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www.cglawoffices.com
99 Corporate Drive
Binghamton, New York 13904

Mailing Address:
PO Box 2039
Binghamton, NY 13902-2039
(607) 723-9511
(877) COUGHLIN
Fax: (607) 723-1530
e-mail: rmckertich@cglawoffices.com

February 12, 2020

Joseph Dlugolenski
NYS Department of Environmental Conservation
1285 Fisher Ave
Cortland, New York 13045-1090

Re: Sungeel Corporation's Air Permit and Solid Waste Facility Registration Applications

Dear Mr. Dlugolenski:

This firm represents the Village of Endicott. I have recently been informed that the Department of Environmental Conservation ("DEC") is processing an application from Sungeel Corporation for an air permit for a proposed battery incineration and recycling plant located at 801 Clark Street in Endicott. Additionally, the DEC is processing Sungeel Corporation's application to register the plant as a solid waste management facility. I am writing on behalf of the Village Mayor and Board of Trustees to express our concerns with this proposal.

As you know, the general location of the proposed plant is impacted by severe ground contamination due to the previous use of the site by IBM. The Village and its residents have and will continue to suffer the consequences of this contamination for years. In light of the Village's experience with pollution, Village residents are concerned about the apparent lack of information and DEC's failure to conduct a thorough review of the potential environmental, health and safety consequences of the project.

As set forth below, our initial review of this project demonstrates: (1) a lack of transparency with respect to DEC's review of project impacts, (2) missing and inconsistent information submitted in the Environmental Assessment Form, (3) defects in the SEQR review process, (4) potentially severe environmental and safety impacts of the project, and (5) a complete lack of consideration of the Village Zoning Laws. For those reasons, the DEC should stay any approval of the applications and rescind its previous SEQR determination, pending a more thorough and comprehensive review of the project.

1. Lack of Transparency with Respect DEC's Review of the Project Impacts

To date, the Village has not received any documentation or information from the DEC or the Sungeel Corporation regarding the air permit application or the solid waste management facility registration. Furthermore, the Village has received no communications in connection with the performance of DEC's SEQR review. This is despite documentation by DEC suggesting such notice was provided.

In light of the lack of transparency and communication related to this project, and in light of the history of environmental injustices within the Village, the lack of transparency is a red flag. By this letter, the Village is requesting to be fully informed of the DEC review process, including receiving copies of any and all applications, environmental testing results, SEQR documentation and other information related to this project and its environmental impacts.

2. Missing and Inconsistent Information in the Environmental Assessment Form

The Environmental Assessment Form submitted by Sungeel Corporation in connection with its solid waste management facility registration application is missing a substantial amount of information and has inconsistencies within it. In particular:

1. Sungeel Corporation failed to identify any need for local Planning or Zoning Board approval for this project.
2. Sungeel Corporation failed to identify the need for approval from the Broome County Health Commissioner to operate an incinerator.
3. Sungeel Corporation stated the plant will use no water, however, this statement appears false based on the need for wastewater treatment.
4. Sungeel Corporation stated there would be no change in traffic, yet there are plans to have trucks hauling tons of batteries to the site.
5. Sungeel Corporation failed to indicate how much liquid waste would be produced by activities at the site.
6. Sungeel Corporation failed to indicate how much electricity would be used.
7. Sungeel Corporation failed to indicate the hours of operation.
8. Sungeel Corporation failed to indicate how hazardous waste would be managed.

This missing information suggests a lack of attention to detail and raises concerns with the Village. Moreover, the missing information raises serious questions about the outcome of the SEQR evaluation, since the evaluation is based in large part on the submission of a complete and accurate Environmental Assessment Form. It is also noteworthy that the lack of information in the EAF disproportionately relates to the local effects of the proposed plant. The Village requests that DEC mandate the submission of a more detailed and accurate Environmental Assessment Form by Sungeel.

3. Defects in the SEQR Review Process

I have been informed that the DEC already issued a Negative Declaration under SEQR with respect to the project. This is despite the fact that the DEC's SEQR record indicates the performance of a coordinated review. It is my understanding that the Village never received a Notice of Interested or Involved Agency, as is required under 6 NYCRR 617.3. Given that no one contacted the Village regarding the SEQR review process, it is unclear what public body was involved in the coordinated review other than the DEC.

Furthermore, the fact the Environmental Assessment Form was missing information and contained inconsistencies raises additional concerns about how DEC arrived at a Negative Declaration. For these reasons, the DEC should rescind its Negative Declaration and conduct a more thorough and detailed SEQR review of the project, including with input from the Village and other interested and involved agencies.

4. Potential Environmental and Safety Impacts

The Village is concerned about the potential environmental impacts of the proposed project and requests that DEC conduct a comprehensive and exhausting analysis of any potential pollution, contamination and other environmental effects. The Village understands that the plant will burn lithium ion batteries as part of its battery recycling process. Lithium ion batteries contain various hazardous materials which will enter the air when burned. Once airborne, these materials may pose a threat to the health and safety of Village residents. The recent fire at the Taylor Recycling Facility highlights these concerns, particularly given the fact that Sungeel Corporation proposes to store over one ton of batteries onsite.

Not only does the storage of lithium ion batteries raise fire concerns, it also raises concerns of potential battery leaks. Sungeel Corporation states in its Environmental Assessment Form that no lead or acid batteries will be handled or processed onsite, but in the air permit application Sungeel states that it will inspect for such batteries, thus suggesting such batteries actually will be handled and possibly stored onsite.

As stated above, the Village has received no information as to how Sungeel Corporation would address these concerns and minimize the risk of fire and/or leaks. Since the Village and its first responders and residents will suffer the first and greatest harm if there is environmental contamination or hazard, the Village expects that DEC will fully examine these issues and that it will communicate directly with the Village as it does so.

5. Village Zoning Laws

At the time of this letter, Sungeel has not submitted an application for a building permit or a request for site plan review under the local Zoning Code. Therefore, the Village Code Enforcement Officer has not had an opportunity to determine whether the proposed plant is an allowed use under the Zoning Code. This is of particular concern given the unique nature of the proposal.

It is possible, depending upon the Code Enforcement Officer's interpretation of the Code, that the project will require a use variance by the Village Zoning Board of Appeals and, at the very least, a site plan review by the Village Planning Board. Furthermore, the Village's Aquifer Protection law requires that any activity requiring a permit from the DEC also obtain a special permit, given the presence of an aquifer beneath the Village.

To be sure, the lack of any mention of the need for local approval beyond a building permit, or even any inquiry into the matter, suggests a lack of concern for local input. The Village requests that these issues be addressed immediately.

CONCLUSION

In short, the Village is deeply concerned about the lack of transparency and thorough review of the Sungeel Corporation's proposed battery incinerator and recycling plant. The DEC is in a unique position to use its resources and expertise to protect the environment and health of the residents of the Village of Endicott from potentially devastating consequences. It is our expectation that you will not fast track this project and that you will conduct a full and complete evaluation of the potential environmental impacts and work with Village officials as a true partner in protecting the health, safety and welfare of the citizens.

Sincerely,

COUGHLIN & GERHART, LLP

By 
Robert H. McKertich
Partner

RHM/cmh

cc: Mayor of the Village of Endicott
Board of Trustees of the Village of Endicott
Anthony Bates, Village Manager
Joseph Sluzar, Esq., DEC