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September 5, 2008

Chairwoman Ann Yates  
Town of Wawayanda Planning Board  
P.O. Box 296  
Slate Hill, New York 10973

**Re: Town of Wawayanda Planning Board  
Competitive Power Ventilators Valley Energy Center Electric Generating  
Facility ("CPV") and  
Brookfield Resource Recovery Facility**

Dear Chairwoman Ann Yates and Planning Board members:

We are the attorneys for the Enlarged City School District of Middletown ("District"). The Board of Education has requested that we convey to the Town of Wawayanda Planning Board its comments on the draft scoping document regarding the proposed CPV Project.

In preparing our remarks, we have reviewed the Draft Scoping Document dated June 27, 2008, prepared by CPV.

Section 4.1.1- Land Use:

1. Expand the types of land uses to be analyzed in the primary and secondary study areas to include other sensitive receptors, including public and private schools and hospitals. We note that the Truman Moon Primary Center, an elementary school which houses a population of 423 students, is located within approximately a 1.5 mile radius of the project site.
2. We are concerned with the impact this type of facility may have on air quality and request that CPV expand the proposed study areas beyond the proposed one and two mile radius to include a five mile radius. We note that in addition to Truman Moon, there are six additional school facilities within a two to five mile radius of the project site.

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BY: plb

Chairwoman Ann Yates  
Town of Wawayanda Planning Board  
September 5, 2008  
Page 2 of 2

3. To assist the Board and the public to identify potential sensitive receptors, CPV should plot (on a map) the radius of the study areas.

Section 4.1.4 (2) – Public Policy:

Include on the map of the primary and secondary study areas, existing primary and secondary schools and other sensitive receptor sites.

Section 4.5.1 – Socioeconomics:

Include an analysis of the need for, impacts and approvals required for any proposed tax abatement programs or other financial incentives sought by CPV, such as a PILOT agreement.

General Comment:

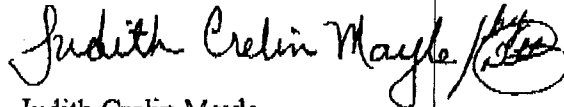
Include a discussion, analysis and proposed plans to address potential minor or catastrophic emergency and/or disaster that may result from the operations of the facility, including hazardous material release, fire, or terrorist activity.

On a separate matter, we respectfully request that the Planning Board include the District as an interested agency for the SEQRA review of the Brookfield Resource Facility project.

The District appreciates the opportunity to address its concerns to the Planning Board about these applications.

Should you have any questions, please do not hesitate to contact the Superintendent of Schools, Dr. Kenneth Eastwood.

Sincerely yours,



Judith Crelin Mayle

JCM/dll

cc: Dr. Kenneth Eastwood, Superintendent of Schools  
John Razzano, Town Supervisor

Box 247  
Slate Hill, NY 10973  
September 5, 2008

Planning Board  
Town of Wawayanda  
c/o Town Hall  
Ridgebury Road  
Slate Hill, NY 10973

Re: Scoping Session for CPV

Dear Dr. Yates and Members of the Planning Board,

Everyone in the Town of Wawayanda is acutely aware of our high taxes and our lack of businesses that can share the tax load. The clarion call from *some* of our leadership had therefore been the concept of "CLEAN RATABLES."

We have all witnessed Middletown's debacle with Masada's garbage to ethanol plant which may bring 700 tractor trailer loads of trash and sewage sludge through our town with all of the associated traffic congestion, smell and noise.

Our own version of CLEAN RATABLES is now down to the east coast's largest junkyard (Brookfield) and yet another proposed power plant. Wawayanda's citizens spoke loudly and clearly when we were faced with the Wawayanda Energy plant proposed by Calpine and the citizens also spoke loudly on this type of facility when they were surveyed by the town in 2005.

Let's explore all of the impacts of CPV under the lens of CLEAN, RATAELE and JOB CREATION.

Will the plant be CLEAN?

