

**Review of the Major Dredge and Fill (Wetlands) Application  
filed by Motorsports Holdings (MSH)  
for development of a racetrack in Tamworth**

**Comments and Recommendations  
to the  
NH Department of Environmental Services  
Wetlands Bureau**

**by the**

**Tamworth Conservation Commission**

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**John Mersfelder, Chair**

**Ned Beecher, Vice-Chair**

**Charlie Townsend, Treasurer**

**Jim Alt, Member**

**Charles Greenhalgh, Member – recused on this matter  
Lori Lenart, Secretary, Associate Member (non-voting)  
Tom Cleveland, Planning Board representative (non-voting)**

**Committee Reviewing the Application**

**Ned Beecher      Chris Conrod  
Don Johnson      Lori Lenart  
John Mersfelder**

**April 22, 2004**

**Tamworth Conservation Commission  
Review of the Major Dredge and Fill (Wetlands) Application  
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Department of Environmental Services Wetlands Bureau**

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**482-A:1 Finding of Public Purpose.** – It is found to be for the public good and welfare of this state to protect and preserve its submerged lands under tidal and fresh waters and its wetlands, (both salt water and fresh-water), as herein defined, from despoliation and unregulated alteration, because such despoliation or unregulated alteration will adversely affect the value of such areas as sources of nutrients for finfish, crustacea, shellfish and wildlife of significant value, will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance, will eliminate, depreciate or obstruct the commerce, recreation and aesthetic enjoyment of the public, will be detrimental to adequate groundwater levels, will adversely affect stream channels and their ability to handle the runoff of waters, will disturb and reduce the natural ability of wetlands to absorb flood waters and silt, thus increasing general flood damage and the silting of open water channels, and will otherwise adversely affect the interests of the general public.

*--New Hampshire statutes*

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## **Introduction**

The Tamworth Conservation (TCC) submits the following comments and recommendations to the New Hampshire Department of Environmental Services (DES) in accordance with RSA 482-A:11 (Administrative Provisions) III. (a), which states: “Upon written notification to the department by a municipal conservation commission that it intends to investigate any notice received by it pursuant to RSA 482-A:3, the department shall suspend action upon such notice and shall not make its decision on the notice of a minor or minimum impact project nor hold a hearing on it if a major project until it has received and acknowledged receipt of a written report from such commission, or until 40 days from the date of filing with the municipal clerk of such notice, whichever occurs earlier, subject to an extension as permitted by the department.”

TCC intervened and investigated the application submitted by Motorsports Holdings, LLC (the Applicant), for the construction of a racetrack on parcels of land south of NH Route 25 in the southeastern corner of Tamworth. TCC received agreement from the DES that submittal of the following comments and recommendations would be accepted up to the time of the DES public hearing.

RSA 482-A:11 III(a) continues: “In connection with any local investigation, a conservation commission may hold a public informational meeting or a public hearing, the record of which shall be made a part of the record of the department.”

The TCC conducted a public hearing on April 12, 2004. Attached, with this document, are the minutes from that hearing and copies of all written comments submitted to the TCC. These includes comments from more than 60 individuals and the following organizations:

- Chocorua Lake Association
- Dan Hole Pond Watershed Trust
- Green Mountain Conservation Group
- Haley & Aldrich and Ecosystems Management Consultants of N.E. on behalf of , FOCUS:Tamworth
- Madison Conservation Commission
- Ossipee Conservation Commission
- Saco River Corridor Commission
- St. Andrew's Episcopal Church

Lastly, the TCC appreciates this opportunity and our responsibility to comment to DES on the application for a wetlands permit by Motorsports Holdings, LLC. If the DES's decision(s) about the application are contrary to the recommendations in this document, the TCC will look forward to DES's written responses to TCC recommendations and issues, as required in RSA 482-A:11 III(a): "If a conservation commission makes a recommendation to the department in its report, the department shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the department."

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## Overarching Recommendations

- The application, as it now stands, should not be granted a DES dredge and fill permit. The Applicant should be required to address all of the following recommendations and issues and submit additional information before any decision is made.
- Further work is needed to properly and completely delineate all of the existing wetlands and waterbodies and assess their functions and values—this was clear from the one-day site visit by two wetlands scientists contracted by the TCC (see attached report of Abenaki Environmental Services, certified wetlands scientists, dated April 12, 2004).
- DES technical staff should carefully review the stormwater management plans for construction and operations and their impacts on runoff discharges and volumes and consequent impacts on wetlands functions, since the TCC did not have the available expertise to fully do so (see # 11 and # 13 below).
- DES should require the Applicant to develop off-site and on-site alternatives that further reduce wetlands impacts, for example, by removing, from the on-site plan, the Phase 2 construction of a hotel and other facilities not critical to the basic operations of the racetrack.
- DES should require the Applicant to submit to the Town of Tamworth any modifications to the permit application for TCC review and on-site inspection.

### **Further TCC Involvement**

TCC expects DES and the Applicant to continue to keep the Commission informed about progress on any of the issues and recommendations described herein, to keep open the public comment period, and to continue to accept TCC review and input regarding any new and updated information provided by the Applicant until the application is complete and a decision is made.

### **Note:**

The Tamworth Conservation Commission submits these comments and recommendations to the DES without precedent or prejudice to the Tamworth Wetlands Ordinance.

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## **Specific Issues and Recommendations**

Env-Wt 302 requires the Applicant to submit information regarding each of the following topics. For each topic, the TCC describes issues and provides a recommendation to DES.

