

CITIZENS UNITED TO PROTECT
THE MAURICE RIVER AND ITS
TRIBUTARIES, INC.,
ASSOCIATION OF NEW JERSEY
ENVIRONMENTAL COMMISSIONS
and NEW JERSEY AUDUBON
SOCIETY,

Plaintiffs,

vs.

CITY OF MILLVILLE PLANNING
BOARD,

Defendant,

and

NEW JERSEY MOTORSPORTS PARK,
LLC, CITY OF MILLVILLE and COUNTY
OF
CUMBERLAND,

Defendants-Intervenors.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: CUMBERLAND COUNTY

: Dkt. No. CUM-L-000320-05

: Civil Action

: **STIPULATION AND**
: **CONSENT JUDGMENT**

THIS MATTER having been brought before the Court by the undersigned counsel for the purpose of entering a Stipulation and Consent Judgment designed to formally settle all of the issues contained in this litigation and the Court having considered and reviewed the Order which has been consented to by the parties through their attorneys, and for good cause shown;

IT IS ON THIS _____ day of _____ 2005, ORDERED that Judgment shall be entered by way of stipulation and consent, with approval of this Court, as follows:

1. Terms. Unless otherwise described or amended in this Consent Judgment, terms have the meaning ascribed to them in Ordinance No. 23-2004 adopted by the City of Millville on August 17, 2005.

2. Oval Track Sound Mitigation. The developer, New Jersey Motorsports Park, LLC, which includes any of its subsidiaries, parents, affiliated companies, agents and/or successors in interest (collectively, "NJMP") shall construct a sound attenuation wall behind the Oval Track during the development of that phase of the project so that the wall will be fully built before the Oval Track opens for business. The sound attenuation wall will be set back at least 320 feet northwards from the southern property line with the Bevan Wildlife Management Area. The wall shall be at least 20 feet high, and will be at least 1,700 feet long, and will consist of proven sound blocking and absorption materials that are designed to lower sound levels by a minimum of 10 dBA from 10 feet on the track side of the wall to 10 feet on the other side. NJMP will consider using cost-effective design elements in the grandstand that will absorb sound.

3. ATV Track Sound Mitigation. NJMP shall construct a sound attenuation wall behind the "ATV Track" during the development of that phase of the project so that the wall will be fully built before the "ATV Track" opens for business. The sound attenuation wall will be set back at least 300 feet northwards from the southern property line with the Bevan Wildlife Management Area. The wall shall be at least 15 feet high and approximately 1,000 feet long (but at least as long as the east to west distance of the ATV Track footprint), and will consist of proven sound blocking and absorption materials that are designed to lower sound levels by a minimum of 10 dBA from 10 feet on the track side of the wall to 10 feet on the other side. For purposes of this section, "ATV Track" means the area adjacent to the Oval Track and the Bevan Wildlife Management Area that is intended for use by various off-road vehicles.

4. Racetrack Sound Mitigation. The developer shall construct a sound attenuation wall on or behind the safety wall at the "Light Bulb Curve," banking the turn up to 15 degrees

and construct garages behind the turn that are designed to absorb sound through placement and materials, during the development of that phase of the project so that the wall will be fully built before the Racetrack opens for business. The wall shall be at least 10 feet high and approximately 800 feet long, and will consist of proven sound blocking and absorption materials that are designed to lower sound levels by a minimum of 10 dBA from 10 feet on the track side of the wall to 10 feet on the other side. For purposes of this section, the "Light Bulb Curve" is the section of Racetrack that curves around the northeast portion of the site, near the regulated wetlands. NJMP in accordance with its plans will construct garages and other buildings around the Light Bulb Curve which will have the effect of intercepting sound creating a noise mitigation impact.

5. Road Surface. NJMP shall use a surface on all of its paved racing tracks composed of polymers that are the current state of the art surface for construction of road racing facilities, and which have the effect, in part, to reduce tire noise.

