READ AND LANIADO, LLP
ATTORNEYS AT LAW
25 EAGLE STREET
ALBANY, NEW YORK 12207-1901

(518) 465-9313 MAIN
(518) 465-9315 FAX
www.readlaniado.com

KEVIN R. BROCKS
DAVID B. JOHNSON
SAM M. LANIADO

KONSTANTIN PODOLNY

HOWARD J. READ
PATRICK A. SILER
Of Counsel

Via Electronic Delivery

August 28, 2014

Hon. Kathleen Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case No. 14-_____– Verified Joint Petition of Lockport Energy Associates, L.P., LEA A4 LLC, Lockport Power Cogeneration, LLC, and LEA LP IV LLC for a Declaratory Ruling Regarding an Ownership Transfer or, in the Alternative, an Approval Pursuant to Sections 70 and 83 of the Public Service Law

Dear Secretary Burgess:

Please find attached for filing the *Petition for a Declaratory Ruling Regarding an Ownership Transfer or, in the Alternative, an Approval Pursuant to Sections 70 and 83 of the Public Service Law* on behalf of Lockport Energy Associates, L.P., LEA A4 LLC, Lockport Power Cogeneration, LLC, and LEA LP IV LLC.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Lockport Energy Associates, L.P., and LEA A4 LLC

By: __________/s/______________________
David B. Johnson

Enc.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

---x

Verified Joint Petition of Lockport Energy Associates, L.P., LEA A4 LLC, Lockport Power Cogeneration, LLC, and LEA LP IV LLC for a Declaratory Ruling Regarding an Ownership Transfer or, in the Alternative, an Approval Pursuant to Sections 70 and 83 of the Public Service Law	**Case No. 14-_______**

---x

VERIFIED JOINT PETITION OF LOCKPORT ENERGY ASSOCIATES, L.P., LEA A4 LLC, LOCKPORT POWER COGENERATION, LLC, AND LEA LP IV LLC FOR A DECLARATORY RULING REGARDING AN OWNERSHIP TRANSFER OR, IN THE ALTERNATIVE, AN APPROVAL PURSUANT TO SECTIONS 70 AND 83 OF THE PUBLIC SERVICE LAW

David B. Johnson
Konstantin Podolny
Read and Laniado, LLP
25 Eagle Street
Albany, New York 12207
Tel: (518) 465-9313
E-mail: dbj@readlaniado.com
kp@readlaniado.com

Attorneys for Lockport Energy Associates, L.P., LEA A4 LLC

Timothy J. Tracy
Balch & Bingham LLP
1901 Sixth Avenue North
Suite 1500
Birmingham, AL 35203-4642
Tel: (205) 226-3456
E-mail: TTracy@balch.com

Attorneys for Lockport Power Cogeneration, LLC, and LEA LP IV LLC

Dated: August 28, 2014

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

---x

Verified Joint Petition of Lockport Energy Associates, L.P., LEA A4 LLC, Lockport Power Cogeneration, LLC, and LEA LP IV LLC for a Declaratory Ruling Regarding an Ownership Transfer or, in the Alternative, an Approval Pursuant to Sections 70 and 83 of the Public Service Law

Case No. 14-_______

---x

VERIFIED JOINT PETITION OF LOCKPORT ENERGY ASSOCIATES, L.P., LEA A4 LLC, LOCKPORT POWER COGENERATION, LLC, AND LEA LP IV LLC FOR A DECLARATORY RULING REGARDING AN OWNERSHIP TRANSFER OR, IN THE ALTERNATIVE, AN APPROVAL PURSUANT TO SECTIONS 70 AND 83 OF THE PUBLIC SERVICE LAW

I. INTRODUCTION

Lockport Energy Associates, L.P. ("LEA"), LEA A4 LLC ("A4"), Lockport Power Cogeneration, LLC ("Lockport Power), and LEA LP IV LLC ("LEA LP") (collectively, the "Petitioners") hereby jointly petition the New York Public Service Commission ("Commission") for a declaratory ruling that the Commission need not review under Public Service Law ("PSL") Sections 70 and 83 the proposed transfer to A4 of a 19.3% and a 5.0% partnership interest in LEA from Lockport Power and LEA LP, respectively (the "Transfer"). In the alternative, the Petitioners respectfully request Commission approval, without modification or condition, pursuant to PSL Sections 70 and 83 and any other statutory or regulatory provision deemed applicable, to consummate the Transfer. The Transfer is in the public interest and has no potential to harm captive ratepayers. The Transfer will not affect the management or operation of the regulated entity and will not increase the market concentration by any entity in New York State. In addition, the Petitioners request that the lightened regulatory scheme approved for LEA continue unchanged. Petitioners hereby request the Commission expedite, to the extent possible, its review of the instant Petition and grant the approval requested herein as soon as possible.