### ***(1) The need for the proposed impact;***

Wt 302.01 (b) states: “For nontidal wetlands need shall be demonstrated by the applicant prior to department approval of any alteration of nontidal wetlands.”

The Tamworth Conservation Commission (TCC) sees two ways that the question of “need” can be interpreted:

1. The Applicant has plans to develop a racetrack on the Motorsports Holdings, LLC properties. In order to build a useful and economically-viable racetrack, the Applicant believes there is a need to impact some wetlands and has provided arguments (e.g. the alternatives analyses) regarding how impacts have been reduced as much as possible. The TCC recognizes this argument and the efforts at reducing impacts that the Applicant has demonstrated. Yes, it is likely that if a racetrack is to be built somewhere, there will likely be a need to impact some wetlands.

2. On the other hand, the requirement to demonstrate need can be interpreted more broadly to mean an evaluation of the need for the project in the first place. The TCC tends to give greater emphasis to this interpretation and finds:

a. This broader question of need for the racetrack has not been sufficiently addressed by the Applicant. As noted in the Application, the proposed racetrack development involves direct negative impacts to wetland resources and indirect and potential impacts to a variety of natural resources in the vicinity of the project. The TCC does not find the stated need for the track justifies these impacts.

The TCC has heard interest and support for the construction of the racetrack on the part of some Tamworth citizens who support a property owners’ rights and/or are interested in attending some events and, possibly, working or driving at the track. At the same time, a significant number of

the comments TCC received expressed concern that there is only a small part of the general public whose needs are served by the track. The TCC agrees with the latter argument. The project proposed is a private country club motorsports facility with membership initiation fees ranging from \$4,000 to \$15,000. Its membership will be limited (perhaps to 500) and it will serve a relatively small percentage of the population in the New England and local region. In addition, the TCC believes the “need” for the proposed racetrack does not compare favorably to other similarly large development projects for which considerably greater need and public benefit can be demonstrated:

<b>Development project of similar scope</b>	<b>Relative size of population served</b>	<b>Benefits to general public</b>
New road (e.g. a bypass highway, such as the proposed bypass for Conway)	Large and diverse	Increased commerce and efficiency, public safety
Landfill, recycling center, or transfer station	Moderate to large	Waste recycling or disposal, increased commerce
Shopping mall	Moderately large and diverse	Increased commerce
New housing development	Small to moderate, diverse	Housing, increased commerce
Proposed racetrack	Small, specialized	Only minimal increase in area commerce, uncertain benefits to Town other than tax payments

b. The need for each of the components of the proposed construction project has not been demonstrated. If an overall need for the racetrack can be demonstrated, there remains the issue of whether the Applicant can demonstrate a need for some of the additional components included in the application, such as the hotel and restaurant, hotel access road, and additional living quarters (200+ “garagemahals”). A rough calculation, based on estimates included in the application, suggests that the rate of occupancy in the lodging units and restaurants on the site, during one of the busier events, would be less than 40%. This suggests that the additional amenities—especially the hotel and its restaurant—are intended to be businesses in and of themselves that will compete with existing area businesses. The Tamworth area has many tourist accommodations and restaurants that could just as well serve the clientele of the proposed motorsports park—or, if a need for additional services is required, additional businesses will be stimulated. The Applicant has repeatedly expressed an interest in stimulating existing area business.

Several benefits derive from not permitting the Applicant to build the proposed hotel, any additional restaurant (one near the track staging area makes sense), the hotel access road, the excessively large numbers of garagemahal living units, and some of the excess parking space:

- Reduced impacts to wetlands;
- Reduction of impervious surfaces;
- Reduced stormwater management concerns—especially on the higher, steeper slopes of the southern portion of the property;

- The possibility of reconfiguring the track and remaining facilities to further reduce impacts to wetlands;
- Reduced need for blasting;
- Reduced water use and groundwater withdrawals;
- Increased opportunities for existing area businesses (which meets a general need for additional opportunities); and
- Reduced visual impacts from construction high on the southern part of the site.

**Recommendation:** Because the TCC finds that the need for the racetrack and, more specifically, some of the components of the proposed development, are not sufficiently demonstrated, it recommends that DES not grant a permit. DES should require the Applicant to submit a revised application with plans that

- further reduce impacts to wetlands,
- provide increased buffers between the intensively-used paddocks and lower track buildings and the remaining wetlands, and
- Address the other recommendations for additional information as outlined in this document.

DES must consider whether the wetlands and other environmental and aesthetic impacts of the current proposal are justified by any need for the Applicant to maximize the use and personal economic benefit on the site while providing limited public benefits.

***“(2) The alternative proposed by the applicant is the one with the least impact to wetlands or surface waters on site;”***

Wt 302.03 (Avoidance and Minimization) states: “The applicant shall submit a statement describing the impact of the proposed project design and provide evidence which demonstrates that his proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction.” As noted in topic 1, above, the TCC believes the Applicant has not provided the necessary evidence.

#### **Clarification on jurisdictional wetlands**

Prior to commenting on this section of the application, the DES should note that TCC is aware of a request the Applicant has made to the USACE to remove several of the onsite wetlands from the jurisdictional list due to the fact that they are either "isolated" or that they are not navigational channels. TCC believes this request is irrelevant to the DES Wetlands Bureau Application process. All areas on this site should be “delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology” as per Wt 301.01(a) and considered as State jurisdictional areas. In addition, all areas that have a “defined channel, but which might not flow during dry portion of the year” (Wt 101.44) would be considered as State jurisdictional areas and should be delineated as such.

