

NEW JERSEY MEADOWLANDS COMMISSION  
AGENDA

DATE: November 28, 2007  
TIME: 10:00 a.m.  
PLACE: Lyndhurst, New Jersey  
RE: MONTHLY MEETING

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1. Pledge of Allegiance
2. Sunshine Law Statement
3. Roll Call
4. REVIEW OF MINUTES

- Meeting Minutes: October 24, 2007
- Closed Session Minutes: April 27, 2005  
October 13, 2006  
July 25, 2007

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5. SPECIAL PRESENTATION

- Signing of Solar Contract

6. PUBLIC PARTICIPATION ON RESOLUTIONS

7. VARIANCES/SPECIAL EXCEPTIONS

Resolution No. 07-101 Consideration of a Resolution Regarding the  
Approval of One Use Variance To Permit  
A Light Public Utility (Wireless Tele-  
Communications Facility) in the  
Environmental Conservation Zone. The  
Facility is Proposed for the Premises Located  
On West Side Avenue and Identified as Block  
442, Lot 5, in the Township of North Bergen,  
Jersey (File #07-069, PSE&G/Verizon Wireless  
Facility).

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Resolution No. 07-102 Consideration of a Resolution Regarding the Approval of One Bulk Variance To Permit The Reduction in Size of One Loading Space From 12 feet by 60 feet, to 12 feet by 48 feet. The Reduced Size Loading Space is Proposed At An Existing 9,333 Square Foot Warehouse Building Located at 25-27 Lewis Avenue, Block 662, Lots 35 through 41, in the City of Jersey City, New Jersey (File #05-584, Francisco/F&C Francisco Builders-Add/Alt-Variance). Pg. 9

Resolution No. 07-103 Consideration of a Resolution in the Matter of File #06-149 Hartz/HLJ - Billboard Variance To Deny One Bulk Variance Sought To Erect One Additional Sign on the Existing Billboard At the Premises Located at 150 Harmon Meadow Boulevard, Block 227.01, Lot 1, In the Town of Secaucus. Pg. 12

8. TRANSPORTATION

Resolution No. 07-104 Consideration of a Resolution Adopting the Meadowlands District Transportation Plan. Pg. 15

9. SITE SUITABILITY RECOMMENDATIONS

Resolution No. 07-105 Consideration of a Resolution Concerning a Site Suitability Recommendation for 400 Park Place in the Town of Secaucus. Pg. 20

NEW JERSEY MEADOWLANDS COMMISSION  
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Resolution No. 07-106 Consideration of a Resolution Concerning a Site Suitability Recommendation for 535 Secaucus Road in Jersey City. Pg. 28

10. KEEGAN LANDFILL

Resolution No. 07-107 Consideration of a Resolution Authorizing the Executive Director To Enter Into a Construction Contract For Site Improvements at the Keegan Landfill in the Town of Kearny. Pg. 32

11. ZONING

Resolution No. 07-108 Consideration of a Resolution Concerning a Petition To Rezone Block 108, Lot 2 in the Township of Lyndhurst. Pg. 36

Resolution No. 07-109 Consideration of a Resolution Concerning A Petition To Rezone 501 New County Road, Block 16, Lot 5 in the Town of Secaucus. Pg. 39

12. MAIN STREET MEADOWLANDS/  
DOWNTOWN REVITALIZATION PROGRAM

Resolution No. 07-110 Consideration of a Resolution Concerning A Grant Program for District Municipalities For Revitalization of Local Downtowns. Pg. 42

13. LEGAL

Resolution No. 07-111 Consideration of a Resolution Concerning the Settlement of In Re: Wilenta/Henry Street Violation. Pg. 45

**NEW JERSEY MEADOWLANDS COMMISSION**  
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MONTHLY MEETING

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14. REPORTS

- a. Commissioners
- b. Executive Director
- c. Director
- d. HMMC Executive Director

15. NEW BUSINESS

16. PUBLIC PARTICIPATION

17. CLOSED SESSION

- a. Adopt Resolution No. 07-112 to hold Closed Session.
  - EnCap
  - Galli v. NJMC
  - NYS&W v. NJDEP et al.

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- b. Adjournment to Closed Session. The Commission Reserves the Right to Reconvene into Public Session, if necessary, to take Action on Closed Session Items.

**PLEASE CONTACT THE NJMC OFFICE (201-460-1700) PRIOR TO MEETING IF SPECIAL REQUIREMENTS ARE NEEDED UNDER ADA**

NEW JERSEY MEADOWLANDS COMMISSION

DATE: October 24, 2007  
TIME: 10:00 a.m.  
PLACE: Lyndhurst, NJ  
RE: MONTHLY MEETING MINUTES

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COMMISSIONERS PRESENT:

Joseph V. Doria, Jr., Acting Chairman  
Eleanore S. Nissley  
James A. Anzevino  
Michael J. Gonnelli  
Leonard R. Kaiser

STAFF PRESENT:

Robert R. Ceberio, Executive Director  
Irfan Bora, Director of Finance & Management/  
Chief Financial Officer  
Thomas Marturano, Director of Natural Resources  
Ileana Kafrouni, Director of Land Use Management  
Christine A. Sanz, Director of Legal Affairs/Chief Counsel  
Francisco Artigas, Director of MERI  
Christopher Gale, Director of Communications  
Christine Piatek, Deputy Attorney General  
Fred J. Dressel, HMMC  
Lynn Johnson, Executive Assistant

1. Pledge of Allegiance
2. Executive Director Ceberio read the Notice of Meeting required under the Sunshine Law.
3. Roll Call
4. REVIEW OF MINUTES

Minutes of the September 19 meeting and closed session minutes of the September 19 meeting were moved by Commissioner Nissley, seconded by Commissioner Gonnelli and carried with Chairman Doria abstaining.

5. SPECIAL PRESENTATION - RIVER BARGE PARK

Katy Weidel, NJMC Senior Landscape Architect and Project Manager of the River Barge Park project gave an update on the project.

## 6. PUBLIC PARTICIPATION ON RESOLUTIONS

- Jim Kirkos, Meadowlands Regional Chamber of Commerce spoke on Resolution 07-88
- Kevin D. Walsh, Fair Share Housing spoke on Resolutions 07-93, 07-94 and 07-95.
- Tammy Molinelli, Workforce Investment Board spoke on Resolution 07-88.
- Tony Corsi, Director of the Hudson County WIB spoke on Resolution 07-88

## 7. MEADOWLANDS BUSINESS DEVELOPMENT INCUBATOR

Resolution No. 07-88 - Resolution authorizing the Executive Director to create the Meadowlands Business Development Incubator.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Anzevino and unanimously carried.

## 8. VARIANCE/SPECIAL EXCEPTIONS

Resolution No. 07-89 - Resolution issuing a decision on the variance application submitted as part of File No. 07-222, Mack/Riverside Audi to permit an 8,713 square foot automobile sales facility in the regional commercial zone and one bulk variance to allow 40 parking spaces, whereas 65 are required, at the premises identified as 859 Paterson Plank Road, Block 155, Lot 4 in the Town of Secaucus.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Anzevino and carried with Commissioner Gonnelli abstaining.

Resolution No. 07-90 - Resolution regarding the application for four bulk variances for AG Holding, for the premises identified as 70 Commercial Ave, Block 61, Lot 3 in Moonachie, which premises are located in the Commission's Light Industrial B Zone as follows:

- 1) Approval of a Bulk Variance for a front yard setback of 22.25 feet along West Commercial Avenue, whereas a minimum front yard setback of 35 feet is required.
- 2) Approval of a bulk variance for a front yard setback of 20.25 feet along Commercial Avenue, whereas a minimum front yard setback of 35 feet is required.
- 3) Approval of a bulk variance for the provision of only one 12 feet by 60 feet loading area, whereas two are required; and
- 4) Denial of a bulk variance for the provision of a loading area within the front yard setback along Commercial Avenue.

Motion to adopt the resolution was made by Commissioner Nissley, seconded by Commissioner Gonnelli and unanimously carried.

9. DEP AUDIT

Resolution No. 07-91 - Resolution adopting the DEP Escrow Account Audits.

Motion to adopt the resolution was made by Commissioner Anzevino, seconded by Commissioner Nissley and unanimously carried.

10. SITE SUITABILITY STUDY

Resolution No. 07-92 - Resolution issuing a decision on the suitability of the Hawk Property in the town of Secaucus for residential development.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Nissley and carried with Commissioner Gonnelli abstaining.

11. SITE SUITABILITY RECOMMENDATIONS

Resolution No. 07-93 - Resolution issuing a decision on the suitability recommendation as required by the NJMC Emergency Restraints upon further development for File No. 07-492 161 Railroad Ave LLC/Aero Molding & Machining - Addition, Block 4014, Lot 13 in Ridgfield.

Resolution No. 07-94 - Resolution issuing a decision on the suitability recommendation as required by the NJMC Emergency Restraints upon further development for File No. 07-483 Saw Mill Park III/New Office/Warehouse, Block 150, Lot 44 in Kearny.

Resolution No. 07-95 - Resolution issuing a decision on the suitability recommendation as required by the NJMC Emergency Restraints upon further development for File No. 07-594 NEBC/Storage Shed, Block 84, Lots 3 & 4 in Carlstadt.

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Nissley and unanimously carried.

12. LEGAL

Resolution No. 07-96 - Resolution authorizing the Execution of a Judicial Consent Order in the Matter of NJMC and the State of New Jersey DEP v. New York Susquehanna and Western Railway Corporation, Stephen J. Guido, and Westside Transload, LLC in the Superior Court of New Jersey - Hudson County, Chancery Division, Docket No. C-136-06.

Resolution No. 07-97 - Resolution authorizing the Executive Director to enter into a Settlement Agreement with United Showcase/Mark Jameson Contractors, Inc. to resolve OAL Docket No. HMD-03075-2007.

Resolution No. 07-98 - Resolution authorizing acquisition of the property known as Block 137, Lot 5 in Carlstadt in connection with the Settlement of George Martin and George F. Barnes v. NJMC, Superior Court of New Jersey Law Division - Civil Part, Bergen County, Docket No. L-2679-04.

Motion to adopt the resolutions was made by Commissioner Kaiser, seconded by Commissioner Nissley and unanimously carried.

13. MUNICIPAL ASSISTANCE PROGRAM

Resolution No. 07-99 - Resolution authorizing the Executive Director to appropriate funds to District Municipalities under the Municipal Assistance Program (MAP).

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Nissley and unanimously carried.

14. COPIER

Resolution No. 07-100 - Resolution authorizing a lease contract on a new copier.

Motion to move the resolution was made by Commissioner Nissley, seconded by Commissioner Anzevino and unanimously carried.

15. REPORTS

Commissioners welcomed Chairman Doria.

Executive Director Ceberio acknowledged staff for their work on the railroad settlement agreement.

Dennis Elwell, Mayor of Secaucus welcomed Chairman Doria and spoke about affordable housing.

Fred Dressel, HMMC Executive Director & Mayor of Moonachie - welcomed Chairman Doria.

