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April 4, 2022

Wallace and Wallace
85 Civic Center Plaza, Suite LL3
Poughkeepsie, New York 12601
Attention; James P. Horan, Esq. jhoran@wallacelaw.net

Re: Downey Energy v. Town of Wappinger, et al

Dear Attorney Horan:

Receipt of your April 4, 2021 letter at 12:02PM today is hereby acknowledged. I will not address the many at least inaccurate legal and factual aspects of your letter (and reserve my right to do so in a appropriate form). Permit me to set forth what is not disputed in this Record.

First, at the last Planning Board Meeting I was presented **after** the Workshop Meeting started for the first time with a draft proposed Positive Declaration. In my practice of land use law over approximately four decades, I have never had a municipality act this way to ambush a Land Use Applicant. What was more troubling, however, is the so-called Planner who provided the Town with his Memorandum about the proposed Positive Declaration with the date of that Planning Board Meeting listed me as receiving a copy which he never provided me. The last such municipal misconduct that I experienced was in the *Orangetown v. Magee*, 88 N.Y.2d 41 (1996) case where my Client sued and collected over \$8,000,000 for similar Town misconduct.

Second, at the last Planning Board Meeting I asked for time to review certain information and confirmed the information I needed in an e-mail to this so-called Planner the very next day. I have yet to receive all the information requested. This is the same so-called Planner who advised the Town Planning Board at Planning Board Meeting after my Client had left that he would change the Negative Declaration into a Positive Declaration without stating any reason to do so.

Third, my Client has provided all the information needed to make a Declaration under SEQRA. My Client has always assisted "the Planning Board in discharging its obligations" by appearing at Meetings, providing extensive documentation and otherwise answering all genuine planning questions. My Client's matter is before the Planning Board tonight and there is nothing for my Client to add to the Record and my client will not waste it funds for its professionals to appear tonight and not be meaningful heard by the Planning Board. So, proceed tonight as this Board lawfully should and my client will then proceed appropriately without further notice. This letter is sent with all rights and remedies reserved and without prejudice. Be guided accordingly

Very truly yours,


Dennis E. A. Lynch

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Cc: Planning Board