With the above in mind, the DES should also note that the April 9, 2004 field review of approximately 1/4 of the Motorsports site by consultants to the TCC found that jurisdictional wetland and waterbodies have not been delineated and therefore do not appear on the Wetland

Area Impact Plans. Based on this fact, the TCC feels the application is incomplete and therefore it is impossible to assess whether the Applicant's preferred alternative is the one with the least impact. All jurisdictional areas should be flagged, mapped, and included on the Wetland Area Impact Plans as well as the onsite Alternatives Analysis Plans before this type of an assessment is made.

Aside from these facts, the TCC would like to emphasize that the Applicant did not provide alternatives in their Alternatives Analysis that were reasonable and realistic and therefore the Applicant did not demonstrate that there is no other practicable alternative site or configuration for this project that would have less adverse impact. This is based on the following:

- a. The Applicant did not search a large enough area within proximity to Boston and Loudon when assessing viable off-site alternatives.
- b. The Applicant reviewed off-site alternative locations that were not viable. For example, according to conversations with the Ossipee Code Enforcement Officer, town regulations (Section 35.4d) do not allow for establishment of a racetrack facility. Conversations with the Madison and Albany town clerks and subsequent review of the zoning maps for these towns determined that the entire Albany portion of this alternative is located in a "Residential" zone and the majority of the Madison portion of this alternative is located in a zoned "Rural Residential" area.
- c. The Freedom and the Albany/Madison off-site alternatives have slopes that are too steep to meet the criteria put forth by the Applicant.
- d. The proposed site is steeper than is ideal, given the amount of excavation (~50 feet) planned for some of the upper part of the racetrack.
- e. In actuality, according to the Applicant's website ([www.clubmotorsports.com](http://www.clubmotorsports.com): "The Club Motorsports Story," retrieved April 18, 2004), the choice for locating the proposed racetrack in the Mount Washington Valley region was made at the very beginning of the project concept by two of the project partners. Other areas in northern New England that fit the Applicant's stated criteria were not considered in the alternatives analysis.
- f. One of the on-site analyses includes land that does not belong to and is not available to the Applicant.
- g. One on-site analysis includes a layout that is unrealistic because it would be in violation to the Town of Tamworth's subdivision ordinance.
- h. On-site analyses include at least two scenarios that propose an excessive and indiscriminate amount of wetland impact, which would make them alternatives that are not viable.

**Recommendation:** DES should require the Applicant to reconsider reasonable alternatives, both off the site and on it. Additional on-site options that further minimize wetlands impacts are possible and should be presented by the Applicant.

## **Mitigation**

Regarding mitigation, the TCC believes the application does not yet fully describe all wetlands impacts adequately to allow for detailed consideration of appropriate mitigation measures.

**Recommendation:** TCC recommends that, should the project proceed, DES assist in developing a mitigation package agreeable to the Applicant, DES, and the TCC (acting for the Town of Tamworth).

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### ***“(3) The type/classification of the wetlands involved;”***

Although the classification of the onsite wetlands that have thus far been delineated are discussed within Section 2.0 of the Joint Wetland Permit Application, the classifications are not found to be noted on either the Wetland Area Impact Plans or the Existing Conditions Plans as required by Wt 301.02(b).

In addition and as previously noted regarding item 2, above, the April 9, 2004 field review of approximately 1/4 of the Motorsports site by wetlands scientists consulting for the TCC found that some jurisdictional wetlands and waterbodies have not been delineated and therefore do not appear on the Wetland Impact Plans. □ All areas on this site should be “delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology” as per Wt 301.01(a) and classified as required by and in accordance with Wt 301.20

**Recommendation:** Particular attention should be paid to refining the wetlands delineations for the site, including, but not limited to, the particular areas noted in the letter to the TCC from Abenaki Environmental Services (see attachments dated April 12, 2004). The TCC plans to review future revised wetlands delineations for this project and provide comments, as necessary.

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### ***“(4) The relationship of the proposed wetlands to be impacted relative to nearby wetlands and surface waters;”***

The TCC finds that there is a potential that increased total flow volumes, sedimentation, and trace pollutants (including trash) from the developed site could adversely impact the water quality of wetlands and surface waters downstream. Bearcamp River—a National Marine Fisheries Essential Fish Habitat for Atlantic Salmon and a fishery for Brown, Brook, and Rainbow Trout—its floodplain, and the small streams that flow to it from the area of the site (and which are subject to frequent flooding, sometimes overtopping Old Route 25). See submittals by Haley & Aldrich dated April 12, 2004 and responses by ESS/Club Motorsports dated April 12, 2004.

**Recommendation:** More could be included in the application to address these potential issues; however, the TCC finds that, if the stormwater control systems and runoff perform as described by the Applicant, these issues are probably less significant than others. But the planned stormwater control systems must perform as described, or this could become a larger issue. TCC

relies on DES for expertise regarding the proposed engineering and stormwater control systems.

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***“(5) The rarity of the wetland, surface water, [ sand dunes, or tidal buffer zone area];”***

According to the application, the types of wetlands found on the site are not rare. TCC generally agrees with this assessment for most of the wetland areas, although the TCC did not observe every delineated wetland area.

The TCC has an ongoing interest in identifying and protecting vernal pools, which are important habitats for breeding amphibians whose function can be significantly impacted if adequate upland buffers are not preserved. Wetland G is a confirmed vernal pool, and TCC and, it hopes, DES, the Army Corps of Engineers, and the Applicant should investigate if there are any other vernal pools on the site.

Additional modifications in the development plan may be required to protect the functions of wetlands that are not considered impacted, especially vernal pools.

