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April 25, 2024

Via Electronic Filing
Camden County Superior Court
Chancery/General Equity
Camden County Hall of Justice
101 South 5th Street
Camden, New Jersey 08103

Re: New Jersey Department of Environmental Protection, and the Commissioner of the New Jersey Department of Environmental Protection v. Hidden Mill Associates; Little Mill, Inc.; Penchil, LLC.; Celestino R. Pennoni, Individually; and Vincent Pennoni, Individually
Docket No.:

Dear Sir/Madam:

Enclosed please find a Case Information Statement, Order to Show Cause, Verified Complaint, Brief, Exhibits and Proposed Form of Order regarding the above captioned matter.

If you have any questions please do not hesitate to contact me at 609-376-2789.

Respectfully yours,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: Paige A. Hensor
Paige A. Hensor
Deputy Attorney General

MATTHEW J. PLATKIN
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Attorney for Plaintiff

By: Paige Hensor
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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiff, v. HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - CAMDEN COUNTY DOCKET NO.: C 51-24 **CIVIL ACTION** VERIFIED COMPLAINT TO ENFORCE FINAL AGENCY ORDER AND RECOVER CIVIL PENALTIES IN A SUMMARY PROCEEDING PURSUANT TO R. 4:67-6 AND R. 4:70

Plaintiffs, New Jersey Department of Environmental Protection ("Department") and Commissioner of the New Jersey Department of Environmental Protection, by and through its attorney, brings this Verified Complaint against Defendants, Hidden Mill Associates, Little Mill, Inc., Penchil, LLC., Celestino R. Pennoni,

individually, and Vincent Pennoni, individually, and alleges as follows:

STATEMENT OF THE CASE

1. The Plaintiffs bring this summary action to compel Defendants Hidden Mill Associates ("Hidden Mill"), Little Mill, Inc., Penchil, LLC, Celestino R. Pennoni, individually, and Vincent Pennoni, individually, to comply with an Administrative Consent Order ("ACO") executed on September 25, 2012 requiring Defendants to remedy violations of the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 to -30 ("FWPA") and its implementing regulations, N.J.A.C. 7:7A-1 to -22.20 ("FWPA Regulations").

2. Hidden Mill wanted to redevelop land that was protected by the FWPA. In order to do this, it was required to obtain a land use permit from the Department of Environmental Protection ("Department"). This permit, which Hidden Mill obtained in March 2002, permitted Hidden Mills to disturb a portion of the wetlands by agreeing to otherwise mitigate.

3. Hidden Mill was required by the land use permit to, among other things, mitigate for the loss of .5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed by the Department

or through the purchase of mitigation credits,[1] if available, as also detailed by the Department.

4. Hidden Mill not only failed to acquire mitigation credits, it further accumulated violations including destruction of additional unpermitted wetlands during development of these parcels. The Department eventually issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") against the Defendants for these additional violations on July 31, 2008, and Hidden Mill entered into the ACO with the Department on September 25, 2012. The ACO required the Defendants to, among other things, purchase 0.6 mitigation credits from the Willow Grove Lake Mitigation Bank. For years, Hidden Mill failed to comply with substantial portions of the ACO and still remains out of compliance with the mitigation requirements.

5. Freshwater wetlands protect and preserve drinking water supplies in addition to providing a natural means of flood and storm damage protection. These protections prevent loss of life and property through the absorption and storage of water during

[1] To mitigate for disturbances to wetlands, transition areas, riparian zones, and/or intertidal and subtidal shallows, credits may be purchased from a mitigation bank. A mitigation bank is a site that has already been restored, enhanced, created or preserved by a mitigation bank operator for the purpose of selling credits to applicants who are required to provide mitigation in order to obtain a permit. New Jersey Department of Environmental Protection Watershed and Land Management, *Mitigation Technical Manual* (2022), https://dep.nj.gov/wlm/mitigation/.

high runoff periods, and also delay soil erosion by serving as a transition zone between dry land and water resources. Further, freshwater wetlands provide essential breeding, spawning, nesting, and wintering habitats for a major portion of the State's fish and wildlife.

6. To deter further destruction of freshwater wetlands, the Department seeks an order requiring Defendants to comply with the ACO. Specifically, the Department seeks an order requiring Defendants to purchase 1.92 mitigation credits from the Willow Grove Lake Mitigation Bank and pay outstanding civil penalty (including interest) of $552,023.84. The Department also seeks the reasonable costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation of the ACO, and the reasonable costs of preparing and litigating this enforcement proceeding, as allowed by N.J.S.A. 13:9B-21(c)(2).

THE PARTIES

7. The Department is an administrative agency in the Executive Branch of State government as defined by N.J.S.A. 52:14B-2(a) and maintains its principal offices at 401 East State Street, Trenton, New Jersey.

8. The Commissioner is the Commissioner of the Department. In this capacity, the Commissioner is vested by law with various powers and authorities, including those conferred by the

Department's enabling legislation, N.J.S.A. 13:1D-1 through -19, and the FWPA, N.J.S.A. 13:9B-1 through -30.

9. Defendant Hidden Mill is a general partnership organized and existing under the laws of the State of New Jersey with its principal place of business at 3001 Market Street, Suite 200, Philadelphia, Pennsylvania 19104.

10. Defendant, Little Mill Inc., is a corporation incorporated in 1986 under the laws of the State of New Jersey, and owns fifty percent (50%) of Hidden Mill with its principal place of business at 3001 Market Street, Suite 200, Philadelphia, Pennsylvania 19104.

11. Defendant Penchil, LLC., is a corporation incorporated in 1998 under the laws of State of New Jersey, and owns fifty percent (50%) of Hidden Mill with its principal place of business at 3001 Market Street, Suite 200, Philadelphia, Pennsylvania 19104.

12. Defendant Celestino R. Pennoni is an individual currently residing at 411 Valley Glen Drive, Bryn Mawr, Pennsylvania 10910 and owns twenty-five percent (25%) of the Penchil, LLC.

13. Defendant Vincent Pennoni is an individual currently residing at 30 W 7th Street, Media, Pennsylvania 19063 and owns one hundred percent (100%) of Little Mill, Inc., and is the President of Little Mill, Inc.

FACTUAL ALLEGATIONS

14. Hidden Mill is the owner and developer of the property situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County ("Site"). After re-subdivision, the above tracts now encompass approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406, 18701, 18702, 18703, 18801 and 18802.

15. On March 21, 2002, the Department's Division of Land Use Regulation ("DLUR") issued a combined Land Use Permit (DLUR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to Hidden Mill for conducting certain regulated activities at the Site in conjunction with the proposed construction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates," as well as proposed improvements to Little Mill Road. The combined Land Use Permit included:

a. Freshwater Wetland Individual Permit;

b. Freshwater Wetland Transition Area Waiver Averaging Plan;

c. Freshwater Wetland Transition Area Waiver - Special Activity;

d. Freshwater Wetlands Statewide General Permit # 1;

e. Modification in Detail to a 1988 Stream Encroachment Permit #15497; and

f. Water Quality Certificate.

16. The Land Use Permit and approved drawings, issued on March 21, 2002, contained general, special, and mitigation conditions with which the Defendants were required to comply, including the following:

a. Special Condition #1: Required that "two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern townhouse section of the Murray Hill Estates Site, the Permittee must notify the U.S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention Lisa Arroyo and Telephone: 609-646-9310.

b. Special Condition #6: Required that "Prior to initiation of site preparation, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact

wetlands. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

c. Mitigation Condition #1: Required the Defendants to "Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project . . . or . . . through the purchase of mitigation credits[.]"

d. In addition, the Land Use Permits required the construction of a low-flow fish passage culvert at Station 15+80 of Hidden Drive.

17. On August 8, 2002, Defendants submitted a mitigation plan to satisfy Mitigation Condition #1 of the March 21, 2002 Land Use Permit.

18. On November 14, 2002, Department representatives conducted a site inspection of the proposed enhancement area for purposes of reviewing Defendants' mitigation plan and discovered that it was not suitable for enhancement.

19. On November 27, 2002, the Department verbally advised Defendants that the proposed enhancement of the wetland system was not a viable wetland mitigation alternative.

20. On January 14, 2003, Department representatives conducted a Site inspection and permit compliance evaluation and observed a number of permit condition violations and unauthorized activities within the regulated areas, including:

a. The excessive clearing of freshwater wetlands, totaling approximately 20,000 square feet along a 20-foot wide sanitary sewer easement;

b. Failure to construct the required low-flow fish passage culvert at Station 15+80 of Hidden Drive, resulting in a completely impassable section of stream channel; and

c. Failure to comply with the special conditions of the Land Use Permit.

21. On February 13, 2003, the Department issued a Notice of Violation ("NOV") to the Defendants for failing to comply with the permit conditions, and for conducting unauthorized regulated activities within regulated areas. The NOV required the Defendants to immediately comply with the approved permit conditions within

30 days of receipt of the NOV and to provide and implement a proposal to take corrective actions.

22. During a telephone conversation on April 15, 2004, the Department informed the Defendants of a viable mitigation alternative involving the preservation of several parcels of land in Gloucester Township.

23. On or about June 15, 2004, the Defendants filed the required deed restriction in accordance with Special Condition #6 of the Land Use Permit.

24. On June 24, 2004, the Department issued a letter to the Defendants concerning the outstanding wetlands mitigation requirement. The Department informed the Defendants that the proposed Hidden Mill wetlands enhancement project was not approved.

25. In the same June 24, 2004 letter, the Department further informed the Defendants that they were under no obligation to participate in the alternative land preservation project in Gloucester Township, but that they continued to be responsible for satisfying all permit conditions that were imposed when the Freshwater Wetlands Individual Permit was issued.

26. On August 26, 2004, the Department conducted a Site inspection, which revealed that the specific land-clearing violations in the February 13, 2003 NOV had been resolved by

revegetating the affected areas, and the low-flow fish passage culvert had been installed.

27. DEP's August 26, 2004 Site inspection also revealed non-compliance with the Wetlands Mitigation Conditions.

28. On October 18, 2004, the Department advised the Defendants via letter that additional permit conditions remained outstanding, including the performance of the required wetlands mitigation, which must be completed on or before March 21, 2007, the expiration date of the Land Use Permit.

29. On June 8 and December 12, 2007, a Department representative conducted follow up compliance evaluations, which revealed that the Defendants had still not complied with the Mitigation Condition #1 of the Land Use Permit.

30. On December 20, 2007, the Department issued a second NOV to the Defendants for failing to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were required to comply within 30 days.

31. The Defendants failed to comply with this NOV.

32. On February 25, 2008, the Department issued a third NOV to the Defendants for failing to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were required to comply within 30 days.

33. On April 24, 2008, Defendant Vincent Pennoni responded to the NOVs and indicated that Hidden Mill was evaluating the Site

for a location to provide wetlands enhancement. Defendant Pennoni also attached a copy of the deed restriction (as per Special Condition #6 of the Land Use Permit) that had been filed with the Camden County Clerk on or about June 15, 2004.

34. On August 5, 2008, the Department issued an AONOCAPA to all Defendants, ordering compliance with the permit's wetlands mitigation condition #1 requirement and assessing a penalty of $330,000 for all violations.

35. The Department later reduced the $330,000 penalty assessment to $321,000. The Defendants had, by then, corrected the violations of Special Conditions #1 and 6 and restored the freshwater wetlands identified in the permit.

36. Pursuant to N.J.A.C. 7:7A-16.1(d), the AONOCAPA also assessed an on-going penalty of $250 per day against the Defendants for any violations set forth in the AONOCAPA that remained unresolved from that time forward.

37. The Defendants timely filed a hearing request in response to the August 5, 2008 AONOCAPA.

38. The matter was transmitted to the New Jersey Office of Administrative Law ("OAL"), where it was docketed as OAL Docket No. ECE2227-2010N, and assigned to the Honorable Jeff Masin, Administrative Law Judge.

39. On November 7, 2011, after hearing oral argument, Judge Masin issued an initial decision, which was supplemented and

amended on November 29, 2011, finding the Defendants violated Special Conditions 1 & 6 of the FWPA permit, and that they had disturbed freshwater wetlands adjacent to the sanitary sewer easement.

40. On February 3, 2012, the parties reached a tentative settlement, at which time the continuing penalty of $250 per day totaled an additional $309,000.00.

41. On September 25, 2012, the parties executed the ACO to resolve the pending violations and penalties.

42. The ACO resolved a total of $630,000 in penalties, including the $321,000 civil administrative penalty set forth in the July 31, 2008 AONOCAPA and $309,000 of continuing penalties, as discussed in paragraph 39 above.

ACO COMPLIANCE REQUIREMENTS AND SCHEDULE

43. In the ACO, Defendants were ordered and agreed that they would:

a. Within 30 days, purchase 0.6 mitigation credits from the Willow Grove Lake Mitigation Bank;

b. Within 30 days, remove and legally dispose of any solid waste or piles of dirt or fill;

c. Within 60 days, obtain approval of the final terms and wording of a deed restriction from CLUE [Bureau of Coastal & Land Use Compliance & Enforcement] for the Site.

d. Within 60 days after receiving approval from CLUE of the language in a deed restriction for the Site, record that deed restriction with the Camden County Clerk;

e. Within 90 days, conduct and complete due diligence on the Site to be donated and demonstrate to CLUE that the Site is not contaminated and otherwise is "clean" (i.e. no hazardous or solid waste is present);

f. Within 90 days, pay off a $225,000 loan secured by the property, remove any and all others liens which may apply to this property, remove any and all clouds to the property's title, and take any other steps necessary to ensure that the property will be donated with a "clean title";

g. Within 90 days, obtain an independent appraisal of the property's current value using an appraiser identified on Department's Green Acres web-site at http://www.state.nj.us/dep/greenacres/pdf/appraisers_2010.pdf. If that appraisal identifies an appraised value for 380 Little Mill Road (Block 101, Lot 324-Pine Hill Borough) that is within 20% of the $285,000 value set forth in an October 2010 appraisal for Parke Bank, performed by Benchmark Appraisal Group, then no additional appraisal will be necessary. If the appraisal performed pursuant to this sub-paragraph is

less than 80% of the $285,000 value set forth in the October 2010 appraisal, then the Defendants shall obtain a second appraisal within 30 days of the first one to identify the value of 380 Little Mill Road (Block 101, Lot 324 - Pine Hill Borough). Any appraisal performed pursuant to this sub-paragraph shall be sent to the Department within 10 days of receipt of the results of the appraisal by the Defendants and/or their counsel, whoever first receives the results of the appraisal;

h. Within 180 days, donate 4.4 acres of land in Pine Hill Borough (380 Little Mill Road-Block 101, Lot 324-) to a conservation organization, environmental organization or governmental agency or body acceptable to and approved by the Department;

i. Complete a survey of 380 Little Mill Road after identifying the environmental organization or government agency or body pursuant to the prior sub-paragraph, but prior to donating the property to that organization or governmental agency. The survey shall comply with the requirements set forth in Exhibit C to this Administrative Consent Order. Further guidance for a survey can be found at http://www.state.nj.us/dep/greenacres/survey/index.html.

[ACO at ¶ 20].

44. To resolve the outstanding $630,000 in penalties, in addition to the above listed compliance requirements, Defendants also agreed to pay the Department a penalty of $250,000.00, plus simple interest at the rate of 2.5%, in twenty-four monthly payments. (ACO at ¶ 21).

45. The Defendants agreed if they failed to pay the penalty in accordance with the terms and conditions of the ACO, then the AONOCAPA shall become a Final Agency Order ("FAO"), and the full penalty of $630,000, along with costs and interest calculated pursuant to Rule 4:42 (minus amounts previously paid), would become immediately due and owing. (ACO at ¶ 24).

46. Defendants further agreed that stipulated penalties should be paid to the Department for failure to comply with any requirement of the ACO. Specifically, stipulated penalties would total $100.00 per calendar day for 1-7 calendar days after the due date, $200.00 per calendar day for 8-14 calendar days after the due date, and $500.00 per calendar day for 15+ calendar days after the due date. (ACO at ¶ 26).

47. Any stipulated penalty for failure to comply with the ACO was agreed to be due and payable thirty (30) calendar days following receipt of a written demand from the Department. (ACO at ¶ 27).

48. The Defendants made a partial payment of $138,450.00 toward the penalties, which totaled $255,019.64 after interest was calculated. The final partial payment was made on December 23, 2014. Of the remaining $116,569.64, $63,319.64 remains outstanding to be paid to the Department and $53,250.00 was referred to collections.

49. The Department, in its discretion, determined that placing a conservation restriction on the entire parcel was acceptable as an alternative to the donation of the 4.4 acres of land.

50. On March 6, 2015, the Department issued a compliance demand letter to Defendants Hidden Mill and Vincent Pennoni via certified mail. The March 6, 2015 letter advised that various compliance obligations from the ACO remained outstanding, including but not limited to the purchase of mitigation credits and payment of the settled penalty.

51. On March 12, 2015, the Department re-sent the March 6, 2015 letter to Defendants Hidden Mill and Vincent Pennoni via certified mail.

52. The March 12, 2015 letter further noted that pursuant to paragraph 24 of the ACO, if Hidden Mill and Vincent Pennoni failed to provide proof of compliance with the ACO, including the purchase of mitigation credits, and failed to pay their past due penalty

payments within 30 days of the compliance demand letter, the full $630,000 penalty would be immediately due.

53. On June 3, 2019, Deputy Attorney General Bruce Velzy advised Defendants' counsel via written correspondence that if Defendants did not comply with the ACO, the Department would move to enforce the ACO in Superior Court.

a. Specifically, DAG Velzy requested the Defendants, within 15 days of the June 3, 2019 letter, decide whether to start the Green Acres approval process or decide whether to hire an appraiser on DEP's Green Acres website;

b. Within 30 days of the decision in paragraph (a), hire a new appraiser or submit the original appraiser's paperwork to the Green Acres program with a copy to DAG Velzy;

c. Advise DEP within 30 days of the June 3, 2019 letter whether Hidden Mill wished to pursue a Supplemental Environmental Project ("SEP") in lieu of paying part of the outstanding penalty;

d. Purchase .6 of a mitigation credit, prior to paying any penalties or a SEP in lieu of a penalty;

e. Deed Restrict and/or donate the Little Mill Road property and file same within 30 days of the June 3, 2019 letter.

54. To date, Defendants have failed to pay the full penalty of $630,000. Defendants have paid $138,019.64. Defendants' last payment was made December 23, 2014. Additionally, the Department referred $53,250 to collection. Therefore, $552,023.84 of the ACO penalty (including interest) remains due and owing.

55. In compliance with the ACO, Defendants provided a conservation restriction that was approved by the Department and filed September 6, 2019. Further, the Department had conducted an inspection on August 26, 2004 and confirmed that the conservation restriction was filed on the 4.4-acre parcel of land in Pine Hill, the fill was removed, the low flow fish channel was created to allow fish migration through the existing culvert, and the power line that was previously over cleared has been restored and replanted with wetlands vegetation.

56. To date, Defendants have failed to purchase any mitigation credits from the Willow Grove Lake Mitigation Bank.

57. N.J.A.C. 7:7A-11.3(c) states, "If a permittee fails to perform mitigation within the applicable time period in [the ACO], the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin. This shall compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay."

58. 20% interest applied to the 0.6 acres of required mitigation in the September 29, 2012 ACO would result in more than

1.92 acres of forested wetland mitigation credits at the time of this filing.

COUNT I

ENFORCEMENT OF THE FINAL AGENCY ORDER ON A SUMMARY BASIS AGAINST THE DEFENDANTS

59. Plaintiff incorporates by reference the allegations of the previous paragraphs with the same force and effect as if fully set forth herein.

60. The September 29, 2012 ACO is a FAO of the Department.

61. Defendants have failed to comply with the FAO. Specifically:

a. Defendants failed to purchase 0.6 mitigation credits from Willow Grove Lake Mitigation Bank; and

b. Defendants failed to pay the full penalties, totaling $630,000, that were issued by the Department.

62. Pursuant to the March 12, 2015 compliance demand letter, on April 11, 2015, the full $630,000 ACO penalty became due and owing.

63. Defendants have paid $138,019.64 toward the ACO penalty, and the Department referred $53,250 to collection. Therefore, $552,023.84 of the ACO penalty (including interest) remains due and owing.

64. N.J.A.C. 7:7A-11.3(c) states, "If a permittee fails to perform mitigation within the applicable time period in [the ACO],

the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin. This shall compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay."

65. The ACO required Defendants to satisfy their mitigation purchase within 30 days of the execution of the ACO on September 29, 2012.

66. Pursuant to Rule 4:67-6, the Department is entitled to the entry of a court order, through a summary action, enforcing the ACO against the Defendants for their failure to comply therewith.

WHEREFORE, the Plaintiffs demand judgment against Defendants:

(a) finding the Defendants violated the FAO;

(b) ordering Defendants to immediately comply with the requirements of the FAO;

(c) ordering the Defendants to immediately purchase 1.92 acres mitigation credits;

(d) ordering Defendants to pay the Department's reasonable investigation and litigation costs;

(e) requiring Defendants to refrain from violating the FWPA and the regulations promulgated pursuant thereto;

(f) ordering Defendants to pay the full $552,023.84 in combined civil administrative and continuing penalties as required by the FAO; and

(g) granting such other relief as the Court deems just and proper.

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY

Dated: April 25, 2024

By: Paige A. Hensor
Paige A. Hensor
Deputy Attorney General

VERIFICATION OF COMPLAINT

I, Robert H. Clark, hereby certify as follows:

1. I am employed by the New Jersey Department of Environmental Protection within the Coastal Land Use Compliance and Enforcement Program.
2. I am the enforcement manager assigned to the Site.
3. I have read the Verified Complaint.
4. I certify that the factual allegations contained in the Verified Complaint are true and correct to the best of my knowledge.
5. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

Date: 04/24/24

Robert H. Clark

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, the Court is advised that Paige A. Hensor, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with Rule 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to Plaintiffs at this time, nor is any non-party known to Plaintiffs at this time who should be joined in this action pursuant to Rule 4:28, or who is subject to joinder pursuant to Rule 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with Rule 4:5-1(b)(2).

Paige A. Hensor
Deputy Attorney General

Dated: 4/24/24

New Jersey Judiciary
Civil Practice Division

Civil Case Information Statement (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.

For Use by Clerk's Office Only

Payment type	Charge/Check Number	Amount	Overpayment	Batch Number
☐ check ☐ charge ☐ cash		$	$	

Attorney/Pro Se Name	Telephone Number	County of Venue
Paige A. Hensor	(609) 376-2789 ext.	Camden

Firm Name (if applicable)	Docket Number (when available)

Office Address - Street	City	State	Zip
25 Market Street P.O. Box 093	Trenton	NJ	08625

Document Type	Jury Demand
Verified Complaint - Order to Show Cause	☐ Yes ■ No

Name of Party (e.g., John Doe, Plaintiff)	Caption
NJ Dept. of Environmental Protection	State of NJ, Dep't of Env. Prot. v. Hidden Mill Associates, et al.

Case Type Number (See page 3 for listing) 801

Are sexual abuse claims alleged? ☐ Yes ■ No

Does this case involve claims related to COVID-19? ☐ Yes ■ No

Is this a professional malpractice case? ☐ Yes ■ No

If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.

Related Cases Pending? ☐ Yes ■ No

If "Yes," list docket numbers

Do you anticipate adding any parties (arising out of same transaction or occurrence)? ☐ Yes ■ No

Name of defendant's primary insurance company (if known) ☐ None ■ Unknown

The Information Provided on This Form Cannot be Introduced into Evidence.

Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation

Do parties have a current, past or recurrent relationship? ☐ Yes ■ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business

☐ Other (explain) _____

Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☐ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.

Do you or your client need any disability accommodations? ☐ Yes ■ No

If yes, please identify the requested accommodation:

Will an interpreter be needed? ☐ Yes ■ No

If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Attorney/Self-Represented Litigant Signature: Paige C. Ellison

MATTHEW J. PLATKIN
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Attorney for Plaintiff

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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiff, v. HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually, Defendants.	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION – CAMDEN COUNTY DOCKET NO. C 51-24 **CIVIL ACTION** **ORDER TO SHOW CAUSE** **SUMMARY ACTION**

THIS MATTER being brought before the Court by Matthew J. Platkin, Attorney General of New Jersey, attorney for the Plaintiff, State of New Jersey, Department of Environmental Protection ("the Department"), (Paige A. Hensor, Deputy Attorney General, appearing), seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the Verified Complaint filed herewith; and the Court having determined

that this matter may be commenced by order to show cause as a summary proceeding pursuant to the Freshwater Wetlands Protection Act ("FWPA"), N.J.S.A. 13:9B-1 to -30, and its implementing regulations, N.J.A.C. 7:7A-1 to -22.20 ("FWPA Regulations"), and for good cause shown,

IT IS on this _____ day of April, 2024:

ORDERED that the defendant appears and shows cause on the ___ day of _____, 2024 before the Superior Court at the Camden County Courthouse in Camden, New Jersey at ____o-clock in the _____noon, or as soon thereafter as counsel may be heard, why judgment should not be entered for:

A. An Order requiring the defendant to fully comply with all requirements set forth in the Administrative Consent Order ("ACO") signed by the defendants and the plaintiff on September 25, 2012, for violations of the Freshwater Wetlands Act, and regulatory requirements codified at N.J.A.C. 7:7A-1;

B. An Order requiring defendant to take the steps required by the ACO to purchase 1.92 mitigation credits;

C. Payment of a penalty of $554,665.65, pursuant to the plaintiff's September 25, 2012 final order, with interest of $_____;

And it is further *ORDERED* that:

1. A copy of this order to show cause, verified complaint and all supporting affidavits or certifications submitted in

support of this application be served upon the defendant personally within _____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The plaintiff must file with the court its proof of service of the pleadings on the defendant no later than three (3) days before the return date.

3. Defendant shall file and serve a written answer to this order to show cause and the relief requested in the verified complaint and proof or service of the same by _____, 2024. The answer must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of Judge _____.

4. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 2024. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of reply papers must be sent directly to the chambers of Judge _____.

5. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

7. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer, and proof of service before the return date of the order to show cause. These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a $_____ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your answer to the plaintiff's attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve your answer, (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance you may obtain referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

_____
,J.S.C.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street, PO Box 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiff

By: Paige A. Hensor
Deputy Attorney General
Attorney ID: 238722019
(609) 376-2789
Paige.Hensor@law.njoag.gov

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiff, v. HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually, Defendants.	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION –CAMDEN COUNTY DOCKET NO. C 51-24 **CIVIL ACTION** **ORDER**

THIS MATTER being brought before the Court by Matthew J. Platkin, Attorney General of New Jersey, attorney for the Plaintiff, State of New Jersey, Department of Environmental Protection ("the Department"), (Paige A. Hensor, Deputy Attorney General, appearing), by way of an Order to Show Cause against Hidden Mill

Associates; Little Mill, Inc.; Penchil, LLC; Celestino R. Pennoni, and Vincent Pennoni, collectively ("Hidden Mill") and the Court having previously entered relief on this matter under Docket No. _____,

IT IS on this _____ day of _____, 2024, hereby ORDERED as follows:

1. Defendant shall fully comply with all requirements set forth in the Administrative Consent Order ("ACO") issued to the defendant by the plaintiff on September 25, 2012 for violations of the Freshwater Wetlands Protection Act ("FWPA") N.J.S.A. 13:9B-1 to -30, and rules promulgated thereto, N.J.A.C. 7:7A-1 to -22.20;

2. Within thirty (30) days of this Order, Defendant shall implement a plan, to be approved by the plaintiff, to come into full compliance with the requirements set forth in the AONOCAPA, and to complete the work necessary for full compliance to the plaintiff's satisfaction; and

3. Within thirty (30) days of this Order, Defendant shall make full payment of the penalty of $554,665.65, pursuant to the plaintiff's September 25, 2012 final order, with interest of $_____;

_____
, J.S.C.

Exhibit A

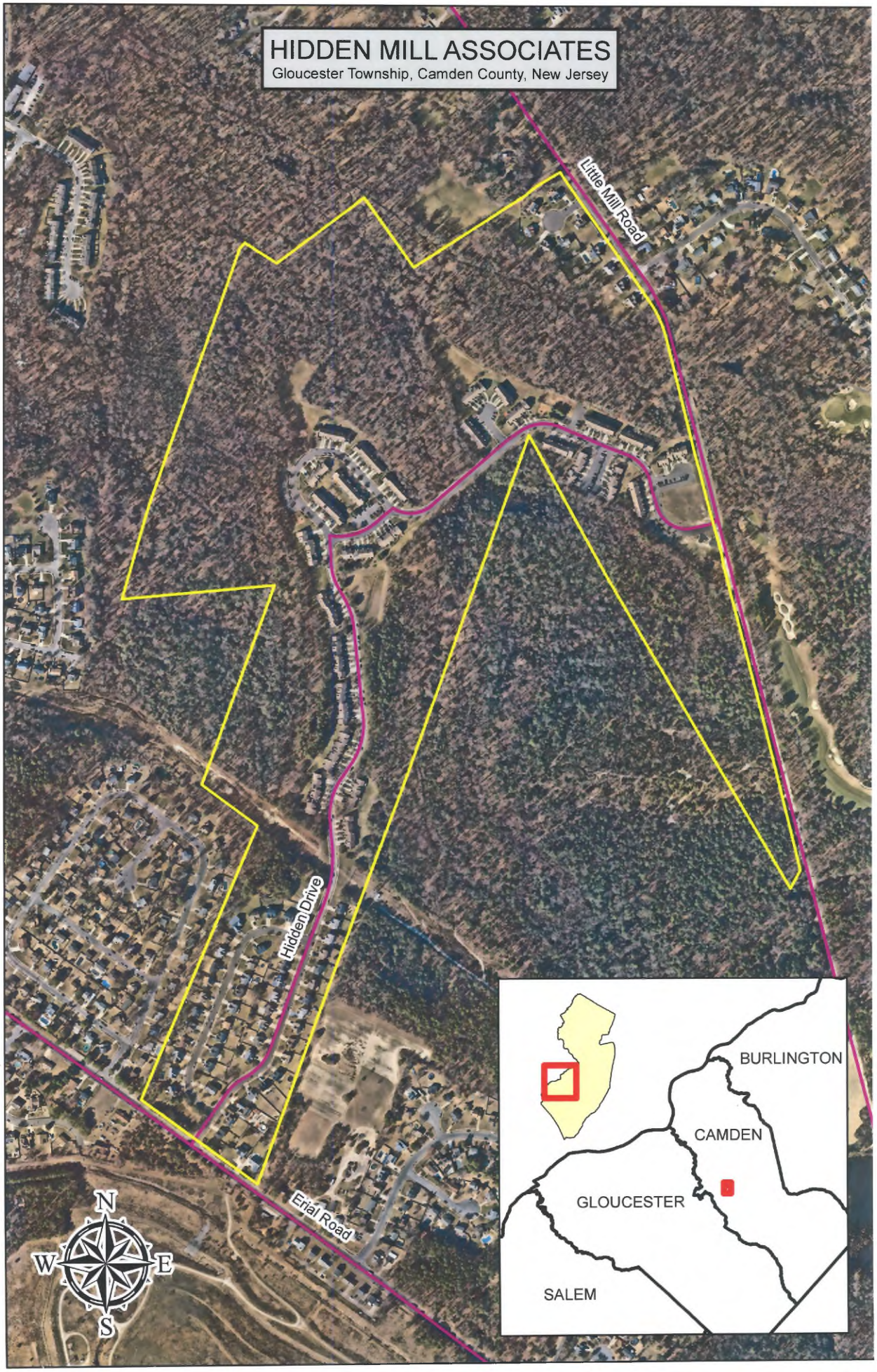

HIDDEN MILL ASSOCIATES
Gloucester Township, Camden County, New Jersey
Little Mill Road
Hidden Drive
Erial Road
N
W
E
S
BURLINGTON
CAMDEN
GLOUCESTER
SALEM

Exhibit B

JEFFREY S. CHIESA
Attorney General of New Jersey
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625
Attorney for Petitioner New Jersey
Department of Environmental Protection

By: Bruce A. Velzy, DAG
(609) 633-8713

STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, Petitioner, v. HIDDEN MILL ASSOCIATES, LITTLE MILL, INC., PENCHIL, LLC, CELESTINO PENNONI AND VINCENT PENNONI, Respondents.	)))))))))))))))	STATE OF NEW JERSEY OFFICE OF ADMINISTRATIVE LAW OAL DOCKET NO. ECE 2227-2010N ADMINISTRATIVE ACTION Administrative Consent Order

NEA#120001 - 0415-03-0001.1

The New Jersey Department of Environmental Protection ("Department" or "DEP") is authorized to make the following Findings and enter into this Administrative Consent Order pursuant to the authority vested in the Commissioner of the Department by N.J.S.A. 13:1D-1 et seq., the Freshwater Wetlands Protection Act N.J.S.A. 13:9B-1 et seq. ("FWPA") and the rules promulgated at N.J.A.C. 7:7A-1 *et seq.*, and duly delegated to the Assistant Commissioner, Compliance and Enforcement and his assignees pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. Hidden Mill Associates is owner and developer of property situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County, New Jersey (the "site"). After resubdivision, the above tracts are now encompassed within approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406 18701, 18702, 18703, 18801 and 18802.

2. Hereinafter, Hidden Mill Associates (a New Jersey General Partnership), Little Mill, Inc. (General Partner), Penchil LLC (General Partner), Celestino R. Pennoni, individually and as President of Little Mill Inc., and Vincent Pennoni, individually and as a member of Penchil LLC, shall collectively be referred to as the "Respondents." The ownership of these companies is as follows:

a. Hidden Mill is a partnership between Little Mill, Inc. and Penchil, LLC.
b. Penchil, LLC owns 50% of Hidden Mill.
c. Vincent Pennoni owns 25% of Penchil, LLC; other Pennoni family members own the remainder of Penchil, LLC.
d. Vincent Pennoni is the manager of Hidden Mill Associates and was and is active in the Hidden Mill and Murray Hill Estates development.
e. Little Mill, Inc. owns 50% of Hidden Mill.
f. Celestino Pennoni owns 100% of Little Mill, Inc.
g. Celestino Pennoni serves as the President of Little Mill, Inc.

3. On March 21, 2002, the Division of Land Use Regulation ("DLUR") issued a combined Land Use Permit (DLUR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to the Respondents for conducting certain regulated activities at the site in conjunction with the proposed construction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates," as well as proposed improvements to Little Mill Road. The combined Land Use Permit included the following conditions:

a. SPECIAL CONDITION #1: **Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mil site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U.S. Fish and Wildlife Service in writing . . .);**

b. SPECIAL CONDITION #6: **Prior to initiation of site preparation,** the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. <u>The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands</u>. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

c. MITIGATION CONDITION #1: Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project . . . or . . . through the purchase of mitigation credits. . ."

4. Land clearing and grading commenced at the Hidden Mill site by March 15, 2002.

5. Hidden Mill sent a letter to the U.S. Fish & Wildlife Service ("FWS") on September 10, 2002.

6. Hidden Mill signed the deed restriction required by DEP's Freshwater Wetlands Protection Act permit on November 23, 2003, and recorded it on June 15, 2004.

7. The Freshwater Wetlands Protection Act permit allowed Hidden Mill to construct a sanitary sewer crossing. Hidden Mill disturbed wetlands outside this permitted area in or about November 2002.

8. Hidden Mill corrected the unauthorized wetlands disturbance by August 26, 2004.

9. Hidden Mill submitted a wetlands mitigation proposal to DEP on August 2, 2002.

10. On November 14, 2002, a DEP representative inspected the Hidden Mill site for purposes of reviewing Hidden Mill's mitigation proposal. DEP's mitigation representative rejected Hidden Mill's mitigation plan verbally during site visits on November 14 and 27, 2002; and in writing, on June 24, 2004.

11. DEP received no subsequent wetlands mitigation plan from Hidden Mill.

12. Hidden Mill's Freshwater Wetlands Protection Act permit expired on March 21, 2007.

13. Based on inspections in 2003, 2004 and reviews of its files, DEP's Coastal Land Use Compliance & Enforcement ("CLUE") Bureau, CLUE determined that the respondents violated the permit conditions set forth in Paragraph 3 above and engaged in an unpermitted disturbance of freshwater wetlands as set forth in Paragraph 7 above. DEP therefore issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AO/NOCAPA") to the respondents on July 31, 2008, seeking compliance with the permit's wetlands mitigation requirement and assessing a penalty of $330,000 for all violations. DEP later reduced the $330,000 penalty assessment to $321,000. The Respondents had, by then, corrected the violations of Special Condition Nos. 1 and 6 and restored the freshwater wetlands identified above in Paragraph 7. DEP also assessed an on-going penalty of $250/day against the respondents until such time as this matter was settled or an administrative hearing commenced.

14. The Respondents timely filed a hearing request in response to the July 31, 2008 AO/NOCAPA.

15. This matter was transmitted to the New Jersey Office of Administrative Law ("OAL"), docketed as OAL Docket No. ECE 2227-2010N, and assigned to the Honorable Jeff Masin, ALJ.

16. DEP moved for partial summary decision before Judge Masin on August 17, 2011, which the Respondents opposed. Respondents also filed a cross motion for partial summary decision seeking to have individual counts against Celestino Pennoni dismissed.

17. After hearing oral argument on the motions, Judge Masin issued a decision on the motions dated November 7, 2011, which was supplemented and amended on November 29, 2011, finding that Hidden Mill Associates violated Special Condition Nos. 1 and 6 of the Freshwater Wetlands Protection Act permit issued to Hidden Mill and disturbed freshwater wetlands adjacent to the sanitary sewer easement, but denied the remainder of the relief sought by the DEP. Judge Masin also denied Respondents' cross motion.

18. On February 3, 2012, the parties reached a tentative settlement, at which time the $250/day continuing penalty ceased accruing. By February 3, 2012, the continuing penalty of $250/day totaled $309,000.

19. Accordingly, the signatories listed below wish to resolve this matter amicably and without further adjudication and therefore have entered into this Administrative Consent Order to settle the violations referenced in the above Findings according to the terms set forth herein.

NOW THERFORE IT IS HEREBY ORDERED AND AGREED THAT RESPONDENTS SHALL:

COMPLIANCE REQUIREMENTS AND SCHEDULE

20. From the date this document becomes final pursuant to the Public Participation Process described below in Paragraph, Respondents shall comply with the following requirements:

a. Within 30 days, purchase .6 mitigation credits from the Willow Grove Lake Mitigation Bank;

b. Within 30 days, remove and legally dispose of any solid waste or piles of dirt or fill on the property;

c. Within 60 days, obtain approval of the final terms and wording of a deed restriction from CLUE for the property. A template for the appropriate deed restriction is attached hereto as Exhibit A;

d. Within 60 days after receiving approval from CLUE of the language in a deed restriction for the property, record that deed restriction with the Camden County Clerk;

e. Within 90 days, conduct and complete due diligence on the property to be donated and demonstrate to CLUE that the property is not contaminated and otherwise is "clean" (i.e. no hazardous or solid waste is present);

f. Within 90 days, pay off a $225,000 loan secured by the property, remove any and all others liens which may apply to this property, remove any and all clouds to the property's title, and take any other steps necessary to ensure that the property will be donated with a "clean title;"

g. Within 90 days, obtain an independent appraisal of the property's current value using an appraiser identified on DEP's Green Acres web-site at http://www.state.nj.us/dep/greenacres/pdf/appraisers_2010.pdf. If that appraisal identifies an appraised value for 380 Little Mill Road (Block 101, Lot 324 – Pine Hill Borough) that is within 20% of the $285,000 value set forth in an October 2010 appraisal for Parke Bank, performed by Benchmark Appraisal Group (attached hereto as Exhibit B), then no additional appraisal will be necessary. If the appraisal performed pursuant to this sub-paragraph is less than 80% of the $285,000 value set forth in the October 2010 appraisal, then the Respondents shall obtain a second appraisal within 30 days of the first one to identify the value of 380 Little Mill Road (Block 101, Lot 324 – Pine Hill Borough). Any appraisal performed pursuant to this sub-paragraph shall be sent to the Department at the address set forth in Paragraph 33 within 10 days of receipt of the results of the appraisal by the Respondents and/or their counsel, whoever first receives the results of the appraisal.

h. Within 180 days, donate 4.4 acres of land in Pine Hill Borough (380 Little Mill Road - Block 101, Lot 324 – hereinafter called "the property") to a conservation organization, environmental organization or governmental agency or body acceptable to and approved by the Department;

i. Complete a survey of the property after identification of the environmental organization or government agency or body pursuant to the prior sub-paragraph is identified, but prior to donating the property to the organization or governmental agency required by the prior sub-paragraph. The survey shall comply with the requirements set forth in Exhibit C to this Administrative Consent Order. Further guidance for a survey can be found at http://www.state.nj.us/dep/greenacres/survey/index.html.

PENALTY

21. In full settlement of the violations and allegations set forth in the FINDINGS section of this Administrative Consent Order, the Respondents shall pay a penalty of $250,000.00 to the Department in twenty-four monthly payments (including interest) as specified in Paragraphs 22 and 23 below, by check made payable to "Treasurer, State of New Jersey." The payments shall be remitted to the Division of Revenue at the address stated on the enclosed invoices beginning thirty (30) calendar days from the date of public approval of this Administrative Consent Order.

22. Commencing ninety (90) days after this document becomes final pursuant to the Public Participation Process described below, interest shall begin accruing on the $250,000.00 penalty at the simple interest rate of 2.5% (pursuant to N.J. Court Rule 4:42-11). Over twenty-four months, that equals $5,019.64.

23. The settlement payment, inclusive of interest, shall be broken down and payable as follows: Respondents shall make twenty-three (23) monthly payments of principal and interest in the amount of $10,650.00; and a twenty-fourth (24th) and final monthly payment of $10,069.64.

24. If Respondents fail to pay the above penalty in accordance with the terms and conditions of this Administrative Consent Order, then the AO/NOCAPA identified in Paragraph 12 above shall become a final order and the full penalty of $630,000.00, along with costs and interest calculated pursuant to N.J. Court Rule 4:42 (minus amounts previously paid), shall become immediately due and owing. The Department may bring a summary action in the Superior Court to collect such penalty pursuant to R.4:67-6, R.4:70 or file this Administrative Consent Order as a judgment under the Penalty Enforcement Law, N.J.S.A. 2A:58-*1 et seq.*

WITHDRAWAL OF HEARING REQUEST

25. By signing this Administrative Consent Order, the Respondents hereby withdraw with prejudice their pending administrative hearing request for the above-referenced AO/NOCAPA, docketed at the OAL as Docket No. ECE 2227-2010S.

STIPULATED PENALTIES

26. Stipulated penalties shall be paid to the Department as set forth below for the failure to comply with any requirement of this Administrative Consent Order, unless the Department has notified Respondents in writing that a stipulated penalty will not be assessed for the violations pursuant to the force majeure provisions of this Administrative Consent Order. Each deadline or schedule not complied with shall be considered a separate violation. Payment of stipulated penalties shall be made according to the following schedule.

Calendar Days After Due Date	Stipulated Penalties
1 - 7	$100.00 per calendar day
8 - 14	$200.00 per calendar day
15 – over	$500.00 per calendar day

27. Any such penalty for failure to comply with this Administrative Consent Order shall be due and payable thirty (30) calendar days following receipt of a written demand from the Department. Payment of stipulated penalties shall be made by a cashier's or certified check payable to the "Treasurer, State of New Jersey" and shall be submitted to the address on the enclosed payment invoice provided in the demand letter.

28. For the failure to timely pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70 or assess civil administrative penalties for violations of this Administrative Consent Order.

29. The payment of stipulated penalties does not alter the responsibility to complete all the requirements of this Administrative Consent Order.

RESERVATION OF RIGHTS

30. The Department reserves the right to impose any and all additional measures should the Department determine that such measures are necessary to protect human health and/or the environment.

31. Nothing in this Administrative Consent Order constitutes a waiver of any statutory right or enforcement powers of the Department to require such additional measures should the Department determine that they are necessary.

32. The Department reserves the right to unilaterally terminate this Administrative Consent Order in the event its terms are violated. However, before the Department terminates this Administrative Consent Order pursuant to this paragraph, the Department will provide notice in writing of its obligations, and shall provide reasonable time under the circumstances as determined by the Department, but not to exceed sixty (60) calendar days, to perform said obligations.

DEPARTMENT CONTACT

33. All submissions of information required by this Administrative Consent Order (except payment of penalty) shall be mailed to:

Bureau of Coastal and Land Use Compliance and Enforcement
Mail Code 401-04C
401 East State Street
PO Box 420
Trenton, NJ 08625-0420
Telephone: (609) 633-8713 Fax: (609) 633-6798

34. Within 14 days of complying with each requirement within the Paragraph 20, except for Paragraphs 20c and 20g, the Respondents shall provide written notice to the Department at the above address of the completion of each such compliance requirement.

PUBLIC PARTICIPATION PROCESS

35. Pursuant to N.J.S.A. 13:9B-21 and N.J.A.C. 7:7A-16.18(a)(3), notice of this Administrative Consent Order shall be published in the DEP Bulletin and will be subject to a thirty (30) day public comment period. Notice of this settlement is anticipated to be published in the next DEP Bulletin published subsequent to the execution of this Administrative Consent Order (most likely October 10, 2012).

a. If there are no changes to the settlement pursuant to this public participation process, then the Administrative Consent Order shall automatically become final on the 31st day after execution;

b. If DEP proposes to make changes pursuant to this public participation process and changes are agreed to, then this Administrative Consent Order, as modified in writing shall become final;

c. If DEP proposes to make material changes to this Administrative Consent Order pursuant to the public participation process and such changes are not agreed to within a reasonable period of time, not to exceed thirty (30) days thereafter, this Administrative Consent Order shall become null and void.

GENERAL PROVISIONS

36. This Administrative Consent Order and compliance therewith represents the full and final settlement and resolution of the matters identified in the Findings section of this Administrative Consent Order, as well as NOVs and AONOCAPA(s) referenced therein.

37. This Administrative Consent Order represents the complete and integrated agreement of the Department and Respondents relating to the issues set forth in the Findings Section of this Administrative Consent Order. It shall be binding upon, and/or inure to the benefit of, the State of New Jersey, the Department, and their divisions, agencies and respective successors, and the Signatory (ies) and its respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.

38. This Administrative Consent Order shall not relieve Respondents from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein.

39. The Signatories agree not to contest the terms or conditions of this Administrative Consent Order, or the jurisdiction of the Department to issue it, in any action to enforce its provisions.

40. No obligations of this Administrative Consent Order or penalties imposed by this Administrative Consent Order are intended to constitute a debt or debts, damage claim, penalty or civil action which should be limited or discharged in a bankruptcy proceeding. All obligations and penalties imposed by this Administrative Consent Order shall constitute continuing regulatory obligations imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.

41. Nothing in this Administrative Consent Order shall preclude the Department from taking immediate action or seeking injunctive relief to protect the public health safety or welfare or from taking enforcement action against Respondents for matters not set forth in the Findings referenced in this Administrative Consent Order.

42. This Administrative Consent Order shall be binding, jointly and severally, on the Signatories, their respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or in equity.

43. Respondents hereby consent and agree to comply with all the terms and provisions of this Administrative Consent Order, which shall be fully enforceable in the Superior Court of New Jersey which has jurisdiction over the subject matter and signatory parties upon the filing of an action for compliance pursuant to the Freshwater Wetlands Protection Act, and also may be enforced in the same fashion as an Administrative Order issued by this Department pursuant to this same statutory authority.

44. In addition to the Department's statutory and regulatory rights to enter and inspect, the Department and its authorized representatives shall be allowed unannounced access to all areas of the site at all reasonable times for the purpose of monitoring compliance with this Administrative Consent Order or other access as permitted by law.

45. If any provision of this Administrative Consent Order is found to be invalid or unenforceable, the remainder of this Administrative Consent Order shall not be affected thereby and each provision of this Administrative Consent Order shall be valid and enforced to the fullest extent permitted by law. The Department does however retain the right to terminate the remainder of this Administrative Consent Order if after such finding, it determines that the remaining Administrative Consent Order does not serve the purpose for it was intended.

46. No modification or waiver of this Administrative Consent Order shall be valid except as authorized by the Department or by the Department's modification in writing pursuant to the force majeure provisions herein above.

47. Nothing contained in this Administrative Consent Order restricts the ability of the Department to raise the above Findings in any other proceeding.

48. This Administrative Consent Order shall be governed and interpreted under the laws of the State of New Jersey.

49. This Administrative Consent Order shall become final upon signature of all parties and completion of the Public Participation Process identified herein.

50. This instrument may be recorded by the Department affecting title to real property in the State of New Jersey pursuant to N.J.S.A. 46:16-1 et seq., in the Clerk's Office of the County of jurisdiction.

51. The undersigned warrant that they are authorized to sign this Administrative Consent Order and to thereby bind themselves, their successors, assignees, and/or trustees to comply with the terms and provisions of this Administrative Consent Order.

FOR NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Dated: Oct. 9, 2012

Wolfgang Skacel, CHMM,
Assistant Commissioner
Compliance and Enforcement

FOR RESPONDENTS

Dated: 9/25/12

Vincent Pennoni
Hidden Mill Associates

Dated: 9/25/12

Celestino Pennoni
Little Mill, Inc.

Dated: 9/25/12

Vincent Pennoni
Penchil, LLC

Dated: 9/25/12

Vincent Pennoni, Individually

Dated: 9/25/12

Celestino Pennoni, Individually

EXHIBIT A

Prepared by: _____

NJDEP File No.: _____

GRANT OF CONSERVATION RESTRICTION/EASEMENT
(Transition Area and Adjacent Wetlands)

This Grant of Conservation Restriction is made this _____ day of _____, 2012 by _____, whose address is _____, Borough/Township_____, County of _____, State of New Jersey, hereinafter referred to as "Grantor", in favor of the State of New Jersey Department of Environmental Protection, hereinafter referred to as the "Grantee".

WITNESSETH:

WHEREAS, the Grantor is the owner in fee simple of certain real property located in the Borough of Pine Hill, County of Camden, New Jersey, designated as Lots 3.01 to 3.06, Block 1.01 on the official Tax Map of the Borough of Pine Hill, County Clerk or Recorder's Deed Book Number ____, Page Number _____, (hereinafter "the Property"); and

WHEREAS, the Grantor has signed an Administrative Consent Order with the NJDEP, No. NEA 120001-0415-03-0001.1, pursuant to the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A; and

WHEREAS, the Administrative Consent Order requires the Grantor to record an NJDEP-approved deed restriction, pursuant to N.J.A.C. 7:7A-6.1, for the entire approved property as shown on a plan, entitled _____, prepared by _____, dated _____, last revised date _____attached hereto as **Exhibit A** (hereinafter "the Plan"), and

WHEREAS, wetlands, wetlands transition areas, and deed restrictions play a significant role in the maintenance of environmental quality on a community, regional, and statewide level; and

WHEREAS, the NJDEP is authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of the natural resources, to promote environmental protection and prevent pollution of the environment of the State by N.J.S.A. 13:9B, and is authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions; and

WHEREAS, the Grantor, having the authority to do so, intends to enter into this Conservation Restriction in order to grant to the Grantee a Conservation Restriction/Easement on the Property to restrict subsequent development of the Restricted Area.

NOW THEREFORE, in consideration for the parties entry into an Administrative Consent Order and for the valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the facts recited above and the terms, conditions and restrictions contained herein, the Grantor hereby agrees that the Property shall be subject in perpetuity to the following conveyances, covenants and restrictions in favor of the Grantee:

1. Grantor hereby conveys, transfers, assigns and grants to the Grantee a Conservation Restriction/ Easement with respect to that portion of the Property as shown in **Exhibit A** and as described in **Exhibit B.**

2. Pursuant to N.J.A.C. 7:7A-2.12(c), unless specifically authorized by the Administrative Consent Order between the Grantor and Grantee, the Restricted Area shall be preserved in its natural state and any/all activities that inhibit the natural succession of vegetation are prohibited. Specifically, the following activities shall not occur within the Restricted Area:

   a. Removal, excavation, or disturbance of the soil;

   b. Dumping or filling with any materials;

   c. Erection of structures;

   d. Placement of pavement;

   e. Destruction of plant life which would inhibit the natural succession of vegetation, including mowing of fields and the development of new gardens, except as approved in the conservation restriction or easement, or in accordance with a non-native/invasive species removal plan approved by the Grantee prior to removal;

   f. The use of fertilizers, herbicides or pesticides;

   g. Alteration of the hydrology of the Restricted Area;

   h. Any other activities, unless explicitly permitted as part of the conservation restriction/easement

3. The boundaries of the Restricted Area shall be marked by an unobtrusive, semi-permanent visual marker in a manner of the Grantee's choosing, and to the

Grantee's satisfaction, within 30 days of recording this Deed. Examples include fence post, pipe in the ground, survey markers, or a shrub or tree line.

4. This Conservation Restriction / Easement shall be a burden upon and shall run with the Property, and shall bind Grantor, its successors and assigns, in perpetuity. The Grantor shall give notice of this deed restriction to all holders of any easements in the Restricted Area within 30 days of recording by the County Clerk.

5. It is the purpose of the Conservation Restriction /Easement to assure that the Restricted Area will be maintained as such and to prevent any disturbance or development of that portion of the Property. To carry out this purpose, the following rights are granted to the Grantee by this Conservation Restriction / Easement:

   (a) To enter upon the Property in a reasonable manner and at reasonable times so as to assure compliance with the provisions of this Conservation Restriction / Easement; and

   (b) In addition to the exercise of any other statutory or common law right, to enjoin any activity on, or use of, the Restricted Area that is inconsistent with the purpose of this Conservation Restriction / Easement and to enforce the restoration of such areas or features of the Restricted Area that may be damaged by inconsistent activity or use.

6. Grantor shall transfer ownership of the Property to a non-profit entity or government agency approved by the Department; and it shall thereafter not be transferred to another owner thereafter.

7. In addition to, and not in limitation of, any other rights of the Grantee hereunder or at law or in equity, if the Grantee determines that a breach, default or violation ("Violation") of this Conservation Restriction / Easement has occurred or that a Violation is threatened, the Grantee shall give written notice to Grantor of such Violation, setting forth the specifics thereof, and demand corrective action sufficient to cure the Violation. If the Grantor fails to cure the Violation after receipt of notice thereof from the Grantee, or under circumstances where the Violation cannot reasonably be cured within a time period dictated by the Grantee, fails to begin curing such Violation within the time period dictated by the Grantee, or fails to continue diligently to cure such Violation until finally cured, the Grantee may bring an action at law or in equity in a court of competent jurisdiction:

   a. To enjoin and/or cure such Violation,

b. To enter upon the Easement Areas and to take action to terminate and/or cure such Violation and or to cause the restoration of that portion of the Easement Areas affected by such Violation to the condition that existed prior thereto, or

c. To seek or enforce such other legal and/or equitable relief or remedies as the Grantee deems necessary or desirable to ensure compliance with the terms, conditions, covenants, obligations and purpose of this Conservation Restriction / Easement.

8. If the Grantee, in its discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Easement Areas, the Grantee may pursue its remedies under paragraph 7 above without prior notice to Grantor or without waiting for the period provided for cure to expire. The Grantee's rights under this paragraph shall apply equally in the event of either actual or threatened Violations of the terms of this Conservation Restriction / Easement. Grantor agrees that the Grantee's remedies at law for any Violation of the terms of this Conservation Restriction / Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance. The above language shall in no event be interpreted to derogate or diminish the Grantee's rights and powers under the laws of the State of New Jersey for the protection of public health, safety and welfare.

9. Enforcement of the terms of this Conservation Restriction/Easement shall be at the discretion of the Grantee and any forbearance by the Grantee to exercise its rights under this Conservation Restriction/Easement in the event of any Violation by Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent Violation or of any of the Grantee's rights under this Conservation Restriction/Easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any Violation by Grantor shall impair such right or remedy or be construed as a waiver of such right or remedy.

10. Grantor agrees to reimburse the Grantee for any costs incurred by the Grantee in enforcing the terms of this Conservation Restriction/Easement against Grantor, and including, without limitation, the reasonable costs of suit and attorneys' fees.

11. The Grantee reserves the right to transfer, assign, or otherwise convey the Conservation Restriction/Easement to any other entity or person to facilitate the operation of and/or public use and enjoyment of the Easement Areas.