20. PUBLIC PARTICIPATION

- James McLoone from Bergenfield, representing the Wanda Canoe Club, Hackensack River Canoe Club.
- Lonnie Bedell, South Hackensack resident.
- John Ponticorvo, Ridgely resident representing Hudson County School of Technology.
- Lori Baumann from the Hackensack Canoe and Kayak Club.

Motion to adjourn the October 24, 2007 meeting was made by Commissioner Kaiser, seconded by Commissioner Nissley with all in favor. Meeting adjourned.

ROBERT R. CEBERIO, SECRETARY

RESOLUTION#	07-88	07-89	07-90	07-91	07-92	07-93	07-94	07-95	07-96
Chairman Doria	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Anzevino	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Gonnelli	Y	A	Y	Y	A	Y	Y	Y	Y
Comm. Kaiser	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Macri	--	--	--	--	--	--	--	--	--
Comm. Nissley	Y	Y	Y	Y	Y	Y	Y	Y	Y
Comm. Walther	--	--	--	--	--	--	--	--	--

RESOLUTION#	07-97	07-98	07-99	07-100
Chairman Doria	Y	Y	Y	Y
Comm. Anzevino	Y	Y	Y	Y
Comm. Gonnelli	Y	Y	Y	Y
Comm. Kaiser	Y	Y	Y	Y
Comm. Macri	--	--	--	--
Comm. Nissley	Y	Y	Y	Y
Comm. Walther	--	--	--	--

Y = Yes      R = Recuse  
A = Abstain    N = No

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION  
SUBMITTED AS PART OF FILE NO. 07-069,  
PSE&G/VERIZON WIRELESS FACILITY  
BLOCK 442, LOT 5, IN THE TOWNSHIP OF NORTH BERGEN**

**WHEREAS**, an application for one (1) use variance was filed with the New Jersey Meadowlands Commission ("NJMC") by Michael R. Beck, Esq., of the firm Hiering, Dupignac, Stanzione & Dunn, on behalf of New York SMSA Limited Partnership d/b/a Verizon Wireless, for the premises located on West Side Avenue and identified as Block 442, Lot 5 (formally Block 443, Lot 16B), in the Township of North Bergen; and

**WHEREAS**, the variance is sought in connection with the applicant's proposal to install a new light public utility, specifically a wireless telecommunications facility on the subject premises; and

**WHEREAS**, the applicant requested relief from N.J.A.C. 19:4-5.9(a) which does not list new light public utilities (wireless telecommunications facilities) as permitted uses in the Environmental Conservation zone; and

**WHEREAS**, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in The Jersey Journal; and

**WHEREAS**, a public hearing was held in the Office of the NJMC on August 28, 2007, before Sharon Mascaró, Chief Engineer, and Mark Skerbetz, Senior Planner; and

**WHEREAS**, a comprehensive report dated November 7, 2007, has been prepared indicating the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director in this matter; and

**WHEREAS**, the report recommends approval of the use variance request to install a new light public utility, specifically a wireless telecommunications facility on the subject premises; and

**WHEREAS**, the members of the NJMC have reviewed the full record including the transcript of the public hearing, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, and the submissions of the applicant; and

**WHEREAS**, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

**WHEREAS**, the NJMC hereby determines that the requested variance to install a new light public utility, specifically a wireless telecommunications facility, on the subject premises conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

**NOW, THEREFORE, BE IT RESOLVED**, by the New Jersey Meadowlands Commission, that the PSE&G/Verizon Wireless Facility application for one use variance request to install a new light public utility, specifically a wireless telecommunications facility on the subject premises is hereby **APPROVED** for the reasons set forth in the November 7, 2007, recommendation.

The foregoing was adopted on Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-101

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: November 28, 2007

Subject: Variance Recommendation PSE&G/Verizon Wireless Facility (File 07-069)

An application for one (1) use variance was filed with the New Jersey Meadowlands Commission by Michael R. Beck, Esq., of the firm Hiering, Dupignac, Stanzione & Dunn, on behalf of New York SMSA Limited Partnership d/b/a Verizon Wireless, for the premises located on West Side Avenue and identified as Block 442, Lot 5 (formally Block 443, Lot 16B), in the Township of North Bergen, New Jersey. Said premises are located in the Commission's Environmental Conservation zone.

The use variance is sought in connection with the applicant's proposal to install a new light public utility, specifically a wireless telecommunications facility on the subject premises. The applicant has requested variance relief from N.J.A.C. 19:4-5.9(a) which does not list new light public utilities (wireless telecommunications facilities) as permitted uses in the Environmental Conservation zone. A public hearing on this matter was held in the Office of the NJMC on August 28, 2007.

In a comprehensive report dated November 7, 2007, the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director recommended approval of the use variance request in connection with the applicant's proposal to install a new light public utility, specifically a wireless telecommunications facility, on the subject premises.

At this time, the Commission is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION  
SUBMITTED AS PART OF FILE NO. 05-584,  
FRANCISCO/F&C FRANCISCO BUILDERS - ADD. ALT.  
BLOCK 662, LOTS 35, 36, 37, 38, 39, 40 AND 41,  
IN THE CITY OF JERSEY CITY**

**WHEREAS**, application for one (1) bulk variance was filed with the New Jersey Meadowlands Commission ("NJMC") by Fernando Francisco of F&C Francisco Builders, for the premises identified as 25-27 Lewis Avenue, Block 662, Lots 35, 36, 37, 38, 39, 40 and 41, in the City of Jersey City, New Jersey; and

**WHEREAS**, the variance is sought in connection with the applicant's proposal to construct an additional loading door on the subject premises; and

**WHEREAS**, the applicant has requested variance relief from N.J.A.C. 19:4-8.4(a) Table 8-1, No. 75, which requires one loading space that is 12 feet wide by 60 feet long. The applicant is proposing one loading space that is 12 feet wide by 48 feet long on the subject premises; and

**WHEREAS**, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in The Jersey Journal; and

**WHEREAS**, a public hearing was held in the Office of the NJMC on September 11, 2007, before Sharon Mascaró, Chief Engineer, and Brandon Alviano, Staff Planner; and

**WHEREAS**, a comprehensive report dated November 9, 2007, has been prepared indicating the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director in this matter; and

**WHEREAS**, the report recommends approval of the bulk variance request to permit a 12 feet wide by 48 feet long loading space on the subject premises; and

**WHEREAS**, the members of the NJMC have reviewed the full record including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, and the submissions of the applicant; and

**WHEREAS**, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

WHEREAS, the NJMC hereby determines that the requested variance to permit a 12 feet wide by 48 feet long loading space on the subject premises conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that the Francisco/F&C Francisco Builders-Add. /Alt. application for one bulk variance request to permit a 12 feet wide by 48 feet long loading space on the subject premises, is hereby **APPROVED** for the reasons set forth in the November 09, 2007 recommendation.

The foregoing was adopted on Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

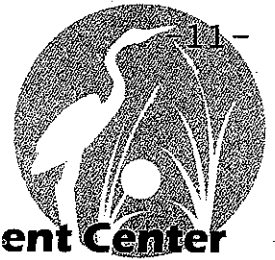
I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-102

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

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From: Ileana Kafrouni Date: November 28, 2007

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Subject: Variance Recommendation Francisco/F&G Francisco Builders-Add./Alt. (File 05-584)

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Application for one (1) bulk variance was filed with the New Jersey Meadowlands Commission by Fernando Francisco of F&G Francisco Builders, for the premises identified as 25-27 Lewis Avenue, Block 662, Lots 35, 36, 37, 38, 39, 40 and 41, in the City of Jersey City, New Jersey. Said premises are located in the Commission's Heavy Industrial zone. The variance is sought in connection with the applicant's proposal to construct an additional loading door on the subject premises.

The applicant has requested variance relief from N.J.A.C. 19:4-8.4(a) Table 8-1, No. 75, which requires one loading space that is 12 feet wide by 60 feet long. The applicant is proposing one loading space that is 12 feet wide by 48 feet long on the subject premises. A public hearing on this matter was held in the Office of the NJMC on September 11, 2007.

In a comprehensive report dated November 9, 2007 the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director recommended approval of the bulk variance request in connection with the applicant's proposal to construct and additional loading door on the premises.

At this time, the Commission is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION  
SUBMITTED AS PART OF  
FILE NO. 06-149 HARTZ/HLJ BILLBOARD VARIANCE  
BLOCK 227.01, LOT 1, IN THE TOWN OF SECAUCUS**

**WHEREAS**, an application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Joseph Jacobs of HLJ, LLC for the premises identified as 150 Harmon Meadow Boulevard, Block 227.01, Lot 1, in the Town of Secaucus; and

**WHEREAS**, the variance is sought in connection with the applicant's proposal to erect one additional 14 foot by 48 foot sign above the existing billboard at the subject premises; and

**WHEREAS**, the applicant requested relief from N.J.A.C. 19:4-8.14(h)7iii, which provides that the maximum permitted number of billboard signs is one per lot. Therefore, a bulk variance is required; and

**WHEREAS**, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in the Secaucus Home News and the Jersey Journal newspapers; and

**WHEREAS**, a public hearing was held in the Office of the NJMC on June 27, 2006, before Sharon Mascaró, Chief Engineer; Mia Petrou, Senior Staff Planner; and Shawn Alsop, Senior Staff Engineer; and

**WHEREAS**, a comprehensive report dated November 22, 2006, has been prepared indicating the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director in this matter; and

**WHEREAS**, the report recommends denial of the bulk variance request to permit an additional billboard sign on the existing pole at the subject premises; and

**WHEREAS**, the applicant appealed the recommendation in a letter dated December 5, 2006 by the applicant's attorney, Louis Rainone, Esq. of DeCotiis, Fitzpatrick, Cole & Wisler, LLC; and

**WHEREAS**, the applicant withdrew the appeal of the recommendation report in a letter dated February 8, 2007 by the applicant's attorney, Louis Rainone, Esq. of DeCotiis, Fitzpatrick, Cole & Wisler, LLC; and

WHEREAS, the members of the NJMC have reviewed the full record, including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, the submissions of the applicant and all written public comments; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

WHEREAS, the NJMC hereby determines that the requested variance to erect one additional 14 foot by 48 foot sign above the existing billboard at the subject premises does not conform with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

**NOW, THEREFORE, BE IT RESOLVED**, by the New Jersey Meadowlands Commission, that the Hartz/HLJ Billboard Variance request for the construction of one additional 14 foot by 48 foot sign above the existing billboard at the subject premises is hereby **DENIED** for the reasons set forth in the November 22, 2006, recommendation.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-103

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: November 28, 2007

Subject: Variance Recommendation: Hartz/HLJ - Billboard Variance (File 06-149)

Application for one (1) bulk variance was filed with the New Jersey Meadowlands Commission by Joseph Jacobs of HLJ, LLC for the premises identified as 150 Harmon Meadow Boulevard, Block 227.01, Lot 1, in the Town of Secaucus, New Jersey. Said premises are located in the Commission's Regional Commercial zone. The variance is sought in connection with the applicant's proposal to erect one additional 14 foot by 48 foot sign above the existing billboard at the subject premises.

