

Craig Rennie  
Department of Environmental Services  
6 Hazen Drive  
P.O. Box 95  
Concord, N.H. 03302- 0095

May 11, 2004

Dear Mr. Rennie:

This letter is a follow-on to our letter of May 7, 2004 that requested this opportunity to add to the comments and recommendations of the Tamworth Conservation Commission (TCC), dated April 22, 2004, regarding the Dredge and Fill Application of MotorSports Holdings, LLC (the Applicant) for a proposed racetrack in Tamworth. TCC requests that the Department of Environmental Services (DES) attach this letter to the TCC's April 22, 2004 document and consider it equally when preparing the Department's written responses to the TCC comments and recommendations.

The comments in this letter specifically address issues pertaining to the Applicant's wetlands permit application that have been affected by the change in status of the Tamworth Race Track Ordinance (RTO). As you know, the Applicant introduced and ushered through the New Hampshire Legislature a bill, SB 458, that specifically exempts the proposed racetrack from any racetrack ordinance. The TCC has expressed concern about the secretive manner by which this legislation was passed. More significantly, the TCC believes the Applicant withheld important pertinent information during both the two hearings held in Tamworth regarding the wetlands permit, even as the TCC and others wrestled with the issue of noise mitigation structures that the Applicant knew were not an issue at all because of SB 458. While there may not be any penalties for withholding pertinent information, the TCC believes the Applicant acted in bad faith and breached trust. The TCC believes, therefore, that it is necessary for us to strengthen some of our comments and recommendations to address those issues more completely that we assumed were to be addressed by the Tamworth RTO.

It should be noted that the original TCC comments and recommendations included mention of the following concerns, but seeks hereby to add emphasis to these concerns, given that they are no longer addressed by any local laws.

Specifically, the Tamworth Conservation Commission adds the following comments and recommendations to its April 22, 2004 document:

1. An additional "Overarching Recommendation" as follows should be added on page 3 or 4:

- ***Given that there is no limit on the amount of noise the Applicant is allowed to produce, DES should require the Applicant to provide additional details, based on on-site research by experts in noise science, regarding the noise levels expected during construction and operations and what impacts those noise levels may have on wildlife, neighbors, cumulative impacts, and other environmental aspects covered in the wetlands permit process.***
2. In the recommendation for item #5 (page 9) regarding the rarity of wetlands, add the following:

***Protections of vernal pool (Wetland G) and other wetlands should take into account unlimited noise, dust, light, and glare.***

3. With regard to the recommendations for items #6, #7, and #8 (the surface area of the wetlands that will be impacted; impacts on plants, fish, and wildlife; impacts on commerce and recreation), the TCC wishes to add extra emphasis to its recommendations and add the following:

***DES should give special emphasis to understanding the noise issue. At this time, there is in place no legal limit on the levels of noise the proposed facility is allowed to generate. Without clear, legally-binding commitments or requirements regarding noise, DES cannot reasonably judge the impacts of this project on wetlands, wildlife, commerce, recreation, and other environmental aspects. DES should require the Applicant to submit detailed information on the noise levels expected, derived from detailed on-site sound studies conducted by expert scientists. Based on this information, if a permit is granted, DES should establish reasonable permit conditions regarding noise and noise mitigation.***

4. Regarding the recommendations for items #9 and #12 (aesthetics, benefits to the Town), the TCC wishes to add extra emphasis to its recommendations. Aesthetic issues were addressed by the Tamworth RTO; now, the Town relies on DES to ensure that aesthetic interests are attended to. TCC adds to its recommendations for item #7 the following:

***DES should require the Applicant to address all issues of aesthetics in considerably more detail, especially with regards to demonstrating the following:***

- ***That adequate provisions will be made to control dust, noise, and glare;***
- ***That the proposed facility will not be injurious, noxious, or offensive to the community.***

***Based on the information provided by the Applicant, DES should impose permit conditions that set limits on noise, dust, and glare, including specific requirements for lighting (such as requiring that excess light not leave the site and create glare on adjacent properties, that light be directed toward the ground, that the track not be lit, and that the lighting consist of white non-sodium lighting).***

5. Regarding the recommendations for item #13 (groundwater and surface water quality and quantity), the TCC wishes to add extra emphasis to its recommendations.
6. Regarding the recommendations for item #16 (cumulative impacts), the TCC wishes to add extra emphasis.
7. Regarding the recommendations for item #17 (values and functions), the TCC wishes to add extra emphasis and note that the Tamworth Race Track Ordinance noted in this recommendation is no longer applicable and there remains no limit on the noise that can be generated at the proposed facility. TCC adds the following recommendation:

***In order to ensure protection of remaining wetlands, wildlife, and other environmental values, DES should establish, as a condition of a permit (should one be granted), a noise limit at all property boundaries for the construction and operations of the proposed racetrack.***

8. Regarding the recommendations for items #18 and #19 (impacts on values of sites listed in the National Register of Natural Landmarks and other protected lands), the TCC wishes to add extra emphasis to its comments and add the following recommendation:

***DES should require the Applicant to submit detailed information on the noise levels expected, derived from detailed on-site sound studies conducted by expert scientists, and require the Applicant to discuss the impacts of noise on the values of area sites listed on the National Register of Natural Landmarks and other nearby conservation lands. In addition DES should require the Applicant to provide additional details regarding lighting, dust control, impacts to the viewshed, and other potential aesthetic impacts. Based on the information provided and DES's assessment of the project, if a permit is eventually granted, DES should include conditions on the permit that ensure minimal if any impacts from these factors.***

9. Regarding "Application Procedural Issues:" TCC requests that, in light of the recent developments noted above, DES take care to ensure that any requirement of the Applicant or commitment on the part of the Applicant be made clear and legally binding. In addition, TCC wishes to add emphasis to the following: "The DES should require the Applicant to provide to the Town all additional information that will be needed to complete the application and provide for additional time for review, including on-site inspection, by the TCC."
10. Regarding "Permit Conditions If a Permit is Eventually Granted:" TCC wishes to add great emphasis to these recommendations.

We thank you for the opportunity to provide additional comments and recommendations regarding this matter. We look forward to continuing our work with DES and the Applicant in reviewing the proposed project.

Best regards,

John Mersfelder  
Chair