12. Any notice, demand, request, consent, approval or communication under this Conservation Restriction/Easement shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To Grantor:

To the Grantee:

State of New Jersey
Department of Environment Protection
Division of Land Use Regulation
And its successors and assigns
As of this date of this Conservation Restriction, Grantee's address for the purposes of notice is:
501 East State Street
Mail Code 501-02A
P.O. Box 420
Trenton, NJ 08625-0420
Attention: Director, Division of Land Use Regulation
(609) 984-3444

In addition, any notice relating to paragraph 6 shall be addressed as follows:

To the Department:

State of New Jersey
Department of Environmental Protection
Coastal & Land Use Compliance & Enforcement
And its successors and assigns
As of the date of this Conservation Restriction/Easement, Grantee's address for the purposes of notice relating to paragraph 6 is:
401 East State Street
Mail Code 401-07B
P.O. Box 420
Trenton, NJ 08625-0420
Attention: Manager, Coastal & Land Use Compliance & Enforcement
(609) 292-1240

13. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.

14. The Grantor reserves to the party to whom this property is to be donated, all rights as owners of the Property, including the right to engage in all uses of the Restricted Area not inconsistent with the purpose of this Conservation Restriction/Easement and the right to manage the Restricted Area in accordance with the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-1 et seq.

15. This instrument conveys no additional right of access by the general public to any portion of the Property.

16. The Grantor agrees to bear all costs and liabilities of any kind related to the operation, upkeep and maintenance of the Property. The Grantor shall be responsible for acts of its own negligence consistent with the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:8-1 et seq.

17. The Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Restriction/Easement will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which the Grantor divests itself of any interest in any portion of the Property. Notwithstanding the failure of the Grantor to include the terms and restrictions of this instrument, it shall run with the land and be binding on all heirs, successors and assigns.

18. The Grantee agrees that it will assign its rights under this Conservation Restriction/Easement only to another governmental body or a charitable conservancy, and only in accordance with N.J.S.A. 13:8B-1 et seq. and N.J.S.A. 13:9B-1 et seq.

19. Notwithstanding anything contained herein to the contrary, any modification or termination of this Conservation Restriction/Easement shall require the prior written approval of the Grantee, its successor or assign.

20. This Conservation Restriction/Easement shall survive any merger of the fee and restriction interest in the Restricted Area.

22. Taxes, Insurance.

a. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Easement Areas. Grantor shall keep the Easement Areas free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

b. The Grantor agrees to pay any real estate taxes or other assessments levied on the Easement Areas. If the Grantor becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, the Grantee, at its option, shall, after written notice to the Grantor, have the right to purchase and acquire the Grantor's interest in said Easement Areas or to take such other actions as may be necessary to protect the Grantee's interest in the Easement Areas and to assure the continued enforceability of this Conservation Restriction/Easement.

23. Miscellaneous.

a. The laws of the State of New Jersey shall govern the interpretation and performance of this Conservation Restriction/Easement.

b. If any provision of this Conservation Restriction/Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction/Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

c. This Conservation Restriction/Easement sets forth the entire agreement of the parties with respect to the Conservation Restriction/Easement and supersede all prior discussions, negotiations, understandings or agreements relating to the easement, all of which are merged herein. No alteration or variation of this Conservation Restriction/Easement shall be valid or binding unless contained in a writing executed by the parties hereto.

d. Should there be more than one Grantor, the obligations imposed by this Conservation Restriction/Easement upon each Grantor shall be joint and several.

e. The covenants, terms, conditions and restrictions of this Conservation Restriction/Easement shall be binding upon, and inure to the benefit of, the parties hereto and all parties having or acquiring any right, title or

interest in any portion of the Property, including holders of subdivision deeds, and shall continue as a servitude running in perpetuity with the Property.

f. The captions in this Conservation Restriction/Easement have been inserted solely for convenience of reference and are not a part of this Conservation Restriction / Easement and shall have no effect upon construction or interpretation.

g. Execution of this Conservation Restriction/Easement does not constitute a waiver of the rights or ownership interest of the State of New Jersey in public trust property.

h. This Conservation Restriction/Easement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument.

24. The Grantor reserves unto itself the right to undertake de minimis modifications of the Restricted Area that are approved by the Grantee. The Grantee may approve the modification under the following conditions and with the following documentation:

a. The modification results in an increased level of protection of the regulated resource; or

b. The modification results in equivalent areas of resources protected; and

c. The modification does not compromise the original protected resource.

25. If the Grantee approves the Grantor's modification, the Grantor shall amend this instrument by preparing and submitting to the Grantee for review and approval:

a. A revised plan and metes and bounds description for the area to be preserved under the modified Conservation Restriction/Easement (hereinafter the "Modification Documents"); and

b. An Amended Conservation Restriction/Easement that reflects the modifications to the original Conservation Restriction/Easement, the justification for the modification, and that also includes the deed book and page of the title deed for the property or properties subject to the modified Conservation Restriction/Easement set forth in the Modification Documents.

26. The Grantor shall record the documents listed in paragraph 25, above, in the same manner and place as this original Conservation Restriction/Easement was recorded.

27. This Grant of Conservation Restriction / Easement may only be removed pursuant to N.J.S.A. 13:8B-1 et seq.

TO HAVE AND TO HOLD unto the State of New Jersey, Department of Environmental Protection, its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Restriction / Easement shall not only be binding upon the Grantor but also upon its agents, personal representatives, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the Grantor has set its hand and seal on the day and year first above written, and directs that this instrument be recorded in the office of the _____County Clerk.

_____ (Grantor)

_____ (signature names and title)

ATTEST:

_____
, Secretary

(Seal)

STATE OF _____
COUNTY OF _____

Be it remembered that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public of New Jersey, personally appeared: _____ _____, and he thereupon acknowledged that he signed the foregoing instrument (*in such capacity, that the seal affixed to said instrument is the corporate seal of said corporation*), and that said instrument is the voluntary act of deed of said person (*or corporation, made by virtue of authority from its Board of Directors*).

_____ _____

_____ _____

A Notary Public of _____

My Commission Expires: _____

Attachments required: NJDEP Approved Restricted Area Plan
Metes and Bounds description schedule

EXHIBIT B

RESTRICTED APPRAISAL REPORT
OF
5 APPROVED LOTS
380 LITTLE MILL ROAD
PINE HILL BOROUGH
CAMDEN COUNTY, NEW JERSEY

FOR

PARKE BANK

OCTOBER, 2010

BENCHMARK APPRAISAL GROUP, LTD
REAL ESTATE APPRAISERS & CONSULTANTS
2427 HUNTINGDON PIKE, HUNTINGDON VALLEY, PA 19006
215 938-1300 * FAX: 215 938-8441

ANTHONY L. SALVITTI, SR., SRPA, SRA
STATE CERTIFIED GENERAL APPRAISER
EMAIL: sr@benchmarkapr.com

ANTHONY L. SALVITTI, JR., SRA
STATE CERTIFIED GENERAL APPRAISER
EMAIL: jr@benchmarkapr.com

October 15, 2010

PARKE BANK
601 Delsea Drive
Sewell, NJ 08080

ATTENTION: VITO PANTILIONE, PRESIDENT

RE: APPRAISAL OF - 5 APPROVED LOTS
380 LITTLE MILL ROAD
PINE HILL BOROUGH
CAMDEN COUNTY, NEW JERSEY

Dear Mr. Pantilione:

In accordance with your request, we are pleased to present the attached appraisal of the property rights in the referenced parcel of real estate. The report sets forth our opinion of market value, along with supporting data and reasoning, which form the basis of our opinion.

Reference is made to the assumptions and limiting conditions contained herein. The items detailed therein are considered significant in valuing the property and should be carefully analyzed by the intended user/client of this report.

The subject is an approved 5-lot subdivision, with no present improvements. One lot is designated as a storm water drainage basin. Lots range in size from 0.37 Acres to 0.88 Acres in size.

Based upon our analysis and conclusions, it is our opinion that the current market value of the property in its "as-is" condition, subject to the assumptions and limiting conditions, as of ***October 6, 2010****, was:*

TWO HUNDRED EIGHTY-FIVE THOUSAND DOLLARS
$285,000. – VALUE OF 5 "APPROVED AND UNIMPROVED" SITES

FIFTY-SEVEN THOUSAND DOLLARS
$57,000. – TYPICAL UNIMPROVED SITE VALUE

TWO HUNDRED TEN THOUSAND DOLLARS
$210,000. – DISCOUNTED VALUE OF 5 SITES

The estimated exposure period and marketing time indicated herein apply to the value stated above. This letter must remain attached to the report, which contains 24 pages plus related exhibits, in order for the value opinion set forth to be considered valid.

We trust this report is sufficient for your purposes, and we thank you for the opportunity to be of service.

Very truly yours,

ANTHONY L. SALVITTI, SR., SRPA, SRA
NJ CERTIFIED GENERAL APPRAISER
CERTIFICATION #: 42RG00086700

ALS:mab
Enclosure

#10105133

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report and the value conclusions contained therein are predicated upon and subject to the following assumptions and limiting conditions.

1. *As agreed upon with the client prior to the preparation of this appraisal, this is a Limited Appraisal. As such, information pertinent to the valuation has not been considered and/or the full valuation process has not been applied. Depending on the type and degree of limitations, the reliability of the value conclusion provided herein may be reduced.*

2. *This is a Restricted Appraisal Report. As such, it does not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.*

3. *Title to the property is assumed to be good and marketable, free and clear of liens, restrictions and encumbrances, except as specifically described in this appraisal report.*

4. *By reason of this report, we cannot be required to give testimony with reference to the property appraised, unless arrangements have been made previously.*

5. *We have not any past, nor present or contemplated future interest in the real estate that was the subject of this report; and that neither the employment to make this report, nor the compensation for it, was contingent upon the appraised value of the property.*

6. *We have no personal interest or bias with respect to the subject matter of this report of the parties involved.*

7. *To the best of our knowledge and belief, the statement of facts contained in this report, upon which the analyses, opinions, and conclusions expressed herein were based, were true and correct. Information, estimates and opinions furnished us, and contained in this report, were obtained from sources considered reliable and believe to be true and correct. However, no responsibility for accuracy for such items can be assumed.*

8. *This report sets forth all the limiting conditions (imposed by the terms of the assignment or by us, affecting the analyses, opinions and conclusions) contained in this appraisal report.*

9. *This report has been made in conformity with, and is subject to, the requirements of the code of Professional Ethics and Standards of Professional Conduct of the Appraisal Institute with which we are affiliated, in conformity with the Uniform Standards of Professional Market Study Practice (USPAP) of the Appraisal Foundation and Title XI of FIRREA.*

10. *Our analysis, opinions, and conclusions were developed, and this report has been prepared in accordance with the Standards and reporting requirements of the Office of the Comptroller of the Currency, Office of Thrift Supervision, and FDIC.*

11. *All conclusions and opinions concerning the real estate that are set forth in this report were prepared by us, and anyone acknowledged in this report.*

12. *No change of any items of this report shall be made by anyone other than us, and we shall have no responsibility for any such unauthorized change.*

13. *Neither all, nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser(s), firm, or professional organizations, or designations shall be disseminated to the public through any public media or communication without the prior written consent and approval by us.*

14. *No responsibility was assumed by us for matters of a legal nature, nor was any opinion of the title rendered. Good title was assumed. Management was assumed to be competent and the ownership to be in responsible hands. We assumed that there was no hidden or unapparent conditions of the property, subsoil, or structures which would render it more or less valuable. We assumed no responsibility for such conditions or for engineering, which might be required to discover such factors.*

15. *Exhibits, such as plot or floor plans, if any, were included to assist the reader in visualizing the property, and no responsibility was assumed for their accuracy. We have not made a survey of the property.*

16. *Portions of the property not inspected (if any) were assumed to be as reported or similar to comparable portions, which were inspected.*

17. *Unless it is stated in the report to the contrary, the value estimate was of "real estate only" and excluded personal property, machinery and equipment, business value, and other non-realty items.*

18. *In this appraisal assignment, the existence of potentially hazardous material, used in the construction or maintenance of the buildings, such as – the presence of Urea-Formaldehyde, foam insulation, and/or the existence of toxic waste, which may or may not be present on the property, was not observed by us; nor do we have any knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The existence of Urea-Formaldehyde insulation or other potentially hazardous waste materials may have an effect on the value of the property.*

19. *The information contained herein is not guaranteed, but was gathered from reliable sources, which are believed to be accurate. No warranty or representation is made as to the accuracy thereof; and same is submitted subject to errors, omissions, change of price, rental or other conditions, etc. No liability of any kind is to be imposed on the appraiser(s) herein.*

20. *The appraisal report covering the subject property is limited to the surface rights and does not include any inherent subsurface or mineral rights.*

21. *It is assumed the property is in full compliance with all applicable federal, state, local and private codes, laws consents, licenses, and regulations; and that all licenses, permits, certificates, franchises, and so forth can be freely renewed and/or transferred to a purchaser.*

22. *If the reader is making a fiduciary or individual investment decision and has any questions concerning the material contained in this report, it is recommended that the reader contact the undersigned.*

23. *The appraiser(s) takes no responsibility for events, conditions, or circumstances affecting the property's market value, which take place subsequent to either the date of the value contained in this report or the date of our field inspection, whichever occurs first.*

24. *The estimated operating results shown in this report are based upon an evaluation of the present general level of the economy of the area, and neither takes into account nor makes provisions for the effect of any sharp rise or decline of local or general economic conditions.*

25. *In connection with this appraisal, we have made a visual inspection of the subject neighborhood. No landfills or hazards external to the subject property were apparent.*

26. *In connection with Real Estate Syndication or Syndicates, this report and any liability or obligation of the part of the appraiser(s) are invalid if used in connection with syndication.*

27. *A Real Estate syndicate means a general or limited partnership joint venture, unincorporated association, or similar organization formed for the purpose of an engaged in investment or gain from sale, exchange, trade, or development of such real property on behalf of others, or which is required to be registered with the United States Securities and Exchange Commission or any state regulatory agency which regulates investments made as a public offering.*

28. *The quality of on-site management can have a direct effect on property's economic viability and market value. The financial forecasts contained in this report assume both responsible ownership and competent management. Any variance from this assumption could have a significant impact on the forecasted value estimate.*

29. *This appraisal is made for valuation purposes only. It is not intended nor to be construed to be an engineering report. The appraiser(s) makes no representation, nor warranty, as to the condition, quality or capabilities of the improvements, materials or workmanship. Should there be any question regarding same, it is strongly suggested that an Engineering/Construction inspection be obtained.*

30. *Projections contained within this report are based upon estimates and assumptions, which are inherently subject to uncertainty and variation depending upon evolving events. Some assumptions inevitably will not materialize and unanticipated events and circumstances may occur. Therefore, the actual outcome may vary from those described within this report and the variations may be material.*

31. *The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA compliance. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA compliance, could reveal that the property is not in compliance with one or more of the provisions of the Act. If so, this fact could have a negative effect upon the value of the property.*

32. *This appraisal assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.*

33. *Our estimate of market value assumes the adequacy and availability of all utilities including but not limited to municipal water and sewer, storm sewer, electricity, gas, and telephone.*

34. *Market value estimate assumes the structural integrity of the improvements including but not limited to the foundations, exterior walls, framing members, roof, etc., as well as the satisfactory working conditions of the electrical, plumbing, heating, ventilating, and air-conditioning systems.*

35. *Concluding our market value estimate assumes the completed implementation of Income and Expense projections as set forth herein.*

36. *This appraisal report is invalid and may not be relied upon by anyone unless all signature pages have an ink signature and the report is bound in its original cover bearing the name of Benchmark Appraisal Group, LTD.*

37. *Our physical inspection did not reveal any apparent mold conditions. However, your appraiser has had no formal training relative to determination of adverse mold conditions. It is suggested that, if the client has concerns relative to these matters, a professional be contracted to inspect the property and provide an appropriate report.*

ACCEPTANCE AND/OR USE OF THIS APPRAISAL REPORT, ESTABLISHED COMPLETE ACCEPTANCE OF THE ABOVE STATED ASSUMPTIONS, LIMITING CONDITIONS, AND CONTINGENCIES.

CLIENT/INTENDED USER:	*Parke Bank.*
INTENDED USE:	*For the sole use by the client in the determination of the subject's current market value of the property in its "as-is" condition in conjunction with financial decisions. This report is not intended for any other use. The appraisers are not responsible for unauthorized use of this report.*
IDENTIFICATION OF REAL ESTATE:	*380 Little Mill Road* *Pine Hill Borough* *Camden County, New Jersey*
CURRENT USE:	*Vacant Lane.*
HIGHEST AND BEST USE:	*Proposed use.*
REAL PROPERTY INTEREST VALUED:	*Fee simple estate. The subject property is not a fractional interest, physical segment, or partial holding.*
LISTINGS/AGREEMENTS:	*No listings or agreements were noted.*
PURPOSE OF THE ASSIGNMENT:	*To develop an opinion of the current market value[1] as defined by the agencies that regulates financial institutions in the United States and published by the Appraisal Institute in The dictionary of Real Estate Appraisal, 4th edition.*
EFFECTIVE DATE OF VALUE OPINION:	***October 6, 2010***
DATE OF REPORT:	*The date on the transmittal letter.*

[1] *12 C.F.R. Part 34.42(g); 55 Federal Register 34696, August 24, 1990, as amended at 57 Federal Register 12202, April 9, 1992; 59 Federal Register 29499, June 7, 1994; also as stated in the Fourth Edition of the Appraisal Institute's Dictionary.*

SCOPE OF WORK:	*In preparing this appraisal, the appraisers* • *inspected the subject site;* • *gather information on comparable land sales;* • *confirmed all comparable sales with sources believed to be reliable; and* • *analyzed the data and applied the sales comparison approach.*
REPORT OPTION:	*As agreed upon by the client and appraisers, this report is a limited restricted use appraisal report in accordance with Standards Rule 2-2(c) of the Uniform Standards of Professional Appraisal Practice. As such, it does not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file.*
EXTRAORDINARY ASSUMPTIONS:	*None.*
HYPOTHETICAL CONDITIONS:	*None.*
OPINION OF VALUE:	***$285,000. – Gross Sellout 5 Sites*** ***$57,000. – Typical Site Value*** ***$210,000. – Discounted Value of 5 Unimproved Sites***

AREA AND LOCATION ANALYSIS:

Location Description: *Pine Hill Borough is a 4.1 square mile municipality located in Central Camden County. Population in 2000 was listed as 10,880 persons, with the borough approximately half developed. Overbrook High School services the borough, which has four elementary schools.*

Four large apartment complexes account for a large part of the population. Apartments are the Mansions Apartments, Chalet Garden Apartments, Pine Hill Gardens Apartments and the Chateau Ridge Apartments. The two latter complexes are located on Blackwood-Clementon Road, some ½ mile north of the site.

The immediate area is mostly wooded, with a subdivision known as Hidden Lakes, to the north and east of the subject. Homes appear some 30 years old, different styles, and in average to good condition. The former Pine Hill Golf Course was purchased by Donald Trump and is known as Trump Philadelphia. The land of the golf course is to the south of our site. Across Little Mill Road are the single-family dwellings and townhomes of Hidden Mill. Hidden Mill Estates, 63 single-family dwellings, are all sold. The townhomes of Hidden Mill have 170 of 190 units built and sold.

Conclusion: *The location is considered well suited for the residential proposed construction. The neighborhood provides adequate physical and economic base for residential use.*

Property Description: *Prior to the subdivision, the subject consisted of 4.3 Acres of vacant land. Subdivision allows for 6 lots, one of which is a storm water drainage basin. No improvements have been made to the site.*

Site is mostly wooded and some areas appear as low wetlands. Per the site plan, the areas will be filled. No easements were noted, but several wire fences encroach on the site. Site plan shows the fences will be moved.

Information pertaining to each site is listed below.

BLOCK	LOT	SIZE SF	FRONTAGE	REMARKS
1.01	3.01	30,842 SF	Little Mill Road and Court	Drainage Basin
1.01	3.02	17,507 SF	149' on Court	Tapered
1.01	3.03	18,426 SF	75' on Court	Pie Shape
1.01	3.04	21,068 SF	75' on Court	Irregular
1.01	3.05	38,376 SF	75' on Court	Irregular
1.01	3.06	16,132 SF	166' on Court	Triangular

ZONING: *Based on information obtained from the site plan, the zoning is R-Low, Low Density Residential. Residential uses are permitted, and the property appears to conform to zoning regulations.*

The subject property received final approval from the planning board. We assume all necessary approvals have been obtained.

OWNERSHIP AND OCCUPANCY: *The subject property is owned by Hidden Mill Associates, since March of 2004. The $140,000 transaction was recorded in Deed Book 7411, Page 1519. No agreements or listings were uncovered.*

ASSESSMENT AND REAL ESTATE TAXES: *The property is identified as Tax Parcel Block 1.01, Lots 3.01 to 3.06. The land assessment is*

$12,900/site, making the 2010 taxes $4,984.56. Units will be individually assessed after completion of the dwellings.

FLOOD REFERENCE: *The site appears to be in a non-flood Zone X. The FEMA map is no. 340133 0117F and is dated June 16, 2009.*

SALES COMPARISON APPROACH – VACANT SITES: *The land value is based on the Sales Comparison Approach, where a number of similarly zoned or utilized land sales are analyzed and compared to the subject. The subject has 6 total sites, with one of the sites being a drainage basin. Our value is for the 5 approved and unimproved sites.*

Since each parcel of real estate is unique, adjustments must be made to relate the comparables to the subject. Adjustments made leading to an indication of the price at which the land being appraised could be expected to sell.

We utilized sales of subdivided land in the Greater Pine Hill area. Sales were approved and improved, but one is approved and unimproved.

Research of all vacant lot sales within Camden County was completed through MLS. Lots from $20,000 to $900,000 were considered. Year-over-year statistics showed the average sale price of a vacant site fell from $186,123 to $119,814, over a 2-year period. From 10/6/2007 to 10/5/2008, the average price was $186,123, then from 10/6/2008 to 10/5/2009, the average price fell to $123,549, or some 34%. From 10/6/2009 to the present, the average price was $119,814, or a decrease of 3%. We will utilize the information in our market conditions adjustments.

The grid for our analysis follows.

COMPARABLE SALES AND ANALYSIS

Description	Subject	Sale No. 1	Sale No. 2	Sale No. 3
Address	380 LITTLE MILL RD PINE HILL BORO, CAMDEN COUNTY, NJ	CANYON CREEK GLOUCESTER TWP, CAMDEN COUNTY, NJ	LEGENDS MANTUA TWP, GLOUCESTER COUNTY, NJ	GREYSTONE ESTATES MEDFORD TWP, BURLINGTON COUNTY, NJ
Appraisal/Sale date	Oct-10	Feb-09	Dec-07	Feb-08
Price	N/A	$108,000.00	$4,408,000.00	$500,000.00
Terms	Cash Equivalent	Cash Equivalent	Cash Equivalent	Cash Equivalent
Use	BUILDING LOTS	BUILDING LOTS	BUILDING LOTS	BUILDING LOTS
Land	5 LOTS	22 LOTS	38 LOTS	5 LOTS
Size	16,132 TO 38,376 SF	9,375 SF MINIMUM	ONE ACRE PLUS	1.39+-ACRES
Building Room Count	N/A	N/A	N/A	N/A
Building Age	N/A	N/A	N/A	N/A
Building Condition	N/A	N/A	N/A	N/A
Deed Book/Page	7411/1519	N/A	4489/82	6553/510 TO 531
Comments	FIVE, APPROVED AND UNIMPROVED SINGLE FAMILY DWELLING BUILDING LOTS. TAX PARCEL BLOCK 1.01 LOTS 3.02 TO 3.06, AND LOT 3.01 BEING A DRAINAGE BASIN. UNNAMED CUL-DE-SAC LOCATED OFF OF LITTLE MILL RD. ALL MUNICIPAL UTILITIES ARE AVAILABLE.	SALE OF THE FIRST OF 22 APPROVED AND IMPROVED SINGLE FAMILY DWELLING LOTS. TAX PARCEL BLOCK 15001 LOT 10, 11 TO 11.18. SITE FRONTS ON GARWOOD ROAD, NEAR THE INTERSECTION WITH ROOSEVELT AVE. MINIMUM LOT SIZE IS 9,375 SF. ALL UTILITIES WERE INSTALLED. PURCHASED IS RYAN HOMES.	SALE OF A 38 LOT APPROVED AND IMPROVED SUBDIVISION, KNOWN AS "LEGENDS". BLOCK 6 LOTS 5.04 TO 5.37 EXCEPT 5.33. ALSO BLOCK 6.05 LOTS 1 TO 6. LOCATED ON JESSUP MILL ROAD, JUST OFF OF THE BRIDGETON PIKE. AVERAGE LOT SIZE IS 1 ACRE+-. ALL UTILITIES INSTALLED.	SALE OF 5 APPROVED, AND UNIMPROVED, SINGLE FAMILY LOTS IN THE "GREYSTONE ESTATES" SUBDIVISION. LOCATED ON HADDINGTON WAY, OFF OF EAYERSTOWN ROAD. AVERAGE LOT SIZE IS 1.39+- ACRES. BLOCK 304.02 LOTS 1 TO 4, AND BLOCK 304.01 LOT 32. WELL AND SEPTIC SYSTEMS.
Unit Price/ Lot		$108,000.00	$116,000.00	$100,000.00
Adjustments:				
Property Rights	Fee Simple	1.00	1.00	1.00
Financing	Cash Equivalent	1.00	1.00	1.00
Conditions of Sale	Arms Length	1.00	1.00	1.00
Costs After Sale	None	1.00	1.00	1.00
Market Conditions	Current	0.77	0.68	0.73
Initial Adjustment		0.77	0.68	0.73
Adjusted Price		$72,360.00	$78,880.00	$73,000.00
Location		0%	0%	-10%
Physical: Building Size		N/A	N/A	N/A
Improvements		-35%	-35%	0%
Lot Size		5%	-3%	-7%
Number of Sites		5%	10%	0%
Non-realty Items		0%	0%	0%
Final Adjustment		0.75	0.72	0.83
Adjusted Price Per Lot		$54,270.00	$56,794.00	$60,590.00

Summary of Adjusted Prices:				
	Range	$54,270.00	TO	$60,590.00/LOT
	Median	$56,794.00	PER/LOT	
	Mean	$57,218.00	PER/LOT	

Sale No. 3 has superior location, while Sale Nos. 1 and 2 have superior lot improvements.

Sale No. 1 has inferior lot sizes, while Sale Nos. 2 and 3 have superior lot sizes. Sale Nos. 1 and 2 were adjusted upward for having a larger number of sites.

We have placed equal weight on each sale and feel the value of a vacant, approved and unimproved site, is:

FIFTY-SEVEN THOUSAND DOLLARS
$57,000. – INDIVIDUAL SITE VALUE

Applying the above site value to our 5 sites provides us with a total site value of $285,000.

TWO HUNDRED EIGHTY-FIVE THOUSAND DOLLARS
$285,000. – TOTAL VALUE "APPROVED AND UNIMPROVED" LOTS

DISCOUNTED VALUE – UNIMPROVED LOTS:

Our survey indicates the absorption period required to sell entire projects varies greatly. We will utilize sales of homes in new communities, as improved lot sales are non-existent. Also, we assume the reason for purchase of the site is for new construction. No marketing of the subject lots has been attempted for a year, per MLS records. The most likely purchased is a builder that would buy the project as a whole.

Paparone Homes is nearing the end of the 27-unit subdivision known as Water Stone @ King's Gate located on Kings Highway and Tominson Station Road in nearby East Greenwich Township, Gloucester County. After 24 months of marketing, the agent reports 24 sales, or an equivalent to one unit per month, or 12/year.

Ryan Homes has recently sold the last of the 26 homes in Bella Vista, a community located off of Clems Run and Route 322, in Harrison Township, Gloucester County. Homes ranged from 2,300 to 4,500 SF and 4 to 5 bedrooms. Prices started at $315,900 to $409,900. In just 18 months, the 26 units sold, or an equivalent to 1.4/month, or 16.8/year.

