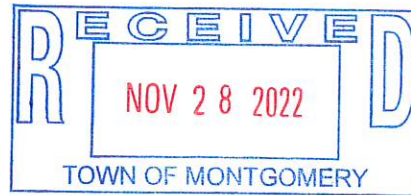


November 28, 2022

Fred Reichle, Chairman  
Town Planning Board  
Town of Montgomery  
110 Bracken Road  
Montgomery, NY 12549



John Fallon, Chairman  
Town Zoning Board  
Town of Montgomery

Brian Maher, Supervisor  
Town Board  
Town of Montgomery

Jeff Crist, Chairman  
IDA Board  
Town of Montgomery

RE: Ro Lynn Acres Farm & KCE NY 2 LLC

Dear Chairman:

Attached please find my statement to the State of New York Department of Public Service at their public hearing held on Tuesday, November 22, 2022 for:

Matter: 22-01638; Case Number 22-E-0488 – Petition of KCE NY2 LLC for certificate of Public Convenience and Necessity pursuant to Section 68 of the Public Service Law, granting a lightened regulatory regime and expedited proceeding.

The 8 – page statement addresses my concerns for the KCE NY 2 LLC project as it affects Ro Lynn Acres Farm.

Respectfully submitted,

Lynnette Wright, co-owner  
Ro Lynn Acres Farm

Tuesday November 22, 2022

DPS Webinar:

Hello my name is Lynette Wright. I reside at 364 Browns Rd in Walden NY 12586. I am the co-owner of Ro Lynn Acres Farm which is an active farm at 364 Browns Rd and consists of over 200 animals, including a horse boarding operation.

First let me state that I do not appreciate the applicant submitting information to the website for public information the day of the hearing. This does not give us enough time to properly evaluate the documents and be able to fluently speak of them. All documents that are to be shared with the public need to be properly noticed a minimum of one week prior to any hearings or public notices. I quickly looked through one of the documents and noticed my entire farm acreage is once again being used falsely in a document. I request to this agency this hearing be left open so I can further examine the documents for future comments. Submitted today is EAF of August 11, 2022 the other EAF is dated November 3<sup>rd</sup> 2022.

I am here tonight to discuss the KCE NY 2 project that is in front of us today but first let me give you some history. This project was originally KCE NY 2 and KCE NY 11 and is now abandoned. The negative declaration that is dated October 30<sup>th</sup>, 2019 and currently on this site as part of this discussion is for KCE NY 2 and KCE 11 under a single application. Please be advised that

this Negative Declaration is currently the document that is in front of the Town of Montgomery Agencies. The abandoned original project was 10 storage units on the field closest to my home which was KCE NY 11 of that project. KCE NY 2 was a 54,900 square foot structure with a new substation on the farther field (eastern segment). I understood that project and agreed to it via granting an easement to connect to Central Hudson Coldenham Station as it would not pose any threat to my property or Tin Brook as it was 10 containers in the upper corner of the field closest to 17K. This was a meeting of the minds when we gave authorization to them to pull the permits from the Town of Montgomery. Moving forward: we were asked by KCE to attend the July 11<sup>th</sup> 2022 meeting to support this project. It was at this meeting when KCE pulled out a very different map from the original plan this is where we found out that this project had been abandoned and KCE NY 2 replaced it on a massive scale. Prior to that there was no notice given about the abandonment of the original project. The letter of consent that we signed was for the KCE NY 11 and KCE NY 2 project. We, there for have no consent given for the new project. While the original address on KCE NY 2 and 11 was correct, a lot of other information was not. An example of that was the application states a 100ft easement, which is not correct as it is 120ft easement through my property not Olsens property. Additionally on page 6 of the Negative Declaration of the Town of Montgomery Planning Board states "the remainder of the Olsen Farm operation on Browns Road on the opposite

side of the Tin Brook suggests the parcels highest use is for industrial purposes and the farm owners have willingly arranged to convey the property for this proposed use. The farm owners selling the parcel are the ones located closest to the proposed use.” We, the farm owners, did not sell nor do we intend to sell our property.

There are many errors in the new **Site Plan** that is currently in front of you with KCE NY 2. The address and tax map parcels are all incorrect on all applications in front of the board with only a cover letter to clarify an inaccuracy even though they were instructed by Town of Montgomery Planning Board to correct every application. This can be referenced by all of the address corrections that have been submitted on this site. This address and acreage of my entire farm was used for all applications to the Town of Montgomery Planning, ZBA and Town Boards. In addition to the new EAF posted today they are once again using my entire farms acreage. The current EAF on Page 4 section G subsection I: states 206 structures but by our count on the maps given in the plans there are only 124. Does this 206 also include poles or just the containers and building that’s described. Also, there is no details as to how these batteries are stored in the containers. Or even how many batteries there are in total on the site. Is there any type of secondary containment around these batteries? What happens in case of a leak or spill? In addition, there are no parking spots shown. Where do the employees park when the containers or batteries are monitored. Is this even a complete site plan?

