

September 24, 2008

Mr. David Wylock  
Co-Chairman, Planning Board  
Town of Pawling  
Pawling Town Hall  
160 Charles Coleman Blvd.  
Pawling, New York 12564

**RE: Draft Scoping Outline for Draft Environmental Impact Statement**

**Wind Rose Dutchess, LLC application for a lodging membership club on approximately 1,145 acres in the Towns of Dover and Pawling, New York**

Dear Mr. Wylock and Planning Board Members:

### **HVA BACKGROUND**

The Housatonic Valley Association (HVA), founded in 1941 is the oldest non-profit watershed conservation organization in the nation, and is dedicated to preserving and protecting the natural character and environmental health of the Housatonic River and its 1,948 mile watershed, which includes the Tem Mile River watershed in New York. Our work in surface and groundwater protection issues is extensive.

HVA reviewed the Final Written Scope for Draft Environmental Impact Statement (Scoping Document) prepared for this project and offers the following comments and recommendations for your consideration.

The Wind Rose project is probably one of the largest land development project the communities of Pawling and Dover have ever faced. The land involved encompasses important agricultural and forestlands in Dutchess County. Careful and serious consideration must be given to preserve the natural resource values of the land that provides important functions. Once lost, these resource values and functions cannot be recovered.

HVA believes that the Draft Scoping Document fails to adequately document the potential environmental and community impacts of the proposed project. Obviously, a major project such as this will have impacts which cannot be avoided, minimized or entirely mitigated. HVA believes the Draft Scoping Document could be improved in terms of characterizing, quantifying or substantiating potential impacts.

### **ENVIRONMENTAL ISSUES**

**1. We strongly urge the Towns to require the applicant to submit a new Site /Subdivision Plan with no construction or associated activities located within wetlands or wetland buffers.**

When dealing with on-site wetlands, avoidance should always be the preferred alternative. We are particularly concerned about how the project is laid out on the Proposed Site/Subdivision Plan, Map

A1.01. The plan shows roads, cart paths and structures all located in buffer areas. In addition, Wetland “GG” would be obliterated. The Draft Scoping Document requires calculation of wetlands impacts. A redesigned plan avoiding construction in wetlands and buffer areas is the best way to significantly reduce wetland impacts.

The properties include significant acreage of Department of Environmental Conservation (DEC) designated wetlands under Part 664.2 (a) of the Environmental Conservation Law, along with the state required “adjacent area”, those areas of land or water that are outside a wetland and within 100 feet (approximately 30 meters), measured horizontally, of the boundary of the wetland. Part 664.2 (b) allows for an adjacent area broader than 100 feet (approximately 30 meters) may be established where necessary to protect and preserve the wetland, as set forth in section 664.7.

The Dover and Pawling Planning Boards have the opportunity to ensure that the wetland protection measures set forth in state environmental laws become their guidelines for reviewing this application. Below is an excerpt from Part 663 of the Environmental Conservation Law §3-0301 and §24-1301, Part 663.4 Regulatory Procedures, Subdivision 663.4(d), procedural requirements, explaining the state’s interest in preventing the cumulative loss of wetlands through development activities:

### **Draining, Filling, Grading, Clear-cutting, and Dredging**

Generally, draining of wetlands lowers groundwater levels, may increase down-stream peak flows, and may decrease water storage capacity and downstream base flow. It may also cause changes in vegetation and water temperature, increased stream bed scouring, and sediment deposition. Draining can totally destroy a wetland.

Filling decreases the number and size of wetlands, thereby decreasing their ability to collect runoff and prevent erosion and sediment deposition downstream. Certain fill materials may adversely affect water quality. Disposal of dredge material may result in erosion and cause turbidity and sediment deposition. Filling eliminates wetland habitat for fish and wildlife, may alter the water table and groundwater flow and adversely affect groundwater recharge, and can irreversibly destroy a wetland.

Grading a wetland or adjacent area can substantially alter surface water drainage and flow patterns, may temporarily increase erosion, and may eliminate fish and wildlife habitat. Clear-cutting removes the vegetative cover of wetlands and may reduce their ability to absorb water and serve as habitat. It may also cause soil erosion.

Dredging or excavation may increase water depth and remove wetland vegetation, thus altering the basic characteristics of, and perhaps destroying, wetlands. Fish and wildlife feeding or reproductive capacities may be altered, as may cover types, turbidity, sediment deposition, and erosion patterns.