Noise

In their scoping document, CPV admits that there are "no State or Federal noise standards directly applicable to the Project. However, .....compliance with Town of Wawayanda noise standards will also be evaluated." You all know that there is **NO NOISE STANDARD** in Wawayanda. Town residents, as well as MPZC (I) have been asking the Town board for years for a **Noise Ordinance**, to no avail. It needed to have been put into place **BEFORE** these types of projects came to our town. Unfortunately, these types of projects will continue to come at us as our town's strategic decision makers have done

nothing to enact any noise legislation. Noise is a particularly sore subject in the hamlet of Slate Hill, as the unconscionably loud compressor motors from Balchem are aimed directly at the residents of downtown Slate Hill 24/7 for the last 7 years, ruining our quality of life and our property values. *How did this come to be, and how and why is it allowed to continue??* In this case, they should be made to mitigate their unbearable noise by moving their compressors and aiming them at the commercial part of town (toward the firehouse) instead of at the residential part of town. They have no intention of doing so, however. This comparison of noise offenses should be taken into consideration when/if CPV is allowed to site their compressors/motors. Please note that the same person that allowed these compressor motors at Balchem is representing CPV. And once a project is IN, *nothing* will be done about it.

Before we permit another egregious project to gain a foothold in this town, we must have a **strong Noise Ordinance** in place, bottom line! Both current and upcoming projects must be made to abide by it!

#### Viewshed

Our citizens, when surveyed, valued the rural nature of the Town of Wawayanda. Many of our taxpayers came here to escape the urban nature of their community. Mr. Regan, builder of our new workforce housing complex, has also expressed some measure of dismay over the plant's visual impact on his project, which everyone in the town worked hard to site. What mitigation factors / compensations will be made by CPV to help maintain the rural nature of our town? If we recall correctly, Calpine attempted to do some measure of mitigation by contributing significantly to the restoration of several significant community buildings. What will be the EMR impact of the high tension lines on the many, many workforce housing children who will live at Mr. Regan's facility?

#### Pipelines

What will be the impact and mitigation over the THREE major pipelines that will traverse large portions of our town? Major issues are the gas line (security issue) and gray water lines. The gas lines pose significant safety issues for town residents. Are the current gray water pipes capable of handling 233,000 gallons per day to and from the Middletown Sewer Plant? Will this private project claim eminent domain and take people's properties away for those pipes? What will be the temperature rise from the discharge water as it re-enters the Wallkill?

#### On Site Fuel Storage

CPV proposed having a 1 million gallon tank sited between Rt.84 and Rt.6. What is the visual impact of this tank, and how does it impact our viewshed? What security measures will be taken to protect the citizenry in case of a fire? What measures will be in place if the tank leaks into Middletown's aquifer (in close proximity to this venture).

### PILOT Program

CPV is seeking tax breaks (THR Aug.21, 2008). **HOW WILL THIS BENEFIT OUR TOWN???**

### Emissions

One doesn't have to be a rocket scientist to make the argument that this plant's emissions will negatively impact the (at least) respiratory health of the town's inhabitants. We will leave the professional jargon and particulars to those better suited to deal with them. However, we are concerned about those relentless emissions!

So what about RATABLES? The pattern of the past is the promise for the future where ratables are concerned. Shoemaker Station, Wawayanda's existing power plant, was once the town's highest valued parcel. Then as the energy market collapsed, we LOST most of the RATABLE value of the plant. This exact scenario has been repeated by the devaluation of Orange & Rockland's plant at Tompkins Cove under Marantz management. The devaluation of the O&R plant nearly destroyed the tax base of the North Rockland School District in Haverstraw.

Now our neighbors in Newburgh, New Windsor and Marlboro face the same destruction of their tax base from the devaluation of the power plants at Roseton. The attached article details the potential DOUBLING of school taxes and potential repayment plans to the power plant owners by area school districts.

Will sustainable, high paying jobs be created by CPV, or will we be creating more low wage, no benefit jobs like the warehouse project that will lie across the street from CPV? The project has been touted as a job creator during its construction stage. Truth be known, there will be high paying jobs. They will no doubt be union jobs from outside contractors using an outside workforce. (Please note article in THR 9/03/08 re: ORMC using non-local labor.) These workers won't spend a dime in our town as we have no place to house them or feed them.

So will CPV be a ratable at all? Not clean, not likely ratable and not a significant employer. So what compensations are to be offered to the townspeople for the sacrifice of health and quality of life? What do we get out of all these **NEGATIVE** impacts?????

