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Daniel Whitehead  
New York State Department of Environmental Conservation  
Division of Environmental Permits,  
625 Broadway, Albany, N.Y. 12233-1750

Re: Scoping comments for Belleayre Resort at Catskill Park

January 14, 2008

Dear Mr. Whitehead,

Thank you for the opportunity to submit comments on areas of concern during this scoping phase of the ongoing review of the proposed Belleayre Resort at Catskill Park. I am a fulltime resident and homeowner in Pine Hill, which is a small hamlet at the base of Belleayre Mountain. Many of my concerns have to do with the effects this mega-resort will have on the rural lifestyle that my family came to the area to enjoy 17 years ago. Additionally my son-law's family has lived in the region from Big Indian to Margaretville for generations, with the addition of my two grandchildren being the fifth!

**The SDEIS must include Cumulative Impacts, Secondary and Induced Growth Impacts, such as a Full Build-out Study for the town of Shandaken according to current Zoning.**

Pine Hill has about 300 residents and 5 paved roads. Several of our roads are so primitive by today's suburban standards that they prohibit two-way traffic. Parking for businesses on Main Street in Pine Hill is inadequate, since the hamlet developed in the days when tourist came to the area via train, where they would be picked up by horse drawn carriages. To suggest that because this area had hundreds of hotel room's decades ago, it could now support that concentrated tourist population with out substantial adverse impacts is ludicrous. The infrastructure required is simply comparable. In Pine Hill alone, the additional population that would be drawn to the area during construction would facilitate the need to improve our roads to handle the increased congestion.

Low cost housing in the area is at a minimum as per the Ulster County Rental Housing Survey, Shandaken has just 1.2% of low income housing in the county. Hundreds and hundreds of workers will be brought into the area for the anticipated 8-year construction phase. Where will

these workers live? Competition for rental housing will surely drive up rents, a boon for the landlord but detrimental to local low-income residents. By current Zoning regulations, homeowners in Shandaken are permitted to add one accessory apartment to a residential structure. The increased demand for housing will surely spawn an increase of these income producers as will the rental of what are now seasonal homes, year round. The resulting increase in the population will have a domino effect on everything from traffic to schools. This will happen, despite the developer's claims that the "local" work force can fill the need. This is a rural area where even the "local" high school is 15 miles away and the "local" shopping mall is 40 miles away! With ever rising gas prices, it is certain that workers will choose to stay in the area, either during the work week, taking their paycheck back to their home community on weekends, or choose to move permanently to the area, perhaps even bringing their family with them. Either scenario will have impacts on the community. Additionally, the Town of Shandaken has approximately 3000 residents and measures 79,200 acres. The proposed Resort will encompass a population equal to the entire residency of Shandaken on just 718 acres, adjacent to Shandaken's second largest hamlet, Pine Hill which occupies a mere 85 acres. This will have a major impact on the rural character of the town and should be addressed.

**The SDEIS should include the effects of the proposed resort on traffic patterns during construction and operation.**

Residents of this area can testify that we have two distinct traffic patterns, local and seasonal. During the week it is not so bad, traffic flows at a comfortable rate and there is no need for a traffic light from Route 28 at Rte 375 in Hurley all the way to the blinking light at Rte 28 and Bridge St. in Margaretville. On weekends however, it is a different story. Especially during the winter weekends, the increase in traffic is conspicuous. Most local residents know to stay off the roads during these times. In fact when I lived on Main Street in Pine Hill several years ago we did not use our car after 3 pm on weekends, as finding a parking space after that time was difficult at best. Upon returning home one afternoon, I had to park 3 blocks from my home and walk back with 4 children, retrieving my car and my parking spot the next day when all the visitors went skiing! The developer would have you believe the increase in traffic will be negligible since we already experience such volume. I have tried to exhibit through personal experience, that although we do, it is not on a consistent daily basis. And it has yet to be demonstrated by the developer if the weekend traffic we now have is even comparable to what the proposed resort will bring. I believe it is because the developer cannot. Additionally the developer has indicated that tractor-trailers will supply the resort construction at the rate of one every 20-minutes, 6-days a week! What about delivery vehicles once the resort is running? If local resident have to deal with these traffic volumes on a permanent basis, it will surely change the character of our community

and our way of life. This traffic increase will add to wear and tear on the roads, pollution, additional need for traffic controls and increased accidents. How can impacts such as stress and road-rage be measured?