We surveyed the "Hidden Oaks" subdivision, built by Ryan Homes. The location is off of Good Intent Road in Deptford Township. Sites total 19, and since March of 2010, 10 settlements have occurred and another 3 are under agreement. Counting the settlements only, the 10 sales in 7 months produces an absorption rate of 0.70/month, or 8.4 units/year. Homes are in the $260,000 range.

The "Reserve at Willow Ridge" new home community, built by Mi Pro Homes, is a 46-unit subdivision. , The site is off of Hurffville Road and Blackwood-Barnesboro Road in Deptford Township. Sales began in

February of 2007, and 28 units have settled, with another 2 under agreement. The 43-month marketing has produced an absorption rate of 0.65 units/month, or 7.8 units/year. Homes are in the $320,000 range.

Virginia Woods is a 9-unit new home community in Deptford Township. In the 18 months of marketing the project, only one sale was produced. The absorption is equivalent to 0.06 units/month, or 0.72 units/year.

We will utilize a 5 units/year absorption due to the new homes in the immediate area. The average sales/year for our 5 surveyed projects is 9 units/year.

The absorption period is, therefore, estimated at one year, or two semi-annual periods.

Expenses are minor at $1,000.

Based on selling costs on comparables, deductions will be made for the following:

1. *3% sales commission*
2. *2% overhead and marketing*
3. *2% closing costs*

Marketing and commissions equate to 6%.

Developers profit is estimated at 8%, and we have allowed for a contingency of 2%.

A 16.00% rate will be used to discount the proceeds to present value. In selecting the 16.00% rate, consideration was given to alternate form of investments such as Treasuries and more risky Corporate Bonds presently yielding 4.52% to 5.58%[2], as well as national surveys of developers (Realty Rates Developer Survey, 2nd Quarter, 2010). Discount rates listed show the rates for site-built developments of 100 units, on a national scale, were 27.95%. Condominiums were at 21.88% for garden and townhouse units. National sell-out property discount rates for site-built residential projects of 100 units were 11.22% to 42.52%, with an average of 27.95%. Real estate is not stable in terms of the same quantum of risk as is other investments, and upward adjustments for illiquidity, increased risk and management are necessary.

Base Rate	*9.00%*
Illiquidity	*3.00%*
Additional Risk	*3.00%*
Management	*1.00%*
Discount Rate	*16.00%*

The discounted cash flow is on the following page.

[2] *Federal Reserve Statistical Release, October 1, 2010.*

5 Lot Subdivision
Little Mill Road Pine Hill, NJ
Scenario: As Is

Prepared By: Benchmark Appraisal
Number of Units: 5
Periods: Semi-Annual

Cash Flows Beginning	Oct-2010		Apr-2011		Project Totals	
Inventory	Unit Sales	No.	Unit Sales	No.	Unit Sales	No.
Typical Site	$57,000	2	$57,000	3	$285,000	5
			$0		$0	0
			$0		$0	0
			$0		$0	0
			$0		$0	0
			$0		$0	0
Appreciation -->			0.0%			
Revenues	$114,000	2	$171,000	3	$285,000	5

Expenses		Period 1	Period 2	
Expense 1		$500	$500	$3,000
Expense 2		$0	$0	$0
Expense 3		$0	$0	$0
Expense 4		$0	$0	$0
Expense 5		$0	$0	$0
Expense 6		$0	$0	$0
Expense 7		$0	$0	$0
Marketing/Commissions	6.0%	$6,840	$10,260	$23,940
Developer's Profit	8.0%	$9,120	$13,680	$31,920
Contingency	2.0%	$2,280	$3,420	$7,980
Total Expenses		$18,740	$27,860	$66,840
Net Income		$95,260	$143,140	$332,160
Annual Discount Rate:	16%	0.92593	0.85734	
Discounted Value		$88,204	$122,719	$282,596
Net Present Value		$210,923		
Rounded		$210,000		

Powered by @Value Software - www.atvalue.com

As indicated above, the present value of the 5 sites discounted for absorption is $210,000, which is equivalent to $42,000/site.

DISCOUNTED VALUE OF THE UNIMPROVED SITES
TWO HUNDRED TEN THOUSAND DOLLARS
$210,000.

Reconciliation and Value Conclusion: *Based upon our analysis and conclusions, it is our opinion that the current market value of the property in its "as-is" condition, subject to the assumptions and limiting conditions, as of* ***October 6, 2010****, was:*

TWO HUNDRED EIGHTY-FIVE THOUSAND DOLLARS
$285,000. – GROSS SELLOUT 5 APPROVED AND UNIMPROVED SITES

FIFTY-SEVEN THOUSAND DOLLARS
$57,000. – TYPICAL UNIMPROVED SITE VALUE

TWO HUNDRED TEN THOUSAND DOLLARS
$210,000. – DISCOUNTED VALUE OF 5 APPROVED AND UNIMPROVED SITES

The estimated exposure period and marketing time indicated herein apply to the value stated above. The value page must remain attached to the report, which contains 24 pages plus related exhibits, in order for the value opinion set forth to be considered valid.

CERTIFICATION:

We certify that, to the best of our knowledge and belief (as of USPAP 2010):

1. *the statements of facts contained in this report are true and correct.*

2. *the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.*

3. *we have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.*

4. *we have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.*

5. *our engagement is this assignment was not contingent upon developing or reporting predetermined results.*

6. *our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.*

7. *the reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.*

8. *the use of the report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.*

9. *I have made a personal inspection of the property that is the subject of this report. I, Scott W. Frymire, am under direct supervision of the co-signing appraiser of this report. Anthony L. Salvitti, Sr., noted in this report as the co-signing appraiser, has assisted in the inspection. The co-signing appraiser does assume full responsibility of the contents and value conclusions set forth within this report.*

10. *no one provided significant real property appraisal assistance to the person signing this certification.*

11. *as of the date of this report, I, Anthony L. Salvitti, Sr., SRPA, SRA, have completed the continuing education program of the Appraisal Institute.*

12. *we have made an independent value judgment on the property.*

13. *that this appraisal was not based on a requested minimum valuation, a specific valuation, or the approvals of a loan.*

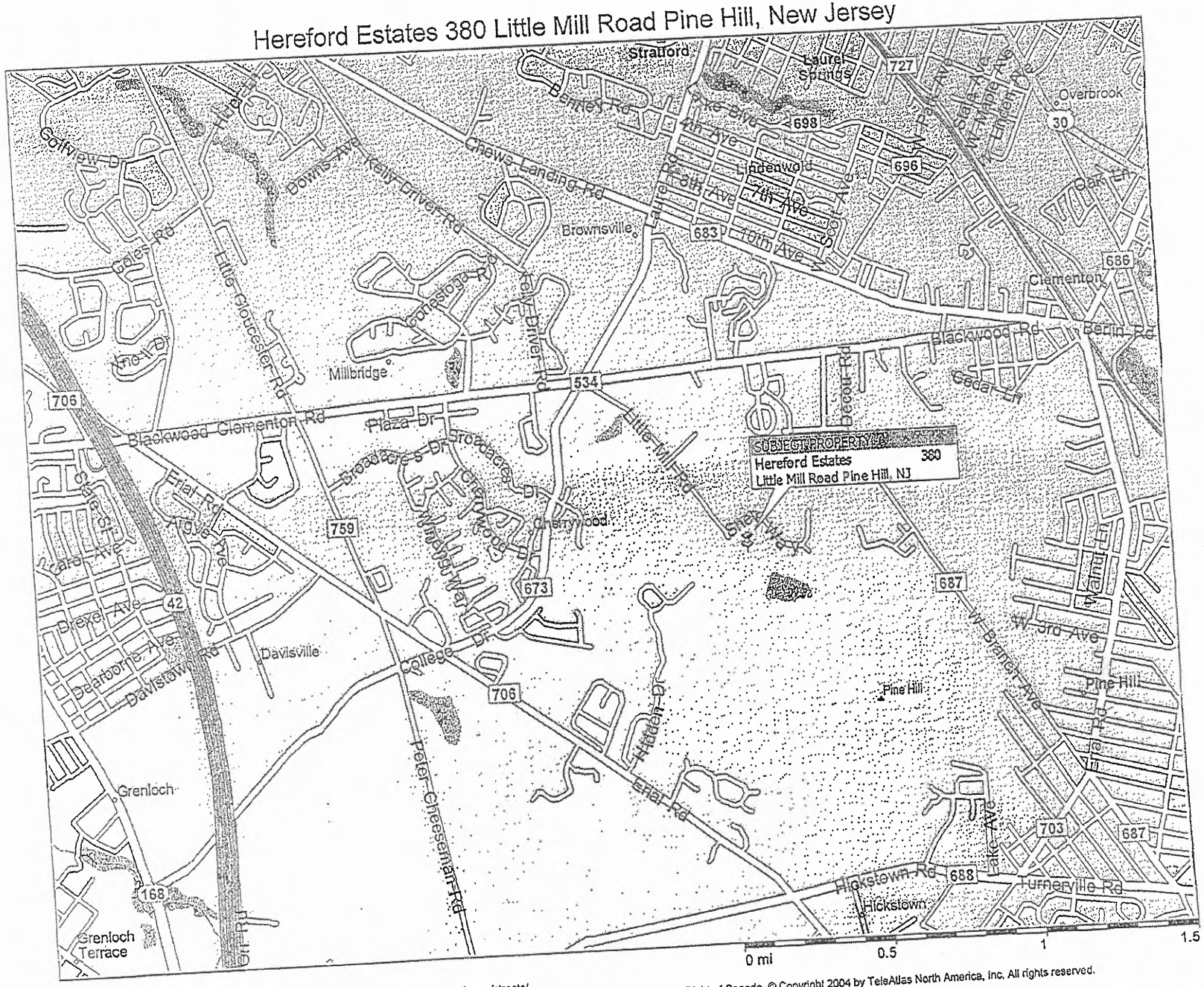
14. *"we have read, understood, and satisfied the Competency Provision of USPAP".*

DATE: OCTOBER 15, 2010

ANTHONY L. SALVITTI, SR., SRPA, SRA
NJ CERTIFIED GENERAL APPRAISER
STATE CERTIFICATION #: 42RG00086700
EXPIRES 12/31/2011

SCOTT W. FRYMIRE
NJ CERTIFIED RESIDENTIAL APPRAISER
STATE CERTIFICATION #: 42RA00099000
EXPIRES 12/31/2011

Hereford Estates 380 Little Mill Road Pine Hill, New Jersey



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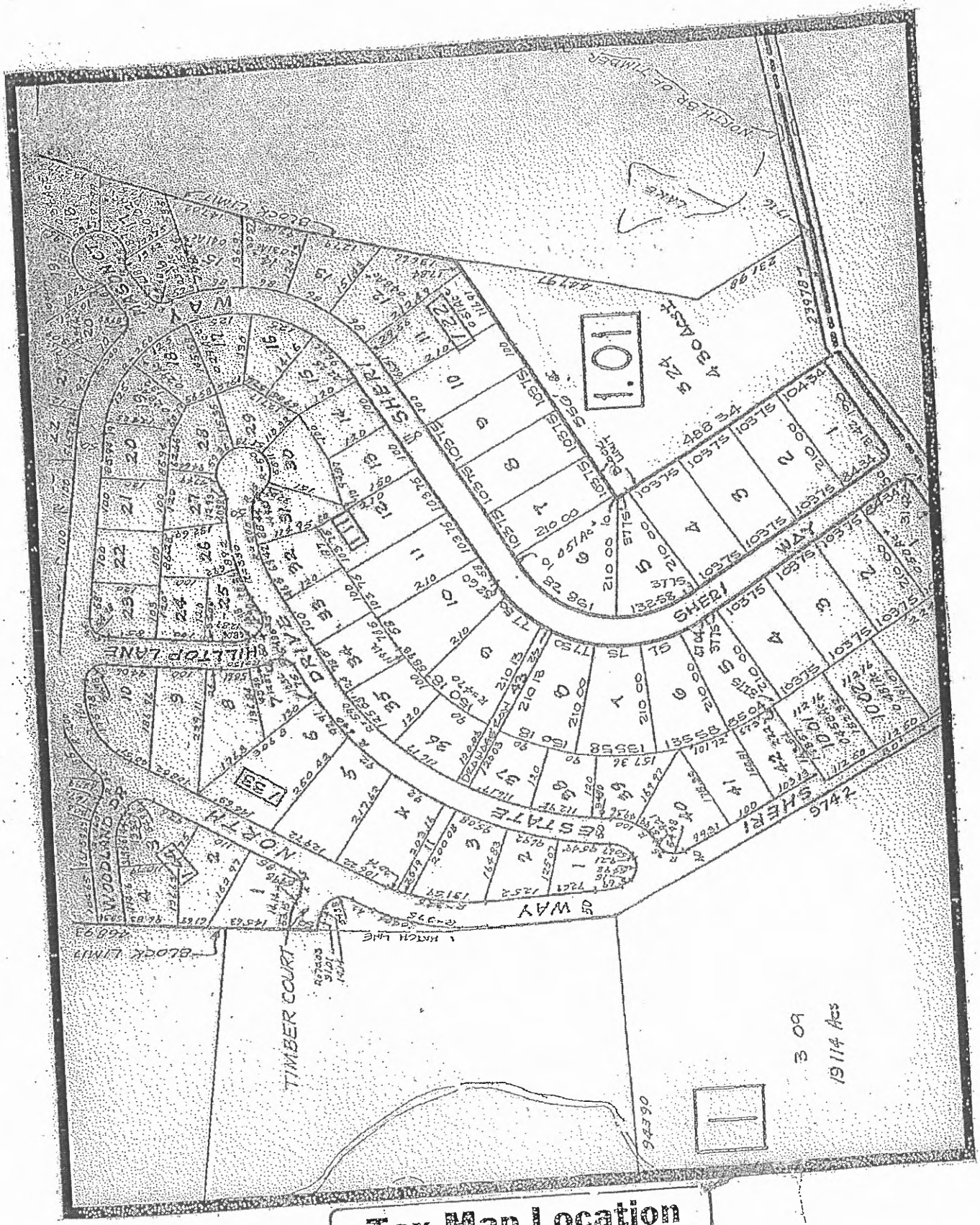
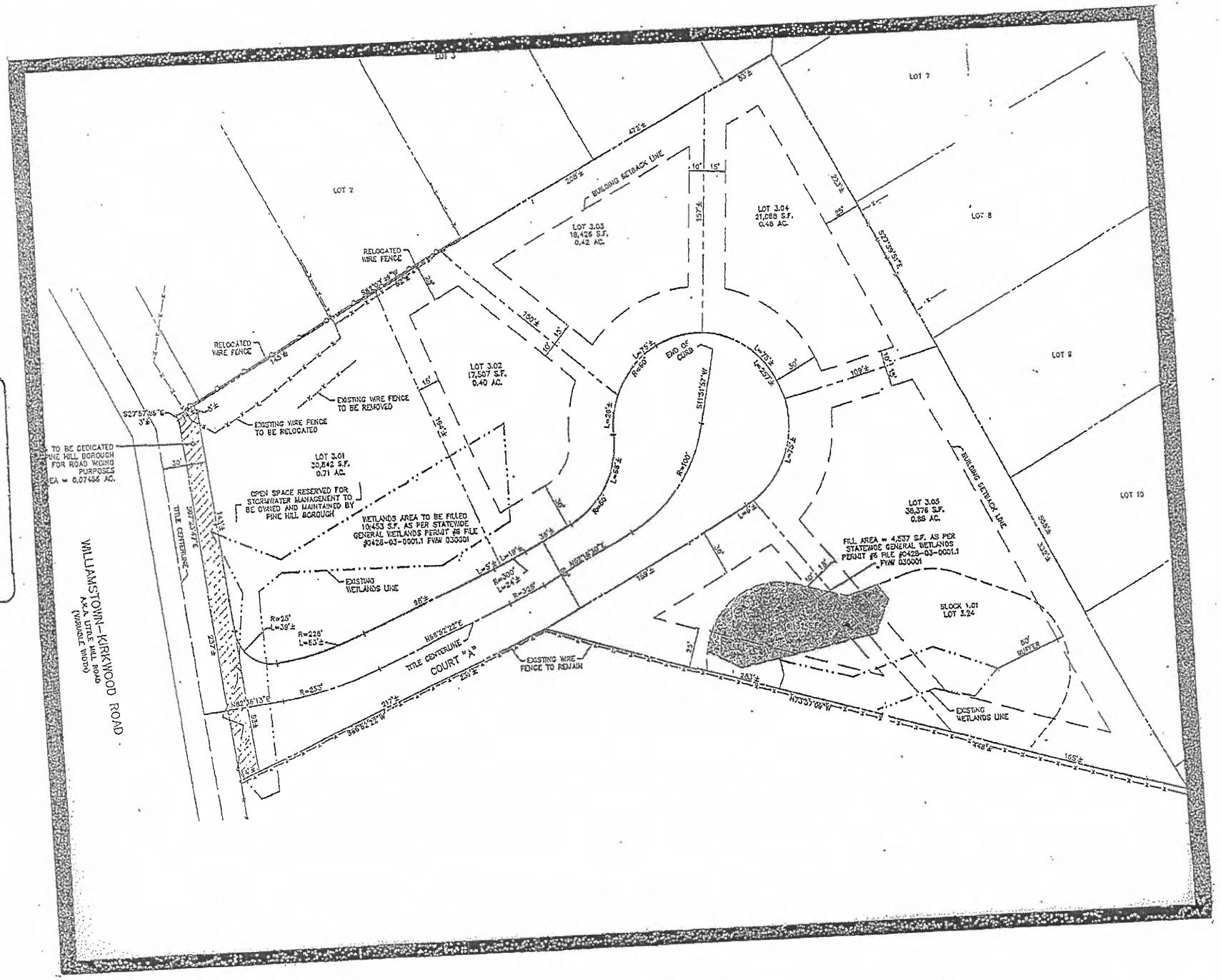
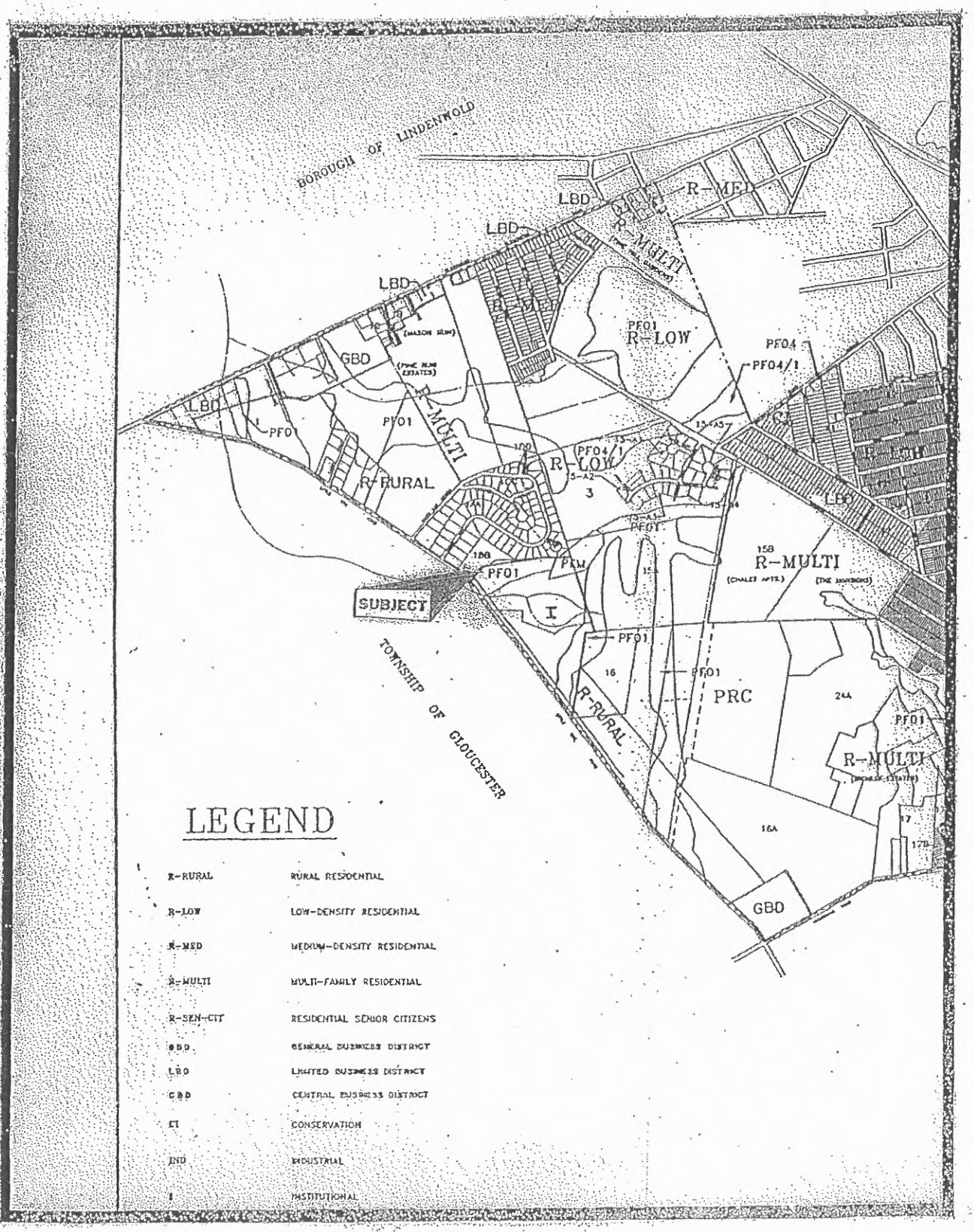


Tax Map Location

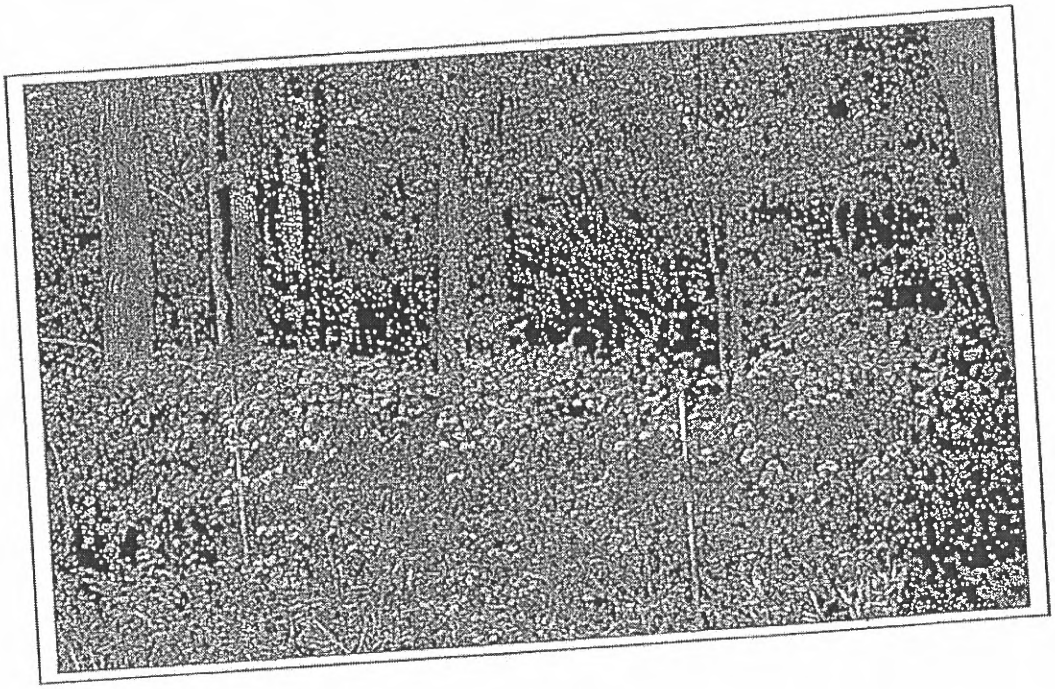

LOT 3
LOT 2
LOT 7
LOT 8
LOT 9
LOT 10
BUILDING SETBACK LINE
LOT 3.03
18,425 S.F.
0.42 AC.
LOT 3.04
21,088 S.F.
0.48 AC.
LOT 3.02
17,507 S.F.
0.40 AC.
LOT 3.01
30,842 S.F.
0.71 AC.
LOT 3.05
38,376 S.F.
0.88 AC.
BLOCK 1.01
LOT 2.24
RELOCATED WIRE FENCE
EXISTING WIRE FENCE TO BE REMOVED
EXISTING WIRE FENCE TO BE RELOCATED
TO BE DEDICATED PINE HILL BOROUGH FOR ROAD WIDNG PURPOSES AREA = 0.07456 AC.
OPEN SPACE RESERVED FOR STORMWATER MANAGEMENT TO BE OWNED AND MAINTAINED BY PINE HILL BOROUGH
WETLANDS AREA TO BE FILLED 10,453 S.F. AS PER STATEWIDE GENERAL WETLANDS PERMIT #6 FILE #0428-03-0001.1 FWW 030001
FILL AREA = 4,537 S.F. AS PER STATEWIDE GENERAL WETLANDS PERMIT #6 FILE #0428-03-0001.1 FWW 030001
EXISTING WETLANDS LINE
END OF CURB
TITLE CENTERLINE
COURT "A"
EXISTING WIRE FENCE TO REMAIN
50' BUFFER
WILLIAMSTOWN-KIRKWOOD ROAD
A.K.A. LITTLE HILL ROAD (VARIABLE WIDTH)

SITE PLAN


BOROUGH OF LINDENWOLD
LBD
R-MED
R-MULTI
PF01
R-LOW
PF04
PF04/1
GBD
R-RURAL
SUBJECT
I
TOWNSHIP OF GLOUCESTER
PRC
LEGEND
R-RURAL RURAL RESIDENTIAL
R-LOW LOW-DENSITY RESIDENTIAL
R-MED MEDIUM-DENSITY RESIDENTIAL
R-MULTI MULTI-FAMILY RESIDENTIAL
R-SEN-CIT RESIDENTIAL SENIOR CITIZENS
GBD GENERAL BUSINESS DISTRICT
LBD LIMITED BUSINESS DISTRICT
CBD CENTRAL BUSINESS DISTRICT
CT CONSERVATION
IND INDUSTRIAL
I INSTITUTIONAL

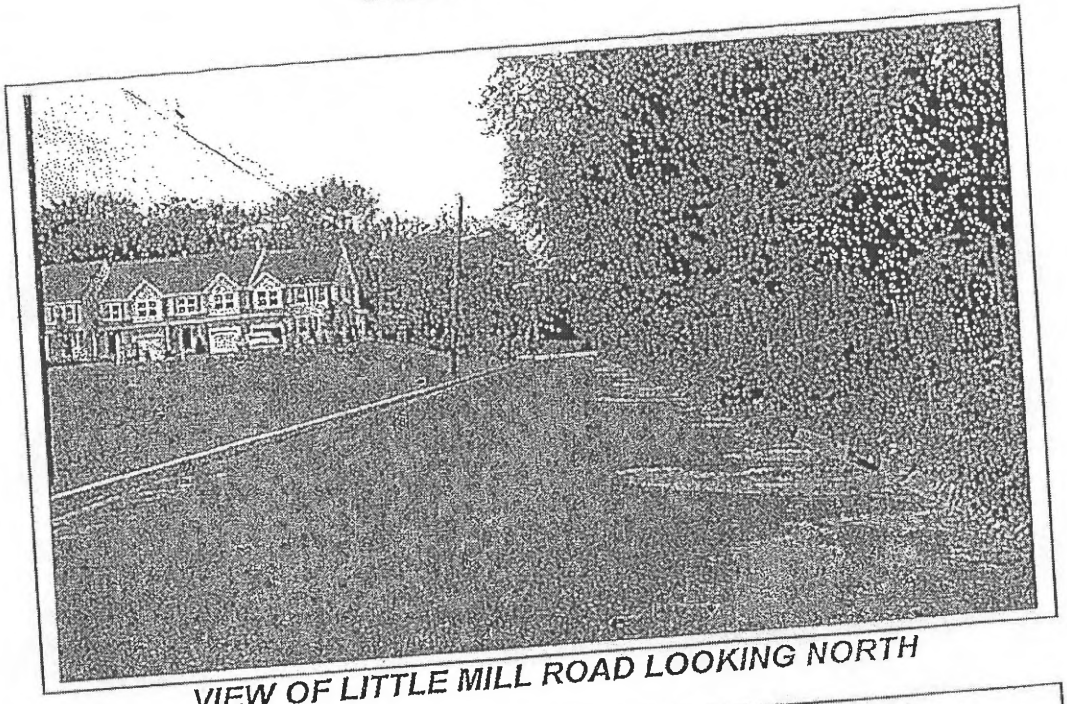
Zoning Map

SUBJECT PHOTO

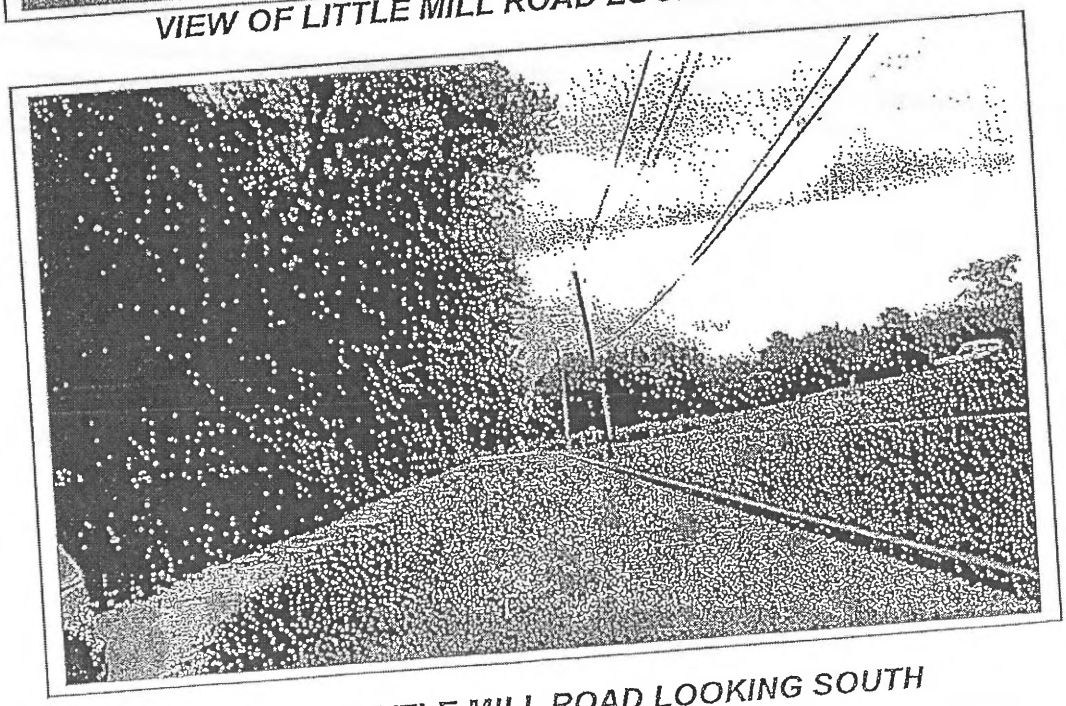


VIEW OF SITE

SUBJECT PHOTOS



VIEW OF LITTLE MILL ROAD LOOKING NORTH



VIEW OF LITTLE MILL ROAD LOOKING SOUTH

ADDENDUM

GLOSSARY

GLOSSARY

The following definitions are from the 2001 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP) or are based on or substantially from The Dictionary of Real Estate Appraisal, 3rd edition (Chicago: Appraisal Institute, 1993).