**Recommendation:** DES should investigate the site this spring to see if there are other vernal pools. Any vernal pool should be provided with the additional protection needed to ensure its functions are not destroyed.

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***“(6) The surface area of the wetlands that will be impacted;”***

The Motorsports Application does not provide an accurate portrayal of the entire surface area of the wetlands that will be impacted by the project as proposed for the following reasons:

- a. As previously noted regarding items 2 and 3 above, the April 9, 2004 field review of approximately 1/4 of the Motorsports site by consultants to the TCC found that some jurisdictional wetland and waterbodies have not been delineated and therefore do not appear on the Wetland Impact Plans. An accurate delineation throughout this site would increase total wetland impacts if the currently proposed project layout were to be constructed.
- b. Wetland/waterbody impacts will occur to the stream banks and beds of the areas that will be spanned with a permanent metal arch span (e.g. at the very least, lowered light conditions will negatively impact plant communities); these impacts are not addressed, nor are they included in the overall surface area calculations. Section 4.1.2.3 of the application specifically states that stream span arches “may inhibit growth of vegetation in stream beds, banks, and adjacent vegetated wetlands located beneath spans” (p. 47). These impacts should be addressed and a discussion of avoidance and minimization of these types of impacts should be provided.

c. If any significant noise mitigation structures are to be constructed, they will likely further impact wetlands: these impacts are not addressed, nor are they included in the overall surface area calculations. During this process, the TCC has been told by Motorsports Holdings, LLC representatives that they have engaged sound engineers who are assessing the potential noise impacts and that earthen noise berms are *not* planned and that other noise mitigation structures—such as concrete walls, poles with sound fabric, etc.—may be utilized instead to achieve the required town-imposed noise limit of 69 decibels at the property boundary. The TCC received several reasonable comments regarding this issue (see especially the written comments of Harris, Miller, Miller, and Hanson in the packet of comments submitted by Haley & Aldrich dated April 12, 2004 and “Permitted Noise Levels” comment by Joe Binsack, revised March 31, 2004). The TCC does not have the expertise to assess whether or not such potentially large noise mitigation structures will be required or if they are, if they will cause significant site alteration and impacts on runoff such that they should be included in this application. TCC relies on DES to carefully assess this issue.

**Recommendation:** DES should assess these issues and require the Applicant to address them. Only once the proper wetlands delineations are completed, will it be possible to assess the full impacts of the current proposal and develop further alternatives for reducing impacts (such as DES requiring the Applicant to utilize steel span arches or other bridge structures at those stream crossings where culverts are now planned).

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**“ (7) *The impact on plants, fish, and wildlife including:*”**

The TCC finds that impacts on plants, wildlife, habitats, and communities are inevitable and significant with any project of this size. The current field, wetlands, and regenerating forest habitats will be significantly altered and some species and many individual animals currently found on the site (e.g. woodland animals) will be displaced and different species will replace them (e.g. those best adapted to edge and developed habitats, such as Red Fox and Raccoon). In addition, the habitat fragmentation and the disruption of the lower slope corridor south of Route 25 and north of the steeper Ossipee Mountains is something that should be assessed.

Based on the site review conducted by the TCC on April 9, 2003, this site clearly provides habitat for many species of large and small mammals, game and songbirds, amphibians, reptiles, and invertebrates. As noted in the Application, habitat will be lost as a result of the proposed project. TCC feels the impacts to wildlife will be the result of loss of habitat due to project layout, fencing, habitat fragmentation, noise, and light. TCC does not feel the Application adequately addresses the extent of this impact for the following reasons:

- a. The Application does not provide data that was gathered throughout the year that definitely determines all types of wildlife habitat that this property contains.
- b. A moose yard was observed during the TCC’s April 9 site review. This yard was found in the southwesterly portion of the site, not far below the location of the proposed hotel. This yard is not mentioned in the application. The potential for impacts to this moose feeding area and proposed mitigation of the potential impacts should be addressed.

c. The Application provides a list of potential wildlife species that was compiled based on the NEWILD computer program, which was not designed to provide a definitive list but to give a general overview of the potential for the presence of certain wildlife species based on cover type. Review of this list, which is entitled “Observed and Potential Wildlife...,” finds that there are numerous species on this list that are not even found in this region and there are a number of species that are known to occur but are not on the list.

***“a. Rare, special concern species;”***

It should be noted that although there are no state or federally listed exemplary natural communities or species or critical habitats mapped on the site by the New Hampshire Natural Heritage Inventory or the US Fish and Wildlife Service, these types of communities, habitat and species have been found in the Ossipee Mountain ecosystem (*Ossipee Mountain Preserve Bio-Inventory Final Report*, Van de Poll, March 2002). For this reason, a thorough onsite field assessment for the presence of these resources should be conducted by the Applicant at appropriate times throughout the year.

The TCC is concerned about the lack of discussion in the application regarding vernal pools and how the requisite neighboring upland habitat surrounding the confirmed vernal pool (wetland G) and any other vernal pools will be protected to ensure the continued function of these wetlands, particularly given the fact that the Motorsports Holdings, LLC application mentions an onsite observation of wood frog. Wood Frogs and Spotted Salamanders were confirmed to be breeding at the pool during TCC site visits on April 9 and 21, 2004.

**Recommendation:** DES should require the Applicant to address this issue. A thorough field evaluation for the presence of vernal pool areas should be conducted and a discussion should be provided about the presence of vernal pools and the potential impacts to them. The project plan should be adapted to minimize potential impacts to these rare resources.