Any of these activities can cause the permanent loss of benefits provided by wetlands, and may, in fact, destroy wetlands entirely.

The statewide minimum land-use regulations contained in subdivision 665.7(g) establish the compatibility categories to be used in conjunction with the different types of land-use activities to be conducted upon freshwater wetlands or adjacent areas. This chart states the procedural requirements to be followed in implementing those minimum land-use regulations. For activities and land-uses not shown on this chart, the Department must first make a determination that the activity is a regulated activity as defined in the Act and section 663.2 of this Part. If the activity is regulated, then an independent determination of compatibility using the three tests for compatibility contained in the standards for permit issuance in subdivision 663.5(e) must be used.

### **Area Categories**

FWW - Freshwater Wetland  
 AA - Adjacent Area

**Levels of Procedural Requirements**

E - Exempt; no permit or letter of permission required  
 L - Letter of Permission required  
 P - Permit required

**Levels of Compatibility**

C-usually compatible; means that a regulated activity may be compatible with a wetland and its functions and benefits, although in some circumstances the proposed action may be incompatible.  
 N-usually incompatible; means that a regulated activity is usually incompatible with a wetland and its functions or benefits, although in some cases the proposed action may be insignificant enough to be compatible.

X-incompatible; means that a regulated activity is incompatible with a wetland and its functions and benefits.

ACTIVITIES			
ITEMS		Procedure & Compatibility by Area	
		FWW	AA
17	Draining and altering water levels, except as part of an agricultural activity.	P(X)	P(X)
18	Removing or breaching beaver dams.	P(N)	P(C)
19	Constructing, expanding, or substantially modifying drainage ditches, except as part of an agricultural activity.	P(X)	P(N)
20	Filling, including filling for agricultural purposes.	P(X)	P(N)
21	Installing or creating a dry well, retention basin, filter, open swale, or pond.	P(N)	P(N)
22	Clear-cutting trees.	P(N)	P(C)
23	Clear-cutting vegetation other than trees except as part of an agricultural activity.	P(X)	P(N)
24	Cutting but not elimination or destruction of vegetation, such that the functions and benefits of the wetland are not significantly adversely affected.	L	L
25	Grading, and dredging not included in item 26.	P(X)	P(N)
26	Dredging less than 400 cubic meters (approximately 523 cubic yards) to maintain present navigation channels.	P(C)	P(C)
27	Mining.	P(X)	P(X)
28	Constructing roads, except for winter truck roads as defined in subdivision 663.2(c).	P(X)	P(N)

29	Drilling a water well to serve an individual residence.	P(C)	L
30	Drilling a well, except for activities covered by item 29.		

In addition to the DEC wetland buffers the Town of Pawling has enacted its own wetland buffering provisions, which will also be compromised if the current design is executed.

**We urge the Towns to require the applicant to establish a permanently protected riparian buffer with a minimum width of 100' adjacent to all watercourses and wetlands. Within such buffer area no disturbance should occur, and no clearing or grubbing should be permitted.**

**2. We ask the Towns to require the applicant to create and maintain a minimum 50 ft. to 100 ft. natural buffers on all golf holes, practice ranges or other parts of the golf course.**

The current golf course design sites golf holes along several waterbodies and watercourses. The applicant has stated that the Wind Rose Golf Course will be a Jack Nicklaus Signature Design course. We are aware that traditional golf course designs incorporate waterbodies and watercourses as features within golf holes. In nearly all cases all the natural vegetation is replaced by managed turf which has minimal ability to trap and absorb and pollutants in stormwater before it reaches a waterbody. The Jack Nicklaus Signature golf courses, in nearly all instances, use this type of design as shown in the photograph below from the Glenmoore Country Club in Ohio:



*However*, the company has incorporated buffers around waterbodies in at least one of its designs, as shown in the photograph below from the Jack Nicklaus Signature Concession Golf Course in Sarasota, Florida.



There is every opportunity for the applicant to redesign the Site/Subdivision Plan to incorporate natural buffers for wetlands and waterbodies. The vast natural resource and land values of this parcel are quite evident. We ask the Towns to consider all relevant facts and evidence in making its decision on this application to minimize the environmental impact of the proposed project, including the effects on the wetlands' and watercourses' capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, and to control pollution.