II. BACKGROUND

A. The Petitioners

1. LEA

LEA, a Delaware limited partnership, is the owner and operator of a 200 megawatt natural gas-fired cogeneration facility located in Lockport, New York (the "Facility"). The Commission granted LEA a lightened regulation for both steam and electricity sales.[1] The day-to-day operations of the Facility are managed by LEA's general partners. FCI Lockport GP, Inc., ("FCI"), a wholly-owned indirect subsidiary of Fortistar LLC ("Fortistar"), owns a 1% general partnership interest in LEA. LEA GP, Inc. ("GPI"), owns a 0.1% general partnership interest in LEA. GPI is indirectly owned 24% by Fortistar and 76% by Osaka Gas Energy America Corporation ("Osaka Gas"), a Japanese corporation. LEA also has nine limited partners. Fortistar indirectly owns 50.3% of the limited partnership interests in LEA, Osaka Gas indirectly owns 24.3%, and Harbinger Independent Power Fund I LLC ("Harbinger") indirectly owns 24.3%.

2. Lockport Power and LEA LP

Lockport Power is a Delaware limited liability company which currently holds a 19.3% limited partnership interest in LEA. LEA LP is a Delaware limited liability company which currently holds a 5% limited partnership interest in LEA. Both Lockport Power and LEA LP are wholly-owned indirect subsidiaries of Harbinger, together accounting for the 24.3% interest in LEA described above. Harbinger's indirect 24.3% interest in LEA is passive and does not

[1] *See* Case 08-M-1301, *Lockport Energy Associates, L.P.*, Order Granting Certificate of Public Convenience and Providing for Lightened and Incidental Regulation (Jan. 20, 2009) ("Lightened Regulation Order").

provide rights to manage the day-to-day operations of the Facility. Harbinger's indirect interests in LEA solely allow it to exercise certain limited veto and consent rights necessary to protect its economic investment.

3. A4

A4 is a Delaware limited liability company. It is a wholly-owned indirect subsidiary of Fortistar created specifically to hold the 24.3% limited partnership interest in LEA acquired via the Transfer.

B. The Transfer

In the Transfer, Lockport Power and LEA LP propose to transfer the entirety of their combined 24.3% limited partnership interest in LEA to A4. Once the Transfer is consummated, A4 will hold a direct 24.3% limited partnership interest in LEA. Fortistar will indirectly own 74.3% of the limited partnership interest in LEA, while Osaka Gas will indirectly own the remaining 24.3% limited partnership interest. LEA's general partners will not change and will continue to manage the day-to-day operations of the Facility. Harbinger will no longer hold any interest in LEA.

III. THE COMMISSION SHOULD ESCHEW REVIEW OF THE TRANSFER UNDER SECTIONS 70 AND 83.

The Commission should declare that the Transfer is not jurisdictional under PSL Sections 70 and 83 because it does not create a "transfer of works or system" under those statutory provisions. The interests transferred are purely passive and do not allow the exercise of control over the Facility. Sections 70(1) and 83(1), as relevant here, are operative on the transferor, and apply only to the transfers of the works or system of an electric or steam corporation, or parts thereof. Because Lockport Power and LEA LP hold only passive interests in LEA, and only those passive interests are being transferred, the transaction does not constitute a jurisdictional transfer under Sections 70 and 83.

