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July 18, 2025

Chairman Warren and Honorable Members of the  
Town of Orangetown Planning Board  
26 Orangeburg Road  
Orangeburg, NY 10962

Re: Phase I and II Databank Orangeburg, Orangetown, NY

Dear Chairman Warren and Honorable Members of the Town of  
Orangetown Planning Board:

I am counsel for David B. Rosen, 10 Buckingham Place, Old Tappan, NJ, 07675 and Chris Kielbiowski, 6 Buckingham Place, Old Tappan, NJ 07675, and several of their neighbors, all direct and adjacent neighbors to the Databank Phase I and II application ("Databank"), and who will be directly impacted by Databank. This letter is in opposition to the site plan application of Databank, which is not permitted in the Light Industrial Office LIO zoning district.

A. The Type I Action  
Requires To Be Renoticed

We appreciate that the Planning Board now intends to designate the application as a Type I action because the area to be disturbed is over 10 acres, contains more than 1000,000 square feet of gross floor area, and requires more than 500 parking spaces. 6 NYCRR Section 617.4(a). With that designation carries with it the presumption that this Board should make a positive SEQRA declaration: "the fact that an action or project has been listed as a Type I action carries with it the **presumption** that it is **likely to have a significant adverse impact on the environment** and may require an EIS." 6 NYCRR Section 617.4(a)(1). (Emphasis supplied).

And, of course, as this Board knows, the threshold for requiring an EIS is quite low and merely requires the **POTENTIAL** for **just one significant adverse environmental impact**. 6 NYCRR 617.7(a) (1) (2):

"(a) The lead agency must determine the significance of any Type I or Unlisted action in writing in accordance with this section.

(1) To require an EIS for a proposed action, the lead agency must determine that the action may include the **potential** for at least **one** significant adverse environmental impact.

(2) **To determine that an EIS will not be required for an action, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.**" (Emphasis supplied).

As will be demonstrated herein there are so many critical issues that need to be explored and examined that there is no doubt that the roadmap here requires an EIS. That should be determined now so that proper scoping can proceed.

However, let's return to SEQRA and the coordinated review. My understanding is that the notices that went out to the involved agencies all listed that the Planning Board wished to be the lead agency and that it desired to designate the action as an "Unlisted" action. **As that notice was improperly sent referring to the "Unlisted Action" it is respectfully submitted that new notices need to be sent stating that the Planning Board wishes to declare the action as a Type I. Until such new notices go out this matter should be stayed and be adjourned.**

B. The Application Before This Board Should Not  
Proceed Because A Data Center In The LIO District  
Is Not Permitted

There is no provision for a data center, as here, in the LIO zoning district as set forth in the Table of General Use Regulations, 43 Attachments 10, 8 and 12A, attached to my June 30, 2025 letter as Exhibit B. Plain and simple the matter cannot and should not proceed further until there is an application for a zone change before the Town Board.

This is acknowledged by Kimley Horn, the Rockland County Planning Department, and the Town's recent update to its Comprehensive Plan, which asserts that any zone change permitting data centers in the LIO District requires the adoption of

conditional use standards to apply. The applicant in the EAF falsely represents to this Board that data centers are permitted in the LIO district.

C. This Board Must Review The  
EAF and Fill Out Part 2 of  
The EAF

This Board must thoroughly review the EAF and thoroughly analyze it to determine if there is the potential for even one adverse significant environmental impact. To do so, this Board is required to fill out Part 2 of the EAF, which is attached hereto as Exhibit "A."

As set forth in Part 2 there are numerous questions, which raise questions that should be addressed in an EIS.

1.e and f in which construction will take more than 12 months and in which the proposed action may result in increased erosion from physical disturbance;

3. The proposed action may affect one or more wetlands. This is set forth in my June 30, 2025 letter in which the DEC has designated two wetlands with the highest designation to be protected, Class I and Class II.

4. The proposed action may result in additional use of groundwater and has the potential to introduce contaminants.

4.a The proposed project will require 11,595 gallons of water daily.

4.d The proposed activity will include wastewater in the amount of 5,295 gallons daily discharged to groundwater. Water continues to be a major concern for data centers. Since the most powerful chips tend to get very hot and use a lot of water replacement servers may use significantly more water in the future.

4.f and g The proposed action may require the bulk storage of petroleum or chemicals over ground water or an aquifer and may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.

7. The proposed application will have an impact on flora or fauna.

7.a and b The project may result in a reduction or degradation of habitat used by any rare, threatened or endangered species and reduction in population or loss of any threatened or endangered species.



8.a The proposed project may have an impact on agricultural resources and impact soil classified within soil group 1-4 of the NYS Land Classification System.

9. There will be an impact on Aesthetic Resources.

9.a The project is visible from Rockland Psychiatric Center.

9.b The project may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.

