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January 13, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS  
ON THE  
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Donny Brook Country Club 18-Hole Golf Course  
PROJECT MUNICIPALITY : Lanesboro  
PROJECT WATERSHED : Housatonic  
EOEA NUMBER : 13093  
PROJECT PROPONENT : Donny Brook, Inc.  
DATE NOTICED IN MONITOR : December 7, 2005

As Secretary of Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on the above referenced project **does not adequately and properly comply** with the Massachusetts Environmental Policy Act (MEPA) (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). Therefore, the proponent must submit a Supplemental DEIR.

As described in the Environmental Notification Form (ENF), the project consists of the development, operation and maintenance of an 18-hole golf course on a 365 acre site adjacent to Route 7 in Lanesboro, Ma. The proposed project also includes the use of existing buildings for a clubhouse and maintenance facilities, construction of a building for storage and maintenance of golf course equipment, expansion of an existing parking area, construction of a cart path and modification of an existing curb cut. The project is proposed

in two phases. The first phase consists of the front nine holes, located on the west side, and development of the clubhouse and parking areas. The second phase consists of the back nine located on the east side. Substantial work has already been completed and the Department of Environmental Protection (DEP) has taken enforcement action for the construction (and associated clearing and grading) of three holes (1, 8 and 9) and installation of three culverts (holes 2, 5 and 7).<sup>1</sup>

The site, which is bisected by Route 7, consists of forested areas, wetlands and agricultural pasture and fields forming large areas of open meadows. Town Brook flows from west to east (under Route 7). The site includes the Chadwick House, an eighteenth century stone house, which is listed in the state Inventory of Historic and Archaeological Assets.

The project will alter over 51 acres of land and create over 5 acres of new impervious surfaces. The project will alter at least 35,920 square feet (sf) of bordering vegetated wetlands (BVW), includes work within approximately 715,516 sf of buffer zone and 118,500 sf of Riverfront Area (RA) and will alter 736 linear feet (lf) of bank.<sup>2</sup> The proponent estimates the project will use 52,500 gallons per day (gpd) of water. A groundwater well has been installed along Route 7 to meet irrigation needs and a new drinking water well is proposed. The project will generate 2,850 gpd of wastewater and an on-site septic system is proposed. The project will generate 665 vehicle trips per day and will include 70 parking spaces. The project may include a "take" of endangered species protected by the Massachusetts Endangered Species Act (MESA).

The project is undergoing review pursuant to Section 11.03 (1)(a)(1) because it requires a state permit and will alter more than 50 acres of land. The project requires a 401 Water Quality Certificate, a Chapter 91 license, a New Source approval and Public Water Supply (PWS) authorizations for pumping tests and construction. It may require a Water Management Act (WMA) Permit from DEP and a Conservation Permit from the Natural Heritage and Endangered Species Program (NHESP). It requires an Access Permit for two project elements (the cart path and the

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<sup>1</sup>DEP and the proponent entered into an Administrative Consent Order (ACO) requiring the creation of a wetlands replication area and a large monetary fine. DEP permitted the proponent to retain the culverts installed in the area of the second, fifth and seventh holes because it was determined that removal would cause additional impacts to wetlands.

<sup>2</sup> The proponent did not provide a summary of the cumulative wetlands impacts. These estimates were developed based on information included in the Notices of Intent filed for the project.

driveway) from the Massachusetts Highway Department, is subject to review by the Massachusetts Historical Commission, and requires Orders of Conditions from the Lanesboro Conservation Commission (and hence Superseding Orders of Conditions from DEP in the event that local Orders are appealed).

The proponent is not seeking financial assistance from the Commonwealth for the project. MEPA jurisdiction therefore extends to those aspects of the project that are likely to cause significant Damage to the Environment and that are within the subject matter of the required state permits. In this case, MEPA jurisdiction exists over land alteration, wetlands, water quality, drainage, water supply, wildlife habitat/rare species, traffic and historic resources.

### **Review of the DEIR**

At the heart of the MEPA process stands the requirement to evaluate feasible alternatives to a proposed project, to ensure that all state agencies can find, pursuant to Section 61 of the statute, that all feasible means to avoid, reduce or mitigate environmental damage have been considered and incorporated into the project design. This analysis should occur prior to the irretrievable commitment of resources and prior to any state agency actions on the project.

