volunteer program will allow the installation of a data logger by Crawford Associates in your well to measure water levels while a single well on the proposed development site is pump tested for 72 hours. Additionally, Crawford Associates will monitor your well one week prior to and after the pump testing in order to record baseline levels.

Our team is installing monitoring equipment tomorrow (July 25, 2024) and Friday (July 26 2024). If you can **provide the signed consent form by tomorrow July 25, 2024 by 12:00 PM** I will be able to include you within this initial round of well testing.

We will be extending a second volunteer well monitoring opportunity (timing/scheduling not yet established) when the Applicant conduct's their formal 72-hour pump test of the system. This test will be completed in coordination with the NYSDOH and NYSDEC.

Regards,

Natalie Quinn

WBE Certified NY and NJ

DBE Certified

US SBA WOSB and EDWOSB Certified

Natalie Quinn

Director of Planning

KARC Planning Consultants

PO Box 924

Poughkeepsie, NY 12602

845.874.7166 (Mobile)

Natalie@karcpc.com

<https://www.karcpc.com/>

Please note the change in email address. My new personal email is jpmorick@gmail.com

To: Cairo Planning Board
From: David Palka
Re: Extreme Well Disruptions
Dec. 2, 2024

My name is David Palka and I live at 22 Bald Hills Road N, Round Top. I am right at the intersection of Bald Hills Rd and Crow's Nest Road, so directly in front of the Blackhead Mountain entrance. I have been a resident of Round Top for 8 1/2 years.

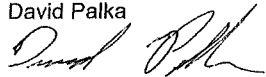
I am writing in reference to the extreme problems I have been having with my well water. Beginning on August 8th I began to notice silt from the water in my faucets, and immediately began to take samples of this water throughout Aug and Sept. I have been forced to change my filters anywhere from 3 to 7 times per week and still the water remains unpotable.

I have complied with pump tests executed at Blackhead starting from October 27 and have reached out to KARC regarding my issues. There has been no satisfactory solution to the problems I face with my well and water. This interruption in my basic resource is making it close to impossible to continue a "normal" life using my well. I will point out that I have never encountered problems of this nature prior to August 8th and I'm beginning to believe my well will remain unusable.

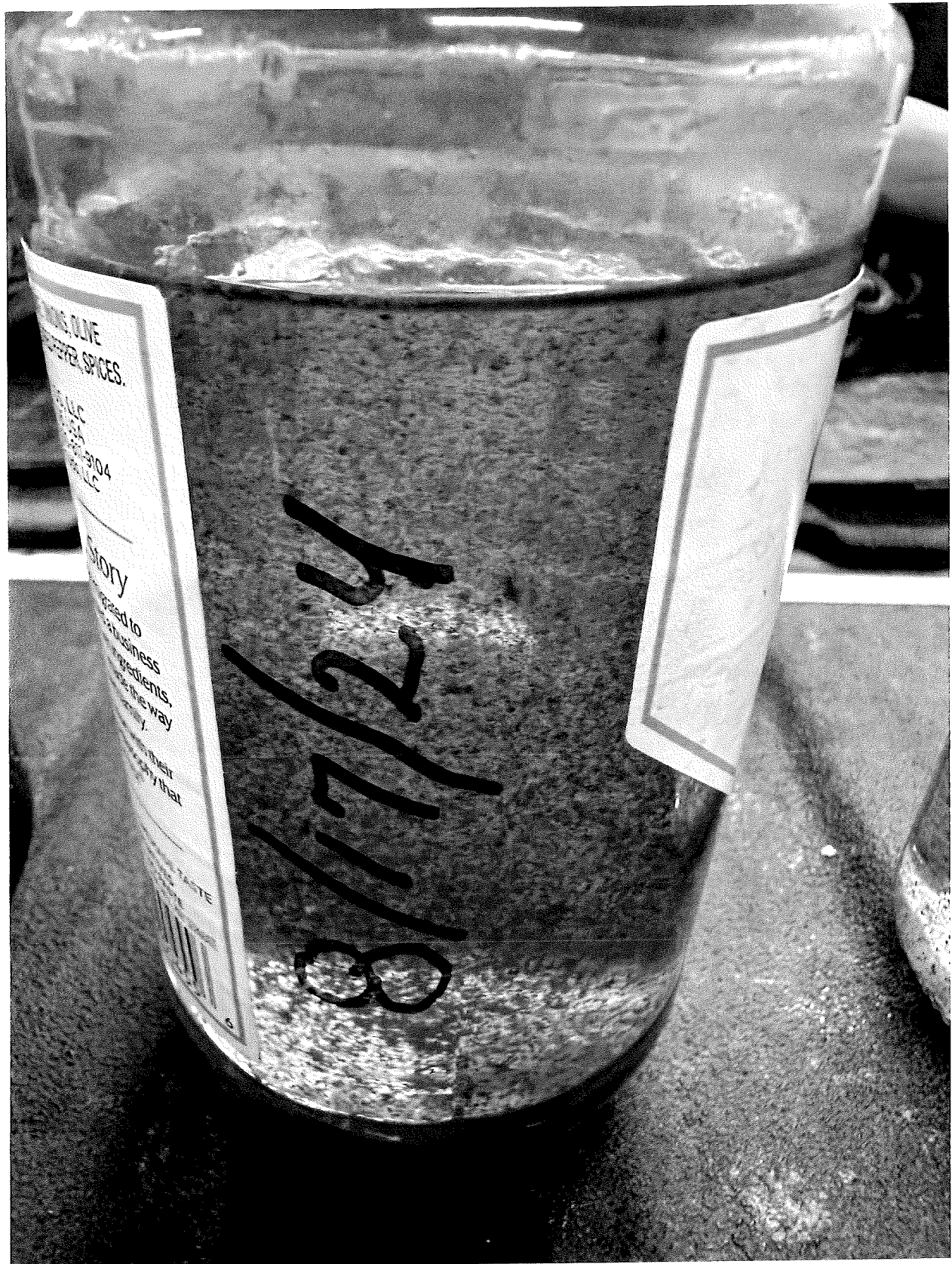
I am not sure what kind of drilling or testing has been done at Blackhead, but I do confirm that my issues are parallel to these tests.

