

Appendix H

**Army Corps Environmental
Assessment and Statement of
Findings**



**ENVIRONMENTAL ASSESSMENT AND STATEMENT OF FINDINGS
INCORPORATING SEC 404 MITIGATION MOA**

1. Applicant: Motorsports Holdings, LLC (Club Motorsports, Inc.)
Valley Motorsports Park Project

Application Number: NAE-2005-2107 (formerly CENAE-R-200302257)

2. This permit action is being taken under authority delegated to the District Engineer from the Secretary of the Army and the Chief of Engineers by Title 33, Code of Federal Regulations, Part 325.8, pursuant to:

_____ Section 10 of the Rivers and Harbors Act of 1899
 X Section 404 of the Clean Water Act
_____ Section 103 of the Marine Protection, Research, and Sanctuaries Act

3. Description, Location, and Purpose of **Work**: The proposal is to place fill material within 17 wetland and intermittent stream areas, totaling approximately 0.73 acres (31,711 sq. ft.) and labeled Wetland Impact Area, Nos. 1 through 17 on permit plans entitled "Valley Motorsports Park Project, Motorsports Holding, LLC, Tamworth, NH in 17 sheets dated 5/21/04. The project is located on a 251-acre site immediately off Route 25 in Tamworth, New Hampshire. The purpose of the work is to construct a motorsports country club with an associated 3.1 mile road course, access road, parking and facilities for the repair, garaging, and servicing of high performance vehicles and accommodations and dining facilities for club members, guests and visitors to New Hampshire. The project will be constructed in 2 phases. Phase 1 will entail the construction components necessary to support driving activities such as the Road Course, Paddock Areas, Administration Building, Maintenance Building, Auto Repair Shop, Garagemahals (garages for owners car with sleeping accommodations above), Course Control Building, Restaurant and major utilities. In approximately 1 to 2 years, Phase 2 will be constructed and will entail the build-out of the remaining support facilities, including the Hotel, Lower Clubhouse, and additional Garagemahals.

Wetland restoration and the placement of a conservation easement on undeveloped lands are proposed as mitigation to the greatest extent practicable to compensate for the unavoidable lost wetlands and values from the proposed construction. The mitigation consists of the wetland restoration of 450 sq. ft. (25 linear feet) of an on-site intermittent stream which will be accomplished by the removal of an existing logging road, and procurement of a conservation easement on 107 acres of undeveloped lands in Sandwich, an area located within the Bearcamp Watershed that consists of 53 acres of wetlands and streams and 54 acres of uplands, as shown on Sheets 2 through 4.

The activity that will result in the placement of fill within wetlands and intermittent streams is as follows:

Permanent vegetated wetland impacts of 14,759 sq. ft will occur on the proposed project in Wetland Impact Areas No. 1 (1,580 sq. ft.), No. 3 (3,207 sq. ft.), No. 5 (2,280 sq. ft.), No. 6 (3,540 sq. ft.), No. 10 (2,775 sq. ft.), No. No. 11 (735 sq. ft.), No. 12 (377 sq. ft.), and at

No. 13 (265 sq. ft.). Permanent intermittent stream impacts of 16,752 sq. ft. will occur on the proposed project in Wetland Impact Areas No. 2 (1,340 sq. ft.), No. 4 (1,675 sq. ft.), No. 7 (85 sq. ft.), No. 9 (1,057 sq. ft.), No. 14 (1,645 sq. ft.), No. 15 (2,220 sq. ft.), No. 16 (3,295 sq. ft.), and at No. 17 (5,435 sq. ft.). Permanent impacts to streams will also result in the permanent impact of 1,510 linear feet of stream bank. In addition, temporary stream impacts of 140 sq. ft. and 60 sq. ft. will occur at Wetland Impact Areas No. 2 and No. 14, respectively.

4. Description of General Environmental Setting:

The site consists 251 acres of undeveloped land with a low-lying portion adjacent to Rt. 25 at an average elevation of 450 feet above sea level. The site then slopes steeply upward toward the southwest toward Mount Whittier (peak elevation 2,220 feet above sea level) to an elevation of 1,130 feet above sea level. The site is heavily vegetated with a Northern Hardwood forest that shows evidence of tree harvesting. The site is located in the tip of the Ossipee River Valley Aquifer on the Ossipee Ring Dike and consists mainly of till and crystalline bedrock.

Approximately 14.4 acres of wetland resources (nineteen wetland areas with impacts to eight of these) were identified on site, including intermittent streams that drain into the Bearcamp River which is 900 feet to 1,600 feet to the north of the site. The Bearcamp River eventually drains into the Cold River and Chocorua River and ultimately into Ossipee Lake, 5 miles southwest of the site. The Bearcamp River Watershed is located within the Saco River Basin. No areas within the 100-year floodplain, as identified on the Federal Emergency Management Agency Flood Insurance Rate Map, were identified on site. The site is bounded by Rt. 25 to the north, the Lakes Region Fire Apparatus Facility to the north, Chocorua Forestlands, LLC conservation lands to the south, undeveloped private land to the east and the local town's transfer station to the west. The applicant owns 242 acres of the site and is currently acquiring an additional 9 acres.

5. Functions and Values Assessment of Resources Impacted:

The proposed Wetland Impacts were assessed regarding seven functions and five values recognized by our office and described in The *Highway Methodology Workbook Supplement*. Detailed wetland function & value evaluation forms are included in the wetland mitigation plan.

The wetlands to be filled provide important functions and values for flood flow alteration, negligible groundwater recharge/discharge due to low transmissivity, wildlife habitat, sediment/toxicant/pathogen retention, nutrient removal/retention/transformation, production export, sediment/shoreline stabilization, visual quality/aesthetics, and educational/scientific value. A description of wetland areas and wetland impacts in those systems are described as follows.

Wetland Area A is a 4.1 acre system that runs from the northeast corner of the project (adjacent to Route 25) diagonally through to the southwest corner of the site. The system consists of several smaller streams that flow into a larger stream that flows to the Bearcamp River via two 4-foot culverts under route 25. The main stream channel is mostly rocky and un-vegetated. The wetlands are forested wetlands consisting of yellow birch, hobblebush, cinnamon fern, sensitive fern, and a red maple swamp at the northern end. Wetland Impacts 2, 4, 7, and 11 occur in Wetland A and are described as follows:

Wetland Impact 2 is the result of the road course crossing of a stream by a 60" diameter reinforced concrete pipe that will permanently impact 1340 sq. ft. and temporarily impact 140 sq. A. of streambed.

Wetland Impact 4 is the result of a road crossing of a stream by a 25' span metal open bottom arch with a single radius that will permanently impact 1675 sq A of the stream bed.

Wetland Impact 7 is the result of a road crossing of a stream by a 37'-11" span metal open bottom arch that will permanently impact 85 sq ft of the streambed.

Wetland Impact 11 partially occurs in this wetland system and will result in the placement of 735 sq. ft. of solid fill in a this Riverine (non-perennial) wetland for the support of the road course with the fill for the other end of the support occurring in Wetland Area B.

Wetland Area B is a 4.9-acre wetland that runs from the mid-northern boundary of the project (adjacent to Route 25) to the mid-western boundary of the project. The system consists of several smaller streams that flow into a larger stream that flows intermittently to the Bearcamp River via one 4-foot culvert under route 25. The main stream channel is mostly rocky and un-vegetated. The northern-most wetlands are forested wetlands consisting of red maple, paper birch, yellow birch, eastern hemlock, American elm, hobblebush, cinnamon fern, New York fern, and marsh fern. The wetland system surrounding the streams consist of eastern hemlock, Sphagnum moss. The wetland system along the Route 25 ROW consists of an emergent marsh with turtlehead, cinnamon fern, sensitive fem, cranberry, purple-stemmed aster and graminoids. Wetland Impacts 1, 3, 5, 6, 11, 12, 13, and 17 occur in Wetland B and are described as follows:

Wetland Impact 1 is the result of a road course crossing of a Riverine (non-perennial) wetland by a low profile 30'-3" open bottom span metal arch that will impact 1580 sq ft of the wetland with solid fill.

Wetland Impact 3 is the result of a road course crossing and fill for the pit lane by a 22' single radius open bottom metal arch span that will impact 3207 sq ft of a Riverine(non-perennial) wetland.

Wetland Impact 5 is the result of a road course crossing by a 20' single radius open bottom metal arch span that will impact 2280 sq ft of a Riverine (non-perennial) wetland.