9.c and d The project is visible from the Palisades Interstate Parkway Scenic Byway and impacts routine travel by residents.

9.e The proposed action may cause a diminishment of the public enjoyment and appreciation of designated aesthetic resources.

9.g Brightview assisted living, independent living and memory care facility is within a short distance to the project site and less than 1500 feet from the site. Baseball fields and the American Legion are less than 1500 feet from the site.

10. The proposed project will have an impact on historic or archeological resources and may result in their destruction or alteration and may result in the introduction of visual elements which are out of character with the site or property.

11. There will be an impact to open space and recreation, reducing open space and natural resources, and impacting stormwater storage, nutrient cycling, and/or wildlife habitat.

13. There will be an impact on transportation.

13.a The project will require the construction of paved parking for 500 or more vehicles.

14. The proposed action will have an impact on energy.

14.a The proposed action requires a new substation.

14.b The proposed action requires extension of energy transmission to an industrial use.

14.c The proposed action as detailed in the EAF states that just Phase II will require the following amount of electricity : 1,681,920,000 kwh per year. The Databank website states Phase II is rated for 20 megawatts expandable to 45 megawatts of

electricity.

14.d The proposed action will require heating/cooling of more than 100,000 square feet of building. The application proposes a building of 146,480 square feet together with an office of 7,906 square feet from Phase I and an additional 7,395 square feet of administrative space in Phase II.

15. There will be impact on noise, odor and light. The proposed action may have sound levels above local regulation. As to blasting the applicant has not addressed that issue. Further, this Board must consider the cumulative effects from both Phases I and II.

The diesel generator's noise and the pollution with particulates/nitrous oxide are health threats to those who use ball fields and the nearby Rockland Psychiatric Center and the Brightvieww senior living facilities.

16. There are impacts to human health. There are adjacent ballfields, American Legion, and the neighboring Brightview assisted living, independent living and memory care facility.

16.i During construction there will be significant metals removal.

17-8. The project is not consistent with the zoning, which prohibits data centers in the LIO zone, and in which there are no applicable special or conditional use standards to apply. The project will also impact the Hudson River Valley Greenway. The project is inconsistent with existing community character.

A review of EAF Part 2 is part of this Board's required "hard look" that it must take. In doing so it is respectfully submitted that this Board must conclude that on this complex matter, which comes after Phase I was already approved and is now operational, that there must be an EIS to address the significant adverse environmental impacts.

D. The Applicant Has Failed To  
Address Critical Issues

As this Board well knows it is required to take a "hard look" to determine "significance" under SEQRA as codified in the regulations at 6 NYCRR Section 617.7(b):

For all Type I and Unlisted actions the lead agency making a determination of significance must:

(1) consider the action as defined in sections 617.2(b) and 617.3(g) of this Part;

(2) review the EAF, the criteria contained in subdivision (c) of this section and any other supporting information to identify the relevant areas of environmental concern;

(3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and

(4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.

I. The Applicant Fails To Address  
The Impacts To The Electrical Grid

One of the most critical questions that this Board must wrestle with is what is the impact of the electricity demand from both Phases I and II on the electrical grid in Rockland County, Northern New Jersey, not even to mention the Town of Orangetown.

While the EAF states what the proposed electrical demand is from Phase II, 1,681,920,000/kwh annually, it does not state what is the demand from Phase I. Nor is there any support as to where this information came from. The marketing materials of the application speaks to potential expansion beyond the current stated amount. There is no information addressing the following:

- a) is there a priority that electricity is provided to the data centers at Phase I and II before electricity goes to other customers in the electrical grid;
- b) what is the capacity of the electrical grid;
- c) can Phase I and Phase II expand their demand for electricity or is there a cap on the demands;
- d) at what point will the electrical grid become saturated and overloaded;
- e) will these data centers cause brownouts or blackouts to the electrical grid;
- f) what is the equivalent of the electricity demanded by Phases I and II to the remaining businesses and residents in Rockland County and Northern New Jersey;
- g) has there been a discussion of other existing data centers on the electrical grid that are already in operation;
- h) has there been a discussion of data centers which are in the development stage elsewhere in Rockland County and within New Jersey;
- i) has Orange and Rockland addressed any of these issues;



- j) what will be the impact to the cost to electricity customers resulting from Phase I and II
- k) What will be the impact to the cost to electricity customers from data centers already in operation and to those in the development stage;
- l) is there a limit as to how many data centers are permitted in the electrical grid;
- m) there is no response to item 20 of the December 20, 2024 letter of Rockland County Department of Planning which states: "The Town should have a clear understanding of the energy demand created by this project, the ability of the local utility grid to service the project, including utility grid resilience, as well as the potential impacts on other local economic development projects." Kimley Horne to date has not addressed this critical concern.;
- n) what is the source of the electricity to the electrical grid;
- o) is that source endless or is there a limit to its capacity;
- p) what happens if and when Phase I and II are fully operational that the Town understands what is the usage to the electrical grid-- what is the monitoring of the electric usage;
- q) what happens when technology changes and Phases I and II need even more electricity-- how does the Town address those changes.
- r) has the Town required under SEQRA for the applicant to pay for an independent engineer retained by the Town to address all issues relating to electricity and the impacts on the entire electrical grid.

