

December 5, 2006

Hon. John Hickman, Supervisor
Town of East Fishkill
330 Route 376
East Fishkill, NY 12533

Re: Proposed Lake Walton Water District in the Town of East Fishkill,
Dutchess County, New York

Dear Supervisor Hickman:

You have asked whether the Dutchess County Water and Wastewater Authority (the "Authority") can provide potable water, in the range of 60,000 to 80,000 gallons per day, to meet the requirements of a proposed residential subdivision, known as Lake Walton, located in the Town of East Fishkill, Dutchess County, New York (the "Subdivision"). It is understood that the Town of East Fishkill (the "Town") will form a water district (the "Water District") in accordance with the provisions of Article 12 of the Town Law. It is proposed that the Water District will purchase water from the Authority which will deliver such water to a metered delivery point. The Water District will distribute water to residents of the Subdivision through its distribution system.

The Authority has substantially completed the Central Dutchess Water Transmission Line "CDWTL") which runs from water transmission lines located at Overocker Road in the Town of Poughkeepsie to a delivery point at the Hudson Valley Research Park at 2070 State Route 52 in the Town of East Fishkill (the "IBM Delivery Point"). The Authority and the Poughkeepsies' Joint Water Project Board (the "Joint Water Board") are parties to a water sale and purchase agreement (the "Poughkeepsie Water Sale and Purchase Agreement") pursuant to which the Authority has the right to purchase from the Joint Water Board four million two hundred fifty thousand gallons of water per day and re-sell such water to International Business Machines Corporation ("IBM") and other customers, subject to conditions set forth in the Poughkeepsie Water and Purchase Agreement. Water sales by the Authority to IBM are governed by a water sale agreement (the "IBM Water Sale Agreement") whereby the Authority has agreed to sell to IBM and IBM has agreed to purchase from the Authority two million gallons of water per day to be transmitted through the CDWTL to the IBM Delivery Point. Water sales to IBM are expected to commence in the Spring of

2007. Other customers eligible to purchase water from the Authority from this source include municipal entities such as the proposed Water District. As you know, in response to a request by the Town, the Authority has previously indicated the availability of 103,500 gallons per day for the proposed Hopewell Glen Water District (letter dated November 21, 2006.)

Accordingly, taking into account water (i) available to the Authority for re-sale and transmission through CDWTL from the Joint Water Board pursuant to the Poughkeepsie Water Sale and Purchase Agreement and (ii) allocated to IBM under the IBM Water Sale Agreement, and (iii) tentatively allocated to the Hopewell Glen Water District, the Authority still has in excess of two million one hundred thousand gallons available to other qualified customers of CDWTL. This availability far exceeds the requirements of the proposed Subdivision.

The following requirements will apply to sales of water to the Water District. The Water District must be duly formed by the Town of East Fishkill. The sale of water shall be subject to the terms and conditions of a water sale agreement to be entered into by the Authority and the Town Board, on behalf of the Water District. Such water sale agreement must incorporate the terms of the Poughkeepsie Water Sale and Purchase Agreement (excluding those terms which pertain only to sales of water to IBM). This means, among other things, that the specific volume of water requested is available only on a “take or pay” basis, i.e. the Water District will be obligated to pay the Authority for the Take of Pay volume obligation, regardless of whether the Water District uses that volume. The term of such water sale agreement shall be for a period of at least thirty (30) years, with two thirty (30) year renewal periods.

Other conditions to water sales to the Water District include, without limitation:

The establishment of an appropriate delivery point and installation, by the Water District, of a service connection from the CDWTL to such delivery point and the installation, by the Water District, of any required equipment, including, without limitation, a meter and backflow preventor;

The performance by the Joint Water Board of its obligations to the Authority under the Poughkeepsie Water Sale and Purchase Agreement;

The continued availability of unallocated water under the Poughkeepsie Water Sale and Purchase Agreement. As noted above, available unallocated water currently exceeds the requirements of the proposed Water District, but absent an executed water sale agreement between the Authority and the Water District, the Authority cannot assure that a sufficient supply of water will be available for an indefinite period of time.

We look forward to working with you to provide water for the proposed Lake Walton Water District.

Sincerely,

Bridget Barclay,
Deputy Director

cc: Gerard J. Comatos
John Glass, DC Health Dept.
Pam Baier, East Fishkill Planning Board
Robert B. Peake, John Meyer Consulting, P.C.