6. Vegetation. NJMP shall maintain the buffers along the north and south side of Buckshutem Road and the west side of Dividing Creek Road as follows: Of the 5,200 feet of frontage excluding the commercial corner along the north side of Buckshutem Road all but 300 feet shall have a 100 foot separation and buffer between the County road and the service road; buffers on the south side of Buckshutem Road shall be to the maximum extent practicable. Consistent with the purpose of providing a visual buffer and some mitigation of track noise from significant vegetation, the buffer will consist of existing vegetation and existing lawn. Of the 4,700 feet of frontage excluding the commercial corner along the west side of Dividing Creek Road all but 800 feet, where the buffer is 50 feet, shall have a 100 foot separation between the County Road and the service road . The buffer, consistent with the purpose of providing a visual

buffer and some mitigation of track noise from significant vegetation, will consist of existing vegetation and existing lawn.

7. Grassland Habitat for Threatened and Endangered Species. NJMP shall cooperate with the City of Millville, the owner/operator of the airport, and the County of Cumberland, to the extent practicable, in order to expand grassland bird habitat onto properties that those governmental bodies control adjacent to the motorsports park parcel.

The City of Millville, in cooperation with the County of Cumberland, shall review city or county owned or controlled lands (including farmlands on which it holds conservation or other easements which prevent development) to identify approximately 100 contiguous acres of land suitable for management as habitat for grassland species of birds listed on either the state or federal threatened and endangered species list, and shall set aside such suitable land as protected habitat in perpetuity. The exact amount and location of grassland habitat shall be determined in consultation with NJDEP and other qualified consultants. If the City cannot identify approximately 100 contiguous acres, then it shall identify and preserve approximately 100 non-contiguous acres in as few separate parcels as possible. Any appropriately identified habitat shall be set aside no later than October 31, 2007.

It is understood that any land set aside under the provisions of this paragraph may also be utilized for passive recreation purposes that are consistent with threatened and endangered wildlife species habitat management practices.

8. Hours of Operation. Except for maintenance and other non-racing activities the hours of operations on the road course will be no earlier than 8:00 a.m. and no later than sunset, with only two (2) exceptions: (1) on no more than two (2) occasions a year, the sunset restriction may be relaxed for endurance races, and (2) the use of muffled cars in scheduled security

training sessions. No race engine is to be started on the road course before 8:00 a.m. NJMP shall not install lights designed to light the road course for night use. In accordance with the intent of the applicable ordinance, Millville Code § 30-247.6(g)(4), all lights in the development will be shielded to reduce glare and off-site impacts.

The hours of operations on the ATV track will be no earlier than 8:00 a.m. and no later than sunset. The hours of operation of the go-kart facility will not be subject to any of the above restrictions.

The hours of operation for the Oval Track shall be from 9:00 a.m. until sunset, for the months of April, May and June with no "Green Flag Racing" before 10:00 a.m., and race engines will not start on the oval track before 9:00 a.m. For purposes of this provision "Green Flag Racing" means the starting of a racing event. For the rest of the year the hours of operation for the oval track shall be from 8:00 a.m. to sunset with no "Green Flag Racing" before 9:00 a.m. race engines will not start on the oval track before 8:00 a.m.

9. Fencing. NJMP shall construct and maintain a chain-link fence around the Oval Track and ATV Track to prevent incursions by off-road vehicles into the Bevan Wildlife Management Area, and wildlife and off-road vehicles from coming onto those properties.

10. Traffic Mitigation. NJMP agrees to construct adequate deceleration lanes on Buckshutem Road to accommodate incoming and outgoing traffic, so as to avoid backups and delays of through-traffic on Buckshutem, Dividing Creek and other roads, in accordance with good planning principles and the County of Cumberland Engineer's requirements. NJMP further agrees to use good planning practices to manage pedestrian movements so as to minimize obstruction of traffic on Buckshutem Road.