The applicant has requested variance relief from N.J.A.C. 19:4-8.14(h)7iii, which provides that the maximum permitted number of billboard signs is one per lot. The applicant is proposing to erect a second sign above the existing billboard at the subject premises. Therefore, a bulk variance is required. A public hearing was held in the Office of the NJMC on June 27, 2006 on this matter.

In a comprehensive report dated November 22, 2006, the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director recommended denial of the bulk variance request to permit a second sign above the existing billboard at the subject premises.

The applicant appealed the recommendation in a letter dated December 5, 2006 by the applicant's attorney, Louis Rainone, Esq. of DeCotiis, Fitzpatrick, Cole & Wisler, LLC, but later withdrew the appeal of the recommendation on February 8, 2007.

At this time, the Commission is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ADOPTING THE  
HACKENSACK MEADOWLANDS DISTRICT TRANSPORTATION PLAN**

**WHEREAS**, the Hackensack Meadowlands Transportation Planning District (HMTPD) Act established the Meadowlands Transportation Planning District (MTPD) and permits fees to be assessed for transportation purposes; and

**WHEREAS**, the Meadowlands District Transportation Plan (Plan) projects significant increases in vehicle trips, miles of travel, and congestion on numerous roads and intersections in the 2030 analysis year; and

**WHEREAS**, the MTPB unanimously passed a resolution recommending the Plan to the NJMC on October 22, 2007; and

**WHEREAS**, the Plan, developed in accordance with the guidelines set forth in the HMTPD Act, establishes goals, policies, needs, and improvement priorities for all modes of transportation within the District for the ensuing 20 years; and

**WHEREAS**, the fee schedule provided in Chapter VI of the Plan includes a formula that relates the use of land to the proposed development's impact on the transportation system; and

**WHEREAS**, the fee rate is imposed for each additional vehicle mile of travel (VMT) created by a development; and

**WHEREAS**, the fee can be calculated by multiplying the A.M. and P.M. peak trips of existing and proposed land uses by the applicable VMT factors found in the Plan in Table VI-9; and

**WHEREAS**, the total development fee is the result of the calculated net VMT multiplied by the Plan's fee rate; and

**WHEREAS**, the fee rate is currently set in the Plan at \$283.32; and

**WHEREAS**, this rate shall be increased annually each February with the January release of the Consumer Price Index for the Northeast Urban Series, or by the NJMC's adoption of an updated version of the; and

**WHEREAS**, the formula is sufficiently certain and definitive to enable any person who may be required to pay a fee to predict the limit and extent of the fee that will be assessed against a proposed development; and

WHEREAS, the HMTPD Act, the Plan, and subsequent implementing regulations will provide for credits to be applied to assessed fees for the construction of Plan elements or transportation efficiencies incorporated into a development; and

WHEREAS, the credit categories include transit related improvements, transit oriented developments, infill development, high-density residential development, and various parking initiatives; credits range from two to fifteen percent and shall be applied for in advance of Zoning Certificate approval; and

WHEREAS, the fee may be assessed either at the time a new or revised Zoning Certificate is issued, or in a series of payments with interest; and

WHEREAS, such series payments may be made over a period of 5, 10, or 20 years by way of a Memorandum of Agreement with the NJMC and lien against the land pursuant to and in the same manner and proceedings as Title 54 of the New Jersey Revised Statutes; and

WHEREAS, series payments shall be due annually and shall include an interest rate equal to the applicable Federal Prime Rate plus one point; and

WHEREAS, any refunds or appeals of the fee shall follow the guidelines set forth in the HMTPD Act and subsequent regulations; and

WHEREAS, all monies collected from assessed development fees shall be deposited into the MTPD Fund and will be under the control of the NJMC Chief Financial Officer; and

WHEREAS, monies within the MTPD Fund shall be earmarked for the implementation of Plan elements.

**NOW, THEREFORE BE IT RESOLVED** that the New Jersey Meadowlands Commission (NJMC) adopt the Meadowlands District Transportation Plan; and

**BE IT FURTHER RESOLVED** that the NJMC adopt the Meadowlands District Transportation Plan Fee Schedule, effective immediately; and

**BE IT FURTHER RESOLVED** that the NJMC authorize the creation of the Meadowlands Transportation Planning District Fund; and

**BE IT FURTHER RESOLVED** that the NJMC directs the staff to draft a Notice of Proposal and proposed NJMC Regulations to effectuate the Meadowlands District Transportation Plan.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

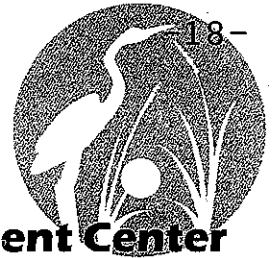
I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-104

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: November 28, 2007

Subject: Adoption of the Hackensack Meadowlands District Transportation Plan

The Hackensack Meadowlands Transportation Planning District (HMTPD) Act was enacted by the Senate and General Assembly of the State of New Jersey on June 24, 2005. It established the Meadowlands Transportation Planning District (MTPD) and permits fees to be assessed for transportation purposes. The Act provides guidelines for the creation of the Hackensack Meadowlands District Transportation Plan (Plan), establishes the Meadowlands Transportation Planning Board (MTPB) to oversee the development of the Plan, and prescribes a joint planning process involving the Meadowlands Transportation Plan Advisory Committee (MTPAC) and a public hearing. The plan was created in conjunction with the New Jersey Meadowlands Commission (NJMC) consultants including DMJM Harris, the Rutgers University Voorhees Transportation Center, and James Nicholas, a nationally renowned impact fee expert. Six meetings of both the MTPB and MTPAC were held between June 2006 and October 2007. A 90-day public comment period on the Plan began on June 12, 2007 and closed on August 13, 2007, including three public hearings on July 12, 2007 and a 30-day extension. All public comments received have been addressed within the Plan as applicable. On October 22, 2007 the MTPB unanimously passed a resolution recommending the Plan to the NJMC. The HMTPD Act requires the adoption of the Plan by the New Jersey Meadowlands Commission, upon its recommendation by the MTPB, in order to provide for the assessment and collection of development fees for developments within the District.

The Plan projects significant increases in vehicle trips, miles of travel, and congestion on numerous roads and intersections in the 2030 analysis year. The Plan, developed in accordance with the guidelines set forth in the HMTPD Act, establishes goals, policies, needs, and improvement priorities for all modes of transportation within the District for the ensuing 20 years. The plan proposes 6 shuttles routes, 8 roadway segment improvements, 29 intersection improvements, 30 miles of mixed use paths, 6 pedestrian improvement areas, and several District-wide programs. The projects are located throughout the District. The improvements were developed to mitigate existing and projected congestion. Additionally, the shuttle, bicycle, and pedestrian improvements also provide alternate means of connection between various modes of transportation throughout the District.

The fee schedule provided in Chapter VI of the Plan includes a formula that relates the use of land to the proposed development's impact on the transportation system. The fee rate is imposed for each additional vehicle mile of travel (VMT) created by a development. The fee can be calculated by multiplying the A.M. and P.M. peak trips of existing and proposed land uses by the applicable VMT factors found in the Plan in Table VI-9. The VMT Factors are derived from the United States Department of Transportation 2001 National Household Transportation Study, adapted for the Meadowlands District average trip length, and for short trip types within the general Institute of Transportation Engineers Trip Generation Categories. The total development fee is the result of the calculated net VMT multiplied by the Plan's fee rate. The fee rate is currently set in the Plan at \$283.32 per VMT. This rate shall be increased annually each February with the January release of the Consumer Price Index for the Northeast Urban Series, or by the NJMC's adoption of an updated version of the Plan (required every five years, at a minimum). The development fee formula is sufficiently certain and definitive to enable any person who may be required to pay a fee to predict the limit and extent of the fee that will be assessed against a proposed development.

The HMTPD Act, the Plan, and subsequent implementing regulations will provide for credits to be applied to assessed fees for the construction of Plan elements or transportation efficiencies incorporated into a development. The credit categories include transit related improvements, transit oriented developments, infill development, high-density residential development, and various parking initiatives; credits range from two to fifteen percent and shall be applied for in advance of Zoning Certificate approval. Additionally, the fee may be assessed either at the time a new or revised Zoning Certificate is issued, or in a series of payments with interest. Such series payments may be made over a period of 5, 10, or 20 years by way of a Memorandum of Agreement with the NJMC and lien against the land pursuant to and in the same manner and proceedings as Title 54 of the New Jersey Revised Statutes. Series payments shall be due annually and shall include an interest rate equal to the applicable Federal Prime Rate plus one point. Any refunds or appeals of the fee shall follow the guidelines set forth in the HMTPD Act and subsequent regulations. All monies collected from assessed development fees shall be deposited into the MTPD Fund and will be under the control of the NJMC Chief Financial Officer. Monies within the MTPD Fund shall be earmarked for the implementation of Plan elements.

The NJMC staff is requesting that the Commission adopt the Meadowlands District Transportation Plan and Fee Schedule, effective immediately; authorize the creation of the Meadowlands Transportation Planning District Fund; and direct the staff to draft a Notice of Proposal and proposed NJMC Regulations to effectuate the Meadowlands District Transportation Plan.

**RESOLUTION ISSUING A DECISION ON THE  
SUITABILITY RECOMMENDATION AS REQUIRED BY THE  
NJMC EMERGENCY RESTRAINTS UPON FURTHER DEVELOPMENT  
FOR FILE NO. 07-571, HARTZ/WAL-MART - ADDITION  
BLOCK 227, LOTS 4.05 AND 4.06, IN THE TOWN OF SECAUCUS**

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing"; and

WHEREAS, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," that will govern the review of and restraints upon applications for further development in the Meadowlands District; and

WHEREAS, the Guidelines govern all zoning certificate applications received on or after May 21, 2007 and remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, the Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, to review each zoning certificate application to determine the suitability of the subject site for residential use; and

WHEREAS, a zoning certificate application was submitted to the NJMC on August 30, 2007 by Brian E. Hooper, of Wal-Mart Real Estate Business Trust, for the premises identified as 400 Park Place, Block 227, Lots 4.05 and 4.06, in the Town of Secaucus, New Jersey and which is located in the Regional Commercial zone; and

WHEREAS, the application proposes to construct an approximately 20,568 square foot addition on the subject property, and as such, is not exempt from the Emergency Restraints; and

**WHEREAS**, the application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints; and

**WHEREAS**, a suitability review, dated November 16, 2007, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

**WHEREAS**, the suitability review recommends that Lot 4.05 is unsuitable for residential use; and

**WHEREAS**, the suitability review recommends that Lot 4.06 is suitable for residential use; and

**WHEREAS**, the members of the NJMC have reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

**WHEREAS**, the members of the NJMC concur with the recommendation of the Review Team; and

**WHEREAS**, the NJMC hereby determines that Lot 4.05 is unsuitable for residential use; and

**WHEREAS**, the NJMC hereby determines that Lot 4.06 is suitable for residential use.

**NOW, THEREFORE, BE IT RESOLVED**, by the New Jersey Meadowlands Commission, that the subject property located at Block 227, Lot 4.05, in the Town of Secaucus is unsuitable for residential use; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, by the New Jersey Meadowlands Commission, that the subject property located at Block 227, Lot 4.06, in the Town of Secaucus is suitable for residential use.