**3. We ask the applicant to donate a conservation easement, also known as a conservation restriction, or donate the fee interest of the steep terrain in the northwestern portion of the Wind Rose site to a qualified land conservation land trust or the National Park Service. Protected open space is the best way to provide permanent protection for the Appalachian Trail corridor and to ensure that no future construction on the slope would threaten the water quality of DEC designated wetland "D", pertinent to the Draft Scoping Document, Chapter II, part 2, part b, "Open Space Preservation".**

### **SPECIFIC COMMENTS**

#### **Chapter III Description of the Proposed Action**

##### ***Section E. Water resources and Wetlands.***

Describe how any water withdrawals for irrigation, club facilities and residential units may affect nearby residents and businesses which rely on these resources for their drinking water needs.

Describe how the wetlands will be protected during construction if the present site plan is implemented and construction activities will occur within wetland buffers.

The current drawings show the northern boundary of DEC Wetland PL 16 abruptly ending at the northern boundary of the southern part of the proposed development. Because wetlands do not end at property boundaries, show the northern extent of Wetland PL 16 within the National Park Service property and impacts construction may have on the wetlands within national land.

The northwestern portion of the proposed project contains a portion of the Great Swamp, DEC Wetland DP 22. This is a wetland of great environmental significance. We urge the Towns to ask the applicant to eliminate any construction within the watershed of the Great Swamp.

Following are excerpts from the final report entitled, *SIGNIFICANT HABITATS AND HABITAT COMPLEXES OF THE NEW YORK BIGHT WATERSHED* published in 1997 by the United States Fish and Wildlife Service describing the Great Swamp and recommendations for protecting this unique treasure.

**I. SITE NAME:** Harlem Valley Calcareous Wetlands Complex #26

**II. SITE LOCATION:** The Harlem Valley calcareous wetlands complex is composed of the valleys and adjacent ridges in the Taconic Highlands of easternmost Putnam, Dutchess, and Columbia Counties in New York and small adjacent areas of the Taconic Mountains and valleys in Connecticut and Massachusetts. Two separate wetland complexes are recognized: the Great Swamp from Brewster, New York north to South Amenia, New York, and the Northeast-Ancram fen complex from Sharon, Connecticut, north to Copake Falls, New York. The lowlands occupy a long north-south valley west of the Taconic Mountains called the Harlem Valley (after the railroad line) from which this complex takes its name.

**TOWNS:** Amenia, Ancram, Dover, Northeast, Patterson, Pawling, Pine Plains, Southeast, NY; Kent, New Fairfield, Salisbury, Sharon, CT; Mount Washington, MA.

**III. BOUNDARY DESCRIPTION AND JUSTIFICATION:** The Great Swamp boundary follows the ridgetops that form the immediate watershed of the wetlands from just north of the East Branch and Bog Brook Reservoirs to just north of the Wassaic State School. The habitat complex also includes adjoining East Mountain and West Mountain. The Great Swamp habitat area includes the wetlands of the Harlem Valley adjacent and proximate to the East Branch of the Croton River, Swamp River, and Ten Mile River; marble hills emerging from the floor of the Harlem Valley; and mountainous slopes on the east and west sides of the Harlem Valley. There is a drainage divide between the Hudson River and the Housatonic River watersheds at the village of Pawling where the East Branch of the Croton River flows to the south into the Hudson and the Swamp River flows to the north into the Housatonic watershed. Although the watersheds are separate, the swamp itself is continuous over both watersheds.

The habitat boundary for the Northeast-Ancram fen complex follows the ridgetop of the Taconic Mountain range (Washburn, Alander, Brace, and Thorpe Mountains) from Copake, New York, southward to State Line, Connecticut. Included is the wetland complex at State Line and the ridges just west of Indian Lake south to Sharon Station Road. The southern boundary follows Sharon Station Road west and Sheffield Hill Road-Coleman Station Road northwest almost to Route 22, then trends northwestward along hilltops past the hamlet of Pulvers Corners into Columbia County and approximately northward from Prospect Hill to Smith Hill; it then proceeds west of Drowned Lands Swamp and Miller Pond to Copake and eastward to the ridge. This site includes the wetlands and immediate watershed of the Drowned Lands Swamp, Punch Brook, and Bashbish Brook on the western half of this complex, and the chain of wetlands along the Noster Kill and Webatuck Creek on the eastern half of this complex; it includes the Panhandle or Oblong of the northeastern corner of Dutchess County southward towards

Millerton, and the western escarpment of the Taconic Mountains. The southern portion of the Panhandle wetlands and the wetlands south of Millerton drain southeastward to the Housatonic watershed. The northern portion of the Panhandle wetlands and the Drowned Lands area drain into the Roeliff-Jansen Kill, which is part of the Hudson River watershed. The boundary encompasses the calcareous wetlands and uplands and ridgetop habitat which support rare reptiles, waterfowl, and raptors, as well as rare plant habitats and communities.