## II. The Applicant Fails To Address

### Safety Issues Regarding Data Center Failure

To date there has been no submission addressing safety issues and the protection of the community from data center operation and failures. Already there has been a smoke incident at Phase I. Are there batteries that can creating intense fires? Does the Town of Orangetown and the surrounding communities have the safety protections in place in case such a fire occurs? Who pays for the training of fire and safety personnel? Who pays for the need to update technology to address safety concerns? If there is a fire are toxins airborne creating dangerous health situations.

And without specific plans as to the proposed sub-station the application cannot be properly reviewed.

Under SEQRA the applicant should be required to pay for an independent expert controlled by the Town to address all safety issues.

### III. The Applicant Fails to Address The Impacts to Lake Tappan

Lake Tappan serves as the drinking water reservoir covering the Town and Northern New Jersey. The submission to date does not address the impacts to this critical drinking water supply. As set forth by the Rockland County Department of Planning in its December 20, 2024 letter at item 17 "Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water." There is no information provided to the Planning Board. Kimley Horne in response merely states it will make application to Veolia Water. That is simply not good enough. The Applicant must provide necessary information to the Planning Board so that it can engage in its "hard look".

Under SEQRA the applicant should be required to pay for an independent expert controlled by the Town to address all water protection issues.

### IV. The Planning Board Cannot Engage In Illegal Segmentation

As set forth in my June 30, 2025 letter this Board cannot engage in illegal segmentation. It must abide by its January 11, 2023 Resolution whereby it found at condition 14 of its January 11, 2023 Resolution, that Phase II cannot be constructed because Phase I is using landbanked parking spaces which are in the location where Phase II was to be developed. The Resolution, attached in part to my June 30, 2025 letter as Exhibit L, states plainly as follows: **"The landbanked parking spaces will be located where a second phase of the databank center was proposed in previous iterations of the site plan. The applicant must understand that with the proposed land banked parking spaces, Phase II as formerly illustrated, cannot be constructed."** (Emphasis supplied).

If Databank can locate its databank center where it was supposed to provide landbanked parking spaces than Resolution 14 is meaningless. It is respectfully submitted that an applicant cannot segment its project into two connected parts and then after agreeing to a condition that Phase II would not be built where landbanked parking was supposed to be then assert that landbanked parking should be eliminated. This Board's integrity should remain and the applicant must live with the representations that it made during Phase I.

During the Phase I process Databank knew exactly what it was



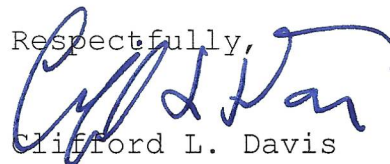
representing to get approval from this Board. It cannot, after getting its approval for Phase I, in the Phase II process state that it never meant what it represented during the Phase I process and that this Board should now just ignore the conditions that it imposed on Databank.

Attached as Exhibit M to my June 30, 2025 letter is the September 21, 2022 Decision of the Zoning Board of Appeals which required that there be 670 landbanked parking spaces. Databank cannot now go back to the Zoning Board of Appeals and assert that there should be no landbanked parking spaces where it specifically represented to the Zoning Board of Appeals that it only be required to construct 69 parking spaces based on the very condition that 670 parking spaces had to be landbanked.

The Rockland County Department of Planning in its December 24, 2024 Denial letter, Exhibit C to my June 30, 2025 letter, made clear that it was improper for Databank to build Phase II where Phase I was conditioned upon landbanked parking spaces, and it was further improper to seek a new variance where the already agreed to 670 landbanked parking spaces were to be completely eliminated: "As we had already stated to the Orangetown Planning Board in our January 3, 2023 GML 239 Review, **these landbanked parking spaces cannot be provided with the construction of Phase 2.**"

We look forward to presenting at the public hearing in which the Planning Board **must request a renoticing of the coordinated review.** Only then can it designate this action as a Type I action and eventually **issue a positive declaration** requiring an Environmental Impact Statement to thoroughly study these issues which is **mandated** as the low threshold under the SEQRA regulations has been surpassed here and there is the **potential** for at least **one significant adverse environmental impact.** For the Planning Board to act otherwise subjects the Town Planning Board to acting arbitrarily and capriciously and subjects itself to litigation.

Respectfully,



Clifford L. Davis

Encl.

EXHIBIT "A"