As noted in the Certificate on the ENF, a substantial amount of work has already been completed on this project including the construction of three holes and several unauthorized wetlands crossings. Previous work included alteration of approximately 35,900 sf of BVW, 96,000 sf of buffer zone and 720 linear feet of bank and resulted in enforcement action by DEP. Since the filing of the ENF, construction has continued and at least six holes are substantially complete (1, 2, 3, 7, 8 and 9).

Therefore, it is particularly disconcerting that the DEIR submitted on this project is not adequately responsive to the Scope of the ENF Certificate. The DEIR does not include an adequate alternatives analysis, the rare species survey was not conducted in accordance with the protocols approved by NHESP and, in several instances, basic information about the project and its consistency with permitting programs or regulatory requirements is not included. Comments submitted on the DEIR have identified the need for significant additional information and analysis. Based on a review of the DEIR, consultation with public agencies and review of public comments, I hereby

determine that the proponent shall submit a Supplemental DEIR in accordance with the Scope outlined below.

### **SCOPE**

The EIR should follow the general guidance for outline and content contained in Section 11.07 of the MEPA regulations, as modified by this Certificate.

#### Project Description and Permitting

The EIR should include a thorough description of the project and all project elements and construction phases. The description should include any proposed reuse of the existing buildings (including potential use for events) and proposed agricultural use. The project description should include the context of the entire parcel. It should indicate whether the course will be public or private and estimate the number of employees. I reiterate the requirement that any plans to develop the remainder of the parcel, should be disclosed at this stage in accordance with the anti-segmentation provisions of the MEPA regulations. The EIR should include a list of all project permits, an update on their status and describe their consistency with regulatory requirements.

The EIR should include an existing conditions plan illustrating resources and abutting land uses for the entire 365-acre parcel. It should include a comprehensive site plan (on two sheets - one for the back 9 and one for the front 9 - at a 100-foot scale) for the entire 18 holes showing the location and dimensions of infrastructure, buildings, parking areas, driveways, possible fueling areas, drinking and irrigation wells, septic systems, cart paths, bridges, and stormwater management structures. It should include wetlands resource areas, topography and vegetation including hay fields. In addition, full size plans should be provided at a 40-foot scale for each hole and should cover the entire area of the hole.

The EIR did provide a project description that includes some, but not all, of this information. For instance, it identified all the buildings on the site and described proposed reuse of buildings on the front 9 holes but it did not describe reuse of the buildings on the back 9. Information important to determining the needed capacity of infrastructure, such as the number of employees, was not provided. All of the information and the plans requested above should be provided in the Supplemental DEIR.

### Alternatives Analysis

As noted in the Certificate on the ENF, work done on the site prior to MEPA compliance, and any work underway, is being done at the proponent's risk. I will not accept an argument that the current course layout is the least damaging simply because it exists. Completion of an alternatives analysis will demonstrate what impacts could have been avoided and, most importantly, provide an opportunity to minimize potential impacts from construction of the back 9 holes. The Supplemental DEIR must include a thorough alternatives analysis as required by the previous Scope.

The previous Scope required that an alternatives analysis analyze the No-Build alternative to establish baseline conditions. It allowed the proponent to analyze the existing layout of the front nine holes as the Preferred Alternative, but required analysis of alternative course layouts on the site that would reduce impacts to wetlands and maximize buffer zones between developed portions of the site and wetland areas for all 18 holes. It did not require the exploration of alternative sites where construction of a golf course would have fewer impacts.

The DEIR does not provide a summary of impacts associated with the Preferred Alternative nor does it provide an analysis of alternative course layouts that would minimize project impacts. The DEIR indicates that, in areas where specific impacts were identified and changes suggested (such as reducing the length or width of holes), such changes would be inconsistent with the layout of a championship golf course which must provide a certain number of "par 3", "par 4" and "par 5" holes to be effective and financially feasible. The DEIR states that alternative course layouts are not feasible without providing any criteria required for design of a championship course layout, without demonstrating how the preferred alternative meets these criteria and without demonstrating why alternative layouts could not meet these criteria.

### Land Alteration

The ENF indicated that the project would alter 51 acres of land. Although the back 9 holes have been designed since the filing of the ENF, updated and detailed information on land alteration was not provided in the DEIR. For each alternative, the Supplemental DEIR should quantify the amount of land altered including the amount of grading, new impervious surfaces, and

installation of culverts, bridges, irrigation system and drainage, and landscaping including turf management and temporary construction impacts. The EIR should investigate all feasible methods of avoiding, reducing or minimizing impacts to land.

