

New York State Department of Environmental Conservation

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Joe Martens
Commissioner

September 10, 2014

Louis A. Alexander
Assistant Commissioner for Hearings and Mediation Services
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-1500

Reference: In the Matter of the Applications for Permits to Construct and Operate a Proposed Development to be known as the Belleayre Resort at Catskill Park, by Crossroads Ventures, LLC (Applicant);

Motion to cancel the adjudicatory proceeding pursuant to 6 NYCRR 624.5 (c) and staff's response to the motion of the Catskill Park Coalition to the Commissioner, dated January 29, 2007, for reconsideration of the Deputy Commissioner's Interim Decision dated December 29, 2006 (community character ruling)

Dear Assistant Commissioner Alexander:

Staff of the Department of Environmental Conservation write in regard to the above referenced matter, namely the application of Crossroads Ventures, LLC (the "Applicant") to construct and operate a proposed development to be known as the Belleayre Resort at Catskill Park (Belleayre Resort).

On December 29, 2006, Deputy Commissioner Carl Johnson issued an Interim Decision, in the above referenced matter, by delegation of authority from the Commissioner, on issues for adjudication and party status from an appeal of ALJ Richard R. Wissler's issues and party status ruling dated September 7, 2005 (Ruling No. 3). A key part of the issues ruling was for the parties to explore a lower impact alternative to the one presented in the issues conference. Responsive to the alternatives ruling, on or about September 7, 2007, the governmental and most of the non-governmental parties to the hearing agreed on a conceptual plan — which became known as the Agreement in Principle or AIP — that set out a lower impact alternative to the initial project design (Modified Belleayre Resort). The applicant agreed to prepare a supplemental draft environmental impact statement that would be resubmitted with amended permit applications to the Office of Hearings and Mediation Services evaluating the lower impact alternative and that was responsive on other issues.

Staff wish to advise the Office of Hearings and Mediation Services that they have completed the supplemental environmental review of the Modified Belleayre Resort along with a

cumulative analysis of the Modified Belleayre Resort with a plan for modernization and expansion of the Belleayre Mountain Ski Center (which was contemplated in the AIP). Accordingly, at this time, Department staff hereby submit two hard copies and an electronic copy of the following documents to you in order to supplement the administrative record:

1. The Final Environmental Impact Statement for the Modified Belleayre Resort at Catskill Park;
2. The Final Cumulative Impact Analysis for the Belleayre Mountain Ski Center UMP-FEIS and Modified Belleayre Resort at Catskill Park FEIS;
3. The draft SPDES and stream crossing permits (Title 5 of Article 15 of the ECL) for the Modified Belleayre Resort;
4. The Applicant's proposed supplementary conditions that the staff have agreed to make part of findings (though not necessarily as conditions of the construction SPDES and stream crossing permits);
5. Two electronic copies of the Final Unit Management Plan/Final Environmental Impact Statement for the Belleayre Mountain Ski Center; and
6. Staff's motion to cancel the adjudicatory hearing (consisting of a notice of motion, supporting affidavit and memorandum of law).

An affidavit of service will be provided under separate cover. Staff will provide copies of the EISs on electronic media.

Staff wish to provide two explanatory notes: First, the Final EIS for the Belleayre Resort is set out in four parts, namely the original draft EIS (on electronic media), the supplemental draft EIS (in paper and electronic media), the Final EIS (constituting the responsiveness document and changes to the supplemental, draft EIS, and the cumulative impact analysis (paper and electronic media). The UMP/FEIS, by contrast, is a single document, and is provided for informational purposes only. References to the FEIS for the Belleayre Resort are to the draft except as modified by the final.

Second, normally, staff would file the final documents in accordance with the provisions of the SEQR regulations that provide for filing and notice of final EISs. Here, however, the hearing record would supplement the EISs. Thus, staff will hold the EISs in abeyance pending the disposition of this matter in the hearings process under 6 NYCRR Part 624.

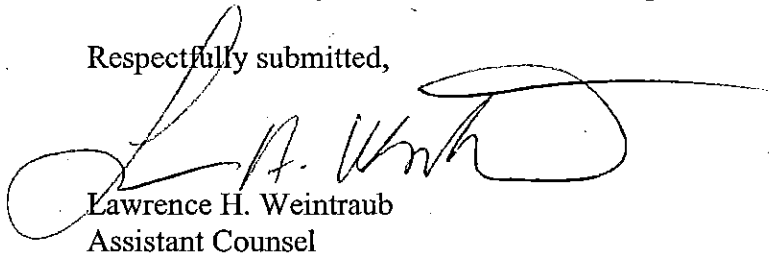
Staff recognize that they have herewith provided this office with a voluminous record. The issues left over from Deputy Commission Johnson's Interim Decision are quite basic and addressed in the Affidavit of Daniel Whitehead. In fact, some issues have been rendered completely moot by the removal of the proposed development from the Big Indian Plateau. Approximately 3700 comments were submitted on the draft impact statements and draft permits. Staff have carefully reviewed the substantive comments and none raise substantive and significant issues that should be made part of an adjudicatory process. Accordingly, staff respectfully request that the Office of Hearings and Mediation Services grant their motion to cancel the adjudicatory hearing.

Louis A. Alexander, Assistant Commissioner for Hearings and Mediation Services
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Staff also ask the Office of Hearings and Mediation Services dismiss the motion of Friends of the Catskill Park for reconsideration of the community character issue. The motion was filed on or is dated January 29, 2007 and was held in abeyance by the Commissioner's Interim Decision dated November 9, 2007.

Finally, please substitute Kelly Turturro, Assistant Regional Attorney, Region 3, and me for Carol Krebs (Assistant Regional Attorney). Service of all papers should be to me and may be done electronically at Lawrence.weintraub@dec.state.ny.gov.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. H. Weintraub", is written over a large, stylized flourish that extends to the right.

Lawrence H. Weintraub
Assistant Counsel

c: Service List (attached)
Daniel Whitehead, Regional Permit Administrator, Region 3
Martin Brand, Regional Director, Region 3
Bill Rudge, Natural Resources Supervisor, Region 3
Zackery Knaub, Regional Attorney