



SCHOOR DEPALMA
Engineers and Consultants

August 13, 2007

Gary J. Brower, Esq.
Attn: DEP Docket Number 11-07-04/557
Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street, Floor 4
PO Box 402
Trenton, NJ 08625-0402

RE: Proposal No. PRN 2007-166
SWQS Amendments on Category One Waters
Our Project Number 050105608

Dear Mr. Brower:

On behalf of Intrawest's Mountain Creek Resort, I am formally submitting written comments in response to the above referenced NJDEP proposal to amend N.J.A.C. 7:9B-1.4 and 1.15 to include a definition for "Exceptional ecological significance" and to designate the Black Creek in Vernon Township, Sussex County, a Category One Water.

Please be advised that Intrawest Corporation, an international developer of four-season resort destinations, including Copper Mountain, Colorado, Mammoth, California and Whistler Blackcomb, British Columbia purchased the old Vernon Valley-Great Gorge ski area in 1998. In the Intrawest tradition, it has proposed a complete redevelopment of what is now called Mountain Creek Resort.

Intrawest has built lively mixed-use villages for its resorts, which also include Mt. Tremblant, Quebec, Stratton, Vermont and Steamboat, Colorado. In contemplating what to do with the New Jersey property, Intrawest reviewed the old Vernon Valley facilities, which included a now-abandoned miniature golf course, bumper boats and go-cart racing, and intends to redevelop the site, thereby completely transforming the area. Intrawest contemplates that upwards of \$700 million will be spent by public and private sources to build more than 1600 condominium hotel units, 200,000 square feet of commercial and conference space, and associated amenities and improvements to the ski area.

Previously, in cooperation with Vernon Township, the area which is proposed for redevelopment received approval from the State Planning Commission as the "Mountain Creek Node of the Vernon Town Center" is within the sewer service area and is located in the Highlands Planning Area as opposed to the NJDEP regulated Highlands Preservation Area. Not only is it a designated Center under the State Development and Redevelopment Plan, the Township of Vernon has reviewed the existing land uses, and declared the area "to be in need of redevelopment" and has been proceeding

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with a Redevelopment Plan and Redevelopment Agreement with Intrawest. The project comports with the local zoning requirements and in March of 2007 received Planning Board approval for their General Development Plan.

Plans for the redevelopment are now before the Vernon Township Planning Board; they envision a Village development similar to Mt. Tremblant and Blue Mountain, Ontario. The plans contemplate the following uses:

- a. Hamburg Mountain: originally sold to Intrawest by the prior owner, most of the Mountain was conveyed back to the State of New Jersey subject to Intrawest's ability to develop ski areas, snowmaking, hiking trails, water impoundments, warming huts and the like. The area has ski lifts, machinery, ski trail contouring, and equipment sheds; it is traversed by utilities and related man-made infrastructure. It will not be "developed" for more intense uses such as lodging or shopping, but it does serve 500,000 skiers per year and is not a "natural" area.
- b. Existing resort residential areas, such as the Black Creek Sanctuary, are already built and occupied by owners, who are members of the Mountain Creek Association which is to be the long-term manager of the Village and associated facilities.
- c. The Village, which is anticipated to be a high-energy shopping, restaurant and night-life environment catering to both the visitors to the area as well as residents of the region.
- d. A conference center, which will provide much of the economic basis for the resort residential and related uses of the site.
- e. A spa and related facilities, along with substantial resort residential housing.
- f. Ski area facilities, such as a new day lodge, operations and ski/snowboard rentals and sales, and associated food and beverage operations.

Intrawest and the State of New Jersey are already cooperating with road improvements to Route 94, which are currently under construction.

The bulk of the redevelopment, contemplated to be a total of approximately 1.6 million square feet of newly constructed space, will take place in currently disturbed areas, the majority of which are within already developed, impervious surfaces. Within the 225 acres set aside for development in the Mountain Creek Node of the Vernon Town Center, approximately 15% of the land will be impervious surface; very close to the current percentage. The exact numbers are as follows:



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Of the 225.5 acres in the existing tract boundary, 122.66 are currently disturbed. 31.34 acres are in impervious surface coverage; 4.96 acres are in building.

With the recent approval of the General Development Plan, the total area of disturbance will be 80.58 acres, of which 73.14 acres are currently disturbed. The project will create 10.32 acres of building coverage, and a total of 34.16 acres of total impervious coverage, nearly all of which (90.7%) is in previously disturbed areas. Of the "new" disturbed area of 7.44 acres, approximately half of that is "temporary" disturbance.

Please be advised that if one adds the 2,000 acres of already preserved areas on the mountaintop that are restricted from development, the total impervious coverage percentage drops to under 2%.