The finished project will provide some sustained employment and that is noted. However, the cumulative negative environmental and negative quality of life issues that

this project will generate more than outweigh anything on the plus side of the column for the residents of Wawayanda.

Sincerely yours,

*Dan and Erika Myers*

Dan and Erika Myers

Post Planner - Featured Arts

8/28/2008

## And now, you must pay

### Marlboro school district releases post-Dynegy tax rates

by Dan Barton, Lars Edwards and Carrie W. Ross

The other shoe has fallen, but this one had the impact of a hob-nailed boot stamping on a taxpayer's stunned face.

Last Thursday, Aug. 21, the Marlboro Board of Education had the unenviable and grim task of approving the tax levy for the 2008-09 school year. While giving the nod to the sending out of hundreds of unwelcome tax bills is never a fun thing for trustees, this year was especially rough.

In May, the district learned that Dynegy, the Houston-based energy company which owns the Roseon and Danakammer power plants, properties which once comprised a little more than half of the Marlboro Central School District's tax base, settled its six-years-running tax certiorari suit with the Town of Newburgh, the municipality in which the plants sit. While this was not a total surprise, it was a jolt - overnight, the plants' combined assessment was dropped from \$1.46 billion to \$895 million, a loss of 39 percent. Dynegy went from paying about \$27 million in school taxes to \$12.4 million, shifting that burden to the rest of the school district taxpayers. As the Town of Marlborough, which makes up most of the school district, just completed a revaluation of its properties, bringing their assessed values up to current (well, at least pre-real estate slump) levels, homeowners feared their tax bills could go up as much as 40 percent. While the district ended up adopting a contingency budget after the proposal went down at the polls in May, they still had to levy \$37,080,513, a 7.76 percent increase over the 2007-08 levy of \$34,410,155.

On Thursday, the board and district faced the music and approved the following tax rates. In Marlborough, the 2008-09 rate will be \$15.9847 per \$1,000 of assessed property value. While that is a not-totally-entirely-shocking 7.23 percent increase over last year's rate, the new rate applies to the new assessments, which are higher across the board. While everyone's tax situation is different, district officials told another publication that school taxes are going up approximately 37 percent in Marlborough.

It is no prettier in the towns of Flattekill and Newburgh. Flattekill's 2008-09 rate will be \$23.9610 per \$1,000 of assessed property value, an increase of 34.03 percent. Newburgh's rate will be \$61.6704 per \$1,000 of assessed property value, an increase of 34.34 percent.

It may have not been the worst school board meeting ever in Marlboro, but it had to be the worst in recent memory. Thursday's proceedings were punctuated by tense silence, sighs of resignation and disgust and expression of frustration at the situation and the delays in reforming school funding statewide. While trustees really had no choice other than to approve the odious tax hike, they did it with extreme reluctance. "What happens if I vote 'no'?" asked Trustee Dennis Flynn.

"We need to collect taxes," replied district Business Manager Neysa Sennensig.

"We have to do it," said board Vice President MaryAnn Loutaglio.

And school board President Steve Adamchick, as is his habit, repeated his mantra, which took on an added urgency and gravity that night: "Funding schools by property taxes has to change. It is unfair, archaic, and it rips communities apart."

District Superintendent Ray Castellani said he was getting ready for a wave of unhappiness from taxpayers. "We're going to be getting phone calls and it's not pleasant." Castellani said, and we have to "rely on the community to stick together through this." Castellani promised there will be an "educational campaign" on how and why the increases are happening.

"We feel unbelievably terribly," Adamchick said.

Reaction in the community was glum and angry. At Thursday's meeting, Joanne Reed of Newburgh decried the increase and the lack of public attendance. (Other than reporters and school staff, there were about three community members on hand.) "It's the last week in August; where are the majority of the people? ... [The community] has to start coming and complain." Reed said, adding, "Everybody complains but nobody comes. I always show up; everybody leaves it for the town guy."

The ire of Nick Abbagliato of Marlboro was directed in many directions. "It's these politicians," said Abbagliato. "The outrageous thing is when I pay my taxes I did with them and they say that they will lower the assessments when the when the real estate prices go down. Well, they didn't go down. Let us decide what the money is for. These teachers want raises. No one anywhere is getting raises, not at IBM, not anywhere. They've got to break up this teachers' union. The teachers and politicians are like the 'haves,' and we're like the 'have-nots.'"