***“b. State and federally listed threatened and endangered species;”***

While no state or federal listed threatened or endangered species have been identified on the site, as explained in the application, the TCC has agreed with the findings of Dr. Rick Van de Poll, who, in surveys for area land protection groups, has found rare plants and animals in the vicinity of the site (see Dr. Rick Van de Poll’s analysis, included in Haley & Aldrich dated April 12, 2004).

**Recommendation:** DES should review the potential for threatened or endangered species to occur on this site, consult with Dr. Van de Poll and other experts, and conduct an on-site search for any such species.

***c. Species at the extremities of their ranges;***

Black Birch was observed to be abundant and thriving on the upper west side of the site, not far below the proposed site of the hotel. Black Birch is at the northern edge of its range in this region, and the size and number of individual trees here is remarkable.

**Recommendation:** This area and some wind buffer areas around it should be protected from logging and other impacts in order to retain the unusual occurrence of this species. DES should review the potential for other species at the extremities of their ranges to occur on this site.

***d. Migratory fish and wildlife; and***

As noted above, vernal pool amphibians require intact upland habitat around their breeding pools. Chain link fences will not obstruct their passage onto roads and the racetrack. If the site is developed as planned, the fencing around the racetrack will significantly reduce the migration of larger animals within the site. The most significant impacts will be on any animals that migrate along contour who will find the racetrack and its associated facilities to be an obstacle that forces them up onto the much steeper terrain above the site or down to the dangers of Route 25.

**Recommendations:** DES should require the Applicant to discuss how adequate, natural upland buffers will be maintained around all vernal pools. By limiting construction and operations activities on the upper parts of the site (e.g. by not including the hotel as planned), larger animals will be able to migrate east-west along contour without having to climb to higher, steeper slopes. And, in addition, mitigation planning involving the Applicant, DES, and the TCC (acting for the Town of Tamworth) should include consideration of preserving, through conservation easements, neighboring wooded properties to provide habitat for displaced wildlife in perpetuity.

***e. Exemplary natural communities identified by the New Hampshire Natural Heritage Inventory (NHI) -Department of Resources and Economic Development.***

Although there are no state or federally listed species or critical habitats mapped on the site by the New Hampshire Natural Heritage Inventory or the US Fish and Wildlife Service, habitat and species have been found in the neighboring Ossipee Mountain ecosystem. Review of the document entitled “*Ossipee Mountain Preserve Bio-Inventory Final Report*” (Van de Poll, Ph.D., 2002) notes that the Ossipee Mountain Preserve site contains several rare natural communities not far from the site. While the TCC Committee’s site visit found that much of the site has been heavily logged in the recent past, the potential for significant plants and communities remains.

**Recommendation:** TCC urges DES to require that the Applicant conduct a more thorough onsite field assessment of the potential presence of such resources. In addition, the TCC understands that archaeological investigation of the site remains to be completed and recommends that the DES refrain from any decision on this application until the results of that investigation are known. Finally, TCC recommends that, if a permit for this project is eventually granted, that DES include conditions that require the permit holder to not light the racetrack nor use it at night; these conditions will help reduce impacts of noise and light on nocturnal and crepuscular animals.

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***“(8) The impact of the proposed project on public commerce, navigation and recreation;”***

The application correctly notes that motorized recreational interests in the area may be enhanced by the project. In addition, off-site commerce is likely to be generated by the construction and

operation of the project and the visitors it brings to the area. However, other off-site impacts on commerce and recreation are not adequately addressed.

**Recommendation:** Off-site impacts are not sufficiently addressed by the Applicant. Consideration should be given to the impacts of the project, especially noise and visual impacts, on recreation at White Lake State Park (camping, boating, fishing, swimming), on the Bearcamp River, and in the Ossipee Mountains. Much of the Bearcamp River watershed's commerce is dependent on tourism around non-motorized recreation. Both non-motorized and motorized recreation interests should be discussed further in the application.

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***“(9) The extent to which a project interferes with the aesthetic interests of the general public. For example, where an applicant proposes the construction of a retaining wall on the bank of a lake the applicant would be required to indicate the type of material to be utilized and the effect of the construction of the wall on the view of other users of the lake;”***

Concerns about three aesthetic criteria have been expressed by the public and are shared by Tamworth Conservation Commission (TCC):

- a. Noise: This concern has not been adequately addressed by the applicant. It is likely that noise limits mandated by local municipal ordinance will require barriers – either berms or walls – along much of the project boundary. Further direct impacts to wetlands may result.
- b. Nighttime lighting: Although it is stated in the application that the road course will not be lighted, there will be significant nighttime operations at the garagemahals, three restaurants, clubhouse and hotel. The applicant has not submitted a lighting plan.
- c. Viewshed: The hotel and some of the road course will be visible from points within Tamworth, surrounding towns, and much of the Sandwich Range Wilderness, a congressionally-designated area in the White Mountain National Forest. Provisions for minimizing viewshed degradation have not been addressed in the application.

**Recommendation:** DES should require the Applicant to provide realistic plans for mitigating noise, lighting pollution, viewshed degradation, particularly where additional wetland impacts may be involved in mitigation measures (e.g. with noise berms or walls).

***“(11) The impact upon abutting owners pursuant to RSA 482-A:11, II. For example, if an applicant is proposing the rip-rapping of a stream the applicant would be required to document the effect of such work on upstream and downstream abutting properties;”***

Construction plans show the project is extended to the boundary lines of the Town of Tamworth on the west and north and to the boundary lines of Thomas/Silver on the east and north.□On this

latter boundary, near the intended garage mahals , it is apparent that there will be impacts on wetlands, including an intermittent stream and a forested wetland which, according to Irene Garvey, W.S. , have not been delineated. These impacts are in contravention of Wt. 304.04, Setback from Property Lines.