Wetland Impact 6 is the result of a road course crossing by a 20' low profile open bottom metal arch span that will impact 3540 sq ft of a Riverine (non-perennial) wetland.

Wetland Impact 11 partially occurs in this wetland system and will result in the placement of 735 sq. ft. of solid fill in a this Riverine (non-perennial) wetland for the support of the road course with the fill for the other end of the support occurring in Wetland Area A.

Wetland Impact 12 partially occurs in this wetland system and will result in the placement of 377 sq. ft. of solid fill in a this Riverine (non-perennial) wetland for the support of the road course

(with a 18" reinforced concrete pipe) with the fill for the other end of the support occurring in Wetland Area T1.

Wetland Impact 13 partially occurs in this wetland system and will result in the placement of 265 sq. ft. of solid fill in a this Riverine (non-perennial) wetland for the support of the edge of the road course.

Wetland Impact 17 occurs in intermittent stream for the support on the road course with the placement of 5435 sq ft of solid fill.

Wetland **Area C** is a 2.4-acre wetland in the northwest corner of the project, adjacent to Route 25. This wetland is a forested wetland with vegetated **intermittent** stream channels that show evidence of logging activities. This wetland flows into other wetlands and into the **Bearcamp River** via a 4-foot culvert at Route 25. The wetland consists of a forested wetland of red maple, eastern hemlock, yellow birch, mountain holly, common elder, speckled alder, cinnamon fern and turtlehead with a hemlock swamp consisting of a sphagnum moss mat at the southern areas in the system. Wetland Impact 13 partially occurs **in this Riverine (non-perennial)** wetland for the support of the edge of the road course with 265 sq ft of solid fill.

Wetland **Area K1** is finger **from** a larger system in the northeast corner of the project, adjacent to Route 25 that flows into the larger system via a 12-inch culvert. This system is a forested wetland separated by a berm from other systems. The wetland consists of eastern hemlock, cinnamon fern, yellow birch, paper birch, Sphagnum moss, sensitive fern, and marsh fern. The portion of the system to the south consists of a wet community of swamp candles, soft rush, shallow sedge, swamp **dewberry**, steplebush, lance-leaved goldenrod, and sensitive **fern**. Wetland Impact 10 occurs in this **Riverine** (non-perennial) wetland for support of the road course with 2775 sq. ft. of solid fill.

Wetland **Area N1** is a **9,300-square-foot** wet meadow with a **forested/scrub shrub fringe**. It is located southwest of the upland field, where soils are gravelly **and** appear to have been disturbed. **The** wet meadow is dominated by, *Sphagnum* moss, soft rush, steplebush, lady **fern**, arrow-leaved **tearthumb**, **haircap** moss, water horehound, sensitive fern, shallow sedge, and swamp candles. The **forested/scrub shrub fringe** is dominated by a dense stand of gray birch and paper birch saplings, mixed **with** the occasional eastern white pine sapling. Wetland **N1** is connected to Wetland **K4** via an underground culvert and dug ditch, which qualifies as a Water of the US. Wetland Impact 9 occurs in an intermittent stream for support of the road course (with an **associated** 36" reinforced concrete pipe) with 1057 sq. ft. of fill.

Wetland **Area N2** is an approximately 320-linear foot intermittent stream channel on the eastern portion of the Site. This rocky and **unvegetated** stream flows northeast toward the upland field and into the **swale** that connects Wetland **N1** and **K4**. This wetland system contains small pockets of adjacent wetland in its upper reaches where the stream originates in seepages **from** the hillside.

Common vegetation includes sensitive fern, cinnamon fern, sphagnum and yellow birch. Wetland Impact 16 occurs in an intermittent stream for support of the road course with 3295 sq ft of fill.

Wetland Area T1 is 9,824 square foot drainage swale along Route 25 ROW in northwest area of the project. This system consists of a shallow emergent marsh/wet meadow plant community with purple-stemmed aster, sensitive fern, shallow sedge, wool grass, soft rush, rough-stemmed goldenrod, and Sphagnum moss. Wetland Impact 12 partially occurs in this wetland system and will result in the placement of 377 sq. ft. of solid fill in a this Riverine (non-perennial) wetland for the support of the road course (with a 18" reinforced concrete pipe) with the fill for the other end of the support occurring in Wetland Area B.

Wetland Area Y is a rocky intermittent stream channel on the eastern portion of the Site and is very similar in nature to Wetland N2. This rocky and unvegetated stream flows northeast into a larger red maple swamp off property. This wetland system contains small pockets of adjacent wetland in its upper reaches where the stream originates from seepages from the hillside. Common vegetation in the seep areas includes sensitive fern, cinnamon fern, red maple, sphagnum, yellow birch and grey birch. Wetland Impacts 14 and 15 occur in this system.

Wetland Impact 14 occurs in an intermittent stream for support of the road course (with an associated 36" reinforced concrete pipe) with 1645 sq ft. of fill within the bed of the stream.

Wetland Impact 15 occurs in an intermittent stream for support of the road course with 2220 sq ft. of fill within the bed of the stream.

Non-plant species observed on site include amphibians and reptiles (American toad, Wood Frog, and Eastern garter snake), birds (Wild Turkey), Pileated Woodpecker, Eastern Wood Peewee, and Blue Jay) and mammals (Eastern Chipmunk, Raccoon, Black Bear, White-tailed Deer and Moose).

6. Relationship to Existing Uses:

The area that the site is located in is not in a populated residential area, but rather along Rt. 25, a moderately heavily traveled state road by commercial vehicles, logging trucks, etc. In addition, the site abuts undeveloped land, with exception of the Lakes Region Fire Apparatus Facility to the north and the local town's transfer station to the west. Other nearby commercial/industrial uses include: an oil storage depot, a private garage facility, on-going logging operations and on-going gravel pit operations.

7. Alternatives:

Section 404 Mitigation MOA Requirements

a. Basic Project Purpose: The purpose of the work is to construct a motorsports country club and road course with access roads, parking facilities, hotel and associated appurtenances in Tamworth, New Hampshire.

b. Avoidance - Alternatives Analysis: The No-Build Alternative would not generate any impacts to the aquatic resources on site. The No-Build Alternative was evaluated and determined not to meet the applicant's purpose of constructing a motorsports country club.

After investigating 27 potential sites available for immediate purchase, the applicant evaluated six potential sites for the subject project; Route 16, Albany/ Madison, NH; Chinook Trail, Tamworth, NH; Ossipee Lake Road, Freedom, NH; Shawtown Road, Freedom, NH; Route 16, Ossipee, NH; and Route 25, Tamworth, NH. Criteria that the applicant used for evaluation of the sites were: size, at least 250 contiguous acres, but no more than 450 acres to be consistent with economically practicable land acquisition and construction limits of the project; location, within a reasonable proximity to Loudon, NH and Boston, MA to provide necessary professional motorsport support services, supplies, trained labor and access; site constraints, at least 350 feet of grade change and forest cover to provide European track and performance characteristics; setting, not within or adjacent to areas of residential zoning or dense residential use; and infrastructure, direct access from highly efficient and well maintained roadways or state highways that provide travel corridors on both a north/south and east/west direction; and cost of parcel. In addition, the applicant found Central New Hampshire desirable for the location of the road course because of its nearness to New Hampshire International Speedway in Loudon, NH which a well-established and vibrant motorsports base and an abundance of well-established and state-supported tourist services and diverse destinations that would provide consistent year-round attractions for members of a motorsports country club and the availability of relatively low-cost large tracts of land conducive with the applicant's purpose of constructing a motorsports operation. Three of the potential sites (Alternatives 1 through 3) were eliminated in the initial stage of the evaluation, with the other alternatives receiving more extensive review including Presence of waterbodies, wetland resources, hydric soils, Rare Threatened or Endangered Species, exemplary natural communities and aquifers on site, amount of undisturbed land surfaces, and site access.

Alternative 1 - Route 16, Ossipee, NH

The 117 acre parcel was too small in land area to meet size requirements and parcel shape limited development intent. The site was in close proximity to Duncan Lake and with approximately 7.2 acres of wetlands mapped on site, disproportionate wetland impacts are unavoidable due to the physical constraints of the site. Approximately 3.3 acres of a stratified drift aquifer in the Saco River Basin with a low degree of transmissivity is located on the site.