The foregoing was adopted on Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-105

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

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From: Ileana Kafrouni Date: November 28, 2007

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Subject: Site Suitability Recommendation for 400 Park Place in the Town of Secaucus

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In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing. Thereafter, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission."

These Guidelines will govern the review of and restraints upon zoning certificate applications for further development in the Meadowlands District. The Guidelines apply to all zoning certificate applications received on or after May 21, 2007 and will remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first. The Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, to review each zoning certificate application to determine the suitability of the subject site for residential use.

A zoning certificate application was submitted to the NJMC on August 30, 2007, by Brian E. Hooper, Sr., of Wal-Mart Real Estate Business Trust, for the premises identified as 400 Park Place, Block 227, Lots 4.05 and 4.06, in the Town of Secaucus, New Jersey and which is located in the Regional Commercial zone. The application proposes the construction of an approximately 20,568 square foot addition on the subject property, and as such, is not exempt from the Emergency Restraints.

The application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints. A suitability review, dated November 16, 2007, has been prepared, indicating that the Review Team recommends that Lot 4.05 is unsuitable for residential use and that Lot 4.06 is suitable for residential use.

At this time, Staff is recommending that the members of the NJMC concur with the suitability recommendation prepared by the Review Team, regarding the subject property, which determines that Lot 4.05 is unsuitable for residential use and Lot 4.06 is suitable for residential use.

## Suitability Review - Summary

File No. 07-571

Hartz/Wal-Mart - Addition

Block 227, Lot 4.05, in the Town of Secaucus

A zoning certificate application (File No. 07-621) was submitted to the NJMC on August 30, 2007, by Brian E. Hooper, Sr., of Wal-Mart Real Estate Business Trust, for the premises identified as 400 Park Place, Block 227, Lots 4.05 and 4.06, in the Town of Secaucus, New Jersey. The application proposes the construction of an approximately 20,568 square foot addition on the subject property.

The subject property is located in the Regional Commercial zone. As such, the site characteristics of the property have been evaluated in accordance with the "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," adopted by the NJMC on September 19, 2007.

### Proposed Use

As previously mentioned, the applicant proposes to construct an approximately 20,568 square foot addition to the existing Wal-Mart retail store on Lot 4.05. The addition will be constructed on existing impervious areas, which include the location of the existing Garden Center and the Tire and Lube Express facility, along with associated parking and loading areas. The proposed plan utilizes a portion of an adjacent lot (Lot 4.06) to address the additional parking required for the new construction.

**In accordance with Section II(e)3 of the Emergency Restraints, a site shall be deemed unsuitable if any of the following apply:**

#### i. Size of Property

Properties that contain less than 7,500 square feet of buildable land are deemed unsuitable to support the development of housing.

- Lot 4.05, as it currently exists, does not have significant areas of excess open space. The regulations require that a minimum of 20 percent of the site be maintained as open space. Lot 4.05 currently includes 24 percent open space. The small amount of excess open space is comprised of wetlands and wetland buffers that cannot be developed. Therefore, on Lot 4.05, there is no buildable land that has not already been developed on the site.

- The portion of Lot 4.06 that is proposed to be used to address the required parking for the addition has an area of 1.37 acres (59,677 square feet) and is currently a paved parking lot. This portion of Lot 4.06 could be considered to be buildable land suitable to support the development of housing.

#### **ii. Former and Existing Land Uses**

The existence of former and existing land uses, either on-site or in the vicinity of the site or in the vicinity, may expose residents to environmental hazard, unless the site is remediated to NJDEP residential standards.

- The NJMC is not aware of any conditions on or in the vicinity of the subject property, either former or existing, that may expose residents to environmental hazard.

#### **iii. Size, Shape, or Layout**

The size, shape, or layout of existing structures, or other physical limitation(s) not listed previously, precludes residential use.

- There is no extra area on Lot 4.05 to build any residential units. The existing layout of the retail buildings, parking and loading areas, open space areas, drainage facilities, and wetlands would preclude residential use.
- The portion of Lot 4.06 that is proposed to be used to address the required parking for the addition is currently a paved parking lot.

#### **iv. COAH's Site Suitability Requirements**

The site does not meet applicable COAH site suitability requirements at N.J.A.C. 5:94-1.4 and 4.5. A site would not meet COAH site suitability requirements if any one of the following items are applicable:

1. The application does not comply with pertinent wetland regulations.
2. The site contains flood hazard constraints as defined in N.J.A.C. 7:13.
3. The site is listed on the State or National Register of Historic Places.
4. Adequate infrastructure, including utilities and/or roadways, is not available.
  - Items 1 through 4 above are not applicable to the subject property.

#### **v. Sound Planning Principles**

The site is unsuitable for residential use pursuant to sound planning principles.

- Lot 4.05 is fully built-out with the Sam's Club and Wal-Mart buildings, and associated parking and loading areas, access roads, and drainage facilities. There is no appropriate area to construct residential units. The applicant is proposing to eliminate the garden center and Tire and Lube Express facility to construct the addition.

- The portion of Lot 4.06 that is proposed to be used to address the required parking for the addition has an area of 1.37 acres. The original purpose for the parking on Lot 4.06 was to provide required parking for the convention center. Sufficient required parking for the convention center has since been relocated elsewhere. Therefore, this lot is not being utilized for any required use and is thus available for new development, such as a residential use.

In accordance with Section II(e)3 of the Emergency Restraints, four of the above criteria apply to Lot 4.05. As a result, Lot 4.05 is deemed unsuitable for housing. However, as concluded by this analysis, Lot 4.06 is deemed suitable for housing.

Therefore, the applicant may proceed with the proposed development. However, in order to proceed, the site plan must be revised so that all of the required parking for Wal-Mart, Sam's Club, and the proposed addition are located on Lot 4.05. In addition, the proposed development would generate a need for affordable housing within the municipality. As a condition of zoning certificate approval, the applicant shall be required to satisfy the project's affordable housing requirements as per Section II of the Emergency Restraints.

**RESOLUTION ISSUING A DECISION ON THE  
SUITABILITY RECOMMENDATION AS REQUIRED BY THE  
NJMC EMERGENCY RESTRAINTS UPON FURTHER DEVELOPMENT  
FOR FILE NO. 07-621, 20 AQUARIUM DRIVE LLC/  
NRS INTERMODAL FACILITY-NEW BUILDING  
BLOCK 1000, LOTS 1, 6 & 13, IN JERSEY CITY**

WHEREAS, in a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing; and

WHEREAS, on July 25, 2007, the Commission adopted Resolution No. 07-68, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing"; and

WHEREAS, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," that will govern the review of and restraints upon applications for further development in the Meadowlands District; and

WHEREAS, the Guidelines govern all zoning certificate applications received on or after May 21, 2007 and remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first; and

WHEREAS, the Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, to review each zoning certificate application to determine the suitability of the subject site for residential use; and

WHEREAS, a zoning certificate application was submitted to the NJMC on September 27, 2007 by Paul Hennessy, of 20 Aquarium Drive, LLC, for the premises identified as 535 Secaucus Road, Block 1000, Lots 1, 6 & 13, in Jersey City, New Jersey and which is located in the Intermodal B zone; and

WHEREAS, the application proposes to construct a 202,500 square foot intermodal truck terminal on the subject property, and as such, is not exempt from the Emergency Restraints; and

**WHEREAS**, the application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints; and

**WHEREAS**, a suitability review, dated November 16, 2007, and attached hereto, has been prepared, indicating the recommendation of the Review Team in this matter; and

**WHEREAS**, the suitability review recommends that the subject property is unsuitable for residential use; and

**WHEREAS**, the members of the NJMC have reviewed the suitability review and recommendation prepared by the Review Team, regarding the subject property; and

**WHEREAS**, the members of the NJMC concur with the recommendation of the Review Team; and

**WHEREAS**, the NJMC hereby determines that the subject property is unsuitable for residential use.

**NOW, THEREFORE, BE IT RESOLVED**, by the New Jersey Meadowlands Commission, that the subject property located at Block 1000, Lots 1, 6 & 13, in Jersey City is unsuitable for residential use.

The foregoing was adopted on Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: November 28, 2007

Subject: Site Suitability Recommendation for 535 Secaucus Road in Jersey City

In a decision dated May 21, 2007 (A-4174-03T3; A-3107-04T1), the Appellate Division of the New Jersey Superior Court determined, among other things, that the New Jersey Meadowlands Commission (NJMC) should consider whether new development in the Meadowlands District should be avoided until the Commission implements new rules concerning affordable housing. The Commission followed up by adopting Resolution No. 07-68, on July 25, 2007, which approved the "Policy Statement Regarding the NJMC's Expanded Responsibilities to Plan and Zone for Affordable Housing. Thereafter, on September 19, 2007, the Commission adopted Resolution No. 07-74, which approved Guidelines entitled, "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission."

These Guidelines will govern the review of and restraints upon zoning certificate applications for further development in the Meadowlands District. The Guidelines apply to all zoning certificate applications received on or after May 21, 2007 and will remain in effect until the NJMC promulgates new regulations concerning affordable housing, or the Guidelines are withdrawn or rescinded by Commission action or court order, whichever occurs first. The Guidelines set forth the criteria for a Review Team, comprised of three NJMC staff members including one New Jersey-licensed professional engineer and one New Jersey-licensed professional planner, to review each zoning certificate application to determine the suitability of the subject site for residential use.

A zoning certificate application was submitted to the NJMC on September 27, 2007, by Paul Hennessy, of 20 Aquarium Drive, LLC, for the premises identified as 535 Secaucus Road, Block 1000, Lots 1, 6 & 13, in Jersey City, New Jersey and which is located in the Intermodal B zone. The application proposes the construction of a 202,500 square foot intermodal truck terminal at 535 Secaucus Road in Jersey City, and as such, is not exempt from the Emergency Restraints.

The application was forwarded to the Review Team for review of the application in accordance with the Emergency Restraints. A suitability review, dated November 16, 2007, has been prepared, indicating that the Review Team recommends that the subject property is unsuitable for residential use.

At this time, Staff is recommending that the members of the NJMC concur with the suitability recommendation prepared by the Review Team, regarding the subject property, which determines that the subject property is unsuitable for residential use.

## Suitability Review - Summary

*File No. 07-621*

*20 Aquarium Drive LLC/NRS Intermodal Facility - New Building  
Block 1000, Lots 1, 6 & 13, in Jersey City*

A zoning certificate application was submitted to the NJMC on September 27, 2007, by Paul Hennessy, of 20 Aquarium Drive, LLC, for the premises identified as 535 Secaucus Road, Block 1000, Lot 1, 6 & 13, in Jersey City, New Jersey. The application proposes the construction of a 202,500 square foot intermodal truck terminal at 535 Secaucus Road in Jersey City.