Could it have been worse?

In an interview a few days after the meeting, Castellani talked about a similar case in Rockland County where a hapless school district in a similar spot ended up dealing with an almost-100 percent tax increase.

"Approximately two years ago in the fall of 2006, another major tax certiorari lawsuit filed by the Mirant Power Corp. against the North Rockland School District and the towns of Haverstraw and Stony Point and Rockland County was unfolding. The facts of Mirant's suit were very similar to the Dynegy suit," Castellani said. "Like Dynegy, the Mirant potential settlement was much but unraveled at the end. The state Supreme Court in White Plains heard the case and rendered a decision to reduce the assessed valuation of the plants dramatically in 2006.

"This decision had two prongs. First, the assessed value of the plant was reduced going forward into 2007 and the future, shifting the burden from Mirant to local property owners. Second, the value of the power plants was reduced going backward seven years, resulting in a refund to be paid by the North Rockland School District of over \$220 million," said Castellani. (In contrast, the Marlboro school district and Dynegy settled on an \$11 million payback, with \$1.6 million being kept in a fund the district can access for special expenses not in the general operating budget.)

"Over a two-year period the impact of this settlement resulted in a nearly 100 percent increase in taxes for the North Rockland school district residents. Although the Marlboro district is three to four times smaller than the North Rockland School District, the circumstances of the Mirant Corporation and Dynegy's lawsuits were very similar," said Castellani. "In addition, Dynegy's lawsuit was to be heard by the same state Supreme Court judges in White Plains that rendered the Mirant decision. After the Mirant case was analyzed, it was recognized that if Dynegy was successful in court, the result in Marlboro could be similar, with a substantial reduction in current and future property assessment and a district refund in the range of about \$40 million.

"The Marlboro Central School District and its taxpayers faced a very difficult situation with Dynegy, especially with the Mirant Power Plant Decision just unfolding," Castellani said. "While the increase the district is facing in 2008-2009 is extremely large, it is nowhere near the devastating impact that North Rockland experienced. Nevertheless, the district and the board of education are very sensitive to the burden faced by our residents and property owners and is working very hard to operate efficiently and in a cost-effective manner."

Castellani also said that compared to other districts, Marlboro school taxes are not that bad, really.

"Up to this point, before the Dynegy settlement, Marlboro had the third lowest true tax rate in the combined three counties of Ulster, Orange and Sullivan," said Castellani, who added that he met with county Assessor Dorothy Martin to talk about the situation. "In our meeting, we discussed how now, with Dynegy's new assessment, Marlboro is right in par with other local communities on taxable rates. That is to say, a home in Marlboro worth 225,000 now pays a tax of \$3,296. After STAR, it's \$2,998 and with enhanced STAR, it's \$2,278. That same home assessed at \$225,000 in Wallkill is \$2,432 and after STAR, \$2,828 and with advanced STAR, \$2,273."

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# ORANGE COUNTY PARTNERSHIP

OFFICE OF ECONOMIC DEVELOPMENT



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**ALLIANCE FOR  
BALANCED GROWTH:**

John Lavelle, Chairman  
Chris Frassetto  
Irving Zuckerman

September 8, 2008

Town of Wawayanda  
Planning Board  
80 Ridgebury Hill Road  
Slate Hill, NY 10973

**SUBJECT: Competitive Power Ventures – Valley Energy Center**

Dear Chairman and Board Members,

I am writing on behalf of the Orange County Partnership to urge the Planning Board to favorably consider a request by Competitive Power Ventures (CPV) to locate the Valley Energy Center, a natural gas combined-cycle electric power generator plant, on Route 6 in the Town of Wawayanda. The Partnership firmly believes that this new state-of-the-art power plant would promote the creation of excellent, high-paying jobs and tax rateables in the Town of Wawayanda and Minisink School District.

In this highly competitive market where the numbers of new corporate facilities and expansions have been steadily shrinking over the past 5 years, we are not only competing for projects nationally, but globally. Additionally, we read every day about the shortage of power in the northeast corridor and the addition of this power generating plant will further position the town for future balanced growth. It is critical that we position ourselves for success.