Alternative 2 - Chinook Trail, Tamworth, NH

The 325 acre parcel did not meet grade change requirements (insufficient vertical grade change). Access to site would require significant roadway improvements and roadway frontage is located at confluence of two perennial water bodies, Sanborn Brook and the Wonalancet River. Sanborn Brook (major water body) transverses the entire site and project would have to be located in residential area and immediately adjacent to the Hemenway State Forest. Although there are no National Wetland Inventory (NWI) mapped wetlands on this site, there are approximately 15.6 acres of a hydric soil unit mapped adjacent to Sanborn Brook on the Property. In addition, both the Wonalancet River and Sanborn Brook have an associated 100-year floodplain, as mapped by FEMA, on this site. Large aquatic impacts were anticipated on site due to the location and

existence of the water bodies on site. The floodplain cannot be avoided due to its location proximate to the site access from Route 1 **13A**.

Alternative 3 - Ossipee Lake Road, Freedom, NH

The 1,984 acre parcel was too large (would require large, impracticable purchase price acquisition), which would require sub-dividing, and would require major improvements~construction for access, which would result in large unavoidable impacts to wetland resources. Site is in close proximity to Danforth Pond and Ossipee Lake and has two perennial streams and a pond (Trout Pond). There are approximately 66 acres of NWI wetland areas mapped in varying locations throughout the Project Site. In addition, there are approximately 120 acres of hydric soils mapped on site and portion of site identified as Exemplary Natural Community. One of the perennial streams, Cold Brook and Trout Pond have a 100-year floodplain, as mapped by FEMA associated with them. The project would require being located in residential area.

Alternative 4 - Route 16, Madison/Albany

The 400-acre parcel has at least 5.1 acres of Palustrine Forested wetlands on site (approximately 25 acres of hydric soils mapped on site) with an associated waterbody, Cream Brook, making the design impracticable due to the inability to avoid large aquatic resource areas. There are two small areas of frontage (access) to this parcel from Route 16. Of these, the larger length of frontage (westernmost) would require crossing a 2.8 acre forested wetland system associated with Cream Brook. This area also has a 100-year floodplain associated with it. The other area of frontage (easternmost) has considerably variable topography, making construction and permanent access difficult. The site displayed excessive vertical variation in topography, which would make construction infeasible and is located over 28 acres of a stratified drift aquifer of the Saco River Basin with a high degree of transmissivity. The site is located within two municipalities, which would make permitting and daily operations of the facility more difficult. This site was eliminated due to the above negative characteristics.

Alternative 5 - Shawtown Road, Freedom, NH

The 413-acre parcel contains approximately 18 acres of mixed Palustrine Scrub Shrub wetlands and Palustrine Forested wetlands (25 acres of hydric soils) and two perennial water bodies **transverse** the site making the design impracticable due to avoidance of large aquatic impacts. Approximately **66** acres of stratified drift aquifer of the Ossipee River Basin exist on site making the site unfeasible for development due to high transmissivity of the aquifer. The shape of the site was found to be undesirable in that it would limit configuration of the proposed facility and considerable variation in topography would further challenge construction making the site unfeasible. The site is not readily accessible from a paved roadway, would require significant roadway and infrastructure improvements and is located in a residential area. This site was eliminated due to the above negative characteristics.

Alternative 6 – Route 25, Tamworth, NH

This 251-acre site was found to be the preferred alternative. The site at 251 acres fits the size criteria and the overall shape of the site is conducive to the intended road course configuration. The site is in reasonable proximity to Loudon, NH and Boston, MA, which can provide necessary professional motorsport support services, supplies, and trained labor for motorsport operations. There are no identified Rare Threatened or Endangered Species present and no portion of the construction will take place within the 100 – yr. flood plain. The topography of the site displays a constant vertical change in elevation, which is also conducive to the road course design. Route 25 allows unhindered and adequate access to the facility and has an excellent east/west connection to Route 16 and Interstate 93, which will provide an excellent north/south connection to the site. No major improvements to infrastructure for the site will be necessary. The relatively flat area adjacent to Route 25 will allow for adequate construction lay-down and staging areas. Although approximately 54 acres were found to be within the stratified drift aquifer of the Ossipee River Basin, low transmissivity characteristics of this aquifer indicate a low productivity for water supply purposes. The wetlands on site which consist of many unnamed intermittent streams (non-perennial) allow for on-site avoidance and minimization of resource impact areas by the use of open arch span design for the road course crossings. The site also has an adequate amount of forest cover and is proximate to other commercial/industrial uses (town transfer station, logging operations along Route 25, private garage facility and gravel pit operations).

c. **Least Environmentally Damaging Practicable Alternative (LEDPA):** When comparing the alternatives, we determined that Alternative 6 was the LEDPA. The site in Alternative 1 was too small, the site in Alternative 2 did not meet design grade requirements, and the site in Alternative 3 was too large and would present too costly infrastructure improvements for access. Alternative 4 would involve greater impacts to aquatic resources, would require more costly construction effort due to excessive variation in topography, is located over an aquifer with a high degree of transmissivity and would present multiple municipality zoning/permit issues. Alternative 5 would involve greater impacts to aquatic resources, is located over an aquifer with a high degree of transmissivity, has a shape that would hinder the applicant's track design, has a topography that would make site development unfeasible, and would present cost-prohibitive access and infrastructure development.

d. **Jurisdictional Determination for LEDPA:** Based upon wetlands delineation forms submitted by the applicant as well as a site visit by the Corps Environmental Resources Section, Policy Analysis and Technical Branch on May 3 and 4, 2004, the Corps of Engineers has determined that the wetland line accurately defines the limits of wetlands subject to Federal jurisdiction in conformance with the 1987 Corps of Engineers Wetlands Delineation Manual.

e. **Minimization:** The applicant made several design configuration changes (several garages and condos were removed, the hotel and parking was reduced, a wetland crossing was removed, and the track layout was modified to avoid a vernal pool buffer impacts), in an effort to avoid and minimize wetland impacts, initially having a total wetland impact of over 1.0 acres, and ultimately to a final design impact of wetlands of 0.73 acres. In addition, the applicant has utilized a design technique of spanning areas of aquatic resources with metal open bottom arches of varying radii that will minimize impacts to wetlands and streams by leaving the stream beds

virtually untouched while allowing maximum sunlight to reach aquatic resource communities underneath the arch.

f. Compensatory Mitigation for Unavoidable Losses: The proposed mitigation on-site for this site will provide for the restoration of 25 feet of intermittent stream and 450 square feet of stream bed. The restoration will entail removal of a 12" culvert that conveys the stream under a logging road to two wetland systems. The stream will then be restored back to its original conditions. The stream bank will be restored by using appropriate bioengineering techniques to control stream bank erosion. This restoration, removal of logging road crossing, will minimize future access to this portion of the site. Off-site mitigation will entail the preservation via a conservation easement of a 107-acre parcel of land within the Bearcamp Watershed in Sandwich, NH. The parcel consists of 53 acres of wetlands with comparable functions and values as the wetlands on site and 54 acres of uplands. The mitigation site will be adequately buffered. Further details of the compensatory mitigation plan are included in the attached mitigation plan that will be implemented as required by a special condition to this permit.

8. Impacts to Public Interest Factors:

+ Beneficial	- Adverse	0 Negligible Effect	
- Water Quality		0 Benthic Flora & Fauna	
0 Land Use Classification		0 Water Supply and Conservation	
- Wetlands		- Historical	
0 Flooding		0 Drainage	0 Energy Needs
+ Economics		0 Circulation Patterns	- Air Quality
- Esthetics		- Erosion/Accretions	- Noise
- Wildlife			0 Mineral Needs
0 Food and Fiber Production			0 Navigation
0 Floodplain Values			+ Recreation
0 General Environmental Concerns			0 Safety
0 Property Ownership			0 Finfish/plankton
+ Needs and Welfare of the People			0 Other

Description of impacts (short **term** impacts encompassing construction impacts and long term impacts considered together – cumulative impacts and secondary impacts were evaluated in the General Evaluation section):

Water Quality: The State of New Hampshire **has** issued a Water Quality Certification for this project after a careful review of water quality issues. The overall discharges for the track will be minimal during operation, and the applicant has an adequate spill prevention and control plan. Discharges directly into the water body are virtually **non-existent**. The applicant has designed the project to contain run-off. Most of the risk for discharges will take place during the construction phase of this project, where the applicant has an adequate erosion control plan.