The subject property is located in the Intermodal B zone, which is **deemed unsuitable for housing** in accordance with the "Emergency Restraints upon Further Development in the Meadowlands District, Instituted by the New Jersey Meadowlands Commission," adopted by the NJMC on September 19, 2007.

Therefore, the applicant may proceed with the proposed development; however, the proposed development will generate a need for affordable housing within the municipality. As a condition of zoning certificate approval, if granted, the applicant shall be required to satisfy the project's affordable housing requirements as per Section II of the Emergency Restraints.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR  
TO ENTER INTO  
CONTRACT SW 07-01: KEEGAN SITE IMPROVEMENTS**

**WHEREAS**, the New Jersey Meadowlands Commission is obligated under a lease with the Town of Kearny to remediate the site known as the Keegan Landfill; and

**WHEREAS**, the NJMC will remediate the site by reopening the site as a construction and demolition (C&D) landfill; and

**WHEREAS**, the New Jersey Department of Environmental Protection requires certain closure improvements to be in place before the site can operate as a C&D landfill; and

**WHEREAS**, Converse Consultants, under contract to the NJMC, prepared Contract Documents for Contract SW 07-01: Keegan Site Improvements, which include the construction of a slurry wall, a leachate collection and disposal system, a stormwater control system, and scales; and

**WHEREAS**, Contract SW 07-01 was publicly advertised; and

**WHEREAS**, a total of twenty prospective bidders purchased the Contract Documents during the bid period; and

**WHEREAS**, a total of 12 prospective bidders attended the mandatory pre-bid meeting on November 1, 2007; and

**WHEREAS**, 4 bids were received on November 20, 2007; and

**WHEREAS**, staff review of the bids indicates that the bid submitted by Creamer/Sanzari Joint Venture is the lowest responsive bid and that all bid forms were properly completed and the bid was submitted with the required Proof of Valid Business Registration Certificate for State Agency and Casino Service Contracts - Department of Treasury - Division of Revenue and Proof of Registration with the Public Works Contractor Registration Act - Department of Labor, for both the prime contractor and all listed subcontractors; and

**WHEREAS**, due to the unregulated filling that occurred in the past at the site there is a possibility of encountering unexpected and unanticipated wastes during construction; and

**WHEREAS**, the contractor may be required to provide special handling and disposal of these wastes; and

WHEREAS, the timely resolution of any issues or events that may impact the completion of the project is in the best interests of the Commission; and

WHEREAS, having a contingency fund of \$852,450.00 to account for unforeseen circumstances during construction would prevent any unnecessary delays in the approval of change orders and allow timely completion of the project.

NOW, THEREFORE, BE IT RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is hereby authorized to execute Contract SW 07-01: Keegan Site Improvements, with Creamer/Sanzari Joint Venture for an amount not to exceed \$21,147,550.00, and that a contingency fund in the amount of \$852,450.00 is created for Contract SW 07-01; for a total amount authorized by this resolution of \$22,000,000.00.

The foregoing was adopted on Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-107

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

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From: Thomas R. Marturano Date: November 28, 2007

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Subject: Keegan Landfill - Site Improvements

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Pursuant to the New Jersey Meadowlands Commission's obligation under a lease with the Town of Kearny, the NJMC is remediating the Keegan landfill site by reopening the site as a construction and demolition landfill to secure funds for the remediation improvements. Prior to operating the site as a C&D landfill the NJDEP requires numerous site improvements to be constructed at the site. The major components of these improvements include a slurry wall, a leachate collection and disposal system, a stormwater control system, and scales. The leachate collection system will discharge into the Kearny Municipal Utilities Authority at the KMUA's proposed Bergen Avenue Pumping Station. As the Keegan leachate flow is about 50 percent of the flow to the proposed Bergen Avenue pumping station, the NJMC is also funding approximately 50 percent of the cost of that station as part of the overall Keegan project. This not only provides a discharge point for the Keegan site leachate but also allows the KMUA to provide sanitary sewerage service to this portion of Kearny.

Under the conditions of our lease, upon completion of the remediation and filling at the Keegan site, the Keegan site will return to the Town of Kearny and the area will be used as open space by the Town of Kearny.

Contract Documents for the construction of these improvements were prepared by Converse Consultants and were advertised for public bidding in three local newspapers as required. A mandatory pre-bid meeting was held on November 1, 2007. Of the twenty firms that obtained the Contract Documents, twelve firms were in attendance at the pre-bid meeting. These twelve firms were eligible to submit a bid.

The following four (4) bids were received on November 20, 2007.

Creamer/Sanzari Joint Venture	\$ 21,147,550.00
Pillari Brothers	22,742,664.00
Barbella Construction Services, LLC	24,262,084.00
Moretrench American Corporation	25,132,000.00

The solid waste staff has reviewed the bids and has found that the bid from Creamer/Sanzari Joint Venture, in the amount of \$21,147,550.00 is the lowest responsible bid.

All bid forms were properly completed and the bid was submitted with the required Proof of Valid Business Registration Certificate for State Agency and Casino Service

Contracts - Department of Treasury - Division of Revenue and Proof of Registration with the Public Works Contractor Registration Act - Department of Labor, for both the prime contractor and all listed subcontractors.

Accordingly, I recommend that the Commission authorize the Executive Director to execute Contract SW 07-01: Keegan Site Improvements, with Creamer/Sanzari Joint Venture for an amount not to exceed \$21,147,550.00.

The Keegan site is a 110 acre existing landfill, located directly adjacent to the Kearny freshwater marsh. The landfill received waste between the early 1960's and 1971. During that time there were no controls or regulations to regulate the waste being disposed of. As a result, the condition and quality of the solid waste is unknown. Therefore there is a possibility that unexpected and unanticipated types of waste may be encountered during construction. Depending on their nature, the contractor may be required to provide special handling and disposal of these wastes.

In order not to impact the completion of the project, and to provide for the timely resolution of any possible issues that may occur during construction, I recommend that a contingency amount of \$852,450.00 be authorized to cover possible change orders during the construction.

In summary, I recommend that the Commission authorize a total amount of \$22,000,000.00 as outlined in the attached Resolution, for Contract SW 07-01: Keegan Site Improvements.

**RESOLUTION AUTHORIZING THE PUBLICATION OF A NOTICE OF  
ADOPTION AND THE REZONING OF  
BLOCK 108, LOT 2,  
IN LYNDHURST, NEW JERSEY**

**WHEREAS**, the New Jersey Meadowlands Commission (NJMC) is authorized by N.J.S.A. 13:17 *et seq.* to adopt codes and standards regarding the zoning and rezoning of lands within the Meadowlands District; and

**WHEREAS**, the NJMC staff received a petition from 313 Newark LLC, on March 10, 2007, requesting a rezoning of Block 108, Lot 2, in the Township of Lyndhurst; and

**WHEREAS**, the subject property accounts for approximately 0.19 acres of land currently zoned Low Density Residential; and

**WHEREAS**, the petitioner is seeking a rezoning of the subject property to Neighborhood Commercial related to its unique location adjacent to commercial land uses to the north, high-traffic frontage, and other surrounding non-residential land uses in the neighborhood; and

**WHEREAS**, the NJMC staff requested authorization on April 25, 2007, to proceed with considering the proposed rezoning; and

**WHEREAS**, a Notice of Proposal was filed with the Office of Administrative Law for publication in the June 18, 2007, issue of the New Jersey Register; and

**WHEREAS**, a public hearing was held at the offices of the Commission on July 10, 2007, where no objections to the proposed rezoning were received; and

**WHEREAS**, the NJMC staff has determined that the proposed rezoning would promote the utilization of the subject parcel in a manner consistent with the intent of the character of the adjacent property and the surrounding neighborhood; and

**WHEREAS**, based on the record in this matter, the NJMC staff recommends that the property in question be rezoned to Neighborhood Commercial.

**NOW, THEREFORE, BE IT RESOLVED**, that the New Jersey Meadowlands Commission hereby adopts the rezoning of Block 108, Lot 2, in the Township of Lyndhurst, New Jersey from Low Density Residential to Neighborhood Commercial and authorizes the staff to prepare and submit a Notice of Adoption to the Office of Administrative Law for publication in the New Jersey Register. The rezoning will become effective upon publication in the Register.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-108

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio

From: Ileana Kafrouni Date: November 28, 2007

Subject: Request to Publish Notice of Adoption  
Rezoning of Block 108, Lot 2 in the Township of Lyndhurst, New Jersey

On April 25, 2007, the New Jersey Meadowlands Commission (NJMC) authorized its staff to file a Notice of Proposal and hold a public hearing regarding a petition to rezone an approximately 0.19-acre site identified as Block 108, Lot 2 in the Township of Lyndhurst, which is currently zoned Low Density Residential. A Notice of Proposal was filed with the Office of Administrative Law for publication in the New Jersey Register (NJR). The Notice appeared on June 18, 2007 issue of the NJR. The public comment period ended on August 17, 2007.

On July 10, 2007, a public hearing was held at the Offices of the Commission to receive public comment on the proposal. No negative comments were received. Additionally, no comments were provided by the HMMC during its 45-day comments period, which ended on October 2, 2007.

Based on the entire record in this matter, the staff recommends that the site be rezoned to Neighborhood Commercial. Therefore, staff is requesting that the Commission adopt the recommendation herein and authorize the staff to file a Notice of Adoption with the Office of Administrative Law for publication in the New Jersey Register. A resolution requesting same is attached for your consideration.

**RESOLUTION AUTHORIZING THE PUBLICATION OF  
A NOTICE OF PROPOSAL AND TO HOLD A PUBLIC HEARING  
REGARDING A PETITION FOR REZONING OF  
501 NEW COUNTY ROAD, BLOCK 16, LOT 5, IN SECAUCUS, NEW JERSEY**

WHEREAS, the New Jersey Meadowlands Commission (NJMC) is authorized by N.J.S.A. 13:17-1, *et seq.* to adopt codes and standards regarding the zoning and rezoning of lands within the Meadowlands District; and

WHEREAS, staff of the Division of Land Use Management (LUM) of the NJMC received an application by the property owner, William Stefan of Intermodal Properties ("Petitioner"), to rezone a 5.81-acre parcel of land identified as 501 New County Road, designated on the municipal tax map as Block 16, Lot 5, in the Town of Secaucus; and

WHEREAS, the lot enumerated above is currently zoned Intermodal B; and

WHEREAS, the petitioner is seeking a rezoning to the Transportation Center zone, which zone is adjacent to the subject property to the west, north, and east; and

WHEREAS, NJMC staff has preliminarily determined that the petition merits further consideration.

**NOW, THEREFORE, BE IT RESOLVED**, by the New Jersey Meadowlands Commission, that NJMC staff is hereby authorized to prepare and submit a Notice of Proposal to the Office of Administrative Law for publication in the New Jersey Register and hold a public hearing in order to receive input from the petitioner and the general public regarding the possible rezoning of 501 New County Road, Block 16, Lot 5, in the Town of Secaucus, New Jersey.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

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From: Ileana Kafrouni Date: November 23, 2007

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Subject: SP-535 Intermodal Properties Rezoning

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On May 8, 2006, the Division of Land Use Management (LUM) of the New Jersey Meadowlands Commission (NJMC) received a petition by the property owner, William Stefan of Intermodal Properties, to rezone a 5.81-acre parcel within the Hackensack Meadowlands District, identified as 501 New County Road, Block 16, Lot 5, in the Town of Secaucus. The property is currently zoned Intermodal B. A Notice of Proposal appeared in the NJR on October 2, 2006. However, the adoption process that the Commission must follow exceeded the one year timeframe allowed by the rules of the Office of Administrative Law. At this time, the applicant has requested that the NJMC initiate the rulemaking process.