CPV is demonstrating its commitment to a clean energy future, a better environmental future, and especially to this community. The principals in this endeavor are making every effort to meet with citizens to inform and assure them of the value and viability of this project. A local office will be opened to make the process convenient and transparent. Please consider these positive impacts to the community while going through the scooping process:

- This 630 Megawatt facility will help meet the growing energy needs of the Lower Hudson Valley region as identified by the New York Independent Systems Operator, while improving the reliability of the state's electric infrastructure.
- At a cost of some \$800 million this facility would be the largest taxpayer by far in the Town of Wawayanda and Minisink School District.
- The plant will be sited in a M1 industrial zoned, designated growth corridor in a perfectly situated location adjacent to I-84. Approximately 75% of this 122-acre site will be undeveloped.
- There is an obvious synergy with the site's proximity to the Marcy transmission lines to transmit the generated power and the Millennium gas line to fuel the plant.

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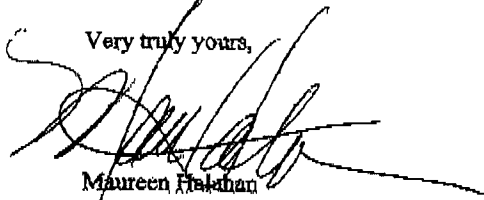


- This facility would be an additional user for the newly created water and sewer district, helping offset the Towns expenses in that regard.
- During construction, this project will employ up to 400 people over a two-year period.
- Once operational, the plant will employ 25 employees earning an average of \$80,000 to \$90,000 per year.
- CPV is successfully managing the day-to-day operation and maintenance of more than 6,000 MW of generation in eight states to provide improved financial returns, enhanced environmental protection and greater consumer benefits.
- This highly efficient, state-of-the art technology utilizing a Combined Cycle Electric Generator will generate local, cleaner electricity that reduces dependence on older and coal burning power plants and is better for our environment. The process generates electricity from natural gas and the waste heat is used to make steam to generate additional electricity via a steam turbine.
- Under a proposed Payment In Lieu of Taxes (PILOT) the company would pay approximately \$30 million into the local economy providing revenue to support vital public services, school funding, and possible tax relief.

In closing, the Orange County Partnership respectfully requests that your Board act favorably upon the request from Competitive Power Ventures.

Thank you for your time and consideration.

Very truly yours,



Maureen Hakhan  
President & CEO  
Orange County Partnership

# New York State Department of Environmental Conservation

## Division of Environmental Permits, 4<sup>th</sup> Floor

625 Broadway, Albany, New York 12233-1750

Phone: (518) 402-9167 • FAX: (518) 402-9168

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Alexander B. Grannis  
Commissioner

September 10, 2008

Ann Yates  
Chairperson  
Town of Wawayanda Planning Board  
P.O. Box 296  
Slate Hill, New York 10973

### **RE: Comments – Draft Scoping Document, CPV Valley Energy Center, Wawayanda (T), Orange County**

Dear Ms. Yates:

The Department of Environmental Conservation (“Department”) has reviewed the Draft Scoping Document dated June 27, 2008 for the CPV Valley Energy Center. The Scoping document was prepared in accordance with 6 NYCRR Part 617 (State Environmental Quality Review Act (SEQRA)) and distributed for review to involved and interested agencies by the Town of Wawayanda, the lead agency for the environmental review. Based on the Department’s review of the document it respectfully submits the following comments:

#### **3.0 Summary of Discretionary Approvals and Involved/Interested Agencies**

##### **United States Environmental Protection Agency (EPA).**

In addition to administering the PSD program in New York State, the United States Environmental Protection Agency (EPA) will also be responsible for the PM 2.5 New Source Review (NSR) until such time that the Department modifies 6 NYCRR Part 231 (New Source Review In Nonattainment Areas and Ozone Transport Region).

##### **United States Army Corps of Engineers (USACOE).**

It is unclear from the information provided in the scoping document that the project will qualify for coverage under any of the Nationwide Permits. This section should also recognize the need for an individual permit pursuant to Section 404 of the Clean Water Act from USACOE.

##### **New York State Department of Environmental Conservation.**

The listed State environmental regulations should include the above referenced Part 231. It should also be noted that the Clean Air Interstate Rule (CAIR), referenced in this section, may not be applicable because of a recent court decision vacating the federal rule. (US Federal Court of Appeals; State of North Carolina v. USEPA; July 11, 2008).

by the EPA until the Department modifies 6 NYCRR Part 231. However, Commissioner Policy 33: Assessing and Mitigating Impacts of Fine Particulate Matter Emissions is still applicable and must be addressed in the Draft EIS.