Land Use Classification: The town has no zoning laws; therefore the proposed project will have no impact on land use classification.

Wetlands: At 0.73 acres of impact to aquatic resources over a 251-acre site, the impacts are a minimum environmental impact-taking place high in the watershed that will be balanced with mitigation. These impacts would normally have qualified this project for a New Hampshire Special Programmatic General Permit, had not public interests factors elevated this project to an Individual Permit review.

Flooding: The applicant has designed the project to maintain the pre-construction runoff characteristics and capacity. The New Hampshire Department of Environmental Services Site Specific Program evaluated the applicants' storm water management plans, and impacts to wetlands from runoff discharges and volumes, alteration of terrain (evaluation of post-development storm water treatment and detention methods) and effects on abutting property owners and found the project impacts to be acceptable. No flood plains exist on site. The project will not have an adverse effect on flooding.

Economics: The project will positively affect the community by creating approximately 100 temporary full-time local jobs during construction of the project and will create approximately 40 permanent jobs at the facility. Based on the applicant's estimate of a \$14,000,000 investment and a tax rate of \$ 25.50/\$1,000, the project will generate approximately \$350,000 in taxes to the town (more than currently generated), and will furnish public services to the town in the form of driver training for local police and fire departments, driver education for local teenagers and will provide fire and emergency response rescue service to assist the town. The project will also benefit the town's local business base by requiring support service in the form of automobile supplies stores, etc., and opportunities for local businesses that will service the increase in tourists and patrons that the facility is projected to attract.

Aesthetics: The short-term effects on aesthetics will be the greatest due to construction equipment, etc. Long-term effects of aesthetics will entail converting approximately 130 acres of hardwood forest to a motorsport club. Although, aesthetics is subjective, the applicant will minimize the effects on the site by incorporating existing physical features and landscaping into the project design, maintain a low visual profile relative to the surrounding land and blend the project into the existing forest. The project is located in an area that has other industrial/commercial facilities such as a transfer station, etc.

Wildlife: The project will contribute slightly in the isolation of wildlife from the outer rim of the Ossipee Mountains to the Bearcamp River, where the location of old Route 25 and the new Route 25 already significantly contributes to this isolation. The effect of migration of wildlife transversely across the site will be mitigated by the applicant maintaining a corridor through the site for migration of wildlife upslope on the site.

Food and Fiber Production: The project will reduce the amount of undeveloped land in Tamworth by 251 acres. Due to the topographical nature and physical constraints of the site there will be no net decrease in available farm land due to the project, therefore the project will no significant impact on food and fiber production.

Floodplain Values: No flood plains exist on site; therefore there will be no impact to flood plain values.

General Environmental Concerns: There are no environmental concerns (general or otherwise), other than those enumerated in these public interest factors.

Property Ownership: The applicant owns the majority of the site and is currently acquiring the balance, an additional 9 acres of the site. There are no significant impacts to property ownership interests on the proposed project.

Needs and Welfare of the People: The project will create new jobs at the facility for townspeople, lower the tax burden on the local citizens, furnish support for driver education programs in the town for townspeople and local fire and police departments and assist the town in fire and emergency response responsibilities. The project will also and enhance the business opportunities in the town by requiring support services and bring in tourists and motorsport patrons that will require services from the local businesses.

Benthic Flora and Fauna: The applicant has avoided and minimized impacts to the aquatic resources (streams and wetlands) on site by using arch culverts over streams crossing, etc. The impact to the bottom vegetation and animal habitat will be negligible.

Water Supply and conservation: Due to the low transmissivity of the underlying aquifer the project will have a negligible impact on recharge of the aquifer. The applicant will not have any unusual water requirements for the operation of the facility; therefore impacts to water supply and conservation interests are insignificant.

Historical: One area of historical significance was identified on site. The applicant has agreed to physically preserve this area and place the area into a conservation easement that ensures this site is protected in perpetuity. The New Hampshire Division of Historical Resources has issued a "No Effect" determination on this area; therefore there will be no impacts to historical interests for the project.

Drainage: The New Hampshire Department of Environmental Services Site Specific Program evaluated the applicants' storm water management plans, and impacts to wetlands from runoff discharges and volumes, alteration of terrain (evaluation of post-development storm water treatment and detention methods) and effects on abutting property owners and found the project impacts to be acceptable. The project will have no significant effect on drainage.

Circulation Patterns: Construction methods will ensure that stream crossings are performed in the least intrusive manner where the circulation pattern effects of the streams will negligible.

Erosion/Accretions: Short term effects will be greatest and will occur during site construction but the applicant has an adequate erosion control plan in place and the State of New Hampshire has issued a Site Specific Permit for the project that addresses these issues and will require monitoring. Long-term effects will be minimal and the applicant will maintain erosion control systems and operate under Best Management Practices.

Energy Needs: No significant impact will occur concerning the use of, or supply of energy, associated with this project.

Air Quality: The location of the project is an area that is within attainment of the National Ambient Air Quality Standards. Construction of the project is not expected to adversely affect the air quality and since the majority of the vehicles at the facility will meet state emission requirements, the project will not have any significant effects on the air quality interest.

Noise: Noise was raised as the largest concern by the public and the Corps gave this concern a great deal of attention. The applicant hired Tech Environmental, Inc. (TE) to perform a sound study. TE performed a sound study, "Sound Study for the Valley Motorsports Park Project, New Hampshire", on June 14, 2004, which resulted in the applicant proposing virtually unlimited generation of noise at the facility. FOCUS Tamworth, an opponent of the project, hired Harris Miller Miller & Hanson, Inc. (HMMH) to review the TE study and make recommendations. HMMH produced a report 'Noise Effects from Proposed CMI Racetrack in Tamworth in Tamworth, New Hampshire' on August 13, 2004 and follow-up letters dated April 7, 2004 and July 15, 2004 via Rath, Young and Pignatelli, PA (a law firm representing FOCUS Tamworth). The result of the oppositions' study and TE review was in stark contrast to the TE study and it recommended to severely limit the applicants' generation of noise at the facility. The HMMH recommendation included the limitation of noise to 69 dBA at any point from the property line during track operations. HMMH assisted in developing a proposed noise ordinance to address the proposed project that would enforce the HMMH recommendations. Tamworth passed the noise ordinance, but the state government subsequently passed Senate Bill 458 that exempted that applicant from the noise ordinance. On appeal, the bill was upheld. The New Hampshire Department of Environmental Services had determined that they had no jurisdiction to determine the impacts of noise at the project. With the TE study and submissions from FOCUS Tamworth, the Corps faced the task of analyzing two competing noise studies, each from apparently competent and professional noise experts.

As a result of this, the Corps hired an independent and private noise expert, Acentech, Inc., to review all submitted noise studies and background data, including the modeling of that data, to evaluate the validity of those reports, and make a recommendation as to appropriate controls of noise at the operational facility. Acentech reviewed the applicants' and oppositions' sound studies and reports on the project compared other similar motorsport facilities around the country and toured the proposed project on February 18, 2005. On March 15, 2005, Acentech submitted a report, "Review of Valley Motorsport Noise Studies Tamworth, New Hampshire" to the Corps. The report identified each opposing expert as being fully qualified, capable and competent of rendering a credible opinion as to the noise impacts to the proposed project. Acentech's report indicated that the applicant had characterized the proposed project as being "non-race track" in nature and therefore had used model technique and criteria based on Federal Highway Administration Traffic Model, New Hampshire Department of Transportation and U.S. Environmental Protection Agency criteria. This was deemed inappropriate, since the Corps had determined the proposed project was to be characterized as a "race track" for purposes of the sound analysis, only, even though the applicant considered the project a road course. The Acentech report concluded that given the difficulty of predicting acceptable noise criteria from mathematical modeling alone (appropriate only as a first step in the analysis), the best approach would be to identify a similar facility of comparable uses, sensitivities and topography/geography (background effects, etc.) as a base-line to recommend the allowable noise restrictions at this facility. Although not identical to the proposed project, the Limerock Park facility in Lakeville, Connecticut was identified as peacefully coexisting with the surrounding communities at an

appropriate standard of a drive-by sound limit of 89 dBA measured 50 feet from the source. The recommendations of Acentech's report were provided to the applicant, who responded on May 13, 2005 with the following amendment to the original application, "Operating Plan: Hours of Operation and Sound Impacts Proposed Valley Motorsports Park, Tamworth, NH":

Days and Hours of Operation - The road course will operate approximately 200 days per year, from April 15th through October 31st. The hours of operation will be from 8:00 AM to 7:00 PM Monday through Saturday and 11:00 AM to 7:00 PM on Sunday. The applicant will enforce a mandatory "quiet time" on Sundays by allowing no vehicles anywhere at the facility to generate excessive noise by "revving" their engines, etc. before 11:00 AM. During in-season and non-operating times, bicycles may be operated on the course by members and Tamworth residents. During off-season, snowmobiles may be used on marked trails, but not on the road course. Paddock areas may be used for winter driving instruction and techniques for members, police departments and area high schools. Also during off-season, the road course may be used by Tamworth residents and members for cross country skiing and snowshoeing, but sledding will be prohibited on-site.