ACCRUED DEPRECIATION

In appraising property: The difference between an improvement's cost new and its value as of any given date.

In accounting: The historical sum of charges against earnings to write off the cost, less salvage value, of an asset over its estimated life. It is a bookkeeping entry and does not represent cash outlay, nor are any funds necessarily earmarked for the purpose.

AD VALOREM TAX

A tax levied in proportion to the value of the property being taxed.

APPRAISAL APPROACH

A systematic way of developing a value indication using methods and techniques; examples are Cost Approach, Income Approach, and Sales Comparison Approach.

APPRAISAL APPROACHES, METHODS, PROCEDURES, AND TECHNIQUES

Application systems of the general principles and unifying concepts of property appraisal.

APPRAISAL METHOD

A specific process applied to develop an opinion of value.

APPRAISAL PROCEDURE

The act, manner, or technique of conducting the steps of an appraisal method.

APPRAISAL TECHNIQUE

A technical method to develop an opinion of value; a synonym for procedure.

ASSEMBLAGE

In appraising real property: the combining of parcels, usually but not necessarily contiguous, into one ownership or use.

In appraising personal property: the combining of properties (e.g., items or components) into units, sets, or groups.

In appraising business enterprises: the integration or combination under unified control of business entities.

BUSINESS VALUATION

The act or process of estimating the value of a business enterprise or an interest therein.

CAPITALIZATION

Converting a projection of income into an opinion of value by use of a rate.

CAPITALIZATION RATE

A rate used to convert income into value.

DATE OF THE REPORT

The date of the transmittal letter of a written report or the date a written report lacking a transmittal letter is prepared by the appraiser. The date of an oral report is the date it is communicated to or for the client. The date of the report may or may not be the same as the effective date of the appraisal.

DEPRECIATION

In appraising property: A loss in property value from any cause.

In accounting: The allocation of cost for capital recovery.

DISCOUNT RATE

A yield rate used to convert future payments or receipts to present value.

EFFECTIVE AGE

The age of property that is based on the amount of observed deterioration and obsolescence it has sustained, which may be different from its chronological age.

EFFECTIVE DATE

The date at which the analysis, opinions, and advise in an appraisal, review, or consulting service apply.

EFFECTIVE DATE OF THE APPRAISAL

The date at which the value opinion in an appraisal applies, which may or may not be the date of inspection; the date of the market conditions that provide the context for the value opinion.

FEE SIMPLE ESTATE

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

HIGHEST AND BEST USE

In appraising real property: The reasonably probable and legal use of property that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

In appraising personal property: The reasonably probable and legal use of personal property that is physically possible, appropriately supported, and financially feasible, and that results in the highest value in the appropriate marketplace.

INVESTED CAPITAL

The sum of the equity capital and interest-bearing debt of a business enterprise (may include deferred liabilities).

LAND USE REGULATION

Any legally enforceable restriction (for example, a zoning ordinance that controls the use to which land may be put); may include controls established by restrictive covenants or contained in redevelopment or urban renewal plans approved by local governing bodies or local or regional land use plans adopted by government authorities.

LEASE

A legal agreement that grants to another the right to use, occupy, or control all or part of a property for a stated period of time at a stated rental.

LEASED FEE ESTATE

Landlord's (lessor's) interest in fee estate, bound by a stated term and other conditions of a lease or leases conveying rights, usually use and occupancy, to one or more tenants (lessees).

LEASEHOLD ESTATE

Tenant's (lessee's) property rights, usually use and occupancy, conveyed by a lease establishing a stated term and other conditions.

LINEAR MODEL

A linear model is one in which marginal contribution to the value of an independent variable is constant over the entire range of the variable. For example, for the variable square feet of living area, the linear model requires each square foot of living area to add equally to value.

MARKET RENT

The rental income that a property would most probably command in an open market; formerly called economic rent.

MARKET VALUE[1]

Market value is the major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined. A current economic definition agreed upon by agencies that regulate federal financial institutions in the United States of America is:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. *buyer and seller are typically motivated;*
2. *both parties are well informed or well advised, and acting in what they consider their best interests;*
3. *a reasonable time is allowed for exposure in the open market;*
4. *payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and*
5. *the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

Substitution of another currency for United States dollars in the fourth condition is appropriate in other countries or in reports addressed to clients from other countries.

Persons performing appraisal services that may be subject to litigation are cautioned to seek the exact legal definition of market value in the jurisdiction in which the services are being performed.

RATE OF RETURN

The ratio of income from the investment to the amount invested or its defined value.

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[1] *12 C.F.R. Part 34.42(g); 55 Federal Register 34696, August 24, 1990, as amended at 57 Federal Register 12202, April 9, 1992; 59 Federal Register 29499, June 7, 1994; also as stated in the Fourth Edition of the Appraisal Institute's Dictionary.*

SPECIAL ASSESSMENTS

A levy made by a government against real estate to defray the cost of making a public improvement.

TRADE FIXTURES

Articles placed in or attached to rented buildings by a tenant to help carry out the trade or business of the tenant are generally regarded as trade fixtures. For example, a tenant's shelves used to display merchandise are trade fixtures and retain the character of personal property, as opposed to all other fixtures that were but are no longer personal property when whey are attached to and become part of the real estate. Despite the consensus on the concept of trade fixtures in general, applicable law and custom govern when a specific item is a trade fixture in a particular assignment.

ZONING

ZONING SCHEDULE ZONE = R-LOW (LOW DENSITY RESIDENTIAL)

ORDINANCE SECTION	ZONE R-LOW	PERMITTED OR REQUIRED	PROPOSED IMPROVEMENTS	CONFORMITY STATUS
23-7.1	USE	SINGLE FAMILY DETACHED	SINGLE FAMILY DETACHED	CONFORMS
23-7.1	MINIMUM LOT SIZE	15,000 S.F.	16,132 S.F.	CONFORMS
23-3.2	MINIMUM LOT FRONTAGE	75 FT	75 FT	CONFORMS
23-7.1	MINIMUM LOT WIDTH	100 FT	100 FT	CONFORMS
	MINIMUM LOT DEPTH	NOT SPECIFIED	NOT SPECIFIED	CONFORMS
23-7.1	MINIMUM FRONT YARD SETBACK	30 FT	30 FT	CONFORMS
23-7.1	MINIMUM REAR YARD SETBACK	25 FT	25 FT	CONFORMS
23-7.1	MINIMUM SIDE YARD SETBACK	10 FT MIN 25 FT AGG.	10 FT MIN 25 FT AGG.	CONFORMS
23-7.1	MAXIMUM BUILDING COVERAGE	30%	30%	CONFORMS
23-7.1	MAXIMUM BUILDING HEIGHT	35 FT	35%	CONFORMS
	MAXIMUM GROSS DENSITY	NOT SPECIFIED	NOT SPECIFIED	CONFORMS
	OPEN SPACE	NOT SPECIFIED	NOT SPECIFIED	CONFORMS
23-9.19(K)(16)	PARKING	2 SPACES PER UNIT	3.5 SPACES PER UNIT *1	CONFORMS

Qualifications Anthony L. Salvitti, Sr., SRPA, SRA

BENCHMARK APPRAISAL GROUP, LTD.
REAL ESTATE APPRAISERS & CONSULTANTS
PENNSYLVANIA & NEW JERSEY CERTIFIED
GENERAL/RESIDENTIAL APPRAISERS

2427 HUNTINGDON PIKE, HUNTINGDON VALLEY, PA 19006
(215) 938-1300 – FAX (215) 938-8441

STATEMENT OF QUALIFICATIONS

OF

ANTHONY L. SALVITTI, SR., SRPA, SRA
PA & NJ CERTIFIED GENERAL APPRAISER

APPRAISAL EXPERIENCE

Independent Fee Appraiser and Consultant since 1959, appraising single-family, multi-family, light and heavy industrial, farm, office buildings, large acreage tracts, shopping centers, and institutional properties.

Representative of the above are - 1700 Walnut Street (12-Story Office Building), East Penn Center Building (10-Story Office Building), Cherry Hill One Office Building for Rouse Company; 1500 Unit Apartment Complex for condemnation by the New Jersey Department of Transportation; the former Campus of Germantown Academy, for reuse purpose, for the Philadelphia Redevelopment Authority; and the Campus of Stockton State College, Galloway Township, New Jersey, for the Department of Purchase and Property, State of New Jersey.

***Background includes** - Review Appraiser (1959 to 1964), Redevelopment Authority of the City of Philadelphia.*

Appraisal Consultant to various local public agencies (1965 to 1967), David M. Walker Associates, Urban Renewal Planning Consultant; duties included - assisting and formulating new zoning ordinances, coordinating changes in land uses and establishing acquisition and reuse values for Urban Renewal Projects.

Secretary to - Consultant for - Interstate Appraisal Company (1968 to 1971), engaged in the review and appraisal of all types of Real Estate. .

Also acted as private Consultant and expert witness for land use planning to James D. Morrissey, Matt Slap Company, and Central Mortgage Company – in re-zoning matters before the Philadelphia Zoning Board of Adjustments; Consultant to Pennsylvania Gas and Water Company.

TESTIMONY

Qualified as an expert witness for Real Estate Valuation and Land Use Planning; Common Pleas Court of Lakawanna, Luzerne, Venango and Philadelphia Counties, The Superior Court of New Jersey, Philadelphia, and Atlantic Counties Zoning Board of Adjustment, Camden County Board of Taxation and Boards of View of - Philadelphia, Bucks, Montgomery, Chester, Blair, Venango, Luzerne, Clinton, and Bradford Counties. Federal Bankruptcy Court in Philadelphia and Southern New Jersey.

COURSES & SEMINARS

- *Appraisal I, sponsored by the American Institute of Real Estate Appraisers, Philadelphia, Pennsylvania, 1965.*
- *Appraisal II, sponsored by the American Institute of Real Estate Appraisers, Philadelphia, Pennsylvania, 1969.*
- *Appraisal Course IV, Chicago, 1973.*
- *Appraisal Course VI, Philadelphia, 1975.*
- *1/90 - Cash Equivalency Analysis - SREA*
- *5/92 - Appraising Troubled Properties - Appraisal Institute*
- *5/92 - The Appraisal as an Expert Witness - Appraisal Institute*
- *10/92 - Standards of Professional Practice "B" - Appraisal Institute*
- *6/95 – Appraisal Review Residential Real Estate – Appraisal Institute*
- *4/97 – Course #410 SP & P Part C - Appraisal Institute*
- *12/97 – Course #430 SP & P Part A - Appraisal Institute*
- *10/98 – New Industrial Valuation - Appraisal Institute*
- *11/98 – Lease Abstracting & Analysis - Appraisal Institute*
- *12/98 – Course #600 Income Valuation Mixed Use Properties - Appraisal Institute*
- *5/05 Course #430 SP & P Updates Appraisal Institute*
- *Various Appraisal Institute courses through to 4/06.*

INSTRUCTOR

- *SREA Course, 101 Villanova University, 1978, and Montgomery County College, 1979.*
- *Pennsylvania State University, Real Estate Appraisals I, 1979 to 1983.*
- *North Philadelphia Realty Board, Principles and Practice I and II, 1977 to 1984.*

PROFESSIONAL AFFILIATIONS

Senior Member - *Senior Real Property Appraiser (SRPA)*
The Appraisal Institute
Philadelphia Chapter - Designated 1973
Recertified - 1994

- *President S.R.E.A., Philadelphia Chapter #2, (1981 to 1982)*
- *Pennsylvania Certified General Appraiser*
  Certificate #: GA-000442-L (1991)
- *New Jersey Certified General Appraiser*
  Certificate #: 42RG00086700 (1992)
- *Pennsylvania Real Estate Broker's License*
  #20365 (1963)

REPRESENTATIVE LIST OF APPRAISAL CLIENTS

Banks - Savings & Loans' - Service Companies

Woori America Bank
Broadway National Bank
Willow Grove Bank
TD Banknorth
Sun National Bank
Sovereign Bank
GMAC Mortgage Corporation
Polonia Bank
Abington Bank
A.C.A. Mortgage Services
Advance Bank
Greater Bethlehem Savings & Loan Assoc.
National Bank of Boyertown
Premiere Bank
United Bank of Philadelphia
Harleysville National Bank
Asian Bank
Beneficial Savings Bank
First Penn Bank
National Penn Bank
Bank of Gloucester County
Parke Bank
First Valley Bank
Business Loan Express
Commerce Bank
Philadelphia Private Bank
First Federal of Bucks County
Firstrust Bank
Bucks County Bank
Royal Bank
First Star Savings Bank
PNC Bank

Local - State & Quasi - Public Agencies

Bensalem Township
Bensalem Township School District
New Jersey Department of Transportation
Department of Purchase & Property, State of New Jersey
Town of Irvington, New Jersey
Winslow Township, New Jersey
Housing Authority, City of Camden, New Jersey
Housing Authority, Borough of Glassboro, New Jersey
Housing Authority, City of Pleasantville, New Jersey
Redevelopment Authority, City of Wildwood, New Jersey
Redevelopment Authority, City of Cape May, New Jersey
Pennsylvania Department of Transportation
Redevelopment Authority - City of Philadelphia, Montgomery County, City of Wilkes Barre, City of Scranton, Luzerne County, Franklin County, City of Altonna, City of Oil City, Bradford County, Clinton County, Northumberland County, Dauphin County, and Bucks County in the State of Pennsylvania.

Private Companies & Corporations

Coldwell Banker
James D. Morrissey Company
Relocation Realty Company

Penn Mutual Insurance Company.
Riker Laboratories, Los Angeles, CA
Xerox Corporation, Rochester, NY
Coca Cola Company
National Intergroup - Realty World
Universal Capital
Apex Mortgage Corporation
Relocation Realty Company
Boatmans Relocation
Girard Estates
University of Pennsylvania
Drexel University
Toll Brothers Inc.
Rite Aid Corporation

The Korman Corporation
The Rouse Co., Baltimore, MD
Pennsylvania Gas & Water Co.

Advanta Financial Corporation
Frankel Associates
City Trust (Philadelphia)
New Jersey Mortgage & Investment
Pennoni Associates
FBS Mortgage
Home Equity Relocation
Abington Health Alliance Inc.
Sunset Mortgage Company
Various Attorneys & Individuals
FDIC
Equity One
PIDC

DISPLAY THIS CERTIFICATE PROMINENTLY • NOTIFY AGENCY WITHIN 10 DAYS OF ANY CHANGE

08 0594416

Commonwealth of Pennsylvania
Department of State
Bureau of Professional and Occupational Affairs
PO Box 2649 Harrisburg PA 17105-2649

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Certificate Type
Certified General Appraiser

Certificate Status
Active

Initial Certification Date
11/19/1991

ANTHONY LOUIS SALVITTI, SR
2427 HUNTINGDON PIKE
HUNTINGDON VLY PA 19006-6111

Certificate Number
GA000442L

Expiration Date
06/30/2011

Signature

Commissioner of Professional and Occupational Affairs

COPY

ALTERATION OF THIS DOCUMENT IS A CRIMINAL OFFENSE UNDER 18 C.S.S. 4911

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State Of New Jersey
New Jersey Office of the Attorney General
Division of Consumer Affairs

THIS IS TO CERTIFY THAT THE
Real Estate Appraisers Board

HAS CERTIFIED

ANTHONY L. SALVITTI
2427 HUNTINGDON PIKE
Huntingdon Valley PA 19006-6111

FOR PRACTICE IN NEW JERSEY AS A(N): Certified General Appraiser

12/04/2009 TO 12/31/2011
VALID

42RG00086700
LICENSE/REGISTRATION/CERTIFICATION #

Signature of Licensee/Registrant/Certificate Holder

DIRECTOR

Qualifications

Scott W. Frymire

BENCHMARK APPRAISAL GROUP, LTD.
REAL ESTATE APPRAISERS & CONSULTANTS
PENNSYLVANIA & NEW JERSEY CERTIFIED
GENERAL/RESIDENTIAL APPRAISERS

2427 HUNTINGDON PIKE, HUNTINGDON VALLEY, PA 19006
(215) 938-1300 – FAX (215) 938-8441

STATEMENT OF QUALIFICATIONS

OF

SCOTT W. FRYMIRE
NJ CERTIFIED RESIDENTIAL APPRAISER

REAL ESTATE EXPERIENCE

1982-Present: *Staff appraiser with Benchmark Appraisal Group, Limited. Assignments included all types of residential, vacant land and commercial properties.*

1979-1982: *National Relocation Manager for Employee Transfer Corporation, New Jersey District Office. Major responsibilities include - direct coordination with four client Corporations in dealing with their relocation programs, obtaining information for purchase of transferees homes, ordering and reviewing appraisal, closing and management of inventory, and negotiation and settlement of resales.*

LICENSE

State certified residential appraiser - New Jersey
License No. - 42RA00099000, Certified 1/1/92

EDUCATIONAL BACKGROUND

- *Bachelor's Degree in Business Administration with a Real Estate Major at Pennsylvania State University. Studies centered on such courses as -Real Estate, Management, Marketing, Accounting, Law, Statistics, Finance and Economics.*
- *Appraisal Course 101 - 1985, Sponsored by South New Jersey Chapter, S.R.E.A. - 4/2/85 - 6/8/85*
- *Appraisal Course 102 - 1986, Sponsored by South New Jersey, Chapter S.R.E.A. 9/13/86 - 11/8/86*
- *Appraisal Course - The New URAR Form - Sponsored by South New Jersey Chapter of the Appraisal Institute - 9/10/93 (7 hours)*
- *Appraisal Course SPPA - Standards of Professional Practice Sponsored by the Appraisal Institute - 11/11/92 - 11/12/92 (16 hours)*
- *Appraisal Course - Discounted Cash Flow Analysis - Sponsored by the Southern New Jersey Chapter of the Appraisal Institute - 5/11/95 (7 hours)*
- *Appraisal Course - Tax Appeal Seminar - Sponsored by the South Jersey Chapter of Association of Independent Fee Appraisers - 11/8/95 (7 hours)*
- *Appraisal Course - Dynamics of Office Building Valuation - Sponsored by the Southern New Jersey Chapter of the Appraisal Institute – 12/14/95*

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State Of New Jersey
New Jersey Office of the Attorney General
Division of Consumer Affairs

THIS IS TO CERTIFY THAT THE
Real Estate Appraisers Board

HAS LICENSED

SCOTT W. FRYMIRE
66 BRANCH ST
MEDFORD NJ 08055-2715

FOR PRACTICE IN NEW JERSEY AS A(N): Licensed Residential Appraiser

42RA00099000
LICENSE/REGISTRATION/CERTIFICATION #

12/07/2009 TO 12/31/2011
VALID

Signature of Licensee/Registrant/Certificate Holder

DIRECTOR

EXHIBIT C

N.J.A.C 7:36 Appendix 2

New Jersey Department of Environmental Protection
Green Acres Program

Local and Nonprofit Land Survey Overview

A land survey plan prepared as part of a Green Acres project must be conducted by a New Jersey Licensed Professional Land Surveyor and must meet the following requirements:

- **Size of plan** must be 30x42 inches or 24x36 inches folded to approximately 8-1/2 x 11 inches with the title block facing up.
- **Orientation of parcel** must have north pointing upward or left in landscape view, or upward or right in portrait view.
- **Clockwise bearings** must be used so that metes and bounds description of the parcel can be read in a clockwise fashion.
- **Scale of parcel** must be standard engineering scale in feet, and all data must be presented clearly.
- **Line and curve tables** are not acceptable. Label line and curve data directly on the survey course.
- **Significant figures** – Bearings must be rounded to whole seconds; distances and New Jersey State Plane Coordinate System (NJSPCS) NAD 1983 coordinates must be rounded to two decimals places in feet; and acres must be rounded to three decimal places except along waterways where one decimal place is required.
- **Mathematical closure** – All property surveys must form closed polygons with all sides defined by mathematical survey expressions being bearing and distances on all straight line segments and tie lines: radius, arc length, delta, chord bearing/distance on all curved lines; general calls must have tie lines.
- **Mathematical survey expressions** must be used to define all courses of the parcel being surveyed.
- **Area** must be stated in acres to three decimal places unless bounded by a waterway or Tidelands Claim, then one decimal place.
- **Aerial photographs and planimetric mapping** must be current to within two (2) years of survey.
- **Areas of claim of tidelands ownership by State of New Jersey** must be shown with area to 1/10th acre.
- **Waterways** at boundary must show mathematical tie lines. Terms "trash-line" and "debris line" are not acceptable.
- **Roads** - Survey lines should run to the center of the public road; area subject to the paramount rights of the public must be identified.
- **Subdivision of lands** - Survey and describe the entire property, then except out lands remaining.

- **Title block** must meet requirements of State Board of Professional Engineers and Land Surveyors.
- **Legend of acquisition** must include project name and number, funding source, acquisition partner (if any), seller name and identification number (available from Green Acres), municipality, county, list of each tax block and lot surveyed, interest being obtained for each lot, and area summary.
- **Corner marking -** Detailed enlargements may be required to be made to show a corner marker set or the relationship to markers found near a corner.
- **Plan certification** – Plan must contain the standard language certification.
- **Location map** must be placed in the upper right hand corner of the plan with the perimeter of survey drawn, indicating the site and the north arrow.
- **Line weight and type -** Perimeter survey lines shall be solid and be the most prominent line weight on the plan.
- **Street address** of the subject parcel being surveyed must be given only if the municipality has assigned a street number.
- **Municipal tax block and lot numbers** - The block and lots of the parcel and all adjoiners must be labeled. Internal lot lines and individual areas per lot shall be stated on the plan, and individual lot areas shall be restated in the metes and bounds description.
- **Any permanent-type building,** improvements, structures or foundations must be shown.
- **Any utility easements,** visible or known of record, overhead wires or pole lines within the parcel must be shown.
- **Encroachments** shall be clearly drawn, labeled, and dimensioned to the property line. Such encroachments may need to be excluded from Green Acres encumbrances and funding.
- **Watercourses** must be labeled including the name of the stream and showing the direction of flow and the area within the bed.
- **All drains and sewers** that are visible on the surface of and within the limits of the parcel must be shown.
- **The name of record owners** and the latest deed book and page reference for adjoining lands must be provided.
- **Roads not open** are to be indicated as paper streets. If they are not vacated, they are subject to possible rights. The area of the paper streets must be labeled.
- **Tax Map** - If the survey finds that the municipal tax map erroneously locates the parcel, note this discrepancy on the plan.
- **Deed book and page number** of the reference deeds actually used must be indicated graphically.
- **Point of beginning** must be labeled "Description Point of Beginning" or "P.O.B." with coordinates.
- **Survey to follow deed lines -** The lines of the survey are to run with the lines in the deeds.
- **Public road rights-of-way and rivers** that are acquired in fee must be identified as subject to such existing rights.
- **Private rights-of-way and easement widths** must be shown with record or physical width provided.

- **Deed conflicts** must be clearly labeled with information for all adjoiners, including name, tax block and lot, and deed book and page.
- **Record gore areas** shall require a separate metes and bounds description of the gore area for potential use in a quit-claim deed.
- **Record overlap areas** shall require a description of the overall metes and bounds of property, subject to the overlap.
- **Corner marking and line marking** is decided by the "Ultimate User" (the local government unit or nonprofit and also the State of New Jersey).
- **Corner markers** must be set at the perimeter and at limits of all public access easements.
- **Omit markers** that would otherwise be set at the right-of-way line of a public road or on lands common with other lands of the local government unit (or nonprofit) or internal to the project.
- **Found markers** that are found within a radius of 1.5 feet of the true may be considered as marked.
- **Offset markers** must be set if the corner is inaccessible.
- **Public access corner markers** must be set on all public access corridors.
- **Three-monument minimum** - Set a minimum of three new monuments for corner markers.
- **Cap detail** must be drawn on the plan to show survey firm, year set, and the corner number. Also state diameter of rebar.
- **Acceptable corner markers** are standard 3-1/2 inch or 2-1/2 inch bronze or aluminum disk.
- **Disks** may be used for corner markers if the survey corner falls on a large boulder.
- **Monuments** may be pre-cast or poured in place, not less than 4 inches square on top containing a standard disk.
- **Rebar** must be capped with metal disk, as plastic caps are not capable of being stamped in the field.
- **Original signature and seal** must appear on plan; a rubber stamp or computer-generated signature is not acceptable.

Digital files must be submitted on a HD 1.44MB 3.5 ", 5.25" or mini CD-R compact disks

- Submit a **Digital** file that shall be a **.dxf** format single layer digital drawing containing closed survey lines.