- Item 4.7.1(i). The stack emissions estimates should include the Prevention of Significant Deterioration (PSD) increments.
- Item 4.7.1(n). This item should be deleted because it is not consistent with the approach in DAR-10 noted in Item 4.7.1(m).
- Item 4.7.3. Other Air Related Analyses. The visibility impairment analysis should include State parks in the assessment.

## 4.10 Infrastructure

### 4.10.1 Water Supply

Section 4.10.1 of the scoping document addresses water supply issues related to the proposed facility. This section which pertains to the water supply for the project is contradictory to other descriptions of the water supply found elsewhere in the scoping document.

First, as currently organized in the scoping document, the water supply section does not adequately differentiate the topics of potable water source needs and process or cooling requirements. For clarity purposes the Department would suggest the water supply section be divided into two separate sections which separately discuss 1) water source needs and process and 2) water source cooling requirements.

The primary concern of the Department with regard to the water supply analyses is the source and volume of water to be used for cooling water purposes. As indicated in the Section 2.0 Project Description, the facility will be an air-cooled combined cycle facility. As indicated in the scoping document, this limits the cooling water demand to 295,000 gallons per day (gpd). The Department considers this the Best Technology Available for a new facility and does not consider it to be an issue. However, if the project sponsor is considering alternatives to the proposed cooling technology, it needs to be fully addressed in the Draft EIS.

With regard to the discussion of the source of the process water, the scoping document should be revised to indicate that gray water from the Middletown Wastewater Treatment Plant is the preferred source of cooling water for the facility. The scoping document states that gray water may be the “possible” cooling water source.

The Draft EIS should fully address gray water from the Middletown WWTP as a cooling water source and all impacts, both positive and negative, associated with using gray water for cooling. In addition, Section 617.9(b)(5)(v) requires that an EIS include “a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor.”

For instance, if groundwater is being considered a source of cooling water, the scoping document should be revised to include a discussion about the protocol by which the project sponsor would determine if there is sufficient groundwater in the area to support the project. Further, the protocol should outline how potential impacts from the groundwater will be analyzed. For instance, there are extensive wetlands on the project site and the Department is

## **4.12 Terrestrial Ecology**

### **4.12.3 Wetlands**

Department staff visited the project site in 2006-2007 to delineate the Department freshwater wetlands on site. The validated survey map was originally dated June 14, 2006 and revised on July 2, 2007. This delineation and survey should be used in project development and the analysis of wetland impacts from the project. The Department can make the information available to the project sponsor if needed.

In addition, the potential impacts to the on site wetlands from the potential use of groundwater as a water supply source should be evaluated.

## **4.14 Cumulative Impacts**

The project description makes reference to the gas and electric transmission lines that will be required for the project. However, the scoping document does not indicate that the Draft EIS will address the potential impacts from these associated facilities. The Department recognizes that if these facilities are subject to review under Article VII of Public Service Law are considered Type II actions pursuant to SEQR. As stand alone projects, these facilities would not need to be reviewed pursuant to SEQR, however, because they are associated with a bigger project, the Draft EIS will need to address these portions of the project and their potential impacts. The cumulative impact section would seem to be the appropriate place for this review.

The Department suggests that if Article VII certificates are required for these facilities, that the applications be included as appendices to the Draft EIS. This is a similar approach that has been taken in similar projects and this ensures the SEQR record is comprehensive. If an Article VII certificate is not required for either facility or the Article VII application is not available at the time of submission of the Draft EIS, then, the following information should be included in cumulative impact section:

- Detailed description of the proposed line, including interconnecting facilities, route, and who will construct and operate the facilities.
- Alternative analysis, including routes and installation techniques (i.e., overhead vs. underground).
- A map level and literature review assessment of the probable environmental impacts and proposed mitigation to wildlife habitat, wetlands, water bodies, water resources, groundwater, soils, vegetation, cultural resources and land use along the proposed corridor.