### Wetlands

As noted previously, the project includes significant wetland impacts. It will alter at least 35,920 square feet (sf) of bordering vegetated wetlands (BVW), it will alter 736 linear feet (lf) of bank and it includes work within 715,516 sf of buffer zone and 118,500 sf of Riverfront Area (RA). The Supplemental DEIR included some of the information required by the previous Scope and included copies of all of the Notices of Intent (NOI) filed for the project. Additional information not included in the text of the DEIR can be found in the various NOI's; however, it is the proponent's responsibility to summarize this information within the wetlands section of the DEIR to ensure that it is clear and reflects the cumulative impacts of the project. The wetlands section should be revised and updated to include all of the information previously required.

The EIR should include a narrative of the wetlands history, including any dates of permit issuance and enforcement orders. It should identify which stream crossings (culverts and bridges) are historic, which were built within the last decade and which are planned as part of the MEPA filing. The EIR should include a hole by hole quantification of wetland impacts, including grading and construction of impervious areas, and this should include those impacts that have already taken place.

The EIR should address the significance of the wetland resources on site to the interests enumerated in the Wetlands Protection Act. All resource area boundaries, riverfront areas, applicable buffer zones, 100-year flood elevations, water supply wells, priority and/or estimated habitat, wetland replication areas, waterways, ponds and agricultural fields should be clearly delineated on a plan. Bordering vegetated wetlands that have been delineated in the field should be surveyed, mapped and located on the plans. It should identify the location of nearby public water wells and reservoirs. Each wetland resource area and riverfront area should be characterized according to 310 CMR 10.00. The EIR should provide detailed information on the hydrology of Town Brook. For each alternative, the EIR should quantify the amount of direct wetland alterations proposed

including crossings, grading, overstory clearing and construction-related disturbances.

Within the alternatives analysis, the proponent should consider variations to its preferred alternative to avoid and minimize impacts of wetlands crossings and work within buffer zones. If criteria for the golf course design limit such changes, these criteria should be adequately described in the alternatives analysis. I note that the proponent has proposed some changes to project plans to minimize wetlands impacts such as the use of an elevated steel and wood bridge for the wetland crossing between the sixth and seventh hole rather than the pre-cast concrete double T beam bridge. In addition, 21,200 sf of riverfront enhancement area within three areas is proposed as mitigation for impacts to riverfront.

Since the filing of the ENF, the proponent submitted an NOI for the back nine holes which is included in the DEIR. DEP has indicated that the proponent and the Conservation Commission are in the process of reviewing resource area boundaries on the back nine holes and that the proponent has been revising its design to avoid and minimize impacts. DEP has indicated, and I agree, that the establishment and acceptance by the Conservation Commission of resource area boundaries is important prior to further review to ensure project impacts are clearly understood. Given the significant amount of work proposed within the Riverfront Area, it is particularly important that the Mean Annual High Water line be correctly identified.

The Berkshire Regional Planning Commission (BRPC) noted in its comments that grading and construction of the cart paths in close proximity to resource areas may affect the hydrology of the receiving resource areas. In addition, the Integrated Pest Management (IPM) Plan included in the DEIR appendix identifies the importance of drainage design for turf management and it indicates that surface runoff was being evaluated; however, the results of this analysis are not included in the DEIR. Drainage discharges or overland flow into wetland areas should be evaluated for the entire project area. The locations of detention basins, distances from wetland resource areas, and the expected quality of the effluent from the basins should be identified. The Supplemental DEIR should also analyze indirect impacts to wetlands from receipt of drainage and stormwater runoff from the site, and should discuss the consistency of the drainage system design with the DEP stormwater management guidelines (including the proposal to discharge stormwater from a drainage basin to a wetland area in the third hole). The Supplemental DEIR should include a detailed stormwater

management plan, including an operations and management plan to ensure its long-term effectiveness.

The Supplemental DEIR should include an assessment of potential project impacts on water quality and groundwater. The Supplemental DEIR should analyze the potential for nitrogen loading into wetland areas on the project site from fertilizers, pesticides, and herbicides and project related wastewater. The Supplemental DEIR should describe the proposed water quality monitoring plan, action thresholds and management responses that are outlined in the IPM Plan.