Deed description format

- **Deed description type** is that of a separate document metes and bounds description of property with reduced plan attached.
- **Letterhead of survey firm** is required for the separate metes and bounds "Deed Description" of property and must contain the name, address, phone number, and e-mail address of survey firm.
- **Description heading** should include the title "Deed Description" and the qualifying supplemental terms such as "of Conservation Easement" or "of Gore Area" with project name and number, seller name, tax data, municipality, and county.
- **Description introduction** shall read: "All that certain tract or parcel of land located (at, on or along street address) in the (City, Borough, Town, or Township) of

_____, County of _____, New Jersey, bounded and described as follows:"

- **Description second paragraph** must describe the point of commencement and/or the point of beginning with coordinates identified.
- **Body of description** should read clockwise, with numbered courses. It should not include any new information not on plan. Description shall include call corners with assigned corner number if cap stamped with number.
- **Use augmenting and qualifying clauses** as required, such as "together with..." or "subject to..."
- **Recite areas described,** total area contained, then specify the area of each included tax lot.
- **Closing paragraph and call for survey** must read: "The above description was written pursuant to a survey of property designated as Block __, Lot __, on the municipal tax map of (_____ municipality name), County of _____, State of New Jersey. Said survey was prepared by (___Survey firm's name and address), (_____date), revised through (_____ last revision date, if any), and is marked as file No. ____. A reduced copy of said plan is attached hereto and made a part hereof".
- **Original signature, embossed seal and date signed** must appear on description; rubber stamps are not acceptable.

Exhibit C

Pete

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street P.O. Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

August 5, 2008

CERTIFIED MAIL/RRR
7007 0220 0002 1050 0318
Hidden Mill Associates
3001 Market Street
Suite 200
Philadelphia, PA 19104

RE: Hidden Mill Associates
Administrative Order and Notice of Civil Administrative Penalty Assessment
Block 1, Lots 5 & 6 and Block 14402, Lots 45 & 46
Gloucester Township, Camden County
EA ID #: PEA030001 - 0415-03-0001.1

Dear Sir/Madame:

Enclosed for service upon you is an Administrative Order and Notice of Civil Administrative Penalty Assessment issued by the Department. Contained within the enclosed document is a notice and instructions for requesting an Administrative Hearing. Failure to request a hearing within 20 days as per instructions will result in loss of your right to a hearing.

If you have any questions concerning the enclosed Administrative Order and Notice of Civil Administrative Penalty Assessment, please contact Olufunsho Sekoni of my staff at (609) 292-1240 or by letter at the address above.

Sincerely,

Peter F. Koledy, Region Supervisor
Bureau of Coastal & Land Use
Compliance & Enforcement

Enclosure
c: Richard Langbein, Manager, Division of Land Use Regulation
Dave Fanz, Section Chief, Division of Land Use Regulation
Mayor and Council, Gloucester Township
Construction Official, Gloucester Township

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street P.O. Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

CERTIFIED MAIL/RRR
7007 0220 0002 1050 0318

IN THE MATTER OF	:	
	:	ADMINISTRATIVE ORDER
HIDDEN MILL ASSOCIATES	:	
and,	:	
LITTLE MILL, INC.,	:	AND
and	:	
PENCHIL, LLC.,	:	
and	:	NOTICE OF CIVIL ADMINISTRATIVE
CELESTINO R. PENNONI, Individually,	:	
and	:	
VINCENT PENNONI, Individually	:	PENALTY ASSESSMENT

Hidden Mill/Murray Hill Estates
Block 1, Lots 5 & 6; Block 14402, Lots 45 & 46
Gloucester Township, Camden County

EA ID # PEA070001 - 0415-03-0001.1

This Administrative Order and Notice of Civil Administrative Penalty Assessment (hereinafter AONOCAPA) is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter NJDEP or the Department) by N.J.S.A. 13:1D-1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. (the "Act"), and duly delegated to the Assistant Commissioner of Compliance and Enforcement and his assignees pursuant to N.J.S.A.13:1B-4.

FINDINGS

1. Hidden Mill Associates is owner and developer of property situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County, New Jersey (the "site"). After resubdivision, the above tracts are now encompassed within approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406 18701, 18702, 18703, 18801 and 18802.

2. Hereinafter, Hidden Mill Associates (a New Jersey General Partnership), Little Mill, Inc. (General Partner), Penchil LLC (General Partner), Celestino R. Pennoni, Individually and as President of Little Mill Inc., and Vincent Pennoni, Individually and as a member of Penchil LLC, shall collectively be referred to as the "Respondents."

3. On March 21, 2002, the Division of Land Use Regulation (DLUR) issued a combined Land Use Permit (DLUR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to the Respondents for conducting certain regulated activities at the site in conjunction with the proposed contruction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates" as well as proposed improvements to Little Mill Road. The combined Land Use Permit included:

   a. Freshwater Wetland Individual Permit;
   b. Freshwater Wetland Transition Area Waiver Averaging Plan;
   c. Freshwater Wetland Transition Area Waiver - Special Activity
   d. Freshwater Wetlands Statewide General Permit # 11;
   e. Modification in Detail to a 1988 Stream Encroachment Permit #15497; and
   f. Water Quality Certificate

4. The Land Use Permits and approved drawings, issued on March 21, 2002, contained specific General, Special and Mitigation Conditions with which the Respondents were required to comply, including the following:

   a. SPECIAL CONDITION #1: Required that "**two weeks prior to commencement of land clearing activities and wetland impacts...the Permittee must notify the U.S. Fish and Wildlife Service in writing...ATTENTION: Lisa Arroyo...**"

   b. SPECIAL CONDITION #6: Required that "**Prior to initiation of site preparation**, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. <u>The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands</u>. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

   c. MITIGATION CONDITION #1: Required the Respondents to "Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below."

   d. In addition, the Land Use Permits required the construction of a low-flow fish passage culvert at Station 15+80 of Hidden Drive.

5. On November 14, 2002, DLUR Representatives conducted a site inspection, to ascertain whether a specific portion of the site was suitable for wetland "enhancement" as had been proposed by the

Respondents via a submittal on August 8, 2002 to satisfy Mitigation Condition #1 described in paragraph 4c above. The DLUR Representatives discovered that the proposed enhancement area was NOT suitable for enhancement because the said area was already a functioning palustrine forested wetland requiring no enhancement. The Respondents' environmental consultants were advised that the proposed enhancement of the wetland system was not a viable wetland mitigation alternative. The Respondents were directly advised of this decision by a DLUR Representative on November 27, 2002. DLUR Representatives also observed on November 14, 2002, that significant site clearing and construction had been conducted within regulated areas, including the construction of a sewer line and the construction of a road crossing culvert. The CLUE Representatives also observed that sediment had washed into regulated areas because of inadequate soil erosion and sediment controls.

6. On January 14, 2003, a Representative of the Department's Bureau of Coastal and Land Use Compliance and Enforcement ("CLUE" or "Bureau"), conducted a site inspection and permit compliance evaluation. The inspection revealed a number of permit condition violations and unauthorized activities within regulated areas, including:

   a. The excessive clearing of freshwater wetlands, totaling approximately 20,000 square feet along a 20-foot wide sanitary sewer easement;
   b. Failure to construct the required low-flow fish passage culvert at Station 15+80 of Hidden Drive, resulting in a completely impassable section of stream channel; and
   c. Failure to comply with the special conditions of the Land Use Permit, including those described in paragraph 4 above.

7. On February 13, 2003, CLUE issued a Notice of Violation (NOV) to the Respondents for failure to comply with the permit conditions, and for conducting unauthorized regulated activities within regulated areas (excessive clearing of approximately 20,000 square feet of wetlands along a 20-foot wide sanitary sewer easement). The NOV required the Respondents to immediately comply with the approved permit conditions within 30 days of receipt of the NOV and to provide and implement a proposal to take corrective actions.

8. On or about June 15, 2004, the Respondents filed the required deed restriction in accordance with Special Condition #6 of the Land Use Permit.

9. On June 24, 2004, DLUR issued a letter to the Respondents concerning the outstanding wetlands mitigation requirements. The letter advised that the wetland enhancement proposal, described in paragraph 5 above, was **not approved**. The letter also informed the Respondents of a viable mitigation alternative which was then available involving a land preservation project in Gloucester Township. The Respondents were further informed that they were under no obligation to participate in the land preservation project, but that they "continue to be responsible to satisfy all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued."

10. On August 26, 2004, CLUE Representatives conducted a follow up site inspection and observed that the specific land clearing violations cited in the February 13, 2003 NOV had been resolved by revegetating the affected areas, and the low-flow fish passage culvert had been installed. The CLUE Representatives also noted that compliance with the Wetlands Mitigation Conditions had not been achieved.

11. On October18, 2004, the Bureau issued a letter to the Respondents indicating that some of the noncompliance issues of the February 13, 2003, NOV had been resolved, including the excessive clearing and low flow fish culvert. However, the letter also advised the Respondents that additional permit conditions remained in noncompliance, including the performance of the required wetlands mitigation, which must be completed on or before the expiration date of the Land Use Permit (March 21, 2007).

12. On June 8 and December 12, 2007, a Representative of CLUE conducted follow up compliance evaluations. The evaluations revealed that the Respondents had still not complied with the Mitigation Conditions of the Land Use Permit.

13. On December 20, 2007, CLUE issued another NOV to the Respondents for failure to comply with Mitigation Condition #1 and [Special] Condition #6 of the March 21, 2002 Land Use Permit. The Respondents were required to comply within 30 days.

14. On February 25, 2008, CLUE issued another NOV to the Respondents for failure to comply with Mitigation Condition #1 and [Special] Condition #6 of the March 21, 2002 Land Use Permit. The Respondents were required to comply within 30 days.

15. On April 24, 2008, the Respondents replied to the most recent NOVs. Respondents indicated that "Hidden Mills Associates is evaluating the site for a location to provide wetlands enhancement." The Respondents also attached a copy of the deed restriction (as per Special Condition #6 of the Land Use Permit) that had been filed with the Camden County Clerk on or about June 15, 2004, which was approximately 20 months after Department Representatives had observed that extensive site work was already completed by November, 2002, as described in paragraph 5 above.

16. Based on the facts set forth in these FINDINGS, the Department has determined that the Respondents have violated the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the regulations promulgated pursuant thereto specifically, N.J.A.C. 7:7A-2.2(a), N.J.A.C. 7:7A-2.6(a) and N.J.A.C. 7:7A-13.1.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

17. The Respondents shall comply with the following:

    a. Immediately submit a Wetlands Mitigation Proposal, in accordance with the Mitigation Conditions of the Land Use Permit and N.J.A.C. 7:7A-15, providing suitable and viable mitigation as compensation for the freshwater wetlands destoyed during construction of the project. Pursuant to N.J.A.C. 7:7A-15.3:

        "If a permittee fails to perform mitigation within the applicable time period in (a) above, the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin. This will compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay. For example, a permit may authorize a

disturbance, and require 10 acres of creation to compensate for that disturbance. If the disturbance is begun on January 1, 2001, but the mitigation is not performed prior to or concurrently with the disturbance and continued according to the approved schedule as required under (a)1 above, the acreage of creation required increases to 12 acres on January 1, 2002, in order to compensate for the absence of wetlands functions and values from the ecosystem during the time between the disturbance and the creation."

Therefore, pursuant to N.J.A.C. 7:7A-15.3, the total acreage, for which the Respondents shall be required to provide mitigation, currently stands at 1.487 acres.

18. Should the Department determine that the wetlands mitigation proposal is inadequate or incomplete, the Department shall provide comments to the Respondents or a consultant on their behalf. Within 10 calendar days of receipt of the Department's comments, the Respondents shall submit a revised proposal that conforms to the Department's comments. The determination as to whether or not the wetlands mitigation proposal as resubmitted conforms to CLUE's comments shall made solely by the Department.

19. The wetlands mitigation proposal must be approved by the Department prior to implementation. Upon the Department's approval, the Respondents shall implement the approved wetlands mitigation proposal in accordance with the approved time schedule.

20. This Order shall be effective upon receipt by the Respondents or someone on the Respondents' behalf authorized to accept service.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT AND NOTICE OF RIGHT TO A HEARING

21. Pursuant to N.J.S.A. 13:9B-21 and N.J.A.C. 7:7A-16.1, and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against the Respondent(s) in the amount of $330,000.00. The Department's rationale for the civil administrative penalty is set forth in the attachment, and incorporated herein.

    a. Pursuant to N.J.A.C. 7:7A-16.1(d), the Department hereby assesses a further, ongoing penalty of $250 per day per violation, which assessment shall begin to accrue starting 30 days from receipt of this AONOCAPA, for any violations that are the subject of this AONOCAPA which remain unresolved from that time forward. Any such penalties shall be calculated and reduced to a specific dollar amount at the hearing on this matter.

    b. If no hearing request is timely filed, and granted, then the further ongoing assessment pursuant to (a) above shall be deemed withdrawn, but the Department may issue another AONOCAPA for the violations that are the subject of the within action and which have not been corrected or, if corrected, for any period of time during which they remained uncorrected, including the above correction period. Such penalties will be assessed in accordance with the provisions of the Freshwater Wetlands regulations.

22. Pursuant to N.J.A.C. 7:7A-16.12, the Department may, in addition to any other civil administrative penalty assessed, include as a civil administrative penalty the economic benefit (in dollars) which a violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act.

23. Pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A.13:9B-21(b), the Respondents are entitled to request a hearing. The Respondent(s) shall, in its request for a hearing, complete and submit the enclosed ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this ORDER.

24. If no request for a hearing is received within 35 calendar days from receipt of this AONOCAPA, it shall become a Final Order upon the 36th calendar day following its receipt, and the penalty shall be due and payable.

25. If a timely request for a hearing is received, payment of the penalty is due when the Respondents receives a notice of the denial of the request, or, if the hearing request is granted, when the Respondents withdraw the request or abandons the hearing, or, if the hearing is conducted, when the Respondents receive a final decision from the Commissioner in this matter.

26. Payment shall be made by check payable to Treasurer, State of New Jersey and shall be submitted along with the enclosed Enforcement Invoice to:

Department of Treasury - Division of Revenue
P.O. Box 417
Trenton, NJ 08646-0417

GENERAL PROVISIONS

27. This AONOCAPA is binding on the Respondents, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.

28. No obligations imposed by this AONOCAPA are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.

29. This AONOCAPA is issued only for the violations identified in the FINDINGS herein above and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, NJDEP does not waive its rights to initiate additional enforcement actions.

30. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve the Respondent(s) of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.

31. The Respondents are not entitled to approval of any permit application(s) submitted pursuant to requirements contained herein. In the event the Department determines that regulated activities do not meet the requirements for permit approval, full restoration of the unauthorized disturbance will be required.

32. Pursuant to N.J.A.C. 7:7A-16.5, any person who violates the provisions of the Act, or any code, rule regulation or order promulgated or issued pursuant thereto, or who fails to pay a civil administrative penalty in full, shall be subject, upon order of the court, to a civil penalty not to exceed $10,000 per day. Each day during which the violation continues constitutes an additional, separate and distinct offense.

33. Pursuant to N.J.S.A.13:9B-21(f), any person who willingly or negligently violates the provisions of the Act, or any code, rule, regulation, administrative order or court order, promulgated or issued pursuant thereto, is guilty of a crime of the fourth degree.

DATE: July 31, 2008

Wolfgang Skacel, CHMM
Assistant Commissioner

FRESHWATER WETLANDS PROTECTION ACT

"The Legislature of New Jersey has found and declared that freshwater wetlands protect and preserve drinking water supplies by serving to purify surface water and groundwater resources; that freshwater wetlands provide a natural means of flood and storm damage protection, and thereby prevent the loss of life and property through the absorption and storage of water during high runoff periods and the reduction of flood crests; that freshwater wetlands serve as a transition zone between dry land and water courses, thereby retarding soil erosion; that freshwater wetlands provide essential breeding, spawning, nesting, and wintering habitats for a major portion of the State's fish and wildlife, including migrating birds, endangered species, and commercially and recreationally important wildlife; and that freshwater wetlands maintain a critical baseflow to surface waters through the gradual release of stored flood waters and groundwater, particularly during drought periods."

"The Legislature therefore determines that in this State, where pressures for commercial and residential development define the pace and pattern of land use, it is in the public interest to establish a program for the systematic review of activities in and around freshwater wetland areas designed to provide predictability in the protection of freshwater wetlands; that it shall be the policy of the State to preserve the purity and integrity of freshwater wetlands from random, unnecessary or undesirable alteration or disturbance … ."

The Legislature then established the protection of freshwater wetland transition areas. N.J.S.A. 13:9B-16 states that transition areas are lands adjacent to a freshwater wetlands that serve to minimize adverse impacts on the wetland and are an integral component of the wetlands ecosystem which provide an ecological transition zone from uplands to freshwater wetlands. Transition areas provide temporary refuge for freshwater wetlands fauna during high water episodes, critical habitat for animals dependent upon but not resident in freshwater wetlands, and a sediment and storm water control zone to reduce the impacts of development upon freshwater wetlands and freshwater wetlands species.

Inspections and investigation, as detailed in the FINDINGS of this AONOCAPA, revealed that unauthorized regulated activities have occurred within freshwater wetlands and/or freshwater wetland transition areas.

PENALTY CALCULATION

In accordance with the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-16.8c, the point value for each factor is calculated as such:

1. Freshwater Wetland Resource Value (Quality):

   Ordinary = 1 Point
   Intermediate = 2 Points
   Exceptional = 3 Points (Documented presence of Swamp Pink at site)

   Resource Value is Exceptional = **3 Points**

2. Conduct of Violator: Conduct has been determined as follows:

Minor - any conduct not identified as major or moderate	= 1 Point
Moderate - any unintentional but foreseeable act or omission	= 2 Points

Major- any intentional, deliberate, purposeful, knowing or willful act or omission = 3 Points

The Respondents have had ample opportunity and time to submit alternative wetland mitigation proposals to the Department since late 2002, when they were first informed about the non-viability of their enhancement plan, and certainly since June, 2004, when the Department wrote to the Respondents concerning their mitigation obligations. The Respondents disregarded other permit conditions and site plan requirements as well, including the requirement to contact the US Fish and Wildlife Service prior to commencing site work and excessive clearing along a sanitary sewer crossing. The Respondents also failed to record the required deed restriction "prior to the initiation of site preparation."

The failure to record an approved deed restriction jeopardizes the integrity of the Department's permitting strategy for the protection of these freshwater wetlands. Without the benefit of a deed restriction notifying future land owners or other interested parties in perpetuity of the location of and prohibition against development occurring in these areas, interested parties may not be aware of the restrictions on the land, and thus the wetlands and/or transition areas are more likely to be negatively impacted and encroached upon.

The Respondents enjoyed the economic gain of conducting regulated activities for development within freshwater wetlands and/or freshwater wetland transition area without fully complying with an important condition of the Land Use Permit that authorized this activity. Thus the Respondents enjoyed the benefits of the Department's authorization without complying with its terms and conditions.

The Land Use Permit required that prior to any regulated activities occurring on the site, the Respondents were to submit a Declaration of Restriction for Modified Transition Area to the Department for review and approval. Respondents were then required to file and record the Declaration of Restriction for Modified Transition Area with the County Clerk and forward a copy of the recorded restriction to the Department. Therefore, until the proper deed restriction was recorded and forwarded to the Department, the Respondents were not authorized to conduct regulated activities at the site. Inspections and investigations in late 2002 and early 2003, described in the above FINDINGS, revealed that regulated activities such as clearing, filling, and grading within freshwater wetlands and wetland transition area had occurred by November 14, 2002 and continued until June 15, 2004, prior to compliance with the deed restriction requirement. Therefore, Respondents were in violation during that time and are subject to the appropriate penalty assessments on a daily basis.

Therefore the conduct of the Respondents in this matter shall be consider **Major**.

Conduct of the Violator = **3 Points**

3. Acreage of freshwater wetland disturbance:

Less than 1 acre	**= 1 Point**
1 to 3 acres	= 2 Points
Greater than3 acres	= 3 Points

Acreage of Disturbance = **1 Point**

Total Points = 7 Points

The total number of points is 7 and the amount of penalty per day utilizing the Assessment Table shown below from N.J.A.C. 7:7A-16.8(d) is calculated as $7,500.00

PENALTY ASSESSMENT TABLE	
Total Points	Penalty Amount
9	$10,000
8	$ 9,000
7	$ 7,500
6	$ 6,000
5	$ 4,500
4	$ 3,000
3	$ 1,500

Pursuant to N.J.A.C. 7:7A-16.5, any person who violates the provisions of the Act, or any code, rule, regulation or order promulgated or issued pursuant thereto, shall be subject to a civil administrative penalty not to exceed $10,000 per day.

Pursuant to N.J.A.C. 7:7A-16.1(d), for all violations under this subchapter, each day during which the violation continues constitutes an additional, separate and distinct offense for which a separate penalty may be assessed.

Pursuant to N.J.A.C. 7:7A-16.1(e), each violation of any applicable law and/or condition [of a permit or approval] shall constitute an additional, separate, and distinct violation for which a separate penalty may be assessed.

A. Penalty for Failure to Comply with Special Condition #1 of Land Use Permit

The Respondents failed to contact Lisa Arroyo of the U.S. Fish and Wildlife Service "two weeks prior to commencement of land clearing activities and wetland impacts." This permit condition was to ensure that adequate measures were taken to protect the federally-listed species Swamp Pink during construction activity. Initial observations by NJDEP Representatives in late 2002 and 2003 indicate that the Respondents did not take all measures to prevent sediment from washing into wetland areas, sediment which the Respondents later were required to remove from the wetlands. Ms. Arroyo was informed of the commencement of the project by NJDEP personnel on or about November 22, 2002, approximately 4-6 months after land clearing activities and wetland impacts had begun.

The Department is using its discretion to assess a penalty for 1 day of violation per month that the violation continued. Therefore the total penalty shall be:

4 days @ $7,500 per day = $30,000

B. Penalty for Unauthorized Clearing and Destruction of Vegetation within Wetlands

During initial inspections in late 2002 and early 2003, Department Representatives observed that the Respondents had conducted excessive clearing of approximately ½ acre of wetlands along a sanitary sewer crossing beyond the 0.11 acre of wetland disturbance authorized by the Land Use Permit. The affected areas were restored 12-18 months after issuance of the NOV

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation continued. Therefore the total penalty shall be:

6 days @ $7,500 per day = $45,000

C. Penalty for Failure to Comply with Mitigation Condition #1 of Land Use Permit

Despite repeated requests since November 2002 for a suitable wetland mitigation proposal, the Respondents have refused to cooperate with Representatives of both the Division of Land Use Regulation and the Bureau of Coastal and Land Use Compliance and Enforcement.

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation has continued. The Respondents were put on notice as early as November 2002 that their initial mitigation proposal involving purported "enhancement" was not a viable mitigation option. In June of 2004, the Division of Land Use Regulation wrote to the Respondents specifically with regard to the wetland mitigation issue and informed the Respondents that their enhancement proposal was not approved. Therefore the total penalty shall be:

24 days @ $7,500 per day = $180,000

D. Penalty for Failure to Comply with Special Condition #6 of Land Use Permit

The Respondents were required to sign and record, with the Camden County Clerk, a deed restriction protecting all wetlands and transition areas at the site, **prior to initiation of site preparation**. Inspections in November, 2002 by Department personnel revealed that site preparation work was well underway since the Spring of 2002. The Respondents failed to file the required deed restriction until June 15, 2004.

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation continued. Therefore the total penalty shall be:

10 days @ $7,500 per day = $75,000

Total Civil Administrative Penalty Assessment.

A. Penalty for Failure to Comply with Special Condition #1 of Land Use Permit.....$ 30,000
B. Penalty for Unauthorized Clearing and Destruction of Vegetation within Wetlands.....$ 45,000
C. Penalty for Failure to Comply with Mitigation Condition #1 of Land Use Permit.....$180,000
D. Penalty for Failure to Comply with Special Condition #6 of Land Use Permit.....$ 75,000

Total Penalty Assessment = $330,000.00

Pursuant to the Section above entitled "NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT AND NOTICE OF RIGHT TO A HEARING", the Department is assessing a continuing penalty of $250 per day for the herein violations not resolved within 35 days of receipt of this Order. This continuing penalty shall be added to the $330,000.00 initial assessment at the time of the hearing or settlement of this matter.

Exhibit D

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

PERMIT*

The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 0414-97-0011.1, 0414-92-0012.3, Modification to 15497	**Application No.**

Issuance Date MAR 2 1 2002	Effective Date MAR 2 1 2002	Expiration Date MAR 2 1 2007

Name and Address of Applicant Hidden Mill Associates 3001 Market Street Philadelphia, 19104-2897	**Name and Address of Owner** Applicant	**Name and Address of Operator** Applicant
Location of Activity/Facility *(Street Address)* Little Mill Road and New Brooklyn Road Gloucester Township, Camden County Waterway: Tributary to Mason's Creek	**Issuing Division** Land Use Regulation Program	**Statute(s)** NJSA 13:9B-1 NJSA 58:10A

Type of Permit: Freshwater Wetland Individual, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate	Maximum Approved Capacity, if applicable

This permit grants permission to: construct an entry road ("Hidden Drive") for access to the site by filling 0.2352 acres of freshwater wetlands from Little Mill Road to uplands within the Hidden Mill property using a twin 3'by 7' box culvert, 49' long to carry the stream flow under Hidden Drive. On the west side of Little Mill Road, there will be improvements to County Bridge #8D8-1978, including grading (cut and fill) adjacent to the road to facilitate stormwater management, sidewalk construction and erosion control, which will impact 0.2410 acres of wetlands. Construct a sanitary sewer crossing of 8" "D.I.P." gravity main that will cross a tributary of Mason's Run along a segment of the sewer main that extends from Little Mill road to the pump station location north of Hidden Drive. This activity will impact 0.11 acres of wetlands. Modification in Detail (Project No. 15947) to eliminate seven stormwater outfalls, one culvert, one water main crossing and one sanitary sewer crossing; relocate one sanitary sewer crossing; and add one water main crossing. At the Murray Hill Estates property, the freshwater wetland transition area encroachments are for the purpose of constructing fifty-one townhouse dwellings, a stormwater/water quality basin and a development roadway (Hidden Drive). The total encroachment of Freshwater Transition Area is 34,398 square feet (0.79 acres) with transition area compensation of 35,286 square feet (0.81 acres). Construct a stormwater basin outfall with a transition area encroachment of 2,900 square feet (0.07 acres). The site is located on Block 1, Lots 5 and 6, Block 14402, Lots 45 and 46, Gloucester Township, Camden County. Mitigate for the fill of 0.5950 acres of Freshwater Wetlands.

PROJECT IS SHOWN ON APPROVED DRAWINGS LISTED ON PAGES 9, 10 and 11 OF THIS PERMIT.

Prepared by: Andrew Gale
Andrew Gale, Project Manager

DB5221-0144

Revised Date	Approved by the Department of Environmental Protection Name (Print or Type) _____ Title _____ Signature SEE PAGE 10 OF PERMIT Date _____

** The word permit means "approval, certification, registration, etc."*

(General Conditions are on Page Two)

Permit General Conditions

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.

2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.

3. The works, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.

4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.

5. The granting of this permit shall not be construed to in any was affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.

6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.

7. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.

8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.

IN ADDITION TO THE GENERAL CONDITIONS PRINTED ABOVE, THE FOLLOWING CONDITIONS SHALL ALSO APPLY:

9. Limit and Extent of Approval

   a. This approval grants permission to the applicant and/or its agents to undertake an activity regulated by the State of New Jersey as described by the text of this permit and as detailed by the herein approved plans.

   b. All activities authorized by this permit shall be completed within five years of the issuance date as listed on the first page of this document. At that time, this approval, if not previously revoked, shall automatically become null and void, and none of the activities referenced herein may commence or continue until the Department has granted a new approval.

10. Responsibilities of Applicant

a. The granting of this permit does not in any way relieve the applicant and/or its agents from the responsibility for damages caused by any construction or activities hereby approved, nor does the Department accept responsibility for any structural designs.

b. No construction authorized by this permit may begin until the enclosed permit acceptance form has been signed by the applicant and is returned to the Land Use Regulation Program at P.O. Box 439, Trenton, New Jersey 08625-0439.By signing and submitting this form, the applicant accepts this permit in its entirety and agrees to adhere to all of its terms and conditions. Please be advised that this permit may be declared null and void should it be determined that adequate measures had not been taken by the applicant and/or its agents to ensure the continuous implementation of these terms and conditions.

c. Within ten (10) days of the receipt of this permit by the applicant, this permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this permit is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

11. Consistency with Areawide Water Quality Management Plan

Acting in its capacity as the Statewide Water Quality Management Planning Agency, the Department has found this project to be consistent with provisions and recommendation of the Tri-County Water Quality Management Plans. Please be advised that this determination shall no longer be valid if any modifications are made to the herein approved plans which would result in a change in the anticipated wastewater flow volumes (such as the addition of sewerage generating structures or a proposed increase in size to any previously proposed or herein approved structures), or if there is any change in the proposed method of wastewater treatment. Plans amended as such must be resubmitted to the Department for a new consistency determination prior to the commencement of the herein approved activities.