Allowable Sound Levels - During all hours of operation and anywhere on-site, with the exception of Sunday morning before 11:00 AM, no vehicle may exceed an average sound limit of 92 dBA at 50 feet from the source, nor a maximum sound limit of 99 dBA at 50 feet from the source.

Monitoring - Sound levels in all areas at the facility (including the road course where sound monitoring will be performed during all road course use) will be monitored by the applicant using industry standards and best management practices. All sound monitoring data will be kept on file and made available to the town promptly upon request by the Tamworth Board of Selectman. In the event of a sound limit infraction on a given day a "Three-strikes policy" will be implemented by the applicant. With the **first-strike**, the vehicle will be required to cease operation, **return** to the pit or garage and given opportunity to make changes to comply with sound limits. The applicant will test the vehicles sound **emittance** for compliance of sound limits at the facility prior to re-admittance to the road course. With the second-strike, the procedure is the same as the **first-strike**. With a third-strike, where the vehicle **exceeds** the sound limit a third time, the vehicle will not be allowed to operate or participate in any road course sessions for the remainder of that day. The applicant may impose additional penalties or fines for violating sound limit restrictions at the facility. If sound levels exceed limits as **determined** by monitoring by the applicant, **further** mitigation measures will be implemented by the applicant:

The applicant's proposed Operating Plan outlining the hours of operation, sound limits at the facility and monitoring/enforcement policy appears to be acceptable when compared to the recommendations of Acentech. A difference of 3 dBA (approximately a 3.4% dBA increase above the recommended 89 dBA allowable sound limit) would not be an unreasonable increase in sound impact when weighed against the practicability of the applicant's ability to accomplish

his project purpose of operating a profitable and sustained motorsports operation by attracting willing clientele. Furthermore, the allowable maximum sound limit value of 99 dBA does not appear to be unreasonable when considering that all sounds are actually an instantaneous averages of high and low sound fluctuations (in this case an 85 dBA expected low operational value averaged against an expected 99 dBA high operational value to arrive at a target average mid-range operational value of 92 dBA). The hours of operation will coincide with the town's interest of peace and quiet where vehicle track operation is limited between 8:00 AM - after the majority of people are out of bed - and 7:00 PM - before most people retire for the night and before many relax for the evening. The mandatory "quiet-time" on Sunday morning will ensure that sound from the facility will have no impact to church services in town. The applicant's monitoring/enforcement policy, if implemented diligently, will ensure that the above sound criteria are strictly adhered to by the users of the facility and track. The shutting down of the track operation during the winter months will further diminish the potential for the generation of sound where tree leaf cover is not present to attenuate sound effects. The town will have an active role in reviewing sound reports from the facility and bringing to the attention of the applicant of any infractions to the sound limits. The applicant's "three-strike policy" should be able to discourage any user from deviating from the applicant's sound limit since the users have a vested interest in utilizing their vehicles at the track after making a substantial commitment in money, time and travel to the facility for that specific purpose. The applicant appears to be committed to adhering to the sound management provisions outlined in the Operating Plan and mitigating any deviations thereof. Additionally, the Operating Plan will be submitted to the town to provide a level of certainty associated with the operation of the facility and will outline the parameters and rules for the day-to-day operation of the facility. The Operating Plan of the applicant pertaining to the generation and management of sound impacts due to the proposed project does not present any significant impacts to the public interest based on the best information available on the proposed sound impacts.

Mineral Needs: No known mineral exists on site that is not common in the surrounding area and New Hampshire; therefore the project will have no adverse impacts to the mineral interests.

Navigation: There is no evidence that any areas of the site have been used by the boating public, nor any significant likelihood that the site would ever be used for navigable purposes. The applicant's proposed project will have no effect on navigation or on the navigable capacity of any nearby navigable waters, therefore this public interest factor will not be affected by the proposed project.

Recreation: The project will enhance the recreation interests by providing diversity to the area, a motorsport club, where individuals will have the opportunity to join as members. The facility will also provide other recreational opportunities such as skiing during the off-season when the vehicles will not be on the track and the townspeople will have the opportunity to utilize the site for various recreational endeavors.

Safety: The project will pose no safety issues off-site, and the applicant has made provisions for addressing safety issues on-site, therefore the project will not adversely affect the safety interest.

Finfish/plankton: Construction methods will ensure that stream crossings are performed in the least intrusive manner; therefore the impacts on finfish/plankton will be negligible

Other: There no other known public interests not addressed above.

9, Findings:

a. State Water Quality Certification: The New Hampshire Department of Environmental Services (Department) issued 401 Water Quality certificate (Certification) No. 2004-02 on March 22, 2005. A State of New Hampshire Department of Environmental Services Wetlands and Non-Site Specific Permit 2004-00377 was issued on July 29, 2004.

b. State Coastal Zone Management Concurrence: Not Applicable

c. A Public Notice adequately describing the proposed work was issued on July 13, 2004 and sent to all known interested parties. All comments received are included in our administrative record of this action. All comments are noted and evaluated below in the Public Comments section.

i. A Public Hearing was held by the New Hampshire Department of Environmental Services on April 27, 2004 and was attended by the Corps to better understand the issues on the proposed project. On September 7, 2004, the Corps issued a Public Notice for a Public Hearing to be held by the Corps and on October 6, 2004 the Corps conducted a Public Hearing for the project. The Federal agency in attendance, in addition to the USACE, was the U.S. Environmental Protection Agency (EPA). All comments are noted and evaluated below in the Public Comments section. The applicable Federal agencies, U.S. Fish and Wildlife Service (FWS) and the U.S. Environmental Protection Agency (EPA) have no outstanding concerns for the project or objections to the project.

ii. Historic and Cultural Resources: The applicant has completed a Phase I and Phase II Archeological Study for this project. The New Hampshire Division of Cultural Resources determined on July 29, 2005 that this proposed project will have a "no effect with conditions" on all cultural resources on-site. The applicant and New Hampshire Division of Cultural Resources have executed an agreement that the applicant will protect and preserve a site identified as an area with significant findings.

iii. Public Comments: Approximately 140 general comments/objections were received from multiple sources and are grouped and summarized below:

Comment No. 1 - 56,000 gallons per day of water usage by the facility is not realistic and should be 80,000 gallons per day.

Reply – The applicant water demand estimate was required and approved by the NHDES per State Rule. After redesign of facility, water demand estimates are expected to be below approved water demand estimates.

Comment No. 2 – The applicant is not legally an applicant since tile applicant has not acquired a property interest in all areas within the project area and therefore has no standing to apply for a permit.

Reply – The applicant has affirmed by signature that the applicant possesses or will possess the requisite property interest to undertake the activity proposed in the application.

Comment No. 3 – The project does not comply with local ordinances, construction of garages in wetlands violates town ordinances and the applicant has no Special Use Permit for the project.

Reply – There has been no local denial of the project. The Corps does not enforce local or state laws through a S. 404 permit.

Comment No. 4 – The applicant has not demonstrated the financial ability to complete the project and should be required to post an \$11 Million bond to protect the town from restoration costs if the project cannot be completed.

Reply – The applicant has asserted that the applicant and investors in the project have a combined net worth of over \$500 Million and a substantial stake in seeing the project is completed and is considered capable of completing the project, therefore a bond would not be required.

Comment No. 5 – The applicant has not demonstrated a need for the project and does not need a hotel and parking lot.

Reply – The Corps cannot regulate what an applicant needs.