The property in question is somewhat irregularly-shaped, with a panhandle-like extension of approximately 700 feet in length to provide access to New County Road. With the exception of this driveway, the bulk of the property does not contain frontage on New County Road. The site is improved with a one-story industrial building, which is currently vacant; it was formerly occupied by a freight forwarding facility.

The property is adjacent to the Secaucus Transfer Station to the west; the Northeast Corridor rail line, the New Jersey Turnpike, and New County Road to the north; and, the Norfolk Southern rail yards and rail line to the east and south. The property's southern boundary is also formed by Penhorn Creek and the Jersey City municipal border. Properties to the south are zoned Intermodal B, and adjacent properties to the west, north, and east are in the Transportation Center zone. The Secaucus Transit Village Redevelopment Area is located northwest of the property in question, and light industrial uses and zones are located north and east of properties in the Transportation Center zone.

The parcel's current Intermodal B zoning is intended to accommodate high-intensity transportation facilities that are located proximate to rail lines in the District and whose operations are related to port and rail activities, including rail and trucking facilities and supporting uses, as well as uses related to the construction industry.

The petitioner is proposing to rezone the parcel to the Transportation Center zone, which is contiguous to the property in question. The purpose of the Transportation Center zone is to accommodate a major commuter transfer center and associated office,

hotel, and other commercial uses. Appropriate supporting uses are also encouraged to service the daily needs of the users of the zone. The application states the proposed use at the subject location would promote the NJMC Master Plan. The proposed use is a special exception use in the Transportation Center zone.

Upon preliminary review of the rezoning application, the NJMC staff feels the proposal merits further investigation, due to the site's relatively obscure location within the land use arrangement and potential to directly access major transportation connections without significant reliance on the local roadway network.

At this time, NJMC staff is requesting authorization to file a Notice of Proposal with the Office of Administrative Law for publication in the New Jersey Register in order to formally consider this proposal. In addition, the staff is requesting authorization to hold a public hearing on this matter. A resolution requesting same is attached for your consideration.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR  
TO ESTABLISH A DOWNTOWN REVITALIZATION PROGRAM FOR  
MEADOWLANDS MUNICIPALITIES**

*WHEREAS*, the 2004 *Hearing Officers' Report and Recommendations in the Matter of the Hearings Held on the Proposed Meadowlands Xanadu Redevelopment Project* acknowledged that the Xanadu project could have a spill-over effect on the Meadowlands municipalities as predicted by the developer; and

*WHEREAS*, to ensure that the Meadowlands municipalities' downtowns realize the anticipated beneficial impacts associated with their proximity to Xanadu, a condition of the 2004 *Hearing Officers Report* was that the developer provide a total of \$2 million for downtown revitalization in order to assist in creating an appropriate synergy between Xanadu and the local retailers; and

*WHEREAS*, this funding is intended to focus on retaining and enhancing the economic vitality of the existing downtown districts of the Meadowlands municipalities; and

*WHEREAS*, the New Jersey Meadowlands Commission (NJMC) received the first of four payments of \$500,000 to establish a downtown revitalization program upon the commencement of construction of Xanadu; and

*WHEREAS*, NJMC Staff requests that the Commission create an NJMC Downtown Revitalization Program to assist the 14 Meadowlands municipalities with enhancing their existing downtown retail districts to maintain a competitive edge in the marketplace.

**NOW, THEREFORE, BE IT RESOLVED**, that the Commission authorize the Executive Director to establish the NJMC Downtown Revitalization Program under the purview of the Sustainable Communities Planning Service to provide technical assistance and grants to the Meadowlands municipalities ; and

**BE IT FURTHER RESOLVED** that the Executive Director shall be authorized expend funds from this program for:

1. grants to the Meadowlands municipalities and local businesses for physical improvements, business retention, marketing strategies, and business enhancements related to downtown revitalization; and
2. establishing/co-sponsoring downtown revitalization workshops for municipalities and business enhancement workshops for local businesses.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

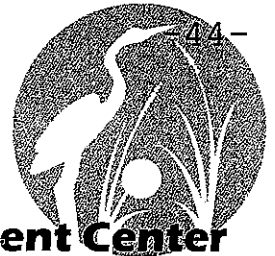
I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-110

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert R. Ceberio

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From: Ileana Kafrouni

Date: November 28, 2007

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Subject: Downtown Revitalization Program Resolution

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As a condition of the 2004 Hearing Officers Report for the Meadowlands Xanadu Redevelopment Project, the Xanadu developer is required to provide a total of \$2 million for downtown revitalization in Meadowlands municipalities. The intent of these funds is to ensure the establishment of a synergistic relationship between Xanadu and local retailers by retaining and enhancing the economic vitality of the existing downtown districts of the Meadowlands municipalities. To date, the NJMC has received the initial contribution of \$500,000.

Approval of this resolution would authorize:

- the establishment of the NJMC Downtown Revitalization Program;
- provide grants to constituent municipalities and local businesses for physical improvements and business enhancements (e.g. technology upgrades, marketing strategies); and
- afford municipalities and businesses with educational opportunities in the form of downtown revitalization and business enhancement workshops.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A SETTLEMENT AGREEMENT WITH PETER WILENTA/WILENTA FEED INC. TO RESOLVE OAL DOCKET NO. HMD-07290-2003**

**WHEREAS**, Petitioner, Peter Wilenta is President of Wilenta Feed Inc. ("WFI") and owner of P.W. Henry Wilenta Street Associates; and

**WHEREAS**, P.W. Henry Street Associates is the owner of property located at 46 Henry Street, Secaucus, New Jersey ("the Property"); and

**WHEREAS**, the Property consists of approximately 1.33 acres of real property and is located in what is known as the Light Industrial B zone of the Meadowlands District; and

**WHEREAS**, Petitioner was authorized to use the Property for the outdoor storage of trucks and equipment as a pre-existing, nonconforming use that predated the adoption of the Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq.; and

**WHEREAS**, on May 7, 2003 and May 16, 2003, the New Jersey Meadowlands Commission ("NJMC") issued notices of violations ("NOVs") to Petitioner for an illegal expansion of the pre-existing, nonconforming use; and

**WHEREAS**, the NOVs ordered Petitioner to cease and desist the transfer and storage of food waste on the Property, to demolish a concrete pit used to store waste on the Property, reduce the amount of outdoor storage and imposed daily fines; and

**WHEREAS**, on May 20, 2003, Petitioner appealed the NOVs and the matter was referred to the Office of Administrative Law ("OAL") for an adjudicatory hearing; and

**WHEREAS**, the matter was assigned to the Honorable Jesse H. Strauss, A.L.J. and a hearing was scheduled for February 10 and 23, 2006 and March 9 and 14, 2006; and

**WHEREAS**, on the first day of hearing, ALJ Strauss directed the parties to commence settlement discussions; and

**WHEREAS**, as a result of settlement discussions that occurred on February 10 and February 23, 2006 at the OAL, a settlement of the disputed issues was reached subject to approval of the Division of Law and the Commissioners of the NJMC; and

**WHEREAS**, the Settlement Agreement governs the outdoor storage activities authorized on the Property and incorporates modifications and improvements at the Property as set forth in the Site Plan dated June 26, 2006 and attached thereto; and

**WHEREAS**, based on the above, the parties have decided to amicably resolve the matter in dispute between them and have reached a mutually satisfactory agreement as to its disposition; and

**WHEREAS**, the Commission has reviewed this matter and the proposed Settlement Agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director is authorized to execute a Settlement Agreement with Petitioner, Peter Wilenta, to conclude the matter on appeal before the Office of Administrative Law.

The foregoing Resolution was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

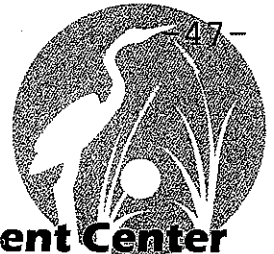
I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at their meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary

Resolution No. 07-111

# Memorandum



## Meadowlands Environment Center

To: NJMC Commissioners and Robert Ceberio, Executive Director

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From: Christine A. Sanz Date: November 28, 2007

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Subject: Settlement of In Re: Wilenta/Henry Street Violation

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The attached resolution authorizes the Commission to enter into an agreement with Petitioner, Peter Wilenta/Wilenta Feed Inc., to settle the appeal of an enforcement action pending in the Office of Administrative Law.

Petitioner owns property located at 46 Henry Street, Secaucus, New Jersey ("the Property") and is authorized to use the Property for the outdoor storage of trucks and equipment as a pre-existing, nonconforming use that predated the adoption of the Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq. However, NJMC inspections revealed that the Petitioner's activities on the Property exceeded what was previously authorized.

On May 7, 2003 and May 16, 2003, the NJMC issued notices of violations ordering Petitioner to cease and desist the transfer and storage of food waste, to demolish a concrete pit used to store waste and reduce the amount of outdoor storage. The NOV's also imposed daily fines. On May 20, 2003, Petitioner appealed the NOV's and the matter was referred to the OAL for administrative hearing.

The parties have decided to amicably resolve the matter and have reached a mutually satisfactory agreement in the form of the settlement agreement. In addition to the settlement agreement, a site plan was prepared and approved by NJMC staff. The site plan incorporates all of the requirements of the settlement agreement plus additional site improvements. The settlement agreement and site plan require Petitioner to make improvements to the Property, impose unambiguous restrictions on the storage and transfer of food waste and include penalties for noncompliance.

At this time, the staff is requesting that the Commission authorize the Executive Director to execute a Settlement Agreement with Peter Wilenta/Wilenta Feed Inc. to conclude the matter on appeal before the Office of Administrative Law. A resolution requesting the same is attached for your consideration.

Anne Milgram  
Attorney General of New Jersey  
R.J. Hughes Justice Complex  
P.O. Box 093  
Trenton, New Jersey 08625

By: Penny S. Ludman  
Deputy Attorney General  
(609) 984-6811

Attorney for Respondent,  
New Jersey Meadowlands Commission

In re: Wilenta/Henry Street  
Violation

STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

DOCKET NO. HMD-07290-2003N

**STIPULATION OF SETTLEMENT**

**BACKGROUND**

WHEREAS, P.W. Henry Street Associates is the owner of certain property located at 46 Henry Street in the City of Secaucus, Hudson County, New Jersey, also known as Block 50, Lot 5 ("Subject Property").

WHEREAS, the Subject Property consists of approximately 1.33 acres of real property and is located in an area that has been designated Light Industrial and Distribution B zone.

WHEREAS, P.W. Henry Street Associates is a New Jersey corporation wholly owned by Petitioner, Peter Wilenta.

