

**Appendix K**

**Settlement Agreement 05-07-WC**  
**Appeal to Water Council**

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2004-377



# RATH, YOUNG AND PIGNATELLI

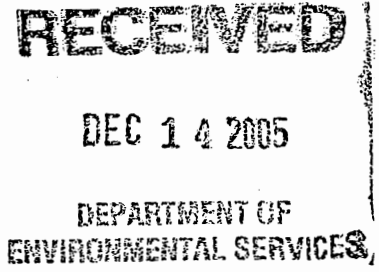
Professional Association

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SHERILYN BURNETT YOUNG  
Attorney at Law

December 7, 2005

Attorney Susan Duprey  
Devine, Millimet & Branch  
111 Amherst Street  
Manchester, NH 03101



RE: 05-07-WC Appeal to Water Council

Dear Attorney Duprey:

Enclosed please find one fully executed original Settlement Agreement for the above-referenced matter.

Please feel free to contact me should you have any questions.

Very truly yours,

*Sherilyn Young*  
Sherilyn Burnett Young

SBY/smw  
Enclosure

cc: Attorney Anthony I. Blenkinsop (w/enclosures)  
FOCUS: Tamworth Steering Committee (w/enclosures)

**Settlement Agreement**  
**05-07-WC Appeal to Water Council**

Club Motorsports, Inc. and Motorsports Holdings, LLC, hereby agree to the following items as conditions of final settlement with respect to the above-referenced appeal to the State of New Hampshire Water Council related to the Water Quality Certification WQC #2004-002 issued March 22,2005:

1. No gasoline containing MtBe will be sold or dispensed from the on-site fueling distribution system to be constructed on the premises of the proposed Motorsports Park in Tamworth, New Hampshire prior to January 1,2007, the date that the New Hampshire law banning the sale of fuels containing MtBE (RSA 146-G:12) is scheduled to take effect. Thereafter, fuel containing MtBe shall not be sold or dispensed on-site unless allowed by applicable state and federal law.
2. The fuel distribution system shall be either a permanent above-ground or below-ground fuel storage tank system (not a mobile fueling system), and the fuel distribution system shall be constructed and permitted in accordance with all applicable state and federal laws, regulations, and applicable Best Management Practices.
3. The fuel distribution system and refueling activities shall be restricted to the fuel paddock area only, to be located in an area consistent with plans included in the Joint Wetland Permit Application submitted to the Department of Environmental Services and the U.S. Army Corps dated March 4, 2004.
4. Spill response kits/stations shall be installed at various locations around the track site as well as in the vicinity of the fuel distribution system. Both the type of spill response kits/stations and their locations shall be as approved by NHDES.
5. The design, construction and operation of the fuel distribution system and fueling area at the proposed Valley Motorsports Park in Tamworth, New Hampshire (Site) shall be consistent with the terms set forth in the Vanasse Hangen Brustlin, Inc. memorandum from Craig Lizotte to Jim Hoenscheid, Vice President of Club Motorsports, Inc. dated October 7, 2005, attached hereto and hereby incorporated into this Settlement Agreement as Exhibit A.
6. Neither Club Motorsports, Inc. and Motorsports Holdings, LLC, nor any agent acting on their behalf, shall make any efforts whatsoever to modify the January 1, 2007 effective date of RSA 146-G:12.
7. The conditions set forth in items 1 through 5 above shall amend the State of New Hampshire Water Quality Certification WQC #2004-002 issued March 22,2005, and shall be enforceable by the State of New Hampshire accordingly.

This Settlement Agreement shall be binding upon all successors and assigns of Club

Motorsports, Inc. and Motorsports Holdings, LLC, as well as all appellant parties to this Agreement, as set forth in Exhibit B, attached.

**CLUB MOTORSPORTS, INC.  
and  
MOTORSPORTS HOLDINGS, LLC**

By: *Paul D. Doherty*  
Its: President  
Date: Dec 2005

**APPELLANT PARTIES  
(See Exhibit B)**

By: *Sherry Young*  
Their Attorney, Sherilyn Burnett Young  
Rath, Young and Pignatelli, P.A.  
One Capital Plaza  
Concord, New Hampshire 03302-1500  
Date: 12/6/05



Vanasse Hangen Brustlin, Inc.

101 Walnut St  
P.O. Box 9  
Watertown, MA 02471-9  
617 924 11  
FAX 617 924 21

**Memorandum**

To: Jim Hoenscheid  
Vice President  
Club Motorsports  
One North Main Street  
Derry, NH 03038

Date: October 7, 2005

Project No.: 99901

From: Craig C. Lizotte, P.E.

Re: Fueling Area Design Approach

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Jim: As you requested, I have prepared this memo to outline the approach Club Motorsports (CMI) will take with the design, construction and operation of the fueling area at the proposed Valley Motorsports Park in Tamworth New Hampshire (Site). The approach has been developed based on standard engineering practices and based on a telephone conversation between Attorney Sherry Young and me on October 7, 2005.

As you and I have discussed, the fueling area design modifications will include additional precautions, as requested by Attorney Young, to further prevent the potential transport of gasoline constituents to site soils, surface water and groundwater. The design approach can be summarized as follows:

**Fueling Area Surface:** The surface of the fueling area will be cast in place concrete. The Fueling area will be surrounded with curbing and the entrance and exit will be bermed to prevent the inflow of storm water runoff or the outflow of a potential fuel spill.

**Canopy:** The fueling area will be covered with a canopy, similar to that found at many gas stations, designed to redirect rainfall away from the fueling area. The canopy will prevent the majority of rain from falling onto the fueling area. The canopy roof drain will be connected to the site storm water management system.

**Drainage:** Storm water that does reach the fueling pad will be collected into a closed drainage system. The drainage system will flow through an oil water separator into a subsurface storm water storage tank. When the fueling area is in use (e.g. fuel is in the tank) the storm water collection tank will be a closed system that will contain water until it is pumped out and managed in accordance with State and Federal regulations. When the fueling area is out of service (e.g. the tank is empty) the manual drain valve on the storm water storage tank will be opened and storm water will be allowed to flow through the system and into the site storm water management system.

Fuel Storage Tanks: Fuel will be stored in a steel, above ground, storage tank. The tank will be constructed inside of a secondary containment dike also made of steel. The containment dike will be sized to contain 110% of the capacity of the fuel storage tank.

Design Standards: In addition to the features described above, the entire fueling system and fueling area will be designed in accordance with applicable State and Federal regulations.