12. Approvals from the following are required by the permittee prior to the commencement of the herein-permitted activities:

Camden County Soil Conservation District
Bureau of Connections and Construction – Treatment Works Approval

SPECIAL CONDITIONS

In addition to the standard conditions set forth in section 7:7A-7, the following special conditions must be met for the activity authorized under this individual permit and transition area waiver.

1. **Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U. S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention: Lisa Arroyo and Telephone: 609-646-9310.**

2. **Prior to site preparation, the Permittee must provide enhanced soil and erosion control mechanisms during construction for both Hidden Mill and Murray Hill Estates sites.** The enhanced erosion controls are to be placed at the interface of the transition areas and the upland lot areas. Along the south side of the Hidden Mill development the applicant must immediately stabilize exposed soils that lie upslope of the wetland on the south side of the project via methods described in "Standards for Soil Erosion and Sediment Control in New Jersey" for either "Temporary Vegetative Cover for Soil Stabilization" or "Stabilization with Mulch only" (New Jersey State Soil Conservation Committee, 1987). Additionally, the Permittee must utilize both silt fence and a bale barrier parallel to one another, along the slope contour as described in "Standards for Soil Erosion and Sediment Control in New Jersey". At the Murray Hill site, the Permittee must incorporate the same sediment controls methods (described above for the Hidden Mill site) and must also construct, at the limits of the clearing along the western edge of the site, a small soil berm between 2 and 4 feet in height to prevent water from moving down-slope toward wetlands containing swamp pink. The Permittee must correct any excessive soil erosion condition immediately upon its identification. **This condition shall be printed on all applicable construction plans.**

3. The Permittee must provide unrestricted access to the U. S. Fish and Wildlife Service to monitor construction activities at the public right-of way areas to both the Hidden Mill and Murray Hill developments. The Permittee must also provide the U. S. Fish and Wildlife Service, unrestricted access at public right-of way areas to both the Hidden Mill and Murray Hill developments for monitoring of swamp pink occurrences for the life of the projects.

4. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Hidden Mill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, utilities). Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,100 feet in length at the Hidden Mill site between the townhouses on the southern side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "FINAL SITE PLANS & FINAL SUBDIVISION PLANS SECTIONS 1, 2 AND 5 HIDDEN MILL ASSOCIATES" "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY FINAL GRADING & UTILITY PLAN SEC-2 ", dated February 10, 1992, last revised April 9, 2001, Drawing No. C0202.

5. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the

fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, FINAL GRADING & UTILITY PLAN, SECTION 2 dated March 28, 1994, last revised June 15, 2001" Drawing No. C0202 and "FINAL GRADING & UTILITY PLAN, SECTION 3" Drawing No. C0203.

6. **Prior to initiation of site preparation**, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall occur in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act.

MITIGATION CONDITIONS

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below.

2. Purchase previously acquired credits but not used, from the Woodbury Creek Wetland Mitigation Bank as detailed below.

a) The Permittee must submit proof of the purchase of 1.20 mitigation credit to Virginia Kop'Kash, from the Land Use Regulation Program, before the authorized construction may begin. To purchase previously acquired credits from the mitigation bank, the Permittee must contact Marge Della Vecchia from the Cherry Hill Township Engineers Office. If the Permittee waits more than sixty days to make that purchase she/he must first contact Virginia Kop'Kash, from the Land Use Regulation Program at (609) 777-0454 to determine if the mitigation credits are still available for sale.

3. For an on-site or off-site individual mitigation project the Permittee must submit a mitigation proposal to the Land Use Regulation Program, to create, enhance or restore an area of freshwater

review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal. If the Permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a fifty foot transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the Permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation off-site.

a) Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.

b) Once the Program has approved the conceptual plan of the mitigation project the Permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.

c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.

d) In accordance N.J.A.C. 7:7A-14.1, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the Permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the Permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.

e) The Permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal.

f) The Permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the Permittee, the contractor, the consultant and the Program.

g) The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection.

h) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. Mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.

i) Immediately following the final grading of the mitigation site and prior to planting, the Permittee shall notify the Program for a post-grading construction meeting between the Permittee, contractor, consultant and the Program.

j) Immediately following final grading and planting of the wetland mitigation project, the Permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the Permittee shall submit as built plans of the site and photos with a photo location map of the completed project.

k) The Permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the Permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.

l) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the Permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the Permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.

m) The Permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The Permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).

n) Throughout the monitoring period, the Permittee must eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site.

o) All monitoring report will include all the following information (see attached monitoring report checklist):

i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the Permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);

ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent aerial coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified

on the mitigation planting plan. If the Permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent aerial coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria lobata (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.

iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the Permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

p) Once the required monitoring period has expired and the Permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the Permittee demonstrates all of the following:

i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The Permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows acres of emergent/scrub shrub/forested wetlands have been created/restored/enhanced;

ii. The site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria montana (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose);

iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

q) All remaining financial surety, if required, will be released concurrent with the Program notifying the Permittee that the mitigation project is a success.

r) If the mitigation project is considered a failure, the Permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the Permittee satisfies the success criteria as stipulated in item (p).

Hidden Mill

The plans hereby approved are seventeen sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN" dated February 10, 1992, last revised August 3, 2001, Sheet 2 of 30, Drawing No. C0101;
"GRADING AND UTILITY PLAN, SEC-1", dated February 10, 1992, last revised November 20, 2001, Sheet 3 of 30, Drawing No. C0201;
"FINAL GRADING AND UTILITY PLAN, SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 4 of 30, Drawing No. C0202;
"FINAL GRADING AND UTILITY PLAN, SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 5 of 30, Drawing No. C0205;
"FINAL GRADING AND UTILITY PLAN, SEC-6", dated February 10, 1992, last revised November 20, 2001, Sheet 6 of 30, Drawing No. C0206;
"FINAL HIDDEN MILL PROFILE", dated February 10, last revised August 3, 2001, Sheet 10 of 30, Drawing No. C0801;
"FINAL ROAD PROFILES", dated February 10, 1992, last revised August 3, 2001, Sheet 11 of 30 Drawing No. C0802;
"FINAL LITTLE MILL ROAD PROFILE", dated February 10, 1992, last revised April 9, 2001, Sheet 12 of 30, Drawing No. C0806;
"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 13 of 30, Drawing No. C0808;

"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 14 of 30, Drawing No. C0809;
"FINAL DETAILS", dated February 10, 1992, last revised November 1, 1996, Sheet 15 of 30, Drawing No. C1101;
"FINAL DETAILS", dated February 10, 1992, last revised November 20, 2001, Sheet 16 of 30, Drawing No. C1102;
"FINAL SOIL CONSERVATION PLAN SEC-1", dated February 10, 1992, last revised August 3, 2001, Sheet 20 of 30, Drawing No. C1201;
"FINAL SOIL CONSERVATION PLAN SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 21 of 30, Drawing No. C1202;
"FINAL SOIL CONSERVATION PLAN SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 22 of 30, Drawing No. C1205;
"FINAL SOIL CONSERVATION PLAN SEC-6", dated February 10, 1992, last revised August 3, 2001, Sheet 23 of 30, Drawing No. C1206;
"FINAL SOIL EROSION CONTROL DETAILS", dated February 10, 1992, last revised January 29, 2001, Sheet 24 of 30, Drawing No. C1301.

Murray Hill

The plans hereby approved are seven sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN", dated March 28, 1994, last revised May 1, 2001, Sheet 2 of 25, Drawing No. C0101;
"FINAL GRADING & UTILITY PLAN, SECTION 2", dated March 28, 1994, last revised June 15, 2001, Sheet 4 of 25, Drawing No. C0202;
"FINAL GRADING & UTILITY PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001, Sheet 5 of 25, Drawing No. C0203;
"FINAL DETAILS", dated March 28, 1994, last revised January 29, 2001 Sheet 14 of 25, Drawing No. C1103;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 2", dated March 28, 1994, last revised April 25, 1995, Sheet 16 of 25, Drawing No. C1202;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001 Sheet 17 of 25, Drawing No. C1203;
"FINAL SOIL CONSERVATION DETAILS", dated March 28, 1994, last revised December 13, 2000 Sheet 19 of 25, Drawing No. C1301.

Little Mill Road Improvements

The plans hereby approved are five sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TWP., CAMDEN COUNTY, NEW JERSEY"

"PLAN & PROFILE (STA. 4+00 TO 12+00) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 3 of 18, Drawing No.C0851;
"PLAN & PROFILE (STA. 22+00 TO 31+47.88) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 5 0f 18, Drawing No.C0853;

"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 6 of 18, Drawing No.C0854;
"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 7 of 18, Drawing No.C0855;
"FINAL DETAILS", dated February 22, 2001, last revised November 28, 2001 Sheet 18 of 18, Drawing No.C1101.

Murray Hill Estates

The plan hereby approved is one sheet prepared by Vincent R. Mariani for Pennoni Associates Inc entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY" " FINAL WETLANDS PERMITTING PLAN RAI COMMERCIAL, INC.", dated March 3, 1994, last revised May 2001.

Approved By: Mark N. Mauriello DATE: 3/21/02
Mark N. Mauriello, Director
Land Use Regulation Program

RETURN TO ⇒ ✓ Env. __ Label

ROBERT W. BUCKMAN
ARCHER & GREINER
ONE CENTENNIAL SQUARE
HADDONFIELD NJ 08033

Deed Book Permit

RECORDED IN THE COUNTY
DATE 06/20/20

1459927

DB5221-0154

75.00
5.00

Exhibit E

Pennoni

Pennoni Associates Inc.
Consulting Engineers

515 Grove Street, Suite 2A
Haddon Heights, New Jersey 08035
(856) 547-0505

HIDDEN MILL WETLANDS ENHANCEMENT PROJECT

Proposed Hidden Mill Enhancement
Block 14402, Lots 45 & 46
Gloucester Township
Camden County, New Jersey

Prepared for:

Hidden Mill Associates
3001 Market Street
Philadelphia, PA 19104

Christopher C. Squazzo
Environmental Scientist

Russell C. Shiveler, Jr. P.E.
Project Engineer

Proj. No. MURY-7759.004.01
August 2, 2002

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Exhibit C ..... Planting Schedule

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Exhibit E ..... Wetlands Permit #0414-97-0011.1, 0414-92-0012.3

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Exhibit G ..... Enhancement Plan

1.0 INTRODUCTION

This Wetland Enhancement Plan has been prepared by Pennoni Associates Inc. ("Pennoni") for Hidden Mill Associates ("Client"), to fulfill the Wetland Mitigation requirements outlined in the Freshwater Wetland Individual Permit # 0414-97-0011.1 and 0414-92-0012.3, issued March 21, 2002 to mitigate for 0.595 acres of freshwater wetlands that were disturbed as part of the Hidden Mill and Murray Hill projects. As per our conversation with the New Jersey Department of Environmental Protection, a 2:1 ratio for an "enhancement" has been agreed upon. Pennoni in conjunction with the Hidden Mill Associates has selected a site within the same watershed as the wetlands disturbed to "enhance" an existing wetland area that had been degraded due to siltation from illegal off-road vehicular traffic. We will enhance the existing Palustrine, Forested, Broad-Leaved Deciduous (PFO1) freshwater wetland ecosystem. This will not only enhance the ecological value of the wetland ecosystem, it will also act as a ripatian corridor and help to filter out potential pollutants from entering the existing Riverine, Lower Perennial, Flat, Sand (R2FL2) stream corridor. The proposed project is located in an existing PFO1 wetland area that exhibits both hydrologic and hydric soil criteria and is within the Mason Run drainage area. The proposed enhancement site is located at State Plane Coordinates 350,000N and 1,901,000E at Block 14402, Lots 45 & 46 in Gloucester Township, Camden County, New Jersey (See Exhibit A, Figures 1 & 2).

2.0 DESCRIPTION OF WETLANDS DISTURBED

During both the Hidden Mill and Murray Hill projects, 0.595 acres of forested freshwater wetlands were disturbed. Some of the vegetation included American sycamore, *Platanus occidentalis*, sweet pepper bush, *Clethra alnifolia*, and common reed, *Phragmites communis*. The freshwater wetlands, in this area, are used by waterfowl and migratory birds, native mammals and aquatic species.* Enhancing the remaining wetlands will provide a sanctuary for these species. Our enhancement plan restores two (2) times the area with vegetation that was destroyed and replaces it with the same native species as well as destroying some of the phragmites that is infiltrating the edge.

3.0 PHOTOGRAPHS OF RESTORATION SITE

See Exhibit B.

4.0 LAND OWNER

The property is solely owned by Hidden Mill Associates.

5.0 DESCRIPTION OF AREA TO BE ENHANCED

The proposed area of "enhancement" is a degraded Palustrine, Forested, Broad-Leaved, Deciduous (PFO1) wetland ecosystem. The property has been developed for town houses and apartment buildings. The restoration area will expand and enhance the existing forested wetland ecosystem. The area is presently a habitat for native and migratory birds, mammals and invertebrates. This area receives hydrology from the surrounding surface run-off and the occasional flooding of the tributary to Mason's Run. Considering that there are no buffers assigned to this wetland system, an extension of the existing wetland system will play an important role in improving water quality.

6.0 SOIL PROFILES

See Exhibit D.

7.0 PLANT SCHEDULE & LANDSCAPE PLAN

Our goal is to mimic a typical freshwater wetland ecosystem found in South Jersey. The species we have selected to plant are not first succession species and are more suitable to enhancing an existing freshwater wetland. See Exhibits C and G respectively.

8.0 MAINTENANCE PLAN

The restoration area has no real competition threat to the proposed vegetation. The proposed plant species are not prone to deer grazing, so we do not believe a deer fence will be necessary. Any non-native and/or invasive species that do develop during the course of the monitoring period will be removed.

9.0 MONITORING PLAN

Monitoring will commence once the plant materials have been planted. The restoration site will continue to be monitored once a year for five (5) years. An 85% survival rate of the planted species will be the goal as per the Departments regulations. Performance inspections of the wetland restoration area for a five (5) year period will breakdown like this:

1. Inventory the plant schedule as required by the approved Enhancement Plan immediately following the initial planting. We will then monitor the site once a year during the autumn season.

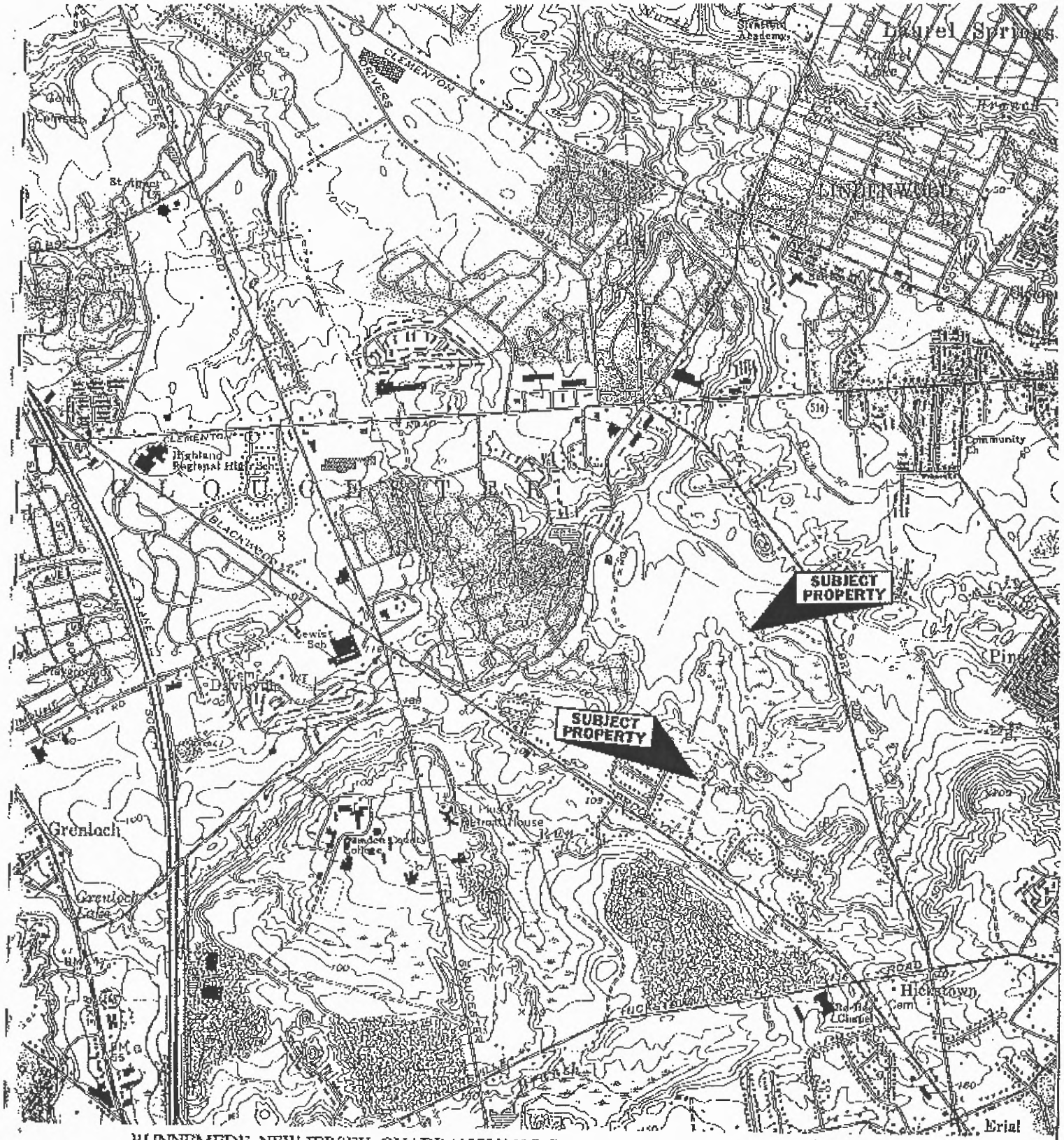
2. Photographs of the enhancement area will be taken after the enhancement and during each inspection.

3. Note external factors that may be impacting the restoration area, including but not limited to animal grazing, sedimentation, and pedestrian traffic. If undesirable species, such as common reed (*Phragmites australis*) and purple loosestrife (*Lythrum salicaria*) colonize in the restoration area, then measures to eradicate these species shall be implemented. Due to the small size of the enhancement area, physically removing any invasive species is the better alternative to the use of harmful herbicides.

If a success criteria is not met for all or any portion of the restoration project during the five (5) year period, an analysis of the cause(s) of failure and, if determined necessary by the regulatory agencies, a proposal for remedial action will be submitted.

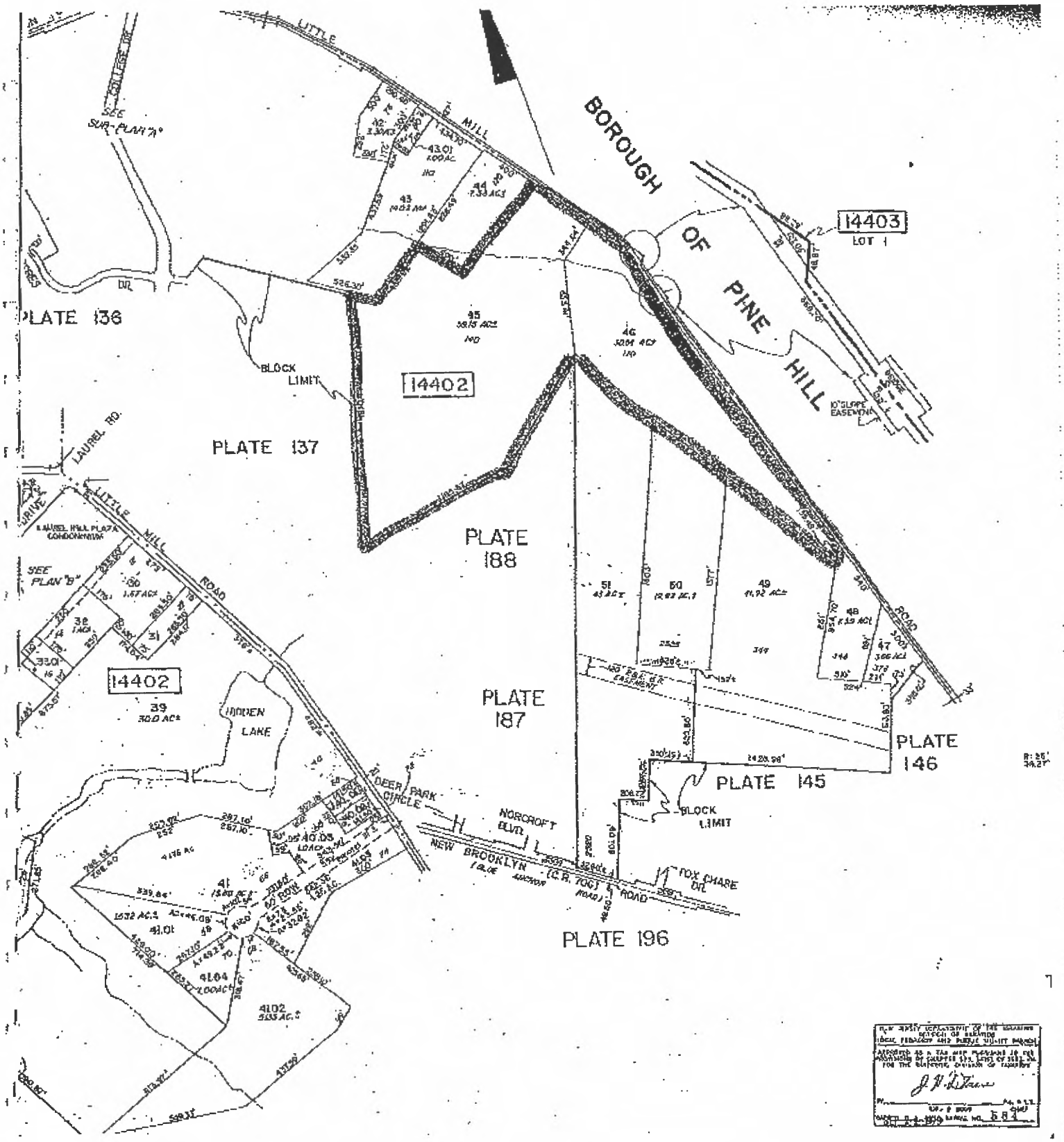
EXHIBIT A

FIGURES



RUNNEMEDE, NEW JERSEY, QUADRANGLE U.S.G.S. 7.5 MINUTE TOPOGRAPHICAL MAP, 1983

Pennoni PENNONI ASSOCIATES INC. 515 GROVE STREET HADDON HEIGHTS, NEW JERSEY 08035		HIDDEN MILL RESTORATION Block 14402, Lots 45 & 46 Gloucester Township Camden County, New Jersey
Job No. MURY-7759.004.01	Scale: 1:24,000	FIGURE 1 - U.S.G.S. MAP

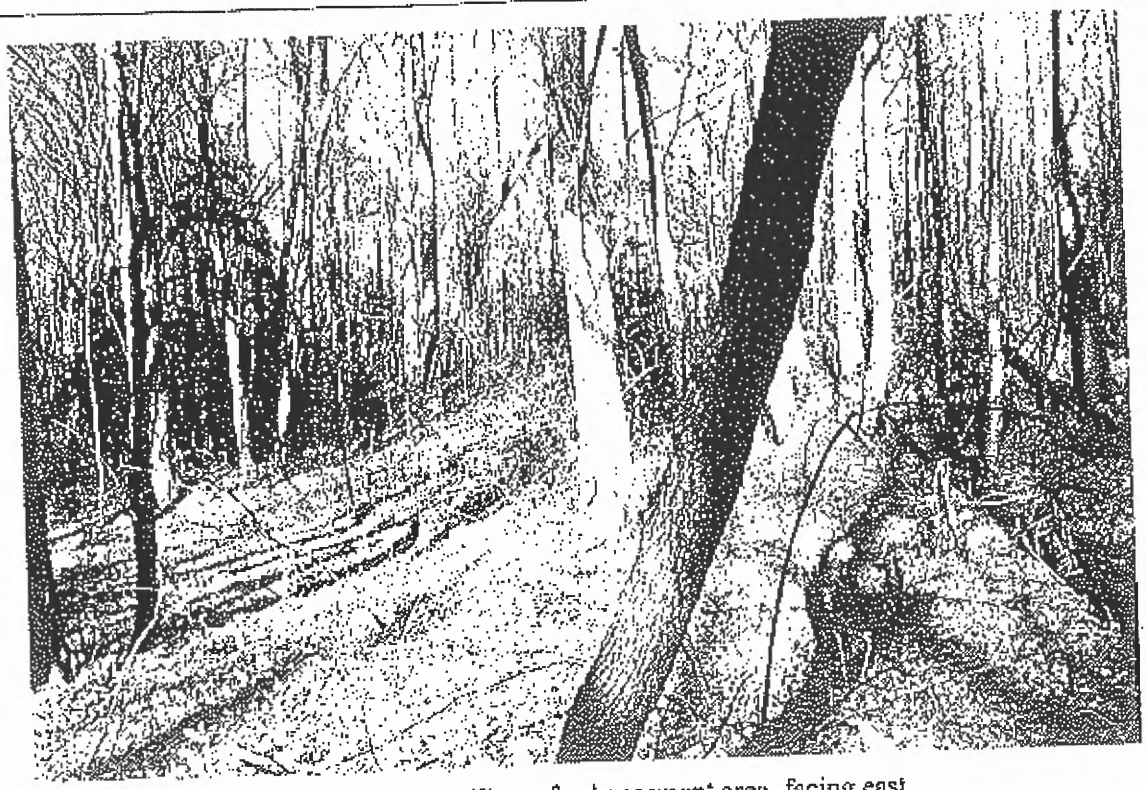


SOURCE: TAX MAP, GLOUCESTER TOWNSHIP, JANUARY 1997

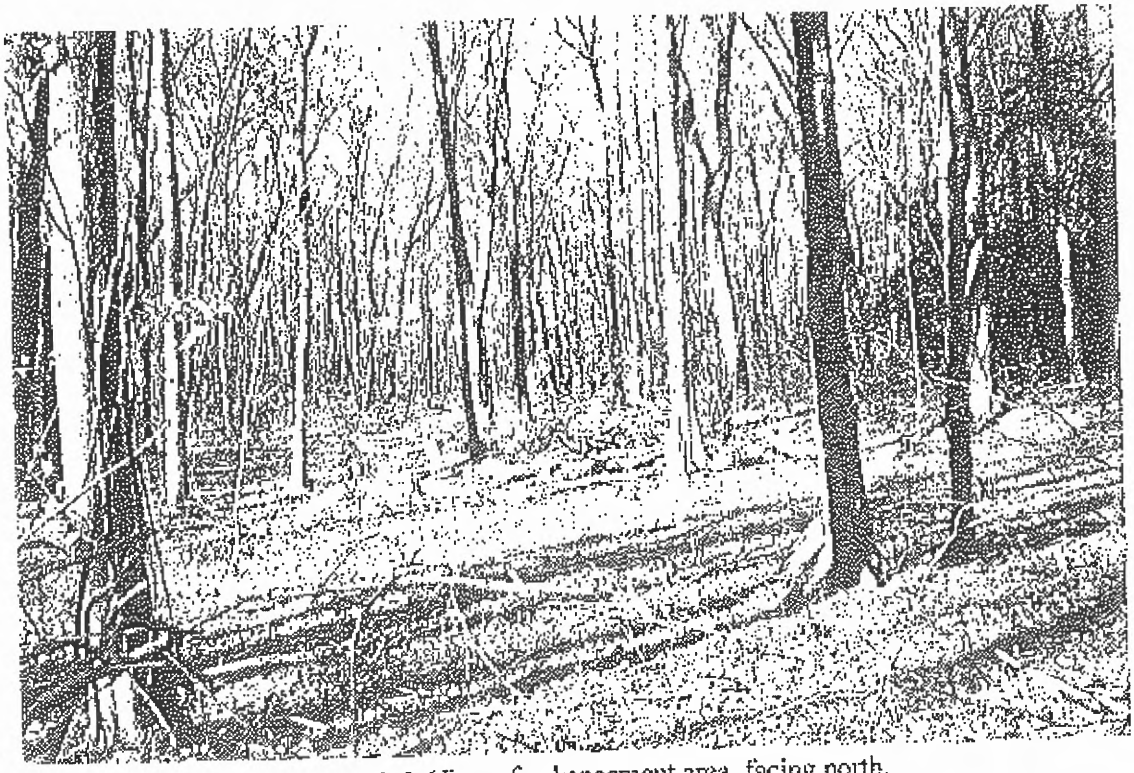
Pennoni	PENNONI ASSOCIATES INC. 515 GROVE STREET HADDON HEIGHTS, NEW JERSEY 08035	HIDDEN MILL ENHANCEMENT Block 14402, Lots 45 & 46 Gloucester Township Camden County, New Jersey
Job No. MURY-7759.004.01	Scale: 1:4,800	FIGURE 2 - TAX MAP

EXHIBIT B

PHOTOGRAPHS OF SITE

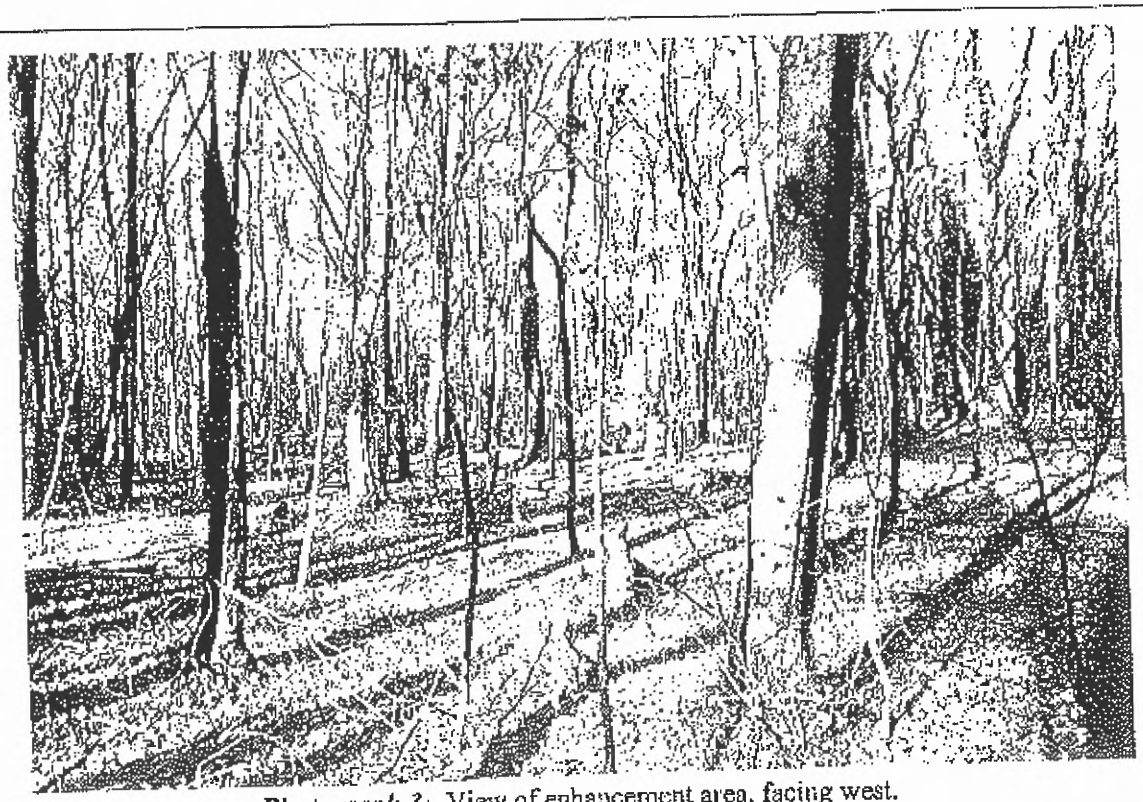


Photograph 1: View of enhancement area, facing east.