**The expansion of Belleayre Mountain Ski Center (BMSC) and creation of ski-in-ski-out access to the resort should occur only on state-owned lands and not via easements on lands owned and/or maintained by others.**

I am very disturbed by the public/private partnership that has been formed without and regard for procedure that would incorporate public participation. The public has been involved in a review process that has been ongoing for almost 9 yrs. Now, under the Spitzer administration we have been presented with a totally new Belleayre Resort plan, that was hammered out behind closed doors. By law the Belleayre Mountain Ski Area, through the NYSDEC is required to present a Unit Management Plan every 5 yrs. Several years ago the current Superintendent of Belleayre Mountain Tony Lanza presented a BMSC UMP at both the Pine Hill Community Center and Belleayre Mountain for the public to see and participate in the process. When it was suggested that this UMP be incorporated into the Proposed Belleayre Resorts DEIS, the UMP was pulled, the public was told it did not exist, and at any rate it should be considered a separate project. What an insult to our collective intelligence and democratic process that we now are presented with a 47 million dollar expansion to Belleayre Mountain, tied into a private development that up until as little as a year ago we were assured either did not exist or was a separate project and at the very least is several years overdue! These events lead me to question whether the DEC, as Lead Agency in the review can really act without an intrinsic conflict of interest. On our own local Planning Board a member must excuse himself or herself when they have a personal or business relationship with an applicant.

The DEIS should include breakdowns of all the cost to the taxpayers for developer perks in this deal. For example the developer will be paid approximately 14 million for the 1200 acres on the Big Indian Ridge. What is the fair market value of this undeveloped land? Will it be determined if he actually has clear title to such lands or just purchase options? Is the public paying an inflated price to compensate the developer on lost future earnings? If so why? Even the developers own consultants testified at the Issues Conferences that this was a speculative venture. Whether or not these lands can be developed in the future should be of no consequence to the state in regard to the purchase price, nor should the threat of the developer to "go back to the east side" if he doesn't get what he wants from the state. What is the cost to the taxpayers for the development of ski trails and lifts on the developer's lands? What is the benefit to the taxpayer? How many skiers who are not resort patrons will really use these amenities? Will these trails actually be enjoyable and used by the average skier to ski or just pathways to deliver more customers to the resort? Will the resort amenities really be of the type that will be desirable

to the current customer of BMSC or in the absence of such patronage will they be conveniences for resort patrons paid for by the taxpayer? How will directing customers to the resort impact other businesses that do not enjoy the advantage of publicly funded conduits to their businesses? How safe will these trails be? According to the drawings submitted by the developer, the road leading to the proposed 19 homes atop Highmount will weave between two ski runs under the lift that services those trails, on the easement assigned to the state. This road will have 6 hairpin turns and two bridges over it for the ski trails to cross over, in addition to the ski lift above it. The grade of this road will far exceed what is allowed by local zoning, so it should by law remain a private road. Yet, it is in the middle of 2 ski runs to be built and maintained by the State of NY on an easement assigned to the State. How is this to be managed? Who will be responsible for the maintenance of the road? What about the liability of having ski trails adjacent to a steep, winding mountain road? How will skiers be protected from vehicles traveling on such a road and how will the motorist be protected from out of control or irresponsible skiers? The bridges will have to be built to withstand snow-grooming equipment and facilitate the use of snow removal equipment on the road below. Under whose jurisdiction and liability will this occur? There is nothing in the Agreement In Principal that addresses these concerns. Full disclosure of projected State expenditures to link ski trails and lifts to this private development must be made public.

**The BMSC and the resort both propose to use the existing New York City Pine Hill Wastewater Treatment Plant to provide wastewater treatment. How is this compatible with the contract Pine Hill now has with NY City for the operation of this plant? How will this effect the future growth of Pine Hill?**

For the proposed resort to hook up to the Pine Hill Wastewater Treatment Plant the existing sewer district will have to be extended to incorporate an area nine times the size of Pine Hill. How much capacity will be left for the growth of Pine Hill as a hamlet? Many of the homes in Pine Hill are seasonal and there are at least three hotels undergoing renovation. If Pine Hill were to expand to full capacity, year round, would the plant have the capacity to service both it and the resort? Who will be turned away when the plant reaches capacity? What about the existing businesses and homes in the area who are not eligible to hook into the plant solely due to the fact that they were not included in the original contract the Incorporated Village of Pine Hill had with the City of NY since 1925? Why is a not-yet-approved resort, parts of which are not even in the same county or town, given precedence to violate this contract and not existing residents and businesses? The project intends to remove potable water from one watershed and after use transfer it to another watershed in the form of wastewater. This appears to be a clear violation of the Clean Water Act. [Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York, 273 F.3d 481 (2d Cir. 2001)]. The Village of Phoenicia rejected a proposal to build a sewage treatment plant, based in part on the cost to the business owners. Will the resort pay similar

rates? Why is NYC so ready to break the contract with Pine Hill to serve a private developer and not the existing population? Wouldn't it be cost effective and fair to run lines along Rte 28 and serve the people who already live here? It seems to me it would be a lot cheaper in the long run, rather than to keep building small plants to serve individual hamlets. The impacts of pledging the available capacity of the Pine Hill Sewage Treatment Plant to a speculative non-existing entity and its effect on the future of the existing community should be addressed. Since this is public monies, such a cost comparison should be included in the DEIS.

**How is the proposed resort compatible with the Smart Growth Initiatives recently implemented by Governor Spitzer? How has the revised resort plan addressed the concerns voiced in the Belleayre Resort Development Review by the NYS Office of the Comptroller in August 2006?**

On Dec 10, 2007, Governor Eliot Spitzer signed an Executive Order creating a Smart Growth Cabinet. His press release stated, "The Cabinet will review state agency spending and policies to determine how best to discourage sprawl and promote smart land use practices". The developer has consistently insisted that Cumulative Impacts, Secondary and Induced Growth Impacts are non-existent. The comptrollers report points out how in the DEIS, the developer used as case examples, resorts that were much smaller to justify his arguments for both the demand and feasibility of his plans. Consequently, he neglected to make comparisons to resorts that closely mirrored his plans.

**The NYC DEP previously concluded that the DEIS failed to consider alternative developments that could reasonably be built at the Belleayre site, as required by SEQRA.**

It is unclear if the revised resort plan is an attempt to satisfy the SEQRA requirements that were omitted from the DEIS or if it is an entirely new project. The addition of the Highmount Spa to the west side development increases the size to such an extent that it can hardly be considered a "lower build alternative". Subsequently the SDEIS should include reasonable lower build alternatives as required by law.

**The need for and viability of the proposed project need to be studied and justified. The project should address economic development for the entire Catskill Ski region and The Catskill Park.**

The 2006 report by the NYS Office of the Comptroller stated, " In summary the Belleayre resort project seems to be a speculative venture that may well endanger existing resource uses and end up placing unacceptable burdens on State, City and local taxpayers." During the Issues

conferences even the developers own consultants questioned the viability of the project and stated they would not recommend it. For almost 10 years the developer has failed to prove the need for the jobs he intends to create. The SDEIS should show the impact of the development on the Catskill Ski region as a whole. Will new patrons be drawn into area or will the patrons simply be pirated away from neighboring ski areas? If the resort only promotes relocation of the patrons the difference between jobs created and jobs lost in another part of the region may be a net loss and not a gain. An exhaustive study of all the Socio-economic impacts, Fiscal and tax impacts on local communities is warranted.

How will the massive construction project and its 8-year timeline effect the existing tourism? Will patrons still be drawn to an area that has morphed into one giant construction zone? What will happen to the peaceful, serene surroundings they come here for with all that blasting, earth moving, construction traffic, construction crews etc, etc? Will the existing business community be left to reclaim the tourist base that found more desirable places to visit while Crossroad Ventures reconfigures our community?

**A full investigation into the business histories and employer histories of the principles of Crossroads Ventures before public monies are used by the State to partner with them.**

While Dean Gitter and Crossroad Ventures have been doing business in the area for a number of years, whether or not they have been successful in their business approach has yet to be determined. Crossroad Ventures may well have the largest concentration of disgruntled employees in Shandaken's history. Sexual harassment, non-payment of contractors, violation of zoning laws and building codes are just a few of the allegations against them. Crossroad Ventures receives tax abatements through the Ulster County Industrial Development Agency's PILOT program. A full accounting of this benefit is necessary, especially since the benefit was enjoyed by Crossroads for the original Emerson Inn and renewed again when its replacement was built after the first one burned. The location now known as Emerson Place started out as Catskill Corners well over a decade ago and has had continual transformations ever since. How successful can a business be when it requires an entirely new management team and a complete makeover every few years? Similarly, Mr. Gitter has been up and down the eastern seaboard in recent decades peddling everything from an Asian inspired theme park called "China USA", to A Steam-town, complete with train collection, to a comprehensive film adaptation of the Bible. Given the enormous amount of public funds being pledged to help float this speculative business model, a full account of prior business *successes* must be confirmed and verified. Anything less would represent a gambling of taxpayer monies by the state of NY.

**The DEC as lead agency should be compelled to demonstrate neutrality in its mandate to fairly review the project.**

This is important as to demonstrate awareness of the inherent conflict of interest outlined in the AIP. The DEC can and should counteract the very nature of the public/private partnership of the AIP by requiring the developer to include in the SDEIS complete and unbiased studies on the Impacts on wildlife and wildlife habitat, flora and fauna, Impacts of deforestation and building on steep slopes, Water Quality and Water supply impacts, Storm water and flooding impacts, Impacts to surface and ground water, Visual and noise impacts, Air quality impacts, Carbon footprint, Impacts on aquatic habitat, Impacts on historic resources, Impacts of extensive blasting and the effect on the intermittent streams.

**The Organic Golf Course Practices outlined in the AIP are inadequate at best.**

These requirements are so flimsy and vague that they hardly qualify as such. As this "organic" golf course is to be located in such an environmentally sensitive area on so many levels, only the most stringent and rigorous mandates are acceptable. The DEIS should show comparative guidelines from several existing golf courses, as well as their successful implementation and viability.

In closing I would like to note that I am a member of the Catskill Heritage Alliance, The Friends of Catskill Park, The Pine Hill Water District Coalition, The Ashokan & Pepacton Chapter of Trout Unlimited (who's views are not to be confused with the national chapter) and The Sierra Club. I endorse and support all comments submitted by these important community organizations. I also endorse and support the Highmount Preservation Association, Hardenburgh Association of Residents and Taxpayers and Save The Mountain.

Sincerely,

Mary L. Herrmann