11. Release. In consideration for the actions promised in Paragraphs 2-10 above, the Plaintiffs agree not to present any written or oral testimony, letters or other information in, and not to undertake any organizing efforts or make any statements in the press against [intention is to clarify only] any pending or future application involving the NJMP project before the local Planning Board or any federal, state, county, or other governmental agency, including but not limited to any application before the New Jersey Department of Environmental Protection, or any application involving the National Environmental Policy Act, except as specified in paragraph 12. "NJMP project" refers to the development proposal that was approved by the Planning Board resolution dated February 14, 2005, as may be modified during the planning process. This prohibition applies to all of Plaintiffs' officers, agents, servants, employees and attorneys under their control and direction, as well as members who are authorized to represent the Plaintiffs' views on any such application. The present litigation shall be dismissed with prejudice, except as provided in paragraph 12.

12. Reopener. If any of the actions or duties promised in Paragraphs 2-11 above are not completed in the time frame contemplated, then after attempting to negotiate in good faith to resolve any issue, the Plaintiffs or Defendants may, at their option, enforce the terms of this order by a motion for sanctions or otherwise, or may reinitiate this litigation without prejudice by any time limitation, which shall be considered by all parties to be tolled in the meantime, and may participate in any other regulatory application or process that is otherwise covered by the preceding paragraph.

13. Incorporation and Amendment. This Order resolves all issues that were raised in the litigation, is designed to be a full and final settlement of the matter, and supersedes any other

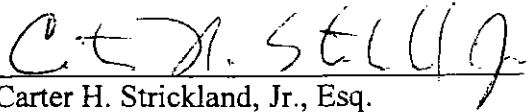
written or oral stipulation or agreement. To be effective, any amendment to this Consent Order shall be in writing and with the consent of all parties.

14. Counterparts. This Order may be signed in counterparts.

15. Notices. Any notice or future actions required under this Order shall be provided to the undersigned counsel.

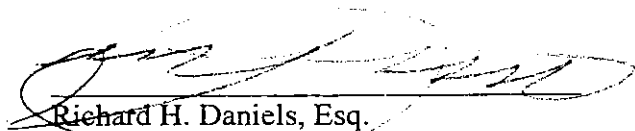
16. Joint Statement. The parties, including all City and County public officials, shall not disclose settlement discussions in general or the terms of this Consent Order in particular with any non-party until it is signed by the Court and filed with the clerk's office, at which time the parties will agree on a mutually convenient time to release the Consent Order to the public. Under no circumstances may any of the Defendants state that any of the Plaintiffs support or endorse the project, except as provided on the joint press release.

On behalf of the respective parties to this case we hereby consent to the terms and entry of this Stipulation and Order:



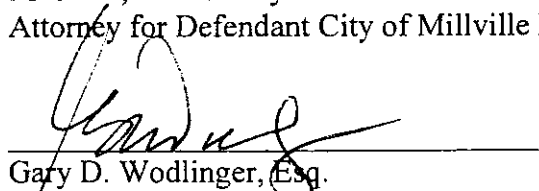
Carter H. Strickland, Jr., Esq.
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Attorneys for Plaintiffs

Dated: 11/1/2005



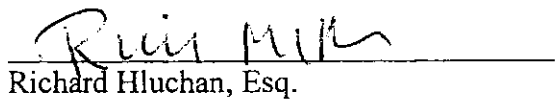
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Attorney for Defendant City of Millville Planning Board

Dated: 11/2/2005



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Dated: 11-2-05



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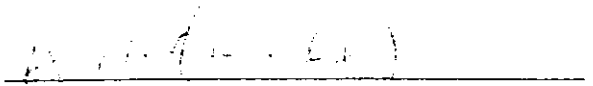
Dated: 11/8/05



Arnold Robinson, Esq.
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Dated: 11-3-05

ACCEPTED AND ORDERED:


The Honorable Walter L. Marshall, Jr., J.S.C.