The narrative and map focus on those rare animal and plant populations and rare communities that are in or contiguous to the Hudson River watershed at the southern (Great Swamp) and northern (Northeast-Ancram) ends of the Harlem Valley. It should be noted that similar calcareous wetlands and adjacent upland habitats occur between these two habitat subunits as well as in northwestern Connecticut and southwestern Massachusetts. This entire tri-corner area of New York, Massachusetts, and Connecticut likely supports many of the same rare species and communities described in this narrative. Additional studies both inside and outside the Hudson River watershed are necessary in order to accurately identify, delineate, and link the full array of wetlands and rare species populations that doubtlessly occur over the greater region, particularly in the Housatonic watershed in Massachusetts and Connecticut.

**VI. ECOLOGICAL SIGNIFICANCE/UNIQUENESS OF SITE:** The mosaic of calcareous wetlands and adjacent uplands in the Harlem Valley supports regionally significant rare reptile populations and rare calcareous communities and plant species, incorporating 99 species of special emphasis, and including the following federally and state-listed species and other national and regional species of concern.

These calcareous wetlands have concentrations of rare elements that are truly exceptional for an inland site in the New York Bight watershed, i.e., away from the Hudson River east of the Hudson Valley. This species concentration and the requirements of certain species, such as the bog turtle for large undeveloped habitat complexes, are responsible for the large areal extent of the currently delineated site. There are at least six documented bog turtle populations at the **Great Swamp** complex, some of which are in extensive habitat units. There are also historical records and isolated recent records of bog turtles that may represent extant populations in need of further field studies and verification, and probably additional populations not yet represented by any record. Bog turtles appear to be widespread, especially in fens peripheral to the Great Swamp proper, i.e., above the floodplain.

**VII. THREATS AND SPECIAL PROBLEMS:** Residential and industrial development are preempting habitat in many areas and altering the margins of the Great Swamp proper. Construction of residences and driveways in the rocky, mountainous areas will interfere with rattlesnake movements and result in accidental and intentional killing of snakes. There are active and proposed mining (soil and hard rock) operations that are likely to pollute wetlands and streams, alter habitats, and result in the death of small animals such as reptiles and amphibians that wander into work areas. The river waters are purportedly causing eutrophication of floodplain wetlands, and further nutrient loading from sewage, industrial effluents, highway runoff, and agricultural runoff is undesirable. Invasion by exotic species, especially purple loosestrife (*Lythrum salicaria*), is displacing native species in many wetland areas. Proposed disposal areas for construction and demolition debris are of real concern and illegal dumping in wetlands is already a problem. Many fens have been degraded by nutrient loading, alteration of groundwater discharge, or overgrazing. Construction of dams has affected marshes and wet meadows. Fill and other alterations have apparently obliterated a former wetland connection across the drainage divide between the East Branch and the Swamp River in the village of Pawling. There are serious concerns that expansion of residential and commercial areas, roads, and railroads will further fragment and isolate bog turtle populations in this area. Collecting of timber rattlesnake, bog turtle, and other vulnerable reptiles, as well as rare plants, is a problem

and should be guarded against through education and enforcement. Succession, canopy closure, and shading by red cedar and other tall plants are affecting the rare plants of the marble hills in some cases. Existing and proposed soil mines are widespread and need to be monitored for environmental problems such as siltation, dust, and encroachment on significant habitats. Widening of Route 22 and other roads in this area will result in loss of wetland and upland habitat, destroy rare plant populations, and create barriers to migration for bog turtles. Moderately heavy recreational use is a potential problem on the Brace Mountain-Alander Mountain ridge where there is localized trail erosion and degradation of rocky crest habitats.