Sincerely,

David Palka

A handwritten signature in black ink, appearing to read 'David Palka', written in a cursive style.





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TASTE





Kathy Rockefeller

From: Friends of Round Top Inc <friendsoftrt.inc@gmail.com>
Sent: Wednesday, January 8, 2025 3:55 PM
To: Jason Watts; Town Clerk Group; Timothy Murphy; Michael Flaherty; Debra Bogins; Maryjo Cords
Subject: Correction to FORT Inc memo submitted January 2, 2025
Attachments: 2025.01.08.CORRECTION.Hull presentation to town board_contamination.pdf

Dear Planning Board Members,

The memo submitted by Oliver Hull on our behalf, on January 2, 2025, contained an error. The Green's tested water sample came from their private well at 103 Bald Hills Road North, not 103 Blackhead Mountain Road.

I have attached a corrected version of our memo to amend the record. Thank you.

Sincerely,
Jacqueline Dinan, Secretary
Friends of Round Top, Inc.

CORRECTED MEMO to replace memo submitted January 2, 2025

To: Jason Watts, Supervisor
Debra Bogins, Deputy Supervisor
MaryJo Cords, Board Member
Michael Flaherty, Board Member
Timothy Murphy, Board Member
Kayla McAlister, Town Clerk

From: Oliver Hull, on behalf of Friends of Round Top, Inc.

RE: Contaminated Water near Blackhead Mountain Lodge

Date: January 8, 2025

Friends of Round Top, Inc. wishes to inform the town of a disturbing development that has emerged in proximity to the Blackhead Mountain Lodge site (BHML). In December, well water from two properties tested positive for E-coli and coliform. At this time, we submit documented evidence of contamination at the Palka residence (22 Bald Hills Road North) and the Green residence (103 Bald Hills Road North): test results conducted by Adirondack Environmental Services. Without exaggeration, we can state that these homeowners, as well as others hesitant to come forward, are distraught and suffering over the matter.

Although the source(s) of the contamination are currently unknown, one potential candidate stands out for consideration—the aging septic system at the shuttered Blackhead Mountain Lodge. We urgently ask the town board to act quickly to launch an investigation of the status of the entire BHML septic system including leach field(s) to rule it out as a source of the contamination.

If the source(s) of the contamination are not identified and left unchecked, an increasing number of private wells in Round Top will likely become unusable. A trend that would undoubtedly slash property values and the future economic viability of the hamlet.

Thank you.