While the **stormwater** is part of the site plan this section has so many errors to it and also needs to be updated prior to any further movement of this project. First according to the NYS DEC Stormwater Manual dated 2015: a stormwater hotspot includes the following uses and lists “facilities that generate or store hazardous materials as well as Industrial Sites based on the SIC codes outlined in the SPEDES General Permit for Stormwater Discharges Associated with Industrial Activity.” While we are speculating these will be lithium-ion batteries under EPA Lithium-Ion Batteries and EOCRA 311 / 312 Reporting Requirements it states: “Hazardous Communication Standards and further states this exemption would not apply to any large scale commercial type battery that are not available for purchase or use by the general public.” I state this simply because I do not think this project should proceed any further without an official determination from DEC as to if this site would be considered a stormwater hot spot with the proposed actions. Should this occur a change in the permitting process could also occur to a Multi Sector General Permit vs the Stormwater General Permit. As this is an important distinction this needs to be addressed ASAP by DEC officials. Currently this site is hay fields that drain primarily to either a wetland or directly to the Tin Brook, which is a blue line, class B stream. Another concern is in case of a fire: there is no fire prevention or an emergency response plan in place in this application. It takes 15,000 gallons of water to put out an electrical car fire. These structures will require significant more water as the only

way to control this type of fire is to put water on surrounding containers to keep them cool so they do not ignite while allowing the current fire to burn out. This could take days of water being pumped at the site. Where would this amount of water go? All the water would drain to the Tin Brook with potential contaminants in it. In addition, it's stated the stream will not be impacted but I don't understand that as according to the maps in the SWPPP all stormwater is direct to the Tin Brook via sediment traps and vegetated swale with some areas through wetlands. Some of the wetlands are even included to be developed with this site plan with no buffer included. In addition, the Tin Brook floods every spring or during times of heavy rains. I know this because often times my fences are under water on my farm, the adjoining property. The EAF shows 2.35 acres disturbed but there are no stormwater plans shown in the SWPPP to handle the extra stormwater this site will produce. Excess water leaving this site will flow to the Tin Brook that will flood out my side of the stream and where some of my farm animals live. Lastly the applicant checked yes for knowledge that this project was in the 100 year floodplain and contains 7.7 acres of federal wetlands A, B, and C. This is an increased concern for flooding. Please note this misinformation is off the November 3<sup>rd</sup> EAF. The EAF submitted today shows differently and my acreage has effected that.

The Town of Montgomery also just passed a local law to aid in buffering industrial / commercial developments from residential sites. **Local law 13 chapter 235** of performance

buffering requires the applicant to have a minimum of 100 foot buffer from their development practices to my property line. This is explained in the law by intensity classifications. The intensity classification for my farm is a 1: agricultural involving dairy or livestock, and the proposed batter storage as a class VII- Battery Energy Storage System Tier 2. Existing use to land table equals D which sets the buffer requirements as 50ft with an additional 50 feet. This project does not meet any of these setbacks.

Furthermore, on Page 8 of the EAF under **Herbicides** it states the project will be a gravel yard that will be sprayed with Rodeo and limited to upland areas due to the close proximity to the Stream. Rodeo has been discontinued by the manufacture so what's the new plan for weed removal in the gravel areas. As it's stated the herbicide will be applied in upward lands. Will it flow into the Tin Brook.

Our next area of concern is the **Noise** generated. Is there a noise study completed for this project or estimated noise levels at the time of full operation at my property line? The application states under brief description "low noise" but on page 8 M. it will exceed ambient noise levels with HVAC units, transformers and inverters." This project is located in the front of my house. My bedroom is on the second floor that is 40 feet above the screening line that is in the plans. Screening line will surround entire project that will push the noise upward and affect me. In addition, above ambient levels can disrupt the life

cycles of my farm animals, some examples could include: reduced egg production, changes to reproduction cycles in horses and reduced clientele to my horse boarding operation due to the noise generated by the facility to my outdoor riding arena. Therefore, impacting the profit made on our farm. Therefor I am asking for a noise study.

The application made to the Town of Montgomery **IDA** also has glaring issues. While the applicant claims to be a “small facility” they are further explained to be a Tier 2 facility. According to KCE website the KCE NY 2 facility is projected to be a 200mw facility and also shows an enclosed building for their pictures not storage containers that are explained in project applications. In Stillwater NY in September 2019 KCE installed a 20mw facility was considered the largest battery installation in the state. So I am confused as to how this could be a “small facility” at 200 mw, that is 8 times the size of Stillwater. In the appendices and attachments of the application it states \$5.3 million plus for concrete pads and access roads to be \$1.7 million plus. Yet in the Planning board application they state porous pavement. If its concrete then the Stormwater Plan needs to be updated to show the additional runoff from the site and how it will be handled. Again, another discrepancy in these applications.

In our Town the **Fire Department** is also given the ability to comment of this project. As members of the Fire Department, we have spoken to the Chief and other highranking members.



Their concerns are the roads, which are designed to be gravel. In case of a fire these roads need to be able to handle 80,000 pounds and need to be a minimum of 20 feet wide to handle these trucks loaded with water with additional space to turn around. I am not seeing this on the plans either. In addition, they have asked what specific type of batteries they are using and been refused the knowledge. With this knowledge they can locate the MSDS of the elements of the batteries, so should a fire occur, they can know how to put it out. They have also stated their concern with the potential gasses given off should a fire occur. With Hydrogen H<sub>2</sub>, Methane CH<sub>4</sub>, Carbon Monoxide and Hydrofluoric Acid given off it could be catastrophic not only my animals here at the adjacent property but also to human health. They recommended an Evacuation Plan be designed and included in the application for KCE NY 2: for myself and my over 200 animals that reside here in addition and to include the commercial horse boarding operation that we are also legally liable for. Included in the evacuation plan needs to include a financial amount, that has to be agreed upon by us at Ro Lynn Acres and KCE NY 2, to aid in the expenses should my farm need be evacuated due to this projects catastrophic fire.

As you can see from my comments, I do not see how this project can proceed forward. The statements made in the applications have glaring discrepancies, inaccuracies and misleading information and need to be corrected before this project should be allowed to be reevaluated.