WHEREAS, Peter Wilenta is the President of the Petitioner, Wilenta Feed Inc. ("WFI") a New Jersey corporation.

WHEREAS, Petitioner utilizes the Subject Property for the storage of trucks and equipment, and an office trailer used in the operation of WFI.

WHEREAS, Peter Wilenta, as President of WFI and owner of P.W. Henry Street Associates, has the authority to bind P.W. Henry Street Associates, WFI and the Subject Property to the terms of this Stipulation of Settlement.

WHEREAS, nothing in this Stipulation of Settlement shall be deemed an admission of liability by any person or party.

#### HISTORY

WHEREAS, on August 2, 1990, the Hackensack Meadowlands Development Commission (now known as the New Jersey Meadowlands Commission and hereinafter referred to either as "HMDC" or "NJMC") sent a letter to Petitioner, as to the permissible use allowed on the Subject Property.

WHEREAS, the Petitioner is authorized to use the Subject Property for outdoor storage of trucks and equipment as a pre-existing, non-conforming use predating the adoption of the Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq. and the regulations promulgated thereunder.

WHEREAS the NJMC alleges that only approximately 7,500 square feet of the Subject Property was utilized for truck

parking of approximately 15 vehicles and that this extent of pre-existing legal outdoor storage use would be allowed to continue.

WHEREAS, the HMDC determined that any additional outdoor storage on the Subject Property would be considered an impermissible expansion of the nonconforming use.

WHEREAS, on January 23, 1995, the NJMC sent a letter to Petitioner stating that the construction of a food waste storage pit ("Pit") was not permitted at the Subject Property.

WHEREAS, on October 25, 1995, the HMDC issued an agency determination and decision, and administrative order, in the form of a letter to Petitioner stating that an inspection revealed that the outdoor storage and transfer of baked goods continued to take place on the Subject Property in violation of N.J.A.C. 19:4-96.

WHEREAS, on May 7, 2003, following an inspection of the Subject Property, the NJMC issued a fine to Petitioner in the amount of \$1,000 and ordered that Petitioner cease and desist the transfer and storage of food/botanical products on the site, demolish the concrete pit at the northerly end of the Subject Property, and reduce the amount of outdoor storage to 7,500 square feet on the Subject Property by May 16, 2003.

WHEREAS, the NJMC informed Petitioner that if the violations were not corrected by May 16, 2003, the NJMC would

impose a fine of \$1,000 per day, commencing on May 17, 2003, until the violations are corrected.

WHEREAS, on May 16, 2003, the NJMC inspected the Subject Property and, based on that inspection, alleged that the transfer and storage of food/botanical products continued to occur on the Subject Property, the Pit containing open storage of food/botanical products had not been dismantled, and outdoor storage in excess of 7,500 square feet continued to occur on the Subject Property all in violation of NJMC regulations.

WHEREAS, the NJMC determined that the \$1000 fines imposed by the NJMC on December 12, 2002 and May 7, 2003, were final and due.

WHEREAS, on May 16, 2003, the NJMC notified Petitioner that it was imposing daily fines of \$500 per day for as long as the violations continued and ordered Petitioner to cease and desist from the transfer and storage of food/botanical products on the site, demolish the Pit at the northerly end of the property, and reduce the amount of outdoor storage to 7,500 square feet on the Subject Property.

WHEREAS, Petitioner disputes all such allegations and determinations, and on May 20, 2003, Petitioner appealed the violations issued by the NJMC on May 7 and 16, 2003.

WHEREAS, on June 30, 2003, the NJMC referred Petitioner's appeal to the New Jersey Office of Administrative Law ("OAL").

WHEREAS, the proceeding was ultimately assigned to the Honorable Jesse H. Strauss, A.L.J. and was scheduled to be heard on February 10 and 23, 2006 and March 9 and 14, 2006.

WHEREAS, on February 23, 2006, as a result of discussions between the parties, a settlement agreement, subject to the final approval of the Commissioners of the NJMC, was reached and read into the record before Judge Strauss. This Stipulation of Settlement memorializes the terms of the settlement and governs Petitioner's activities on the subject property.

**SITE PLAN**

WHEREAS, Petitioner retained the services of PMK Group and has submitted a site plan to the NJMC, and has made revisions and changes to the Site Plan on the request and direction of the NJMC's staff and attorneys.

WHEREAS, a final site plan revised Site Plan, also prepared by PMK Group, dated June 26, 2006, "Site Plan," Sheet C-1, prepared by PMK Group, dated March 30, 2006, revised through June 26, 2006 to the NJMC incorporating its revisions and changes ("Site Plan") attached as Exhibit A.

WHEREAS, the Site Plan is the result of terms as set out at the February 23, 2006 proceedings before ALJ Strauss, revisions at the direction of the NJMC's staff and attorneys, a meeting between the parties at the NJMC, and subsequent correspondence between the parties.

WHEREAS, the Site Plan of the Subject Property represents the final agreement between the parties with regard to the design of the Subject Property and includes modifications to the original specifications set out at the February 23, 2006 hearing deemed necessary by Petitioner and NJMC Staff at meetings held on or about April 4, 2006.

WHEREAS, the Petitioner and NJMC agree that should any inconsistencies between this Stipulation of Settlement and the Site Plan arise, that the site plan shall govern.

**TERMS AND CONDITIONS**

WHEREAS, the parties have determined that it is appropriate to settle this matter. The Site Plan authorizes parking in the front-yard and outdoor storage activities on the Subject Property that exceeds what the NJMC alleges was the scope of the pre-existing non-conforming use. The following terms and conditions are set forth to ensure that any such activities are limited in their scope and impact to the Meadowlands District.

WHEREAS, this Stipulation of Settlement authorizes the storage of product as more specifically described below for up to 24 hours on weekdays and over weekends as defined below and in a manner authorized on the Site Plan. As such, for the purposes of this Settlement, a weekend is deemed to begin at 4:00 p.m. on Friday and end at 10:00 a.m. the following Monday (or Tuesday if the Monday is a Federal or State holiday).

WHEREAS, this Stipulation of Settlement authorizes the storage of Product in a finite number of closed or covered receptacles on the Subject Property as depicted on the Site Plan. As such, for the purposes of this Settlement, "Product" shall include: food, food waste, botanical waste, botanical products, feed, feed waste, or like material or any other regulated material.

WHEREAS, this Stipulation of Settlement authorizes the storage of Product in a finite number of closed or covered receptacles on the Subject Property as depicted on the Site Plan. As such, for the purposes of this Settlement, "receptacle" shall include: roll-off containers (up to forty-yards), compactors, or packer trucks.

WHEREAS, this Stipulation of Settlement prohibits Product from being stored or in any matter placed on the ground of the Subject Property. As such, for the purposes of this Settlement, the term "ground" includes outdoor ground area on the Subject Property other than the "Pad" identified and located on the Site Plan.

WHEREAS, for the purposes of this Agreement, the term "transfer" means the movement of Product from one receptacle to another, but does not mean the movement of the receptacles themselves.

WHEREAS, for the purposes of this Agreement, the term "duration" means from its execution until the transfer of the Property or WFI ceases operation, whichever is sooner. Moreover, the benefits associated with this Agreement are not transferable to a future owner or operation.

WHEREAS, the parties have now settled and resolved the matters in dispute between them upon the following terms and conditions.

NOW, THEREFORE, this Agreement represents the written memorialization of the settlement reached between Petitioner and the NJMC.

NOW, THEREFORE, Petitioner and the NJMC hereby agree as follows:

1. **Blocks Around Pad to be Disassembled.** The blocks around the "Pit" on the Subject Property shall be completely dismantled within 30 days of final approval and execution of this Agreement by NJMC and service upon Petitioner. Failure to dismantle the blocks around the Pit within 30 days shall result in the assessment against WFI of an immediately payable and uncontestable fine in the amount of five hundred dollars (\$500.00).

2. **WFI to Comply With Site Plan.** Petitioner shall make the necessary improvements to the Subject Property so that it conforms fully to the design depicted in the Site Plan by PMK

Group dated June 26, 2006 and to the terms of this Agreement. The parties agree that the Site Plan represents the final specification and design for the Subject Property and that the Site Plan supersedes any other design or specification related to the Subject Property.

3. **Site Plan Work.** All work required by the Site Plan shall be completed within ninety ("90") days of the execution of this Agreement by the NJMC and service upon Petitioner. Compliance with the 90 day requirement is also subject to the Act of God and Mechanical Breakdown provisions, below. Compliance with the 90 day requirement is subject to weather conditions. Other extensions shall be granted at the sole discretion of the NJMC, which on good cause shown will not be unreasonably withheld.

4. **Site Plan, Pad.** The reinforced Pad depicted on the Site Plan will be of the appropriate thickness and weight to accommodate three, full, thirty-yard roll-off containers and will be curbed and fenced.

5. **No Transfer.** The transfer of Product is prohibited at the Subject Property. The transfer of receptacles from one truck to another truck may only occur on the Pad.

6. **No Storage on Ground.** The parties agree that there shall be no storage of Product on the Pad outside of a receptacle or on the ground off a truck or outside of a

receptacle at the Subject Property. The keeping or depositing of Product on the Pad outside of a receptacle or on the ground off a truck or outside of a receptacle is strictly prohibited.

7. **Storage Only in Accordance With Site Plan or This Agreement.** The parties agree that the storage of Product as defined above on the Subject Property in any manner not specifically delineated in this Agreement or the Site Plan is prohibited.

8. **Fence.** The parties agree that WFI must construct a fence on the Subject Property that will separate the Subject Property from the property to the rear owned by GMA Group, LLC ("GMA"), designated as Block 50 Lot 8 on the current Tax Map of the City of Secaucus ("Lot 8"). The Parties agree that Petitioner must begin construction of the fence in accordance with the Site Plan no later than 30 days following the final resolution of the adverse possession dispute with GMA and the establishment of the location of the property line with Lot 8.<sup>1</sup> In the interim, a single row of concrete blocks or other dividing structure has been placed on the Subject Property to delineate the current property line as defined by the "Survey."

9. **Storage of Receptacles With Product; Eleven Total.** No more than eleven (11) closed or covered receptacles containing

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<sup>1</sup> The adverse possession suit was recently settled. The disputed portion of the property was divided 60/40 by square footage.

Product can be stored on the Property at one time, broken down as follows:

a. **No More Than 3 Closed Packer Trucks.** (i) Product may be stored in closed packer trucks. When used as a receptacle for storage of Product, the closed packer trucks must remain closed at all times and must be parked in the designated parking area or the pad, as identified on the Site Plan. (ii) No more than three (3) closed packer trucks containing Product may be kept on the Property at any one time.

b. **No More Than Five (5) Containers.** No more than five (5) forty-yard covered containers containing Product can be stored on the Property at any one time.

c. **No More Than Three (3) Compactors.** No more than three (3) compactors containing Product can be stored on the Property at any one time.

d. **Maximum 3 Receptacles on Pad.** Of the eleven (11) receptacles with Product allowed on the Subject Property, a maximum of three (3) covered or closed receptacles containing Product may be stored on the Pad as depicted on the Site Plan at a time.

e. **Storage Receptacles to be Mounted on Trucks.** Receptacles containing Product, including roll-off containers and compactors, may never be stored on the ground at the Subject Property. Any such receptacle containing Product that is on the

Subject Property must either be mounted on a truck or stored on the Pad as set forth above. All receptacles containing Product shall be covered or closed at all times.

f. **Provision Does Not Cover Empty Receptacles.** The limitations on the number of trucks and storage containers on the Subject Property in this paragraph does not include and is not limited by the number of empty storage containers kept in designated locations on the Subject Property consistent with the Site Plan.