Comment No. 6 – Construction and operation of the project will jeopardize the public drinking water supply (Ossipee Aquifer) by chemicals (tetraethyl lead, benzene toluene, MTBE and other petroleum contaminants) into the water and paving 60 acres will make the ground impermeable which will redirect water away from the aquifer. The applicant has miscalculated ground water impacts, the SPCC Plan is incomplete and contradictory with no site monitoring nor monitoring of domestic wells in the town. The tremendous slope of the project will cause a high probability that chemical contaminants will enter the Ossipee Aquifer, 500,000 CYDS of ring dike removal is excessive. Construction blasting will fissures in the over-lying rock will cause unacceptable vulnerability of the aquifer and instability of the mountain slope. Since the footprint of other contaminating generating facilities on the Ossipee Aquifer are smaller than the proposed project's footprint, the proposed project's potential for contamination is much greater. 49,000 GPD to 68,000 GPD of wastewater to be routed to the project's septic system will overburden the aquifer. The applicant has no plans to monitor surface and ground water upstream and downstream of the facility and has not addressed ground water withdrawal and recharge impacts.

Reply – The project is consistent with existing facilities in the area (gas stations and fuel oil tank farm that pose an equal or more risk than the project) and has received a State Site Specific Permit and a State 401 Water Quality Certification. The State Wetlands Permit and Site Specific Permit establish strict monitoring requirements during construction for storm water treatment and detention and potential impacts to abutting properties. The 401 Water Quality Certificate establishes strict monitoring requirements for surface water quality after construction of the project. In addition, the applicant has demonstrated an adequate Spill Prevention Control and Countermeasures Plan to handle any unforeseen event. The steep topography of the site limits

recharge of the aquifer from the site and any reduced recharge of the aquifer due to paving would be negligible. Most recharge takes place in the relatively flat areas in the northern area of the site. The applicants' plans to blast 30 to 40 feet of bedrock will not significantly affect the ring dike that extends at least 1,000 to 2,000 feet below the blast zone and removal of 500,000 CYDS of dike represents less than 0.003% of the rock that makes up the dike, and is therefore insignificant.

Comment No. 7 – The applicant has not performed impact studies relative to downstream flow to the Bear Camp River Fisheries.

Reply – The NHDES required the applicant to evaluate aquatic habitat and macro invertebrate communities upstream and downstream of the project for impacts on the fisheries under the Section 401 Water Quality Certificate Program and determined the project effects to be negligible.

Comment No. 8 – The project will cause adverse indirect impacts to the general public's aesthetic interest, health and safety, farming industry, well being and potential to cause increased flooding. The project will cause stream flow to be flashy and storm water discharge swale will not carry the 25-year peak storm event and RT. 25 will be flooded.

Reply – The project is designed to fit into the landscape and there will be no significant effect on the aesthetics of the area. Project design regulated through federal and state programs minimize any potential effects on the health, safety and farming interests of the general public. The State Site Specific Permit determined the potential for flash flooding to be negligible and that the project had the capacity to handle peak rates of runoff. The State 401 Water Quality Certification will monitor water quality relative to these standards.

Comment No. 9 – Planned facility operations are not definitive; therefore impacts from these operations cannot be determined. Storage tanks at the facility need secondary containment and inventory level/leakage/testing monitoring should be performed. The applicant has no plans to control portable fueling systems to prevent spills, etc. Road salt from track operation will adversely affect wetlands/streams and the water supply of the community. The project will cause streams and wetlands to dry up due to excessive hydraulic alteration of the area.

Reply – The applicant's application is adequate to evaluate potential impacts due to this project. The SPCC Plan adequately addresses all storage tanks, including portable fueling systems, at this facility. The project has been designed to ensure pre-construction and post-construction wetland and stream hydraulic regimes remain balanced and equivalent. A minimum area of pavement at the site will be treated with deicing materials as compared to the overall impervious area of the site. The main track will be shut down in the winter season, and ice/snow will remain in the paddock areas for driver training. The effects of deicing materials will be negligible.

Comment No. 10 – The magnitude of the project alone, 400,000 CYDS of blasting ledge, 1.2 Million CYDS of earth work, altering 130 acres of terrain and paving 45 acres of steep project area disqualifies the project for a permit. The applicant has not adequately submitted a plan for the total area of disturbance nor erosion control plan on the latest revision to the project. The applicant has not submitted a dust control plan, blasting plan, a dewatering plan nor a

construction sequence plan for the project.

Reply - The magnitude of this project, alone, does not automatically disqualify this project for a permit. The Corps is primarily concerned with impacts to the aquatic environment and the applicant has submitted an adequate plan showing the total area of these aquatic impacts. Additionally, the applicant has an adequate erosion control plan and has submitted dust control measures to be implemented during construction of this project. After the extent of the blasting requirements are determined, the applicant will engage a qualified and licensed contractor to ensure all applicable regulations are complied with. The applicant has a construction sequence plan for the evaluation of this permit. The State Site Specific permit requires the applicant to provide a more detailed construction sequence plan prior to start of construction and hire a full-time Environmental Monitor to ensure the construction sequence is proceeding as submitted and all erosion control measures are implemented effectively as approved. The applicant has committed to comply with all Best Management Practices, the National Pollutant Discharge Elimination System, Storm Water Pollution Prevention Plan, State Site Specific Permit and Wetlands Permit and the Water Quality Certification to ensure no dewatering discharges occur.

Comment No. 11 – The application underestimates the scope and impacts of the project to the public. Accidents at the facility will overburden the town's accident response capabilities, the applicant has no plans for off-site traffic control, fire protection, issues on site. The project has no public benefit, especially since the owners are not local inhabitants and is not needed by the public.

Reply – The scope of the project and impacts are adequately represented in the application. The applicant has plans for all issues on-site including fire protection and emergency response on site and will even assist the town's emergency response system, and will assist in any off-site issues with traffic control. The project will have a public benefit, new jobs, and tax relief, increase in town local businesses' business opportunities, etc. Public benefit is not determinant solely upon whether the owners are inhabitants of the town or not.

Comment No. 12 – The applicant's estimate of \$350,000 of tax benefit to the town should be \$76,245. The estimate is inaccurate since it is based on the cost of the project, not the assessed value of the facility. The project will have a negative impact on the town's ecological tourist base, and gains to the town's from taxes will be offset by loss of way of life of residents and visitors. There will be an increase in taxes to the residents due to an increase in fire, police, solid waste disposal and legal costs to ensure town ordinances are complied with. There will be an increase in 250 acres of forestry production which will diminish employment opportunities. Since businesses plan to relocate due to the project, the town will lose 20-52 jobs at \$25,000 per job and the jobs at the facility will not offset this. Operation of the facility will cause a loss of tourism (fishing, hunting, camping, people who come to the town for peace, quiet and scenic beauty), an increase in light pollution and property values will decrease. There will be 1,000 to 25,000 people at the facility at any given day which will require 500 to 7,500 cars to transport them and this will overburden RT 25 and RT 16 which have an average of 4,200 cars daily. The project will provide 200 low-paying jobs and this will overburden the town's medical system and welfare assistance programs.

Reply – The applicant's estimate of the tax benefit to the town is subjective and reasonable as based on the purchase price of the land and value of improvements. The project has been designed to be a non-obtrusive facility that blends into the landscape where there will be a minimal impact on the aesthetics, which could impact tourists (fishing, hunting, camping, people interested in peace, quiet and scenic beauty) and the way of life of residents. Moreover, the facility will attract a tourist segment not otherwise drawn to the area. The project is proposed to be self sufficient in fire protection and will require no more municipal assistance than any other existing or proposed facility in town. The project does not include 250 acres of forest production. The prediction that 20-52 jobs may leave due to the project is only speculative. The increase in the ambient lighting during the daytime at the facility will be minimal; the track will not be lighted and will not operate at night. Lighting from the facility will be cast downward and away from wooded areas with a sharp cutoff design to minimize any lighting impacts. The facility has no plans to accommodate spectators and the projected busiest days are less than 1,000 people on site. A formal Traffic Impact Analysis Report filed with the New Hampshire Department of Transportation indicates that all impacts to adjacent roads will be minimal and the applicant will pay for any traffic control (police officers, etc.) when needed. The applicant has projected the jobs at the facility will be higher-paying than average-paying jobs in the Tamworth area with no more likelihood of burdening the local medical system or welfare assistance than the existing residents.

Comment No. 13 – The project **will** adversely affect the character of the town, and deface the scenic beauty of MT Whittier. The applicant is required to follow the Tamworth Master Plan that **limits** projects to retail/office activities along RT 25.