The Commission has previously held that the transfer of a passive interest in an electric corporation does not constitute a transfer of ownership within the meaning of PSL Section 70 because it does not provide for the exercise of control over, or the ability to influence the operations of, the regulated facility. For example, in Case 07-E-1283, the Commission held that a transfer of Class A interests would not constitute a transfer of ownership within the meaning of Section 70 because the Class A interests were structured so that their owner could qualify for certain tax benefits, receive an allocation of the profits from the facilities' operations, and exercise certain limited veto and consent rights necessary to protect its economic investment.[2] The Commission reasoned that:

> the Class A interests . . . do not carry with them any authority that would enable [transferee] to exercise control over, or influence the operations of the [regulated entities]. Operational control remains with [Class B interest holder], the indirect owner of all of the Class B interests in [holding company]. Therefore, the transfer of the Class A membership interests is not a transfer of ownership interests within the meaning of PSL §70.[3]

The Commission reaffirmed the principle that only those transfers that confer upon the transferee some measure of control over the regulated entities fall under the scope of Section 70 regulation in Case 08-E-1267. The Commission held that:

> [i]n the Noble EFS I Ruling, it was decided that a transfer of Class A interests similar to the type of interest the Petitioners describe here was not a transfer of ownership within the meaning of PSL §70. As in the Noble EFS I Ruling, the Class A interests that would be transferred to [transferee] would not carry with them any

---

[2] Case 07-E-1283, *Noble Clinton Wind Park I LLC, et al.*, Declaratory Ruling on Review of An Ownership Interest Transfer (Dec. 18, 2007), at 5 ("Noble EFS Ruling I").

[3] *Id.* (*citing* Case 06-E-1106, *PPM Energy, Inc. et. al.*, Declaratory Ruling on Regulation of Intra-Corporate and Other Transactions (Oct. 19, 2006)).

> authority that would enable [transferee] to exercise control over, or influence the operations of, the [regulated entities] either directly or through [a holding company]. Control over the operation and management of the wind generation facilities owned by the [regulated entities] remains with . . . the indirect owner of all the Class B interests . . . . Therefore, the transfer of the passive Class A investment interests to [transferee] need not be reviewed because it is not a transfer within the meaning of PSL §70.[4]

The limited partnership interests that are the subject of the Transfer are virtually identical to the Class A interests in the Noble Rulings because they do not confer on their holder any rights to exercise control over, or influence, the operations of the Facility, except for the certain limited veto and consent rights necessary to protect the holder's economic investment. LEA's partnership agreement gives limited partners only the right to consent to:

- the sale or transfer of assets with a value above a specified amount, except as contemplated under project documents;
- the material amendment, refinance, or replacement of credit documents;
- the assumption or incurrence of new indebtedness above a specified amount;
- termination or material amendment of project documents;
- acquisitions and expenditures above a specified amount, except in the ordinary course of business;
- termination or dissolution of the partnership;
- settlement of insurance claims above a specified amount;
- settlement of other claims above a specified amount;
- change to the fiscal year of the partnership;
- increase in the operating budget (excluding certain costs) above a specified level;

[4] Case 08-E-1267, *Noble Altona Wind Park LLC, et. al.*, Declaratory Ruling on Review and Regulation of a Passive Ownership Interest Transfer (Dec. 15, 2008), at 4 ("Noble EFS Ruling II" and together with Noble EFS Ruling I "Noble Rulings").

- declaration of bankruptcy;
- loans or guaranties other than in the ordinary course of business;
- execution of contracts with an affiliate of a partner;
- creation of additional partnership interests;
- election not to rebuild damaged or lost material portions of the project;
- execution of new agreements with a specified fuel supplier;
- selection of a new public accountant;
- establish or release reserves or increase funding rate of any reserves;
- removal or change of the project operator; but only in circumstances where the general partner has engaged in willful misconduct, fraud, negligence, mismanagement, or breach of the partnership agreement, or in the event of bankruptcy, dissolution or cessation of existence of the managing general partner, or a violation of criminal or civil law (with an adverse effect on the partnership) by the managing general partner.
- material modification to the project's electric and steam generating capacity;
- prepayment of indebtedness outside of the ordinary course of business; and
- distribution of property other than cash to a partner.