10. **Duration.** No receptacle or truck with Product may be stored at the Subject Property for a period of longer than twenty-four hours before being moved and emptied off-site. However, if a receptacle or truck with Product is stored at the Subject Property within twenty-four ("24") hours of the beginning of a weekend, it may remain at the Subject Property for the duration of the weekend, but not longer.

11. **Notice to NJMC.** If a receptacle or truck with Product is stored on the Subject Property over the weekend, a fax so notifying the NJMC shall be sent by 10:00 a.m. Monday morning, or the Tuesday following a Monday holiday. If a receptacle or truck with Product is stored on the Subject Property overnight, a fax so notifying the NJMC shall be sent by 10:00 a.m. the following morning. All faxes shall be sent to (201) 372-0161, in the form heretofore used for this purpose.

12. **Excessive Storage of Receptacles With Product; Single Instance In First Six Months, Three Instances Thereafter; Subsequent Loss of Privilege.**

a. **First Six Months; Single Instance.** For the first six months after execution of this Agreement, a single instance of the storage or placement on the pad of more than three receptacles with Product in violation of Section 9(d) of this Stipulation of Dismissal shall result in the permanent loss of permission to store trucks or receptacles, including any Product contained therein, on the Pad. The prohibition against placing or storing receptacles or trucks containing product, covered or uncovered, on the ground shall remain.

b. **After the First Six Months, Three Instances.** After the first six months after execution of this Agreement, three documented violations of the restriction on the storage or placement of more than three receptacles in violation of Section 9(d) of this Stipulation of Settlement shall result in the permanent loss of permission to store said equipment, including the Product contained therein, on the Pad. The prohibition against placing or storing receptacles or trucks containing Product, covered or uncovered, on the ground shall remain.

13. **Fines.** WFI shall pay NJMC \$20,000 in fines. WFI agrees that this amount is just and reasonable under applicable law and constitutes a stipulated penalty representing a portion of the

finances previously owed to the NJMC by WFI as a result of prior violations. The stipulated penalty in the amount of \$20,000 shall be paid by WFI to the NJMC as follows: \$5,000.00, shall be paid within thirty days after the execution of this Agreement; an amount of \$750.00 shall be due every thirty days thereafter until the full amount of the stipulated penalty due and owing is paid in full. Failure to make payment in accordance with this paragraph constitutes a breach of this Agreement unless payment due and owing to the NJMC is made within a 10-day grace period, which expires 10 days after the due date of the missed payment. In the event of such a breach, including expiration of the 10-day grace period, the remainder of the \$20,000 stipulated penalty shall be due in full within 30 days after the expiration of the 10-day grace period and shall be paid upon notice by the NJMC.

**VIOLATIONS**

14. **Tiered Violation System.** Petitioner is subject to a tiered violation system. In this system, one instance of certain violations defined below, or the accumulation of a series of the same type of such violations defined below, will constitute a "Triggering Event". Only violations so defined will constitute triggering events. Triggering events will allow the NJMC to utilize the enforcement provisions set forth below.

15. **Triggering Events Defined.** Triggering events are defined as follows:

A. **"Receptacle With Product" Defined.** For the purposes of this Agreement, the phrase "a receptacle with product" indicates that a receptacle has more than product residue.

B. **Transfer: Single Instance.** Subject to the provisions regarding Act of God or mechanical breakdown as set forth below, the transfer of Product from one receptacle to another constitutes a Triggering Event. One instance of transferring Product shall constitute a Triggering Event.

C. **Storage on Ground: Single Instance.** The storage, placement, or dumping of any Product, regardless of quantity, on the ground of the Subject Property outside of a receptacle, other than because of accident, mechanical breakdown or Act of God, shall constitute a Triggering Event. One instance of storage, placement, or dumping of Product on the ground outside of a receptacle shall constitute a Triggering Event.

D. **Excessive Storage of "Receptacles With Product": Three Instances.** For the duration of the Agreement, three violations of the restriction on the number of receptacles or vehicles containing product allowed on the Subject Property shall constitute a Triggering Event.

E. **Excessive Duration: Three Instances.** For the duration of the Agreement, three violations of the restriction on storing

receptacles or trucks containing Product on the Subject Property for excessive duration shall constitute a Triggering Event.

**F. Uncovered Vehicle Storage of Product: Three Instances.**

For the duration of the Agreement, three violations of the prohibition on storing uncovered receptacles such as open packer trucks or open compactors containing product shall constitute a Triggering Event.

**G. Compliance With Truck Washing Regulations: Single Event.**

For the entire length of the Agreement, there shall be no washing of trucks, receptacles or other equipment on the Property except in compliance with all applicable state and local rules and regulations. Any activity in violation of this provision shall constitute a triggering event.

16. **Acts of God Not To Cause Violation.** An Act of God will not cause a violation or breach of this Agreement, or constitute a Triggering Event, provided however that Petitioner delivers written notice to the NJMC as soon as practical after the event and, in no event, later than 24 hours after the event. (The form on which notice has been provided to the NJMC is an acceptable form of notice.) Furthermore, clean-up and remediation must be accomplished within 24 hours after the completion of the occurrence of the event (e.g., 24 hours after the storm ends, not when the storm begins), so that the condition or use of the Subject Property conforms to the terms of this Agreement.

17. **Mechanical Breakdown, Accident Not To Cause Violation.**

A mechanical breakdown of or accident involving a truck or other transportation equipment will not cause a violation or breach of this Agreement, or constitute a Triggering Event, provided that the Product being transported or stored in the disabled truck or other transportation equipment is removed or transferred to an operating vehicle within 24 hours after the truck or other transportation equipment becomes disabled and provided that written notice of such an event is provided to the NJMC within 24 hours of the event, as set forth in Paragraph 11.

**ENFORCEMENT**

18. **Confession of Judgment Upon Triggering Event.** This Agreement constitutes a Confession of Judgment by WFI, the effect of which is that if a Triggering Event occurs, Petitioner consents to the following terms:

A. In the event of a Triggering Event, all storage of Product, contained or not, shall cease. Storage or parking of empty trucks and receptacles would still be permitted on the Subject Property, subject to all applicable provisions of this Agreement. Petitioner shall not oppose or contest any action by NJMC to obtain a Cease and Desist Order prohibiting Petitioner from storing Product, containers containing Product, or vehicles containing Product on the Subject Property.

B. All unpaid fines in the amount of \$71,500 shall be deemed final and due.

C. The parties agree that NJMC shall select any appropriate legal forum and venue in which to pursue any legal remedies provided for in this Agreement.

D. Petitioner waives its right to contest the violations issued by the NJMC in its letters to Petitioner dated May 7, 2003 and May 16, 2003.

E. Petitioner retains the right to contest whether NJMC has proved that a Triggering Event occurred.

19. **Admission By WFI.** WFI admits that it assembled the "Pit" at the direction of the Town of Secaucus without permits or approvals from the NJMC. The Pit consists of three rows of unattached concrete blocks placed in a U-shape and located on the Subject Property. WFI admits that the "Pit" was constructed on the Subject Property on or about May 7, 2003 and that it ceased being utilized on or about October 12, 2003. The NJMC stipulates that such admission cannot be used against WFI, its officers, owners, directors, affiliates, agents, and employees in any proceeding other than a proceeding related to and enforcing Petitioner's performance as required by this Agreement.

20. **Site Plan; Effect on Zoning.** The Site Plan shall constitute a zoning application and approval and adoption of

this Stipulation of Settlement shall constitute approval thereof. Upon such approval the NJMC staff will issue a zoning certificate. Nothing in this Stipulation of Settlement will prohibit Petitioner from applying for changes to that zoning certificate through the NJMC regulatory process, and the NJMC shall consider such request in due course as it would any other application.

21. **Release by NJMC.** The NJMC agrees to release and this Agreement shall serve as a General Release of WFI, its officers, directors, affiliates, agents, and employees, P.W. Henry Street Associates, and Peter Wilenta from all claims whether or not NJMC is aware of same from the beginning of time until the date of final approval of this Agreement related to the NJMC zoning violations on the Property. The NJMC by this Stipulation of Settlement acknowledges that any zoning violation of the law of which it has been aware has ceased subject to this agreement. By releasing Petitioner as herein stated, the NJMC does not waive its right to bring claims for any future violations by Petitioner.

22. **Consideration for Release; Restrictions on Use of Property.** In consideration of the release granted by the NJMC to Petitioner in the preceding paragraph of this Agreement, Petitioner waives its right to use the Subject Property in accordance with any claimed pre-existing nonconforming use or to

make any application to the NJMC with regard to any grandfathered prior nonconforming use beyond what is contained in this Agreement. Petitioner may use the Subject Property only in accordance with the terms of this Agreement and any applicable zoning regulations or policies.

23. **Non-transference.** The parties agree that this Agreement and all the provisions contain herein may not be transferred to a subsequent owner of the Property. Any subsequent owner shall be subject to any NJMC regulations in effect when such transfer occurs.

24. **No Personal Liability.** There shall be no personal liability for any person by virtue of this agreement.

25. **Compliance With Laws.** Nothing in this Agreement will excuse compliance with applicable federal, state, or local laws. The NJMC submits that use of the Subject Property in accordance with this Agreement and applicable federal, state, or local laws constitutes acceptable use of the Subject Property.

26. **Paragraph Headings.** The paragraph headings contained herein are for descriptive purposes only.

28. This document may be executed in multiple counterparts and may be amended only in writing signed by the parties.

**Petitioner**

Peter Wilenta, President,

**Respondent**

New Jersey Meadowlands

Wilenta Feed Inc.

Commission

By: \_\_\_\_\_

By: \_\_\_\_\_

Robert Ceberio  
Executive Director

Date Executed: \_\_\_\_\_

Date Executed: \_\_\_\_\_

**RESOLUTION: CLOSED SESSION**

WHEREAS, the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the holding of closed session by public bodies in certain circumstances; and

WHEREAS, the New Jersey Meadowlands Commission is of the opinion that those circumstances presently exist.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. That a closed session of the NJMC will be held to discuss the following:
  - EnCap
  - NYS&W v. NJDEP et al.
  - Galli v. NJMC
2. It is anticipated at this time that the above subject matter(s) will be made public upon completion of said matter(s).

This Resolution shall become effective immediately. The foregoing Resolution was adopted by Commission vote.

The foregoing was adopted by Commission vote.

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Joseph V. Doria, Jr.  
Acting Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of November 28, 2007.

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Robert R. Ceberio  
Secretary