The draft Highlands Regional Plan (RMP), issued on November 30, 2006, specifically identifies the project area within a Planned Community Zone where development is deemed appropriate by the Highlands Council. In fact, representatives of Intrawest, including myself, have had discussions with the Highlands Council and staff on the positive impacts the project will have on the entire Highlands Region.

Also noteworthy, is the fact that Governor Jon Corzine personally visited Mountain Creek and expressed his belief that the proposed redevelopment project is a definitive example of smart, environmentally sensitive, economic development.

Intrawest is concerned that the proposed regulatory restrictions that are being contemplated can be counter-productive and perhaps critically detrimental to areas in need of redevelopment. Site specific protections and mitigations can be far more beneficial than broad based regulatory constraints in such areas. For example, the redevelopment plans for the Mountain Creek project will be designed and built under the current NJDEP regulations whereas the existing development was constructed under the rules which were in place in the 1960's and 70's. Clearly, the completion of this project will result in a greater level of environmental protection than exists today.

We respectfully request that prior to recommending these regulations for adoption, the Department meet with potentially affected parties such as Intrawest, as well as other stakeholders, to determine the best procedures for environmental protection and mitigation for areas in need of redevelopment. We are aware that the proposed amendments have been reviewed with parties representing the environmental aspects, and we would appreciate the opportunity to share our thoughts as well to ensure that all viewpoints have been considered.



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In addition to the above, we are providing specific comments to the rule proposal as follows:

A. Definition of "Exceptional ecological significance"

1. The Department is proposing that this term mean waterbodies with suitable habitat verified by the Department to support Bog Turtle, Brook Floater, Dwarf Wedgemussel, Eastern Pondmussel, Eastern Lampmussel, Green Floater, and/or Triangle Floater and documented occurrence(s) of at least one of these species verified by the Department for inclusion in the Natural Heritage Program. We are unaware of any documented information regarding the exact location of documented occurrences of these species, exactly who sighted the species, how it was documented and when the species was sighted. It would appear that the definition does not provide clarity to the regulated community with regard to which waterbodies would qualify for CI designation under this criteria.
2. The Department states in the proposal that the presence of documented habitat for the above noted species is delineated on the Landscape Maps. Our review of the Landscape Maps, however, reveals that it appears that there are no documented habitats delineated for the Brook Floater, Dwarf Wedgemussel, Eastern Pondmussel, Eastern Lampmussel, Green Floater or Triangle Floater. It would seem appropriate to clarify this apparent discrepancy.
3. The Department states that the continued viability of the listed species, including the Bog Turtle, is critically contingent on there being no change in existing water quality. It would seem that this assumption be supported by sound scientific data before it is utilized as the basis for a regulation. Copies of any studies that the Department has conducted in this regard would be appreciated.
4. It seems that the Department has not fully contemplated the social and economic impacts of this regulation particularly as it relates to redevelopment. It seems clear that the environment will benefit greatly from the redevelopment of property under existing regulations rather than the regulations which existed at the time of the original development. In the case of Mountain Creek, the original development occurred under the rules and regulations in place in the 1960's and 70's. It is suggested that the Department add the words "except in areas deemed in need of redevelopment" at the end of each definition.

B. Proposed upgrade of the Black Creek to Category One status.

1. It appears that the Landscape Maps identify areas within the watershed as Bog Turtle Habitat but do not designate the specific location of the Black Creek as such habitat.



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2. It appears that the Landscape Maps do not identify any areas within the Black Creek watershed as documented habitat for the Triangle Floater.
3. The existing Black Creek Sanctuary Development has preserved and in fact created habitat for the Bog Turtle to ensure its continued existence in the area. There is no need to add additional regulatory restrictions to the redevelopment project area to ensure preservation of Bog Turtle Habitat and the existence of Bog Turtles in the area.
4. The Department has not as yet defined the term 'Tributary'. Many of the watercourses within the redevelopment area are either man made or man altered to support recreational activities such as snow making, water park slides and swim areas, skiing, tubing, etc. Imposing regulatory restrictions on these waterbodies and adjacent areas could be critically detrimental to the proper redevelopment of the existing recreational area.
5. The Department should not designate any portion of the Black Creek as Category 1 in any areas that have been deemed in need of redevelopment. It seems clear that the environment will benefit greatly from the redevelopment of property under existing regulations rather than the regulations which existed at the time of the original development. In the case of Mountain Creek, the original development occurred under the rules and regulations in place in the 1960's and 70's.

On behalf of Intrawest, thank you for allowing Schoor DePalma to provide comments on this proposal. Intrawest looks forward to having an opportunity to meet with the NJDEP to ensure surface water quality standards are met and to continuing our positive relationship with the NJDEP.

Very truly yours,
SCHOOR DEPALMA INC.


Anthony DiLodovico
Vice President

TD:nv

cc: The Honorable Jon Corzine
Lisa Jackson, Commissioner, NJDEP
Adam Zellner, NJDEP
Office of Smart Growth

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