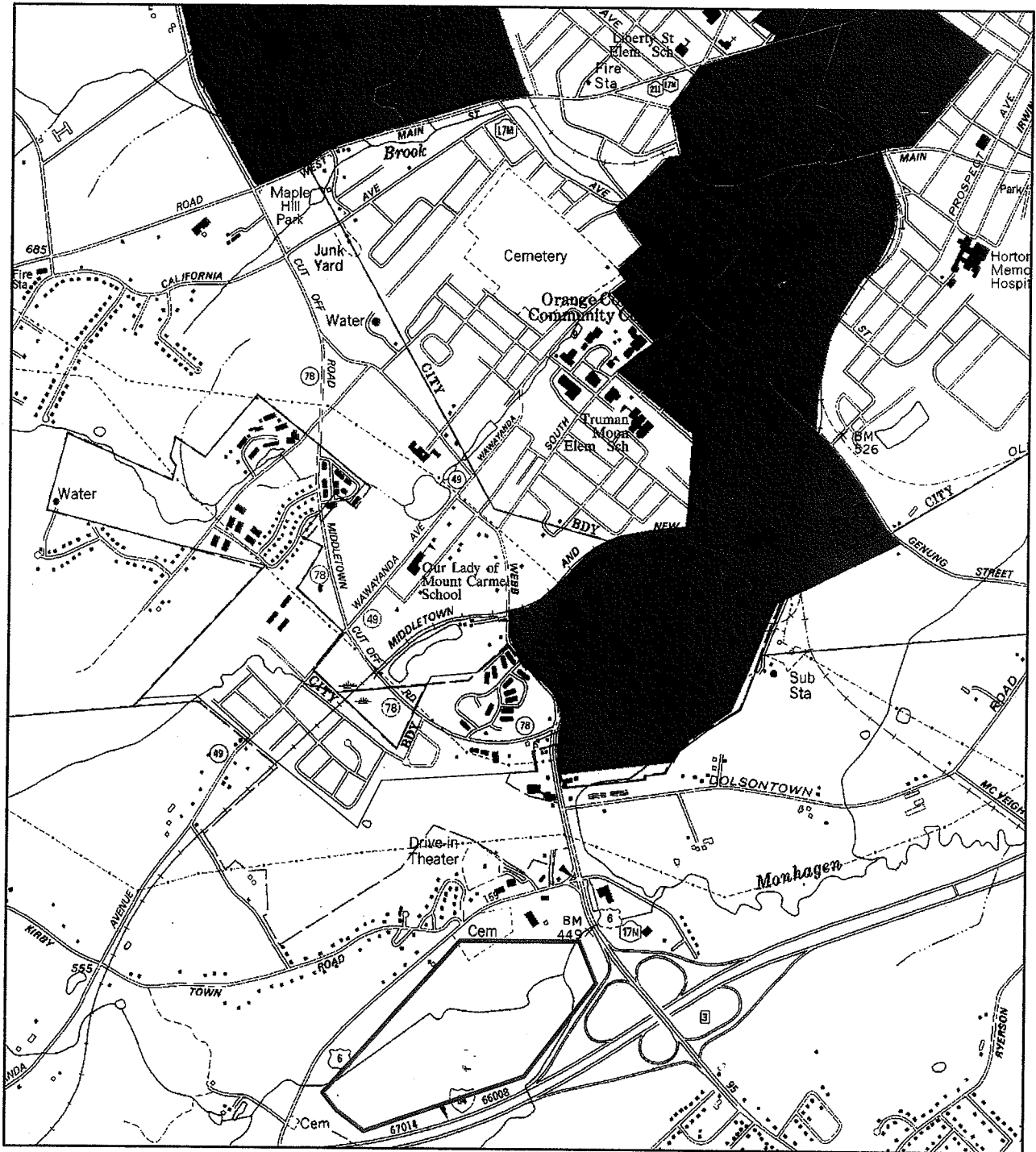
## **5.0 Alternatives**

As discussed numerous times above, the Draft EIS must address alternative cooling water supply sources.

## **6.0 Appendices to Accompany Draft EIS**

The appendices identified in the scoping document is not an exhaustive list and it should be recognized that additional appendices will be required as the Draft EIS is prepared. For instance, the list included in the draft scoping document does not include a reference to the

# CPV VALLEY ENERGY CENTER Environmental Justice Areas



 Potential EJ area