Reply – The project is located in a remote area of town where much effort was made to keep the noise and visual impacts to a minimum. The number of people generated by the facility will also be at a minimum since the facility is a participatory facility rather than a spectator facility, therefore the character of the town should be left virtually unchanged. Most of the site is located on the lower 1/3 of the slope on MT Whittier. Several activities, at least as equally obtrusive as the project exist at similar elevations, logging operations and gravel mining, therefore the project will not deface the scenic beauty of MT Whittier. The Tamworth Master Plan does not mandate requirements for development, but rather goals with which **this** project is consistent, retail and light commercial/industrial growth.

Comment No. 14 – The project will negatively impact summer theatre, the Remick Museum and **farm**, White Lake State Park and Campground, the **Ossipee** Mountain and Preserves in their natural state by taking the project land out of the potential to be held as conservation land (including nearby conservation land efforts) and disrupting the tranquility of the ring dike system, MT **Chocorua** (including the basin and lake), Pitch Pine National Landmark, and Sandwich Range Wilderness.

Reply – The project is far removed geographically from the above scenic attractions that virtually no physical effect will be expressed by the project at those locations. The project will be **difficult to discern visually** from those locations and sound and light from the operation of the facility will be negligible. The site was purchased on the open market by the applicant who has the right to engage in free enterprise without being penalized by speculation that the property "could" be purchased for conservation land. Furthermore, there are vast acres of ideal, undeveloped,

adjacent land that could be purchased for conservation land, which would further conservation efforts in the region. Motorized sports already take place at or near the site (snowmobiling, etc.) and the quality and way of life for people who enjoy exercising and appreciating nature has not been destroyed, therefore unlikely that this proposed activity would jeopardize those activities. The applicant has performed a cumulative impact analysis on the Federally Protected Lands, The Sandwich Range Wilderness and White Mountain National Forest and found no long-term adverse effect due to the project.

Comment No. 15. - Light pollution from the facility is permanent and excessive and disqualifies the project for a permit, the track operation light and noise pollution on Ossipee lake and will decrease recreation and property values there, the five-story hotel will create unacceptable light pollution and view shed impacts and the project will be a source of light pollution for many astronomers.

Reply - The increase in the ambient lighting during the daytime at the facility will be minimal; the track will not be lighted and will not operate at night. Lighting from the facility will be cast downward and away from wooded areas with a sharp cutoff design to minimize any lighting impacts.

Comment No. 16 – The excessive generation of air pollution at the site is a basis for disallowing a permit; racetrack operation will cause unacceptable levels of carbon monoxide in the area and the project will cause air pollution above acceptable levels.

Reply – The applicant determined that the project was far below threshold values for a Conformity Analysis so as to be unable to generate a sufficient quantity data for analysis and that all vehicle using the facility will be required to be inspected by state inspection and maintenance programs, therefore it is reasonable to conclude the project (facilities will be negligible sources of air pollution) will not have significant adverse effects on air quality.

Comment No. 17 – Construction activities will cause traffic delays and cause students to drop out of school and cause safety concerns for young drivers in town. The project will cause traffic problems for the town, the applicant has not addressed impacts due to off-site satellite parking and has not developed an adequate construction and traffic management plan for the project.

Reply – Construction activities will generate minimum traffic effects on the community due to: the majority of all construction vehicles remaining on-site during the duration of the project **construction**, contractor **employees being** encouraged to car pool to the site, shipments of materials off-site will avoid rush hour **traffic** and adequate parking will provided to accommodate contractor employees and visitors. The applicant has filed a **formal** Traffic Impact Analysis Report with the New Hampshire Department of Transportation and concluded there will be no significant traffic problems as a result of the project. Paid police officers will be employed by the applicant when needed. There will be no impacts associated with off-site parking.

Comment No. 18 – Vehicle operation (including motorcycles and snow mobiles) will cause excessive noise pollution at the site and in nearby areas (Ossipee Lake, Pitch Pine National Landmark, White Lake State Park, Ossipee Mountain preserves, Sandwich Range Wilderness and Mt. Chocorua). The maximum speed at the top of the track, which translates to maximum

noise values, was not considered in the applicant's noise study. Noise from the operation of the facility will drive away game from recreational hunters. No noise study was performed for the Sandwich Range Wilderness. Noise from the facility will disrupt learning in town schools (including the Brett Elementary School) and adversely affect the students' health, destroy Sunday services at St. Andrew's Church. The applicant has not considered the amphitheatre effect off the top of the mountain in the sound study. The applicant is required to adopt noise restrictions from the town's Race Track Ordinance (RTO).

Reply - The proposed project does not propose any significant sound impacts to the public interest based on the best information available from the applicant's Operation Plan. (See Noise, under evaluation of Public Interest Factors) The applicant is not required to comply with the RTO since Senate Bill 458 was passed (and withstood appeal) that exempted the proposed project from being classified by the State as "racetrack" (per State Law RSA 287-G).

Comment No. 19 - The applicant does not meet the LEDPA for the project and the off-site and on-site alternatives were not adequately addressed.

Reply - The LEDPA was met by the applicant and off-site and on-site alternatives were adequately addressed. See Alternatives section above.

Comment No. 20 - Impacted wetlands will no longer be able to maintain functions necessary to provide clean water, flood protection, wildlife habitat and maintain the ecological balance. Impacts to vernal pools have not been adequately addressed. Non-calculated destruction of wetlands and the clogging and degradation of streams will occur due to excavation and subsequent earth flow from the uncovering of Lower Till (20% clay, 30% silt and 50% sand). The project will fragment wetlands to an unacceptable level. A 213-mile shift in the racetrack from the vernal pool is required to ensure an adequate wood frog range is maintained. The arch culverts crossing streams and wetlands do not allow adequate sunlight to reach the aquatic resources underneath and the arch culverts impact more wetlands (1.15 acres) than reflected in the applicant's design. The applicant did not minimize aquatic impacts since the number of wetland crossings increased from the earlier number of crossings (increased stream crossings from 13,999 sq. ft. to 16,962 sq. ft. and from 14 to 16 crossings, and increased number of wetland impacts from 14 to 17). The applicant has not considered temporary wetland impacts during the construction and operation phase and has not accounted for riprap impacts. The applicant has not addressed the 190,000 sq. ft. area within the 25 ft. setback to determine additional wetland impacts.

Reply - Impacted wetlands will continue to maintain functions necessary to provide clean water, flood protection (project area not within 100-yr flood plain), wildlife habitat and maintain the ecological balance. The applicant has minimized impacts to the above wetland areas to the maximum extent practicable. The applicant has adequately calculated the impacts to wetlands and streams and provided an adequate erosion control plan to provide protection for streams during the construction of the project. The project will not fragment wetlands to an unacceptable level, the hydrological connection adjacent to impact areas will be maintained. At the direction of the U.S. Environmental Protection Agency, an adequate buffer to the vernal pool will be maintained, and it is not necessary to shift the track 2/3 miles from the vernal pool to ensure the wood frog range is maintained. The arch culverts crossing streams and wetlands will allow

sunlight to reach aquatic resources underneath and the arch culverts will not impact more wetlands than in the design. An increase in the number of impact areas is not determinant in concluding that an applicant has not minimized the impacts to aquatic resources. The applicant had over one acre of aquatic impacts in the original design and reduced the impacts to 0.73 acres by removing garages and condos, reducing the impact to the hotel and parking lots, removing wetland crossing, modification of track layout to increase vernal pool buffer, and redesigning stream crossings by employing arch culverts. Temporary impacts and riprap impacts have been accounted for in the applicant's application. There is no 25-foot setback rule requirement by Corps regulations.

Comment No. 21 – The fencing of the facility will fragment wildlife that utilizes project area and will cause an unacceptable of **animal/vehicle** accidents on RT 25. Small animal migration due to the fence has not been considered by the applicant and the animals will be cut off from their natural habitat and migration patterns. The risk to flora and fauna and deforestation impacts alone should be a basis to deny the permit. The applicant has not adequately addressed wildlife impacts and wildlife mitigation disruption due to the project and should not be allowed to cut down a stand of black birch on site. The operation of the facility will adversely affect the habitat of the loons.