### **VIII. CONSERVATION RECOMMENDATIONS:**

All applications for permits for residential, commercial, and industrial development must be reviewed with habitat considerations in mind, and permits should regulate activities so that levels of silt, nutrients, and other pollutants are not increased downstream or downhill of activity. Off-site impacts and cumulative impacts, especially of water pollutants, should be assessed during the environmental planning process. Better enforcement of wetlands laws and other environmental laws is needed, probably with considerable assistance from local people. Most of all, education and collaboration are needed to help local citizens and decision makers understand the importance of landscape and habitat conservation as part of sustainable development.

#### ***Section I. Stormwater Management***

The drawings submitted for review are incomplete and do not provide the information needed to review and assess the stormwater management controls for the project. The features not present include, but are not limited to catch basins, piping, vortechnic or other devices to capture sediment, measures to capture and manage flow from the steep slopes the new roads for houses would require, level spreaders, and designs for the drainage ponds. Describe and show on a map any new ponds to be created. The depth of the existing water table and depth to ledge are critical factors in a pond design. Indicate if any new ponds will be used for stormwater management.

We also believe that a watershed analysis should be conducted to determine the area of contribution for stormwater runoff before the stormwater management plan is designed.

The long term effectiveness of any detention ponds, regardless of their design, is directly related to the regular maintenance. The drawings should show an access drive to the bottom of the basins to enable future periodic maintenance. This is especially important in this project since the future owners will look upon the basins as a non-profitable expense.

We request that the Towns require the use of Low Impact Development (LID) design which minimizes polluted runoff. Storm water runoff is a major water quality threat to the Ten Mile and Housatonic Rivers. In particular, sediment and nutrient loading are major water quality issues in the Tem Mile River watershed caused by storm water runoff from construction and development. Roofs, pavement and other impervious surfaces replace natural vegetation and cause storm water to run off the surface rather than sink into the ground. Significantly higher amounts of water runoff into nearby streams can result. This causes erosion, flooding, sediment dumping and destroyed habitat and aquatic life. Along its journey, storm water also picks up a broad array of chemicals, sediments, salt, fertilizers, vehicle fluids and even bacteria which are then transported directly into streams and rivers. Traditional storm water management techniques don't address water quality issues, and actually exacerbate the problem by collecting and removing as much water as possible, as quickly as possible, from a site. LID is needed to reduce sediment and nutrient loading caused by land development and construction.

Instead of the traditional "end of the pipe" approach, channeling rainwater to sewers or holding ponds, low impact development allows it to soak naturally back into the soil, much as it would on undeveloped property. It includes landscaping and design techniques that attempt to maintain the natural, pre-

developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than being lost as surface runoff. LID treats rainwater as a resource rather than a waste product needing disposal. Techniques include reducing imperviousness and employing the use of pervious paving, conserving natural resources and important ecosystems, maintaining natural drainage courses, reducing use of pipes, and minimizing clearing and grading.

### ***Section J. Traffic and Transportation***

The use of helicopters can be very intrusive to neighboring property owners and other residents in the general landing or takeoff pattern. During the past several years the States of New York and Connecticut have been working with the Federal Aviation Administration (FAA) to revise the commercial air traffic routes in and out of the metro-New York airspace to abate noise pollution. Describe the noise impacts of helicopter use on residents and on wildlife adjacent to the site and in the general vicinity. Describe all regulatory approvals and controls necessary for helicopter operations at the site.

### ***Section K. Air Quality.***

The emissions from the earth-moving machinery may have a significant impact on the air quality in the both towns. Describe the impacts from such motor vehicle operations on levels of carbon monoxide, nitrogen oxides, volatile organic compounds, ozone, particulates and sulphur oxides. In what air quality control region is the project located, and is this area currently attaining air quality standards?

### ***Section M. Hazardous Materials.***

Part 2. Include a description of containment at storage sites. Also include a description of where carts, machinery and other equipment will be washed down and what measures will be taken to contain and dispose of wash water.

### ***Section N. Construction***

Part 2. Describe and show on a map where soil will be stored during construction. Show sedimentation basins for the material stockpile areas or other large disturbed areas.

Describe the amounts of earth to be moved around the site. Calculate the number of truck-trips which will be needed to bring or remove materials to and from the site as well as within the property.

## **CONCLUSION**

HVA believes that the Scoping Document should reflect a number of design changes which would reduce the environmental and community impacts that the Wind Rose project, as presently proposed, may have on the Towns of Dover and Pawling.

HVA appreciates the opportunity to comment on this matter.

Sincerely,

Elaine E. LaBella  
Director of Land Protection