Although Wt 101.02 excludes “Abutter” as those which may be contiguous but separated by a road, flow from large rain events from the project site is already known to cause temporary flooding on parcels 206-1, 209 4/5/6, and 209 15/16. The Motorsports Holdings, LLC project engineer has acknowledged that post-construction, there may be an increase of 20% more volume in a 2 year storm. These areas contain Salmon and Nichol Ville soils making them productive soils. Greater sustained flooding will, most likely, decrease their productivity.

In addition, there will be greater flow, due to project design, onto the properties located to the west and particularly to the east of the Motorsports Holdings site.

**Recommendation:** DES should require the Applicant to address these issues further.

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***“(12) The benefit of a project to the health, safety, and well being of the general public;***

This aspect of the project is minimally discussed. While the applicant did not address this concern as a separate issue, it is touched upon in section 6.2.6, Traffic/Safety and other brief statements throughout the application. Other appropriate concerns include pollution of water supplies from on-site spills and the effects of increased ambient noise. Possible benefits of the project would be road safety training and increased emergency services available to the town.

**Recommendation:** DES should require the Applicant to detail and formally commit to, in writing, specific benefits to be provided to the Town (e.g. use for training purposes).

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***“(13) The impact of a proposed project on quantity or quality of surface and ground water. For example, where an applicant proposes to fill wetlands he/she would be required to document the impact of the proposed fill on the amount of drainage entering the site versus the amount of drainage exiting the site and the difference in the quality of water entering and exiting the site;”***

**Volume of Runoff**

The TCC is concerned about the lack of discussion in the application of the impacts of increased total volume of runoff water on existing on-site and off-site wetlands, especially the flood control function of current wetlands. While the discharge rates are to be about the same after construction (if the modeling and designs are correct), the periods of increased discharge are clearly longer, resulting in greater total volumes leaving the site. These increased volumes come from some part of the system and go to some part of the system. The TCC would like to know

what the impacts of a 25- or 50-year storm peak flow would be on pre-construction and post-construction flows. How will the detention ponds handle such higher flows and what potential impacts could they cause (e.g. if flows go over the weirs, bypassing detention and treatment)?

The TCC believes it is important to ensure a margin of safety in post-construction stormwater control design, given the higher possibility caused by the proposed use that fuels and other hazardous substances may be conveyed in runoff during track operations. In addition, this development plan should allow for a likely higher significant margin of error due to the complexity of the engineering and site work it requires.

**Recommendation:** DES should require the Applicant to provide further details regarding this issue, including impacts on scouring of intermittent stream channels, impacts on neighboring properties (including north of Route 25), and impacts on recharge of groundwater.

### **Recharge**

There is some confusion regarding the relative transmissivity of the soils on the site and how site alteration and wetlands impacts will affect recharge to the Ossipee stratified drift aquifer. Improved understanding of the recharge issue will provide better understanding of the potential impacts to groundwater and the aquifer of contaminants, at least small amounts of which are likely to be released into the environment during operations of the proposed racetrack.

**Recommendation:** The TCC requests that the DES require the Applicant to discuss how transmissivity was evaluated and to urge additional evaluation, perhaps through pump testing, as well as additional modeling of how construction and operation of the proposed facility will affect the levels of recharge.

### **Contaminants**

There has been general strong concern expressed by area residents concerning how potential contaminants used on-site will be controlled and kept from entering the environment, especially groundwater and the relatively large areas of retained wetlands that are immediately adjacent to the parts of the operation where the most intensive use and activity will occur (i.e. the northernmost portion of the property). How will impacts to these wetlands from increased isolation, runoff, blowing rubbish, many small spills or leaks on the paddocks and roadways, spectator behaviors, etc. be avoided? Won't these wetlands become more like those adjacent to cloverleafs and major highways, rather than remaining unimpacted?

The TCC is skeptical of the variety of claims regarding how small amounts of fuel or other hazardous substances used at the racetrack will likely pollute millions of gallons of groundwater. TCC recognizes that the impact of a spill depends on many factors and that the potential for spills exists to the same degree in many places elsewhere above the Ossipee Lake aquifer and that development of the proposed facilities may not add proportionally significantly greater risk of groundwater pollution. The Ossipee Lake aquifer is a significant regional resource and public comments were numerous regarding this issue.

**Recommendation:** DES should require the Applicant to discuss this issue further and provide clear and detailed provisions for spill avoidance, containment, and clean-up, as well as other

evidence—including contractual assurance mechanisms—that can help convince skeptical area residents that the operation of a racetrack as planned for this site would not negatively impact the quality of surface and ground waters.

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***“(14) The potential of a proposed project to cause or increase flooding, erosion, or sedimentation;”***

Figures supplied to the TCC by ESS indicate a post development increase in runoff volume of over 20% after a 2 year storm event and about 10% for a 10 year event. This runoff flows directly into a residential area prone to flooding. The appropriateness of erosion control measures during construction have been questioned. See attached report by James Barrett, PE dated April 6, 2004, in Haley & Aldrich dated April 12, 2004.

It has been reported that there is a high likelihood of a lower till layer consisting of a high percentage of clay and silt which is known to be relatively unstable when disturbed, as during construction. See attached letter by Dr. Robert Newton, Department of Geology, Smith College, dated April 12, 2004.

**Recommendation:** The TCC feels that the Applicant should provide measures for decreasing post-storm runoff and address the issues raised concerning erosion and sedimentation during construction. Evaluation of the site for presence of Lower Till soils that may require additional erosion control measures is advised.

