

**HOMER CENTRAL SCHOOL DISTRICT**  
**P.O. BOX 500**  
**Homer, New York 13077-0500**

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**Nancy S. Ruscio**  
*Superintendent*

October 6, 2014

Town of Truxton  
Town Councilpersons  
P.O. Box 121  
Truxton, New York 13158

Re: Homer Central School District  
Renovations to Hartnett Elementary School

Dear Ladies and Gentlemen:

Thank you for your letter of September 17, 2014 which enclosed a Resolution passed by the Truxton Town Board (“the Town”) on September 17, 2014 (“the Resolution”) concerning the proposed renovations to the Hartnett Elementary School (“Hartnett”) and future uses of it associated with the proposed lease of the building and associated facilities (the “Hartnett Site”) to the OCM BOCES (“the Project”). We appreciate your interest in the Project, and we will carefully review each of the issues identified in the Resolution as part of our review of it.

That being said, for the reasons set forth below the Homer Central School District (“District”) disagrees with the Resolution’s statement that the Town is an involved agency under the New York State Environmental Quality Review Act (SEQRA) for the Project. We disagree that it is best suited to address the potential environmental impacts of the proposed renovations to the Hartnett Site including any impacts associated with a lease of the building.

***A. Background: The Project Does Not Require or Contemplate Any Permit or Authorization from the Town and Therefore the Town is Not an ‘Involved Agency’ Under the New York State Environmental Quality Review Act***

The Homer Central School District Board of Education has been carefully considering future use of Hartnett. In light of declining enrollment and increased carrying costs, the District cannot continue to bear the cost to operate Hartnett as an elementary school. The Board is proposing Hartnett, if possible, continue to be used for educational purposes. To that end, the Board has been considering – and will continue to consider – renovations to Hartnett and a potential lease with OCM BOCES. Although you may view a lease with OCM BOCES as a “change in use,” it is not, as such a lease would allow the building to continue to be used for educational purposes. In addition, a lease with OCM BOCES would also allow continued use of the building by local community organizations and as a fitness center. As you may be aware, the original lease approved by the Board was rescinded at its September 23, 2014 meeting. The Board will consider a different lease recently approved by OCM BOCES at a meeting of the Board in

October 2014 and as detailed below will review any impacts associated with such lease as part of the SEQRA review of the Project.

It is worth noting that the work proposed for the Hartnett Site, including proposed renovations or uses associated with the lease do not include any curb cuts or changes to the roads associated with the site. Further, there are not requirements for authorizations needed from the Town including for stormwater discharges or the like. Moreover, as part of the District's review of the Project and uses under the proposed lease, our consultants and others have not indicated that any permits or authorizations are needed from the Town to undertake the Project. As a result, because the Project does not require or contemplate any permits or authorizations from the Town, the Town by definition is not an involved agency for the SEQRA review. In pertinent part under SEQRA in order for an agency or municipality to be an 'involved agency' a project must require an approval or authorization from it. No such approval is needed for the Project here.

As stated succinctly by the New York State Department of Environmental Conservation:

*An agency that does not have a discretionary decision to fund, approve or directly undertake some aspect of a proposed action cannot formally be an involved agency as defined under 617.2(s), nor can it be considered for lead agency. There is no obligation for the lead agency to coordinate review with interested agencies....*

<http://www.dec.ny.gov/permits/6443.html> (accessed on September 29, 2014). Simply stated, as the Project does not require any such authorization or funding from the Town, the Town by definition cannot be an involved agency or the lead agency for the Project. *Id*

***B. Next Steps: Completion of the SEQRA Review for the Project***

By way of background and as you know, on August 26, 2014 the Homer Central School District Board of Education passed a resolution regarding the SEQRA for the Project. As part of that resolution, the Board directed that the appropriate SEQRA forms and the Notice of Intent to Act as Lead Agency be sent to involved and interested parties. (Given the District's knowledge of the Project it, has determined it is best suited to act as lead agency under the circumstances and complete the SEQRA review for the Project). The Town was provided a notice as it is an ***interested agency***. Because the Town is not an involved agency, it cannot act as the lead agency, nor may it object to the designation of the District as lead agency under applicable regulations.

As none of the involved agencies has filed an objection to the notice indicating the District's intent to act as lead agency, the District has now been installed as the SEQRA lead agency. Further, while the Town is not an involved agency, the District has and will continue to review the concerns expressed in the Resolution concerning a potential effects on traffic, safety, and storm water discharges from the Project. Further, as indicated, because the original lease was not approved by OCM BOCES and a new proposed lease has been approved by OCM BOCES and submitted to the District for review and approval, the District is reviewing the lease as well as the modifications of the Hartnett site as part of its environmental review of the Project under

SEQRA. The District expects to complete its environmental review this month and it will notify the Town of any findings it makes.

In closing, it is my sincere hope that we can collaborate on this exciting opportunity to renovate Hartnett Elementary School and allow it to continue use as an educational building and resource to the community.

Should you wish to have your attorney speak directly with the District's attorney regarding the SEQRA process, please ask him or her to contact Joseph Picciotti, Esq. Mr. Picciotti, who can be contacted at [jp Picciotti@harrisbeach.com](mailto:jp Picciotti@harrisbeach.com) or (585) 419-8629.

Respectfully,

A handwritten signature in blue ink that reads "Nancy S Ruscio". The signature is written in a cursive style with a large initial "N".

Nancy Ruscio  
Superintendent

cc: Joseph Picciotti, Esq.  
NYS Office of Parks, Recreation & Historic Preservation (Attn. Ruth Pierpont)  
NYS Educational Department (Attn. Debbie Johnson, Project Manager)  
Town of Truxton Planning Department (Attn. Dave Hartnett)  
Cortland County Planning Department (Attn. Dan Dineen, Director)  
NYS Department of Environmental Conservation (Attn. Kenneth Lynch, Reg. Director)