#### Water Supply/Use

The ENF indicated that the project would require approximately 52,350 gpd of water. DEP comments on the ENF indicated that a typical 18-hole golf course will use approximately 140,000 gpd of water to irrigate tees, greens and fairways during the grow-in period. DEP also indicated that a WMA permit is required for facilities that exceed 100,000 gpd of water use. The previous Scope required updated water use estimates be provided for the entire 18 holes. If the estimate was below 100,000 gpd, the proponent was required to provide the methodology used to develop the estimate and to describe and document irrigation requirements.

The DEIR indicates that the project is using approximately 12,633 gpd of water based on data from a computerized water withdrawal meter. The DEIR does not include a description of irrigation requirements or estimates of water use when construction is complete and the golf course is in operation. Based on a review of this data, DEP has requested additional information. The following information should be included in the Supplemental DEIR: 1) a plot plan showing sprinkler heads and radii of the spray heads, and a calculation of the number of acres under irrigation, including ornamental irrigation; 2) the application rate (in inches per week) anticipated for irrigation in a dry year, for tees, greens and fairways; and 3) metered usage data, including the public water supply and the maintenance facility. In addition, DEP has indicated that the proponent must justify the application rate if it is lower than that listed in the Golf Course Water Use Policy.

The proponent has indicated that the project will include construction of a public water supply well. The new source must be registered as a Public Water System and it will require a number of DEP permits for siting, testing and construction. The DEIR does not identify potential locations of the well so that



the suitability of these locations can be evaluated during MEPA review nor does it describe regulatory requirements such as setback requirements or how the proponent will ensure consistency with them. The plans submitted with the Supplemental DEIR should identify the proposed site of the drinking water well and describe associated regulatory requirements and the project's consistency with them.

#### Turf Management

The construction, operation and maintenance of the golf course has the potential to significantly impact resources on site and in downstream areas through the use of fertilizers, pesticides and herbicides. As required, the DEIR provides an IPM/Turf Management Plan that describes efforts to avoid and minimize application of fertilizers, pesticides and herbicides. It commits the proponent to deep and infrequent use of irrigation to develop strong root systems and limited use of fertilizers and pesticides based on results of testing and sampling. Also, it describes a water quality monitoring plan to detect contamination of groundwater and surface waters.

The Supplemental DEIR should provide an update on the plan and whether the objectives are being achieved for management of the completed areas of the golf course.

#### Wildlife Habitat/Rare Species

The Natural Heritage and Endangered Species Program (NHESP) has indicated that portions of the project site are located within Priority Habitat for the Adder's Tongue-fern, the Long-styled Sanicle, and the Wall-rue Spleenwort, which are state listed as Threatened species under the Massachusetts Endangered Species Act and its implementing regulations. The project is also within Priority Habitat for Ginseng, a species of Special Concern. These regulations protect endangered, threatened and special concern species from "takes," which is defined as collecting, picking, killing, transplanting, cutting or processing of a plant.

The previous Scope required that a botanical survey be conducted for the project site in accordance with the NHESP Rare Plant Survey Protocol. As required, the proponent established a survey protocol with NHESP; however, according to NHESP, the survey described in the DEIR was not conducted consistent with the approved protocol. It was inconsistent because it was not conducted within the entire project area as described in the protocol. The survey was limited to areas of NHESP designated

polygons where the project might have impacts. None of the listed species were identified within this limited area. In addition, the survey did not address whether any prior construction may have resulted in a "take." The presence of the Crooked Stem Astor, a Threatened species, was identified on the western portion of the site east of Hole 4. The survey should be completed as required by the previously reviewed protocols and its results should be included in the Supplemental DEIR. The Supplemental DEIR should describe how any impacts will be avoided, minimized and mitigated.

As noted in the previous Scope, the alternatives analysis should include consideration of impacts on wildlife habitat. Also, the Supplemental DEIR should also address the use of the cow path under Route 7 as a wildlife corridor and whether the construction of the cart path would impact such use.

### Traffic and Transportation

The project will generate 665 trips per day and will include 70 parking spaces. A permit from MHD will be required for alterations to the existing curb cut on Route 7 and for use of the existing cart path running under Route 7. MHD has indicated that the traffic impacts associated with the project will be minimal; however, they have identified several issues that should be addressed. In addition, BRPC has reiterated its concerns regarding the cumulative impacts of projects in the area. The proponent should provide additional information on traffic generation including distribution of peak and non-peak trips, geographical distribution of trips and describe how parking demand was generated. In addition, the Supplemental DEIR should indicate how overflow parking from special events, and associated vehicular and pedestrian circulation, will be managed.