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***“(15) The extent to which a project that is located in surface waters reflects or redirects current or wave energy which might cause damage or hazards;”***

This project may have an impact on banks of existing streams onsite due to the fact that a greater volume of water will be channeled into these streams, particularly during storm events. The Application does not address this potential impact.

**Recommendation:** DES should require the Applicant to address this issue in the application.

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***“(16) The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland or wetland complex were also permitted alterations to the wetland proportional to the extent of their property rights. For example, an applicant who owned only a portion of a wetland would document his percentage of ownership of that wetland and the percentage of that ownership that would be impacted;”***

In the application, the Applicant only refers to those properties abutting the project site and not to all the properties through which pass various streams and intermittent streams leaving the site, nor to all the properties containing portions of the wetland complex which extends from the proposed project site's northern portion eastward to Stony Brook, nor to the associated wetlands on both sides of Route 25 to the north and west. The applicant also only addresses the effects of direct wetland impacts and disregards the effects of rendering impermeable 18% (45 acres of roads, parking lots, and buildings / 250 acres) of all lands abutting the streams and wetland complex.

**Recommendation:** DES should require the applicant to address these issues.

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***“(17) The impact of the proposed project on the values and functions of the total wetland or wetland complex;”***

The TCC believes that the application does not adequately address the following:

a. The project application accurately points out that the Bearcamp River is a National Marine Fisheries Essential Fish Habitat for Atlantic Salmon and supports fisheries for brown, brook and rainbow trout. The potential for any impacts from the proposed racetrack development should be discussed further.

b. The wetlands on the northern edge of the site, near Route 25, are an interconnected system that will be fragmented and impacted by the dense construction planned for this part of the site.

**c. Groundwater recharge/discharge**

The wetlands in the lower, more northerly portion of the site function as groundwater recharge areas. The following are concerns regarding potential impacts to this function.

Concern #1: This project site is located over the Ossipee Lake Aquifer: The lower part of the site lies within the primary recharge area of the aquifer and the upper portion is over the secondary recharge area. Based on correspondences with Dr. Robert Newton this area supplies water to the lower primary recharge area mainly through surface water runoff as can be observed in the decrease in discharge of streams as they flow from the secondary recharge area across the primary recharge area. The decrease is due to water from the stream infiltrating through the streambed into the groundwater.

The Motorsports Application proposes a significant amount of alteration of the surface water system for track construction and proposes detention basins.

**Recommendation:** Based on these facts, TCC would like to see a more detailed analysis of the impacts the project may have on groundwater recharge/discharge.

Concern #2: The Application is proposing that most of the water draining the track will be directed into detention and infiltration basins, which are located in the primary recharge area of

the site. TCC has concerns that contaminants that might enter this part of the system may be infiltrated. Contaminants from the project may also infiltrate into the wetlands that play an important role in the groundwater recharge equation.

**Recommendation:** Based on these facts and potential effects, TCC would like to see a more detailed analysis of the potential impacts the project may have on the aquifer.

Concern #3: The Application states that there will be development of a water supply system onsite to meet the water demands once the entire project (Phase I and II) is constructed. There is conflicting data regarding what the actual water demands the future project will have on the aquifer (page 72 of Application verses Haley & Aldrich, Inc. report page 5).

**Recommendation:** The TCC would like the Applicant to clarify what the water needs for the entire project may be and how this may impact the groundwater recharge function that this site plays in the aquifer.

#### **d. Sediment/Toxicant Pathogen Retention**

The wetlands on the lower portion of the site, closer to Route 25 function as sediment/toxicant retention areas. These functions may be compromised if site disturbances, to the extent proposed by the Applicant, cause an increase of flooding into these wetlands. In addition, the TCC feels that this function will become even more important if the project is constructed as proposed, due to the fact that so much of the site will be disturbed and covered with impervious surfaces.

**Recommendation:** DES should require the Applicant to address these issues.

#### **e. Nutrient Removal/Retention/Transformation**

The potential for trapping, retaining and removing nutrients is present in the wetlands on the lower portion of the Motorsports Holdings site and these areas will be indirectly impacted by this project. The wetlands are headwater wetlands that are directly associated with surface waters and are recharge wetlands that are directly associated with the aquifer. For these reasons, this function is critical. The TCC believes that the Applicant underestimates the extent to which these wetlands perform this function and the potential impacts to it (Figure 4.2, Motorsports Application), which will be of particular importance after project completion due to the fact that so much of the site will be disturbed and covered with impervious surfaces.

**Recommendation:** DES should require the Applicant to further discuss and address these issues.

#### **f. Floodflow Alteration**

The lower wetlands do serve as storage areas for flood waters and are particularly important due to their proximity to Route 25 and to abutters to the north, across Route 25. The TCC believes that the Applicant underestimates the extent to which these wetlands perform this function and the potential impacts. Although the application does address the potential for impacts to this function (Figure 4.2), the TCC feels that there will be a greater need for these wetlands to function as Floodflow Alteration wetlands if the project is constructed because much of the site will be disturbed and covered with impervious surfaces. This will have the potential to inundate

these wetlands with much more water than if the site were not disturbed, which may, in fact, cause a potential for flooding on other properties.