These limited consent rights do not give their holder control over the operation of LEA, and their transfer, therefore, does not constitute a transfer of ownership under Sections 70 and 83. The Federal Energy Regulatory Commission ("FERC") applies a similar standard when reviewing control over jurisdictional facilities. FERC has held that the type of consent rights described above are associated with "non-voting securities," and do not confer on their holder the "authority to manage, direct, or control the activities" of the regulated entity.[5] In fact, specifically for LEA, FERC determined that Harbinger was not an affiliate of Fortistar, precisely because it only held the passive "non-voting" rights listed above.[6] For the foregoing reasons, the Transfer is not a transfer of ownership within the meaning of PSL Sections 70 and 83, and the Commission should declare that it will not be reviewed under those sections.

IV. IN THE ALTERNATIVE, THE COMMISSION SHOULD APPROVE THE TRANSFER UNDER PSL SECTIONS 70 & 83.

The Commission reviews proposed transfers under PSL Sections 70 and 83 utilizing a "public interest" standard.[7] For lightly regulated entities, the level of scrutiny accorded to Sections 70 and 83 transfers is reduced, and the Commission reviews the transaction only for the potential to exercise market power, or other harm to captive ratepayers. Specifically, the Commission has stated that:

> [i]n conducting a review under §70 that pertains to a lightly-regulated electric corporation operating in wholesale electric markets, we examine any affiliations, including those with fully-regulated New York utilities or power marketers, that might afford opportunities for the exercise of market power or pose the potential for other harms detrimental to captive ratepayer interests. A similar inquiry under PSL §83 pertains to the transfer of ownership interests in steam corporations operating in competitive retail markets.[8]

The Transfer fully satisfies the Commission's standard of review for lightly regulated entities. The Transfer does not create any potential for harm to the interests of captive utility ratepayers because LEA operates in a competitive market and has no captive ratepayers. LEA is

---

[5] *AES Creative Resources, L.P.*, 129 FERC ¶ 61,239 (2009) (citation omitted).

[6] *See* Docket No. ER11-4423-001, *Lockport Energy Associates, L.P.*, Letter Order (Mar. 26, 2012).

[7] N.Y. Pub. Serv. Law §§ 70, 83 (McKinney 2011).

[8] Case 10-M-0186 *et. al.*, *Alliance Energy Renewables, LLC, et. al.*, Order Approving Transfers Upon Conditions and Making Other Findings (July 23, 2010), at 17.

not affiliated with any fully-regulated New York utilities. Furthermore, because Fortistar already indirectly owns a majority of the general partnership interests and a majority of the limited partnership interests in LEA, and because the interests being transferred here are limited partnership interests, the Transfer will not create or enhance market power in New York.

The Transfer will not result in any adverse impacts in New York. No changes in the management or operation of the Facility will be made as a result of the Transfer. The Facility will continue to be operated by its general partners, which will not be affected by the Transfer. Fortistar, through its various subsidiaries, has managed and operated the Facility since it commenced operation in 1992. It has provided safe and adequate service since that time. The Facility's owners will continue to provide safe and adequate steam and electric service in the competitive markets.

V. THE COMMISSION SHOULD CONFIRM THAT THE TRANSFER WILL NOT ALTER THE REGULATORY FRAMEWORK OTHERWISE APPLICABLE TO THE PARTICIPANTS.

The Commission has held that because LEA provides electric service on a wholesale basis, as a participant in the NYISO competitive markets, LEA qualifies for lightened regulation under Commission precedent. The Commission further held that detailed regulatory oversight of LEA's steam sales is unnecessary.[9] Petitioners respectfully request that the Commission affirm and declare that the Transfer will not affect the lightened regulatory regime currently in place for LEA.

VI. STATE ENVIRONMENTAL QUALITY REVIEW ACT

Under the State Environmental Quality Review Act ("SEQRA"), Article 8 of the New York State Environmental Conservation Law, and its implementing regulations (6 NYCRR § 617 and 16 NYCRR § 7), the Commission must determine whether certain actions it is

[9] *See* Lightened Regulation Order.

authorized to approve may have a significant impact on the environment. The Transfer does not meet the definition of Type I or Type II actions listed in 6 NYCRR §§ 617.4, 617.5 and 16 NYCRR § 7.2 and, therefore, is appropriately classified as an "unlisted" action under SEQRA.[10] Accordingly, it is proper for the Commission to declare itself the SEQRA "lead agency," to conduct an environmental assessment, and determine the significance of the actions proposed. A completed Short Environmental Assessment Form is attached hereto.