Information included in the appendix of the DEIR clearly demonstrates that the proponent is working with MHD to address liability, design, and public access issues related to the use of the existing path under Route 7. In response to MHD comments, the proponent has designed modifications to the proposed bridge that will connect the cart path for the entire 18 holes. The Supplemental DEIR should describe the bridge design and how it will address MHD requirements for construction in the floodplain and for provision of public ways (including the requirement that these public ways be laid out as town ways and accepted by the Town of Lanesboro). It should include a plan of the bridge, including location of abutments, cross sections and clearly show where public access will be provided.

It should describe any associated safety issues and potential mitigation.

#### Wastewater

The ENF indicated that the project would generate approximately 2,850 gpd of wastewater. The DEIR indicates that a septic system was installed in September of 2004 and was designed to handle 1,840 gpd of wastewater. The DEIR does not describe the methodology for determining the design flow or address the discrepancy. Based on a review of a plan included in the appendix, it appears that design flow was developed based on use as a public park rather than a golf course. DEP has suggested that the design flow calculations are incorrect and that the septic tank may be underdesigned even for the lower flow. DEP has requested additional information to assist in its review of the project. Accordingly, the Supplemental DEIR should submit maximum building occupancy ratings for all facilities on site and include information on accommodations and associated uses inside each building. Design flow should be developed based on its use as a golf course, not a public park.

#### Agricultural Land

According to the Department of Agricultural Resources (DAR), the site contains Soils of State Importance to Farming, as classified by the Natural Resources Conservation Services (NRCS) and has recommended placement of an Agricultural Preservation Restriction (APR) on areas that will continue to be used for agriculture. The proponent has indicated it will continue to use 30 to 40 acres for hay production between hole 3 and hole 7, on the north side of holes 5 and 6 and that a substantial portion of the east side may remain in agriculture. The proponent has indicated that it is not planning to place an APR on the land as suggested. The Supplemental DEIR should include more information on historic and proposed agricultural use as required and show proposed hay fields on the site plans.

#### Historic Resources

As required, an intensive (locational) archaeological survey to locate and identify any historic or archaeological resources potentially affected by the proposed construction was prepared and described in the DEIR. This survey indicated that the project impact areas have undergone extensive disturbance and are unlikely to contain significant resources. MHC, in a letter provided in the DEIR, has indicated that the project will not affect any significant historic or archaeological resources

and has expressed its appreciation that the Chadwick House and other existing buildings will be reused. No further information is required on historic resources.

#### Construction Period Impacts

The DEIR indicates that the project will be constructed in two phases: Phase 1 consists of construction of the front 9 holes and is almost complete. Phase 2 consists of construction of the back 9 holes and is still being designed. The Supplemental DEIR should provide more details on construction phasing so that potential impacts associated with construction activities can be evaluated and feasible mitigation measures can be developed. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions, which may occur during the construction activities. The DEIR indicates that the proponent will participate in the DEP's Clean Construction Initiative to mitigate impacts from diesel construction equipment.

#### Mitigation

The EIR does include a separate chapter on mitigation measures. This should be updated and revised to include Draft Section 61 Finding for all state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation, based on the construction phases of the project, should also be included.

#### Comments

The Supplemental DEIR should include a copy of this Certificate and a copy of each comment received. The EIR should respond to the comments, to the extent that the comments are within MEPA jurisdiction.

#### Supplemental DEIR Distribution

The Supplemental DEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below, to any state agencies from which the proponent will be seeking state permits and approvals, and to Lanesboro officials. A copy of the Supplemental DEIR should be made available for public review at the Lanesboro Public Library.

January 13, 2006

Date

  
Stephen R. Pritchard

Comments received:

01/10/06 Department of Environmental Protection Western  
Regional Office (DEP WERO)  
01/06/06 Executive Office of Transportation (DEP)  
1/06/06 Division of Fisheries and Wildlife (DFWELE)/Natural  
Heritage and Endangered Species Program (NHESP)  
01/06/06 Berkshire Regional Planning Commission (BRPC)  
01/06/06 Massachusetts Historical Commission (MHC)  
12/12/05 Terry Eucker  
01/06/06 Berkshire Environmental Action Team (BEAT)  
01/09/06 Jane and Bruce Winn

SRP/CDB/cdb