**Recommendation:** DES should require the Applicant to further discuss and address these issues.

**g. Impacts of Potential Noise Mitigation Structures**

The TCC recalls prior discussions with Motorsports Holdings representatives regarding the racetrack that included mention of noise-abatement berms. These are not included in the application. The reason for TCC’s interest is to ensure that the requirement of the Town’s Racetrack Ordinance will be met. Berms or other noise control structures need to be included, upfront, in the discussion and review of the wetlands and site specific applications so that all impacts are taken into consideration prior to developing a conclusion of whether total wetland impacts justify construction of the project.

**Recommendation:** DES should require the Applicant to provide details regarding noise mitigation and what potential impacts to wetlands and stormwater management may be caused by needed noise mitigation structures. To verify this information, DES should require the Applicant to provide noise engineering modeling of how the number of vehicles (5% of which may not be street legal, according to the application) expected on the track at any one time will manage to meet the Tamworth Racetrack Ordinance requirement of a maximum of 69 dB at the property line.

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***“(18) The impact upon the value of the sites included in the latest published edition of the National Register of Natural Landmarks, or sites eligible for such publication;”***

The TCC notes that a Pitch Pine forest that is designated a National Natural Landmark occurs in White Lake State Park, within a mile of the proposed racetrack site. Noise from the track would be the only significant potential impact to this Landmark.

The TCC concurs with the Applicant (see application section 2.11) that about 20 years ago, the Ossipee ring dike complex was identified as a potential candidate for designation as a National Natural Landmark. See fax from the National Park Service, dated April 22, 2004.

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***“(19) The impact upon the value of areas named in acts of Congress or presidential proclamations as national rivers, national wilderness areas, national lakeshores, and such areas as may be established under federal, state, or municipal laws for similar and related purposes such as estuarine and marine sanctuaries;”***

No such areas are noted to be within the project area. The following federal, state, and local areas are designated for similar and related purposes:

Federal: Sandwich Range Wilderness, White Mountain National Forest (to north ~10 miles)

State: White Lake State Park (to north < 1 mile)  
Hemenway State Forest (to northwest ~ 5 miles)

Local: Town-owned and other conservation easements and preserves (e.g. Black Spruce Bogs < 1 mile north, next to White Lake State Park)

Other: Chocorua Forestlands and other protected lands in Ossipee Mountains (neighboring)  
Bowditch-Runnells Preserve, Nature Conservancy (to north ~ 6 miles)  
Ossipee Pine Barrens, Nature Conservancy (to northeast ~ 3 miles)

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***“(20) The degree to which a project redirects water from one watershed to another.”***

The amount of site alteration (130 acres) is considerable, making accurate assessments of redirection of waters difficult. The TCC relies on DES and those involved in reviewing the site specific permit for detailed review of the engineered plans for managing stormwater during and after construction.

**Recommendation:** DES should carefully review and investigate the plans for stormwater management during and after construction.

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## **Application Procedural Issues**

- a. DES should require the Applicant to provide detailed written documentation regarding the relationships and contractual arrangements amongst Motorsports Holdings, LLC; Club Motorsports, Inc., and Valley Motorsports Park—as well as the lease arrangement with Mr. Davis—to ensure clarity to all interested parties regarding who has particular rights and responsibilities included in any DES permit(s). See comment from Sherry Young of Rath, Young, and Pignatelli dated April 9, 2004. The TCC notes that the Applicant may be required to have landowner Davis subdivide his property in accordance with Tamworth subdivision regulations (see definition of “subdivision” in attached Tamworth subdivision regulations, August 27, 2003).
- b. 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.

### c. **Permit Conditions If a Permit is Eventually Granted**

**Recommendation:** If DES eventually decides to grant a permit after a revised, improved, and more detailed plan for a racetrack at this site is submitted to and reviewed by the DES and the TCC, the TCC recommends that DES include strict, detailed permit conditions, in accordance with RSA 482-A:11(II): “If a permit is granted, the decision of the department may contain reasonable conditions designed to protect the public good” (as further detailed in Env-Wt 304). These should include:

- **Independent third-party monitoring.** TCC’s greatest concern, should a permit be granted by DES and should construction proceed, is that the Town not be left to oversee and enforce permit conditions on its own. Understanding that DES and the Town have limited resources, the TCC urges DES and the applicant to work with the TCC to ensure effective cooperative monitoring of construction and operations through employment, at the applicant’s expense, of an independent third-party monitor agreeable to the applicant, DES, and the Town.
- **Bonding.** The TCC recommends that DES require the applicant to post a bond in an amount sufficient to provide for efficient stabilization of the site to avoid excessive environmental damage caused by abandonment of the project or any other circumstances that might cause stopping of construction for an extended period of time.
- **Timing of construction and other project activities** to reduce environmental impacts, in accordance with Wt 304.03. For example, DES should limit the areas of exposed soil occurring at any one time during construction. In addition, DES should require construction activities to be stabilized effectively during interludes, such as during the winter and “mud season” or any other extended work stoppage.
- **Erosion and Siltation Control Measures**, as described in Env-Wt 304.06. The size of this construction project, with more than half of the land area being cleared of vegetation and with extensive earth movement and rock blasting—all on relatively steep slopes—has the potential to create extensive erosion and water quality impacts over more than a year of construction activity. In addition, the potential for parts of the site to have “lower” (pre-Wisconsin) glacial till increases the need for caution and care in exposing the soils to erosion for any extended periods of time.
- **Transferability of the permit** in accordance with Wt 502.03(b) should include a requirement that the Applicant, prior to conveying any portion of the land to another person, complete all stabilization measures required to ensure no significant excess environmental impacts due to erosion and other stormwater impacts.

Such permit conditions will help ensure “that the project's impacts are minimized” (Env-Wt 304.01) and that all statements and protective measures described in the application are fully implemented by the Applicant.