No significant adverse environmental effect will result from the Transfer. There will be no physical changes to the Facility as part of the Transfer. Following consummation of the Transfer, the Facility will continue to be operated in accordance with the requirements specified in the Lightened Regulation Order, relevant environmental permits, and all applicable environmental laws. As such, the Transfer will not cause new environmental impacts and, thus, the Commission should follow its precedent and issue a negative declaration and undertake no further environmental review.

---

[10]*See, e.g.*, Case 05-E-1341, *Orion Power Holdings, Inc., Astoria Generating Company, L.P. and Astoria Generating Company Acquisitions, LLC*, Petition for Authority to Transfer Ownership Interests and to Issue Corporate Debt, Order Approving Transfers and Financings and making Other Findings (Feb. 15, 2006), at 4–5.

VII. CONCLUSION

WHEREFORE, the Petitioners respectfully request that the Commission issue a declaratory ruling that further review of the Transfer is not required, or, in the alternative, an order authorizing the Transfer, without condition, as in the public interest, and make further findings as requested in this Verified Petition.

Respectfully submitted,

______/s/____________________

David B. Johnson
Konstantin Podolny
Read and Laniado, LLP
25 Eagle Street
Albany, New York 12207
Tel: (518) 465-9313
E-mail: dbj@readlaniado.com
kp@readlaniado.com

Attorneys for Lockport Energy Associates, L.P., LEA A4 LLC

______/s/____________________

Timothy J. Tracy
Balch & Bingham LLP
1901 Sixth Avenue North
Suite 1500
Birmingham, AL 35203-4642
Tel: (205) 226-3456
E-mail: TTracy@balch.com

Attorneys for Lockport Power Cogeneration, LLC, and LEA LP IV LLC

Dated: August 28, 2014

VERIFICATION

I, Thomas J. Kelly, Secretary, on behalf of LEA A4 LLC, do hereby affirm that the contents of this document are true to the best of my knowledge.

Signed: Thomas J. Kelley (E-signature)
Date: August 28, 2014

I, Patrick Molony, Chief Operating Officer, on behalf of LOCKPORT POWER COGENERATION, LLC, and LEA LP IV LLC, do hereby affirm that the contents of this document are true to the best of my knowledge.

Signed: Patrick Molony (E-signature)
Date: August 28, 2014

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Commission approval under Public Service Law Sections 70, 83 for transfer of ownership interests in Lockport Energy Associates, L.P.			
Project Location (describe, and attach a location map): Lockport, NY			
Brief Description of Proposed Action: Petitioners request the Public Service Commission's approval under Sections 70 and 83 of the Public Service Law for the transfer of limited partnership interests in Lockport Energy Associates, L.P., the owner of an electric generating facility in Lockport, New York, from Lockport Power Cogeneration, LLC, and LEA LP IV LLC to LEA A4 LLC.			
Name of Applicant or Sponsor: Lockport Energy Associates, L.P.	Telephone: E-Mail:		
Address: 5087 Junction Rd			
City/PO: Lockport	State: NY	Zip Code: 14094	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		**NO** ☑	**YES** ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		**NO** ☑	**YES** ☐
3.a. Total acreage of the site of the proposed action? NA acres b. Total acreage to be physically disturbed? NA acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? NA acres			
4. Check all land uses that occur on, adjoining and near the proposed action. ☐ Urban ☐ Rural (non-agriculture) ☑ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): ______ ☐ Parkland			

	NO	YES	N/A
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☐	☑
b. Consistent with the adopted comprehensive plan?	☐	☐	☑
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☑	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: ______	☑	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☑	☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☑	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☑	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: ______	☐	☑	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: ______	☑	☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: ______	☑	☐	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	☑	☐	
b. Is the proposed action located in an archeological sensitive area?	☑	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: ______	☑	☐	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional
☐ Wetland ☐ Urban ☑ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100 year flood plain?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? ☐ NO ☐ YES	☑	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: ☐ NO ☐ YES ______		

	NO	YES
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: ____________	☑	☐

	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: ____________	☑	☐

	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: ____________	☑	☐

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Lockport Energy Associates, L.P., by FCI Lockport GP Inc., its Managing General Partner Date: 8/26/2014

Signature: [signature], Chief Financial Officer

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT