

State Environmental Quality Review Act
NEGATIVE DECLARATION
 Notice of Determination of Non-Significance

Date of Adoption: _____

Implementing Regulations: This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Determination: The Town of Wappinger Planning Board, as Lead Agency, has determined that the Proposed Action described below will not have a significant adverse effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Downey Energy

SEQRA Status: Type 1 Action

Conditioned Negative Declaration: No

Location: The subject property is located at 199 Old Route 9 in the southerly part of the Town, is designated 6156-02-763656 on the Town tax maps, and is zoned Highway Business (HB). The property is approximately 5.4 acres in size and has frontage on both Old Route 9 and Route 9 (the "Subject Property" or "Site").

Description of Action: The Proposed Action consists of Applications for Site Development and Special Permit Approvals to allow the construction of a liquid propane storage facility consisting of two, 45,000 gallon, above-ground storage tanks and a utility building. For the purposes of SEQRA, the Proposed Action also includes the adoption of a Local Law by the Wappinger Town Board which would amend Chapter 240, Zoning, of the Town Code with respect to the addition of 'Liquid Propane Storage Facilities' as a new Special Permit Use in the Highway Business and Airport Industry zoning districts (the "Proposed Local Law" or "Proposed Action").

Reasons Supporting This Determination:

Specifically, with respect to the Proposed Action:

1. **The Proposed Action will not have a significant adverse environmental impact with respect to the construction on, or physical alteration of, the land surface of any properties.**

The Proposed Action involves approximately 0.64 acres of ground disturbance proposed to accommodate the two, above-ground tanks and their associated utility building and parking areas. The Applicant has provided a detailed Soil Erosion and Sediment Control Plan to minimize and control erosion at the time of construction.

2. The Proposed Action will not have a significant adverse environmental impact with respect to any unique or unusual landforms.

There are no unique or unusual landforms present in the area of the Proposed Action, and the area of the Proposed Action is not adjacent to any geological feature listed as a registered National Natural Landmark.

3. The Proposed Action will not have a significant adverse environmental impact on any wetlands or other surface water bodies.

The Site Plan has been designed to keep the disturbance to the neighboring wetlands and water course area as minimal as possible, with a bioretention area designed to supplement and mitigate the wetland disturbance. Due to the orientation of the tax lot and the necessary location of the access to the Site from Old Route 9, an encroachment into the 100' NYSDEC wetland buffer and ACOE regulated wetland was unavoidable. The Proposed Action would result in 10,392 SF of disturbance to the 100' NYSDEC-regulated wetland buffer and approximately 3,010 SF of disturbance within the Army Corps of Engineers jurisdictional wetland. Permits for the disturbances will be acquired from the appropriate agencies. The Applicant has submitted a Storm Water Pollution Protection Plan report detailing how the impacts will be minimized and mitigated from the associated disturbances.

4. The Proposed Action will not have a significant adverse environmental impact with respect to new or additional use of ground water, and will not have a significant adverse environmental impact with respect to the introduction of contaminants to ground water or an aquifer.

The total anticipated water usage with the Proposed Action would be 180 gallons per day and would not amount to a significant adverse impact on the availability of ground water. The total anticipated liquid waste generation is anticipated to be 180 gallons per day to be disposed of in a proposed subsurface sewage disposal area. The Proposed Action will create a 10' x 60' underground water storage tank for the purposes of fire suppression but would be truck fed and not rely on ground water. The Proposed Action would create a petroleum product storage use on a currently vacant site and would increase the existing potential for minor contaminants to surrounding ground water associated with parking and loading areas, as well as the storage of propane gas.

For the reasons stated above, the Proposed Action is not anticipated to create a significant adverse environmental impact with respect to the introduction of contaminants to ground water or the depletion of ground water.

5. The Proposed Action will not have a significant adverse environmental impact with respect to the development of lands subject to flooding.

The Project Site is not located within the 100-year or 500-year flood plain. Therefore, the Proposed Action is not anticipated to have a significant adverse environmental impact.

6. The Proposed Action will not have a significant adverse environmental impact on any State regulated air emission source.

There is no State-regulated air emission source associated with the Proposed Action. The Project does not require Federal or State air emission permits and will not emit one or more greenhouse gases at or above the following levels:

- a. More than 1,000 tons/year of carbon dioxide (CO₂)
- b. More than 3.5 tons/year of nitrous oxide (N₂O)
- c. More than 1,000 tons/year of carbon equivalent of perfluorocarbons (PFCs)
- d. More than 0.045 tons/year of sulfur hexafluoride (SF₆)
- e. More than 1,000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions
- f. More than 43 tons/year or more of methane (CH₄)

The Proposed Action will not generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants, or reach 50% of any of these thresholds.

The Proposed Action will not require a State air registration, or produce an emissions rate of total contaminants that exceed 5 lbs. per hour, or include a heat source capable of producing more than 10 million BTUs per hour, or reach 50% of any of these thresholds. Also, the Proposed Action will not result in the combustion or thermal treatment of more than one ton of refuse per hour.

7. The Proposed Action will not have a significant adverse environmental impact with respect to the loss of flora or fauna.

According to the New York State Department of Environmental Conservation Environmental Resource Mapper, the project site may provide habitat for Endangered or Threatened Species, specifically, the Indiana Bat and the Blanding's Turtle. There is tree clearing

proposed to allow for the Proposed Action. Winter tree clearing between November 1 to March 31 would mitigate potential negative effects to the Indiana Bat.

The Applicant has submitted a Threatened and Endangered Species Habitat Suitability Assessment Report detailing that there is no core habitat or potential nesting habitat for the Blanding's turtle on Site.

For the reasons stated above, it is not anticipated that this would amount to a significant adverse environmental impact with regards to the loss of flora or fauna.

8. The Proposed Action will not have a significant adverse environmental impact on agricultural resources.

The Site is not located within an Agricultural District. The Proposed Action is not anticipated to have a significant adverse environmental impact on agricultural resources.

9. The Proposed Action will not have a significant adverse environmental impact on any scenic or aesthetic resources.

The Proposed Action will not result in the obstruction, elimination or significant screening of scenic views, or be visible from any publicly accessible vantage points either seasonally nor year-around.

10. The Proposed Action will not have a significant adverse environmental impact on any historic or archaeological resources.

The Proposed Action is not located in an area identified as being archeologically sensitive and is not anticipated to have a significant adverse environmental impact on historic or archaeological resources.

11. The Proposed Action will not have a significant adverse environmental impact with respect to the loss of recreational opportunities or with respect to a reduction of an open space resource designated in any adopted municipal open space plan.

The area of the Proposed Action is not designated as open space by the Town of Wappinger. The Proposed Action will not result in the loss of a current or future recreational resource, eliminate significant open space, or result in loss of an area now used informally by the community as an open space resource.

12. The Proposed Action will not have a significant adverse environmental impact on a Critical Environmental Area (CEA).

There are no Critical Environmental Areas in or adjacent to the area of the Proposed Action.

13. The Proposed Action will not have a significant adverse environmental impact on existing transportation systems.

The Proposed Action will not have a significant adverse impact on existing transportation systems. The existing Old Route 9 is anticipated to accommodate the increase in traffic expected with the Proposed Action.

14. The Proposed Action will not have a significant adverse environmental impact as a result of an increase in the use of any form of energy.

It is anticipated that the existing energy infrastructure would continue to serve the Site and that enough surplus exists to meet potential demand. The Proposed Action does not require a new, or an upgrade to any existing substation.

15. The Proposed Action will not have a significant adverse environmental impact as a result of an increase in noise, odors or outdoor lighting.

Noise impacts associated with the Proposed Action will be largely limited to temporary impacts generated during construction. The impacts associated with noise during construction will be mitigated by limiting construction activities to the hours between 7:00 a.m. and 4:00 p.m. (Monday through Friday) and no construction proposed Saturday, Sundays, and Holidays. The construction of the Proposed Action will be subject to compliance with the Town's noise regulations. There is no blasting expected with construction of the Proposed Action. Should any blasting become necessary, it will occur in full compliance with Federal, State, County and Town laws.

Noise impacts associated with the Proposed Action during operations will be largely limited to 7:00 a.m. to 3:00 p.m. with occasional deliveries being made outside normal hours of operation as dictated by supply chains.

The Proposed Action is not anticipated to generate any noxious odors and will be subject to the Town's lighting regulations. The Applicant is committed to developing a lighting plan for the project that will minimize the impacts of outdoor lighting to the greatest extent practicable and is proposing that the majority of the Site's lighting be controlled by motion detector to not create an impact when the Site is not in use.

It is not anticipated that the Proposed Action will have a significant adverse environmental impact in regards to noise, odors, or outdoor lighting.

16. The Proposed Action will not have a significant adverse environmental impact on human health from exposure to new or existing sources of contaminants.

The Site does not include, or is not subject to components which could be considered impacts to public health such as site remediation, institution controls, solid waste facilities, etc.

17. The Proposed Action will not have a significant adverse environmental impact as a result of being inconsistent with adopted land use plans.

As part of the Proposed Action, Liquid Propane Storage Facilities are being proposed as a new Special Permitted Use in the Highway Business (HB) and Airport Industrial (AI) under the heading of "Warehouse and Storage" in the Schedule of Use Regulations – Nonresidential Districts referenced in Section 240-37. Liquid Propane Storage Facilities are similar in function and intensity of use to current uses in the Highway Business (HB) and Airport Industrial (AI) and as a Special Permitted Use, specific criteria were created as Section 240-81.9, including but not limited to minimum lot area of 5 acres and minimum setbacks of tanks and buildings. These criteria were designed to limit potential impacts of Liquid Propane Storage Facilities on neighboring properties and land uses.

For the reasons states above, the Proposed Action will not have a significant adverse impact as a result of being inconsistent with adopted land use plans.

18. The Proposed Action will not have a significant adverse environmental impact as a result of being inconsistent with the existing community character.

The Proposed Action is not expected to affect community character. The Proposed Action would be a special permitted use. Based on operations of the proposed facility, the intensity of the use will be relatively low and is not expected to significantly impact existing community character.

19. The Proposed Action will not have a significant adverse environmental impact on the supply of housing in the Town.

The Proposed Action would develop currently vacant land in a form that would not be compatible with residential uses on site. However, it is not expected to significantly reduce the current or future supply of housing stock in the Town.

Based upon this information and the information in the Full Environmental Assessment Form, the Planning Board finds that the Proposed Action will not have any significant adverse impacts upon the environment. This Negative Declaration indicates that no environmental impact statement need be prepared and that the SEQRA process is complete.

Downey Energy
SEQRA Negative Declaration

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