Reply – The impacts to wildlife as a result of the project were analyzed by a wildlife ~~firm~~ hired by the applicant to analyze the wildlife travel patterns of the project and as a result of their findings, the applicant has preserved a 300-foot corridor for east-west movement of wildlife through the project area. The New Hampshire Department of Environmental Services reviewed the plan and determined the corridor to be adequate and no significant impacts to wildlife movement would occur as a result of the project, including any unacceptable increase in **animal/vehicle** incidences along RT 25. Since the track will generally be enclosed by a **8-foot** fence, larger animals will be precluded from entering the track for human safety. Smaller animals will still have access to the project interior via gaps in the chain link fence design and through the open bottomed arch culverts at stream crossings. The project does not include deforestation. All **permits** for logging in uplands have been secured prior to any tree removal and no removal of vegetation in Section 404 **areas** will take place until after a permit decision is made. The applicant has hired a professional firm to analyze to identify any state or Federally-**listed** plant or animal species on site and found no exemplary natural or rare plant species. The applicant has worked closely with state and Federal agencies to quantify and minimize any impacts to the vegetative communities and associated fish and wildlife habitat on site. Black birch is not a Federally or statelisted rare threatened or endangered species that requires special protection. The state agencies have not identified any adverse effects of the project on the habitat of loons.

Comment No. 22 – The project is too close to significant archeological artifact sites of prehistoric Native American Indians.

Reply – The applicant has performed Phase I and II surveys on the site and is in full compliance ~~with all Federal laws and regulations, including the National Historic Preservation Act and state laws (the New Hampshire Division of Historic Resources will issue a "No-effect Letter" for project).~~

Comment No. 23 – The wetland mitigation of the project should be based on town ordinances. The mitigation plan does not compensate for wetland functions and values lost. The mitigation plan should be based on restoration or creation of wetlands and based on preservation only in exceptional circumstances. The proposed Sandwich mitigation proposal is a different type of wetland than the wetland on-site, with no public benefit since the area is already protected as a Prime Wetland by the State of New Hampshire. The mitigation should be in Tamworth and there is no holder of the easement in Sandwich, therefore unlawful.

Reply – On June 2, 2005, the Corps Policy and Technical Support Branch found the applicant's mitigation proposal to be complete and adequate for mitigating for aquatic resources impacts on the project. It is not mandatory that the wetland mitigation be based on town ordinances. A formal conservation easement with a proper easement holder will be submitted the Corps for review **and** approval.

Comment No. 24 - An EIS should be required for the project.

Reply – One purpose of this Environmental Assessment and Statement of Findings is to determine if an EIS is required for the project.

Comment No. 25 - The applicant has not performed a cumulative impact, indirect/secondary studies as required for the project.

Reply – The Corps has considered cumulative impact, indirect/secondary studies as required for the project.

ii. The Corps of Engineers has consulted with the National Marine Fisheries Service (NMFS) regarding the effects of this project on Essential Fish Habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS determined that there were no EFH resources on the proposed site and this proposed project would not affect any EFH resources.

d. General Evaluation:

a. Secondary and Cumulative Impacts: Secondary impacts are defined as reasonably foreseeable indirect consequences to the environment caused by a proposed action that would occur either in the **future** or in the vicinity of the direct impacts of that action. Cumulative impacts are the additive or interactive impacts of multiple past, present and reasonably foreseeable actions within a region.

Secondary impacts on this project will be negligible. The project will be self-supporting with all vehicle maintenance facilities and sources for parts and fuel, etc. on-site which should create little need for development of new stores, etc. in town for support of the facility. Restaurant and hotel accommodations are also on-site, thereby alleviating the need for any new **facilities in town for this support activity**. Adequate **infrastructure, utilities** and roads, etc. exist for the project, thereby alleviating the need for any new development. The users of the facility will most likely not move their family residence to **Tamworth** to drive on the track a few days in

the summer and the creation of a few jobs (most of the future employees already live in or near to the project) at the facility will not result in any pressure on the housing market in Tamworth to expand as a result of the project. Given the above consideration, secondary impacts due to the project will be negligible or virtually non-existent.

As stated above, a cumulative analysis must consider the additive or interactive impacts of multiple actions within a region as well as the areas immediately adjacent to the proposed project in order to address cumulative impacts to the public interest including water quality, wetlands, economics, aesthetics, wildlife, needs and welfare of the people, erosion/accretions, recreation and noise. The area affected by the cumulative impacts encompasses the Bearcamp watershed, towns located within the Ossipee Ring Dike Formation and areas in and around the Alternative Sites. The starting point for the analysis is the time which significant development or human activity began, or the construction of new RT 25. The end point for the analysis identifies significant growth activities the future, or infrastructure improvements proposed to be completed by the NHDOT along the RT 16 through 2014. A combination of techniques were used by the applicant to examine these effects, including the state-wide GIS mapping system (GRANIT) and information from local and regional planning commissions.

Approximately 5.1 % of the aquatic resources will be impacted on-site by this project, which in itself is not a significant action. Existing hydrology has been maintained thorough out the site with minimization of impact areas utilized to reduce any impacts of habitat fragmentation. Potential habitat fragmentation along RT 25, which separates the Ossipee Mountains from the Bearcamp River is minimal due to the existing infrastructure along RT 25 eliminating the need for new roadway or utility Right of Way construction. Land use to the north and west of the project includes the Lake Regional Fire Apparatus, a commercial use, the town transfer station, timber harvesting land and agricultural land where the opportunity for any future fragmentation impacts are minimal. Future development in these areas is very unlikely because these projects are already built-out and/or protected through forestry/agricultural management. Mount Whittier rises to the south of the site and the physical constraints alone of development in this region would discourage and make development very unlikely. Development in the region in general (Bearcamp watershed, towns located within the Ossipee Ring Dike Formation and areas in and around the Alternative Sites) is expected to be minimal. Much of the region is a national, state and local conservation area (White Mountain National Forest, Castle-In-The Clouds, Lake Chocorua White Lake State Park, Black Spruce Ponds Preserve, Chocorua Forestlands, Sanger Brook Forest tract, etc.) where the opportunity for future development is prohibited by law. The region already has four golf courses and three major banquet and exhibition facilities and several recreational trails and campsites with minimal apparent need for any additional large recreational facilities. The contribution of impacts due to this project when added to projected impacts of the region is negligible on a cumulative impact basis.

e. Application of 404(b)(1) Guidelines: The final guidelines of the Environmental Protection Agency for the discharge of fill or dredged material (40 CFR 230) as published in the Federal Register, dated 24 December 1980, have been applied in evaluating this permit application. With the special conditions incorporated into the compliance determination, the discharge of dredged or fill material has been found to comply with the guidelines.


f. Public Hearing Request: All requests for a public hearing, as stated in 9 (c) above have been reviewed and evaluated. A Public Hearing was held on October 6, 2004.

g. The EPA regulations published as "General Conformity Rule" (58 FR 63214, November 30, 1993) to implement section 176(c) of the Clean Air Act for non-attainment areas and maintenance areas require that Federal actions, unless exempt, conform with the Federally approved state implementation plan, The impacts on air quality associated with the regulated activity described in this EA/SOF (discharge of dredged or fill material into waters of the U.S. (Section 404 of the Clean Water Act); and/or work in or affecting navigable waters of the U.S. (Section 10 of the Rivers and Harbors Act); and/or the transportation of dredged material for disposal in ocean waters (Section 103 of the Marine Protection, Research and Sanctuaries Act)) have been considered and will not exceed de minimus levels of direct emissions of a criteria pollutant or its precursor, and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibilities, and generally cannot be practicably controlled by the Corps. Therefore, a conformity determination is not required.

h. Project Summary: The project does not present a significant impact to the aquatic environment, and but for the issue of noise generation on site, the project would have been eligible for review under the New Hampshire Special General Programmatic Permit program. Noise and all relevant public interest factors were carefully evaluated. The proposed alternative represents the least damaging practicable alternative any unavoidable impacts to the aquatic resources will be adequately compensated for. The Federal resource agencies have no objections to permit issuance and there are no unresolved issues.

i. I find that based on the evaluation of environmental effects discussed in this document, the decision on this application is not a major federal action significantly affecting the quality of the human environment, Hence, an environmental impact statement is not required.

j. I have considered all factors relevant to this proposal including cumulative effects. Potential factors included conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. After weighing favorable and unfavorable effects as discussed in this document, I find that this project is not contrary to the public interest and that a Department of the Army permit should be issued.


Christine Godfrey
DISTRICT ENGINEER
8/26/05
DATE