Photograph 2: View of enhancement area, facing north.

Pennoni	PENNONI ASSOCIATES INC. 515 GROVE STREET HADDON HEIGHTS, NEW JERSEY 08035	HIDDEN MILL ENHANCEMENT Block 14402, Lots 45 & 46 Gloucester Township Camden County, New Jersey
) No. MURY-9935.003.01	Date Taken: December 1, 2001	SITE PHOTOGRAPHS



Photograph 3: View of enhancement area, facing west.

Photograph 4: View of enhancement area, facing south.

PENNONI ASSOCIATES INC. 515 GROVE STREET DON HEIGHTS, NEW JERSEY 08035	HIDDEN MILL ENHANCEMENT Block 14402, Lots 45 & 46 Gloucester Township Camden County, New Jersey
03.01 Date Taken: December 1, 2001	SITE PHOTOGRAPHS

EXHIBIT C

PLANTING SCHEDULE

TABLE 1
Planting Schedule
Proposed Hidden Mill Enhancement
Gloucester Township, Camden County, New Jersey

Common Name	Scientific Name	Quantity	Height	Stratum
Green Ash	*Fraxinus pennsylvanica*	3	3' – 4'	Tree
American Holly	*Ilex opaca*	15	4' – 5'	Tree
Sweetbay Magnolia	*Magnolia virginiana*	10	1.5' – 2'	Tree
American Sycamore	*Platanus occidentalis*	5	3' – 5'	Tree
Black Tupelo	*Nyssa sylvatica*	5	2' – 4'	Tree
Northern Arrow-wood	*Viburnum dentatum*	9	18"-24"	Shrub
High-bush Blueberry	*Vaccinium corymbosum*	6	18"-24"	Shrub
Mountain Laurel	*Kalmia latifolia*	10	18"-24"	Shrub

EXHIBIT D

SOIL BORING LOGS

SOIL BORING LOG

Job Number: MURY-7759.004.01

Boring Identification: SB-1

Date: December 2001

Recorded By: Christopher C. Squazzo

Site Location: PFO1 wetland

Project Name: Hidden Mill Enhancement

Purpose: Characterize Soil

Technique: 4" auger

0 - 6"	Oe	Hemic;
6 - 15"	A_1	10YR, 6/1, silty clay loam, angular blocky, firm, 7.5YR, 6/6, few, medium, prominent;
15 - 24"	A_2	10YR, 6/1, silty clay loam; angular blocky, firm, 7.5YR, 6/6, few, course, prominent;

Remarks: These soils meet the hydric soil criteria.

SOIL BORING LOG

Job Number: MURY-7759.004.01 Boring Identification: SB-2

Date: December 2001 Recorded By: Christopher C. Squazzo

Site Location: PFO1 wetland Project Name: Hidden Mill Enhancement

Purpose: Characterize Soil Technique: 4" auger

0 - 4"	Oc	Hemic;
4 - 14"	A_1	10YR, 6/1, silty clay loam, angular blocky, firm, 7.5YR, 6/6, few, fine, prominent;
14 - 24"	A_2	10YR, 6/1, silty clay loam; angular blocky, firm, 7.5YR, 6/6, few, medium, prominent;

Remarks: These soils meet the hydric soil criteria.

SOIL BORING LOG

Job Number: MURY-7759.004.01

Boring Identification: SB-3

Date: December 2001

Recorded By: Christopher C. Squazzo

Site Location: PFO1 wetland

Project Name: Hidden Mill Enhancement

Purpose: Characterize Soil

Technique: 4" auger

0 – 5"	Oe	Hemic;
5 - 14"	A_1	10YR, 6/1, silty clay loam, angular blocky, firm, 7.5YR, 6/6, few, fine, prominent;
14 - 20"	A_2	10YR, 6/1, silty clay loam; angular blocky, firm, 7.5YR, 6/6, few, medium, prominent;

Remarks: These soils meet the hydric soil criteria.

SOIL BORING LOG

Job Number: MURY-7759.004.01

Boring Identification: SB-4

Date: December 2001

Recorded By: Christopher C. Squazzo

Site Location: PFO1 wetland

Project Name: Hidden Mill Enhancement

Purpose: Characterize Soil

Technique: 4" auger

0 – 8"	Oe	Hemic (Histic epipedon);
8 - 15"	A_1	10YR, 6/1, silty clay loam, angular blocky, firm, 7.5YR, 6/6, few, medium, prominent;
15 - 24"	A_2	10YR, 6/1, silty clay loam; angular blocky, firm, 7.5YR, 6/6, few, course, prominent;

Remarks: These soils meet the hydric soil criteria.

EXHIBIT E

PERMIT #0414-97-0011.1, 0414-92-0012.3

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

PERMIT*

The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 0414-97-0011.1, 0414-92-0012.3, Modification to 15497	Application No.

Issuance Date	Effective Date	Expiration Date
MAR 2 1 2002	MAR 2 1 2002	MAR 2 1 2007

Name and Address of Applicant	Name and Address of Owner	Name and Address of Operator
Hidden Mill Associates 3001 Market Street Philadelphia, 19104-2897	Applicant	Applicant

Location of Activity/Facility *(Street Address)*	Issuing Division	Statute(s)
Little Mill Road and New Brooklyn Road Gloucester Township, Camden County Waterway: Tributary to Mason's Creek	Land Use Regulation Program	NJSA 13:9B-1 NJSA 58:10A

Type of Permit:	Maximum Approved Capacity, if applicable
Freshwater Wetland Individual, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate	

This permit grants permission to: construct an entry road ("Hidden Drive") for access to the site by filling 0.2352 acres of freshwater wetlands from Little Mill Road to uplands within the Hidden Mill property using a twin 3'by 7' box culvert, 49' long to carry the stream flow under Hidden Drive. On the west side of Little Mill Road, there will be improvements to County Bridge #8D8-1978, including grading (cut and fill) adjacent to the road to facilitate stormwater management, sidewalk construction and erosion control, which will impact 0.2410 acres of wetlands. Construct a sanitary sewer crossing of 8" "D.I.P." gravity main that will cross a tributary of Mason's Run along a segment of the sewer main that extends from Little Mill road to the pump station location north of Hidden Drive. This activity will impact 0.11 acres of wetlands. Modification in Detail (Project No. 15947) to eliminate seven stormwater outfalls, one culvert, one water main crossing and one sanitary sewer crossing; relocate one sanitary sewer crossing; and add one water main crossing. At the Murray Hill Estates property, the freshwater wetland transition area encroachments are for the purpose of constructing fifty-one townhouse dwellings, a stormwater/water quality basin and a development roadway (Hidden Drive). The total encroachment of Freshwater Transition Area is 34,398 square feet (0.79 acres) with transition area compensation of 35,286 square feet (0.81 acres). Construct a stormwater basin outfall with a transition area encroachment of 2,900 square feet (0.07 acres). The site is located on Block 1, Lots 5 and 6, Block 14402, Lots 45 and 46, Gloucester Township, Camden County. Mitigate for the fill of 0.5950 acres of Freshwater Wetlands.

PROJECT IS SHOWN ON APPROVED DRAWINGS LISTED ON PAGES 9, 10 and 11 OF THIS PERMIT.

Prepared by: Andrew Gale
Andrew Gale, Project Manager

Revised Date	Approved by the Department of Environmental Protection
	Name (Print or Type) _____ Title _____
	Signature SEE PAGE 10 OF PERMIT Date _____

*The word permit means "approval, certification, registration, etc."

Permit General Conditions

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.

2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.

3. The works, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.

4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.

5. The granting of this permit shall not be construed to in any was affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.

6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.

7. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.

8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.

IN ADDITION TO THE GENERAL CONDITIONS PRINTED ABOVE, THE FOLLOWING CONDITIONS SHALL ALSO APPLY:

9. Limit and Extent of Approval

   a. This approval grants permission to the applicant and/or its agents to undertake an activity regulated by the State of New Jersey as described by the text of this permit and as detailed by the herein approved plans.

   b. All activities authorized by this permit shall be completed within five years of the issuance date as listed on the first page of this document. At that time, this approval, if not previously revoked, shall automatically become null and void, and none of the activities referenced herein may commence or continue until the Department has granted a new approval.

10. Responsibilities of Applicant

a. The granting of this permit does not in any way relieve the applicant and/or its agents from the responsibility for damages caused by any construction or activities hereby approved, nor does the Department accept responsibility for any structural designs.

b. No construction authorized by this permit may begin until the enclosed permit acceptance form has been signed by the applicant and is returned to the Land Use Regulation Program at P.O. Box 439, Trenton, New Jersey 08625-0439.By signing and submitting this form, the applicant accepts this permit in its entirety and agrees to adhere to all of its terms and conditions. Please be advised that this permit may be declared null and void should it be determined that adequate measures had not been taken by the applicant and/or its agents to ensure the continuous implementation of these terms and conditions.

c. Within ten (10) days of the receipt of this permit by the applicant, this permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this permit is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

11. Consistency with Areawide Water Quality Management Plan

Acting in its capacity as the Statewide Water Quality Management Planning Agency, the Department has found this project to be consistent with provisions and recommendation of the Tri-County Water Quality Management Plans. Please be advised that this determination shall no longer be valid if any modifications are made to the herein approved plans which would result in a change in the anticipated wastewater flow volumes (such as the addition of sewerage generating structures or a proposed increase in size to any previously proposed or herein approved structures), or if there is any change in the proposed method of wastewater treatment. Plans amended as such must be resubmitted to the Department for a new consistency determination prior to the commencement of the herein approved activities.

12. Approvals from the following are required by the permittee prior to the commencement of the herein-permitted activities:

Camden County Soil Conservation District
Bureau of Connections and Construction – Treatment Works Approval

SPECIAL CONDITIONS

In addition to the standard conditions set forth in section 7:7A-7, the following special conditions must be met for the activity authorized under this individual permit and transition area waiver.

1. **Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U. S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention: Lisa Arroyo and Telephone: 609-646-9310.**

2. **Prior to site preparation, the Permittee must provide enhanced soil and erosion control mechanisms during construction for both Hidden Mill and Murray Hill Estates sites.** The enhanced erosion controls are to be placed at the interface of the transition areas and the upland lot areas. Along the south side of the Hidden Mill development the applicant must immediately stabilize exposed soils that lie upslope of the wetland on the south side of the project via methods described in "Standards for Soil Erosion and Sediment Control in New Jersey" for either "Temporary Vegetative Cover for Soil Stabilization" or "Stabilization with Mulch only" (New Jersey State Soil Conservation Committee, 1987). Additionally, the Permittee must utilize both silt fence and a bale barrier parallel to one another, along the slope contour as described in "Standards for Soil Erosion and Sediment Control in New Jersey". At the Murray Hill site, the Permittee must incorporate the same sediment controls methods (described above for the Hidden Mill site) and must also construct, at the limits of the clearing along the western edge of the site, a small soil berm between 2 and 4 feet in height to prevent water from moving down-slope toward wetlands containing swamp pink. The Permittee must correct any excessive soil erosion condition immediately upon its identification. **This condition shall be printed on all applicable construction plans.**

3. The Permittee must provide unrestricted access to the U. S. Fish and Wildlife Service to monitor construction activities at the public right-of way areas to both the Hidden Mill and Murray Hill developments. The Permittee must also provide the U. S. Fish and Wildlife Service, unrestricted access at public right-of way areas to both the Hidden Mill and Murray Hill developments for monitoring of swamp pink occurrences for the life of the projects.

4. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Hidden Mill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, utilities). Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,100 feet in length at the Hidden Mill site between the townhouses on the southern side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "FINAL SITE PLANS & FINAL SUBDIVISION PLANS SECTIONS 1, 2 AND 5 HIDDEN MILL ASSOCIATES" "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY FINAL GRADING & UTILITY PLAN SEC-2 ", dated February 10, 1992, last revised April 9, 2001, Drawing No. C0202.

5. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the

fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, FINAL GRADING & UTILITY PLAN, SECTION 2 dated March 28, 1994, last revised June 15, 2001" Drawing No. C0202 and "FINAL GRADING & UTILITY PLAN, SECTION 3" Drawing No. C0203.

6. **Prior to initiation of site preparation,** the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall occur in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act.

MITIGATION CONDITIONS

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below.

2. Purchase previously acquired credits but not used, from the Woodbury Creek Wetland Mitigation Bank as detailed below.

a) The Permittee must submit proof of the purchase of 1.20 mitigation credit to Virginia Kop'Kash, from the Land Use Regulation Program, before the authorized construction may begin. To purchase previously acquired credits from the mitigation bank, the Permittee must contact Marge Della Vecchia from the Cherry Hill Township Engineers Office. If the Permittee waits more than sixty days to make that purchase she/he must first contact Virginia Kop'Kash, from the Land Use Regulation Program at (609) 777-0454 to determine if the mitigation credits are still available for sale.

3. For an on-site or off-site individual mitigation project the Permittee must submit a mitigation proposal to the Land Use Regulation Program, to create, enhance or restore an area of freshwater

review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal. If the Permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a fifty foot transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the Permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation off-site.

a) Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.

b) Once the Program has approved the conceptual plan of the mitigation project the Permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.

c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.

d) In accordance N.J.A.C. 7:7A-14.1, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the Permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the Permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.

e) The Permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal.

f) The Permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the Permittee, the contractor, the consultant and the Program.

g) The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection.

h) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. Mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.

i) Immediately following the final grading of the mitigation site and prior to planting, the Permittee shall notify the Program for a post-grading construction meeting between the Permittee, contractor, consultant and the Program.

j) Immediately following final grading and planting of the wetland mitigation project, the Permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the Permittee shall submit as built plans of the site and photos with a photo location map of the completed project.

k) The Permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the Permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.

l) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the Permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the Permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.

m) The Permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The Permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).

n) Throughout the monitoring period, the Permittee must eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site.

o) All monitoring report will include all the following information (see attached monitoring report checklist):

i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the Permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);

ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent aerial coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified

on the mitigation planting plan. If the Permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent aerial coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria lobata (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.

iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the Permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

p) Once the required monitoring period has expired and the Permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the Permittee demonstrates all of the following:

i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The Permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows acres of emergent/scrub shrub/forested wetlands have been created/restored/enhanced;

ii. The site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria montana (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose);

iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

q) All remaining financial surety, if required, will be released concurrent with the Program notifying the Permittee that the mitigation project is a success.

r) If the mitigation project is considered a failure, the Permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the Permittee satisfies the success criteria as stipulated in item (p).

Hidden Mill

The plans hereby approved are seventeen sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN" dated February 10, 1992, last revised August 3, 2001, Sheet 2 of 30, Drawing No. C0101;
"GRADING AND UTILITY PLAN, SEC-1", dated February 10, 1992, last revised November 20, 2001, Sheet 3 of 30, Drawing No. C0201;
"FINAL GRADING AND UTILITY PLAN, SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 4 of 30, Drawing No. C0202;
"FINAL GRADING AND UTILITY PLAN, SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 5 of 30, Drawing No. C0205;
"FINAL GRADING AND UTILITY PLAN, SEC-6", dated February 10, 1992, last revised November 20, 2001, Sheet 6 of 30, Drawing No. C0206;
"FINAL HIDDEN MILL PROFILE", dated February 10, last revised August 3, 2001, Sheet 10 of 30, Drawing No. C0801;
"FINAL ROAD PROFILES", dated February 10, 1992, last revised August 3, 2001, Sheet 11 of 30 Drawing No. C0802;
"FINAL LITTLE MILL ROAD PROFILE", dated February 10, 1992, last revised April 9, 2001, Sheet 12 of 30, Drawing No. C0806;
"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 13 of 30, Drawing No. C0808;

"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 14 of 30, Drawing No. C0809;
"FINAL DETAILS", dated February 10, 1992, last revised November 1, 1996, Sheet 15 of 30, Drawing No. C1101;
"FINAL DETAILS", dated February 10, 1992, last revised November 20, 2001, Sheet 16 of 30, Drawing No. C1102;
"FINAL SOIL CONSERVATION PLAN SEC-1", dated February 10, 1992, last revised August 3, 2001, Sheet 20 of 30, Drawing No. C1201;
"FINAL SOIL CONSERVATION PLAN SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 21 of 30, Drawing No. C1202;
"FINAL SOIL CONSERVATION PLAN SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 22 of 30, Drawing No. C1205;
"FINAL SOIL CONSERVATION PLAN SEC-6", dated February 10, 1992, last revised August 3, 2001, Sheet 23 of 30, Drawing No. C1206;
"FINAL SOIL EROSION CONTROL DETAILS", dated February 10, 1992, last revised January 29, 2001, Sheet 24 of 30, Drawing No. C1301.

Murray Hill

The plans hereby approved are seven sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN", dated March 28, 1994, last revised May 1, 2001, Sheet 2 of 25, Drawing No. C0101;
"FINAL GRADING & UTILITY PLAN, SECTION 2", dated March 28, 1994, last revised June 15, 2001, Sheet 4 of 25, Drawing No. C0202;
"FINAL GRADING & UTILITY PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001, Sheet 5 of 25, Drawing No. C0203;
"FINAL DETAILS", dated March 28, 1994, last revised January 29, 2001 Sheet 14 of 25, Drawing No. C1103;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 2", dated March 28, 1994, last revised April 25, 1995, Sheet 16 of 25, Drawing No. C1202;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001 Sheet 17 of 25, Drawing No. C1203;
"FINAL SOIL CONSERVATION DETAILS", dated March 28, 1994, last revised December 13, 2000 Sheet 19 of 25, Drawing No. C1301.

Little Mill Road Improvements

The plans hereby approved are five sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TWP., CAMDEN COUNTY, NEW JERSEY"

"PLAN & PROFILE (STA. 4+00 TO 12+00) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 3 of 18, Drawing No.C0851;
"PLAN & PROFILE (STA. 22+00 TO 31+47.88) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 5 of 18, Drawing No.C0853;

"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 6 of 18, Drawing No.C0854;
"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 7 of 18, Drawing No.C0855;
"FINAL DETAILS", dated February 22, 2001, last revised November 28, 2001 Sheet 18 of 18, Drawing No.C1101.

Murray Hill Estates

The plan hereby approved is one sheet prepared by Vincent R. Mariani for Pennoni Associates Inc entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY" "FINAL WETLANDS PERMITTING PLAN RAI COMMERCIAL, INC.", dated March 3, 1994, last revised May 2001.

Approved By: Mark N. Mauriello DATE: 3/21/02
Mark N. Mauriello, Director
Land Use Regulation Program

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
LAND USE REGULATION PROGRAM
BUREAU OF COASTAL REGULATION

Staff Summary Analysis
March 2002

Hidden Mill Associates
Gloucester Township, Camden County
File Nos. 0414-97-0011.1, 0414-92-0012.3
Modification to File No.15497

Freshwater Wetland Individual Permit,
Freshwater Wetland Transition Area Waiver
Averaging Plan and Special Activity

Decision by the Director conditionally approving a Freshwater Wetlands Individual Permit (Hidden Mill), Transition Area Waiver Averaging Plan (Murray Hill Estates), Special Activity-General Permit No. 11 (Murray Hill Estates), Flood Hazard Area Control Act Modification (Hidden Mill) and Water Quality Certificate.

I. INTRODUCTION

The Freshwater Wetlands Protection Act (N.J.S.A. 13:19-1 et. seq.) and the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) require that a permit be obtained from the Department of Environmental Protection, Land Use Regulation Program for the alteration or disturbance in and around freshwater wetland areas in the State, and the discharge of dredged or fill material into State open waters within the State of New Jersey as defined by said Rules.

Section 401 of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) requires that a Water Quality Certificate (WQC) be obtained from the State of New Jersey for all projects which require a federal permit or license and which propose to discharge fill or dredge materials into waters of the United States. The purpose of the certification is to insure that all such activities are consistent with New Jersey Water Quality Standards (N.J.A.C. 7:9-4.1 et seq.), and the Federal Clean Water Act. The Land Use Regulation Program is the agency of the State of New Jersey responsible for the issuance of Water Quality Certificates.

The Flood Hazard Area Control Act (N.J.S.A. 58:16A-50) and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13) requires that a permit be obtained from the Department of Environmental Protection, Land Use Regulation Program for grading and construction within flood hazard areas and the 100-year flood plains and along stream corridors.

II. ANALYSIS SUMMARY

Based upon the analysis which follows, the Director is able to make the positive findings as required under the Freshwater Wetlands Protection Act Rules for approval of an Freshwater Wetlands Individual Permit, Freshwater Wetlands Transition Area Waiver; under the Flood Hazard Area Control Act Rules for approval of a Modification and a Water Quality Certificate for this project subject to any and all conditions that are applied to the decision listed in the conclusion.

The applicant, Hidden Mill Associates, proposes to fill approximately 0.5950 acres of freshwater wetlands for the purpose of constructing access roadways, widening of Little Mill Road, improvements to County Bridge 808 – 1978, sanitary sewer crossing for their proposed 168 unit residential development called Hidden Mill. The site is a 90 acres parcel located between College Drive and Little Mill Road in Gloucester Township, Camden County, New Jersey. The Hidden Mill development proposal is shown on seventeen development plans entitled: "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY", "FINAL OVERALL SITE PLAN" "FINAL GRADING & UTILITY PLAN", "FINAL SOIL CONSERVATION PLAN", originals dated February 10, 1992, last revised November 20, 2001, unless otherwise noted, and prepared by Hugh J. Dougherty. Hidden Mill Associates.

The applicant also proposes to construct, at Murray Hill Estates, 51 townhouse units, a stormwater/water quality basin with outfall located within Freshwater Wetland Transition Area and a roadway extension to Hidden Mill Drive on 21.77 acres. The Murray Hill development proposal is shown on eight development plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 1899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY", "FINAL OVERALL SITE PLAN", "FINAL GRADING & UTILITY PLAN", "FINAL DETAILS", "FINAL SOIL EROSION CONTROL PLAN", originals dated March 28, 1994, last revised June 15, 2001, unless otherwise noted, and prepared by Hugh J. Dougherty.

III. ADMINISTRATIVE HISTORY

The applicant acquired the Hidden Mill property between 1972 and 1974. The original subdivision approval was granted in 1978 for 228 single-family homes. Under redesign, the applicant received another subdivision approval from Gloucester Township Planning Board in August of 1997. Because the approval predated the July 1, 1988 effective date of the New Jersey Freshwater Wetlands Protection Act, the development was exempt from the Act's requirements as to disturbances to both wetlands and transition areas.

Originally, the Land Use Regulation Program (Program) issued a Freshwater Wetland exemption on May 24, 1989, for both activities in the wetlands and in the transition area. However, the applicant, Hidden Mill Associates, was required to obtain a Water Quality Certificate from the Program in conjunction with an application request before the Army Corp of Engineers (COE) for an Individual Wetlands Permit. On December 26, 1989, the Land Use Regulation Program (formerly called the Division of Coastal Resources) received an application for a Water Quality Certificate. The original crossing proposal required the crossing of 1,267 feet of exceptional resource freshwater wetlands and required the filling of 1.62 acres of those wetlands. During that original review, the U. S. Fish and Wildlife Service (Service) objected to the issuance of a Water Quality Certificate on June 7, 1990. The Service suggested a preferable "less environmentally damaging" alternative access road to New Brooklyn Road (County Road 706) through what is now known as the Murray Hill property.

On July 16, 1991, the NJDEP denied Hidden Mill Associates' application for a Water Quality Certificate, stating the proposed secondary road access road would cause the disturbance of 1.6 acres of wetlands, and was not deemed to minimize impacts to the wetlands. NJDEP suggested as an alternative upland route, using the Murray Hill Estates property.

On May 21, 1992 a meeting was held to discuss status of the Appeal of the Denial of the Water Quality Certification and discuss a possible settlement of the Office of Administrative Law. The meeting was attended by staff of DEPE, Attorney General's office, the applicant and it's engineering agent. DEPE staff reviewed plan revision proposal and at that time gave verbal support to the proposed layout of the revised plan, wherein the Murray Hill Property would be used for secondary access to the Hidden Mill site.

On December 14, 1990 and June 25, 1992, Hidden Mill Associates requested an extension of time for a Modification-in-Detail for the Flood Hazard Area Control Act permit application. Due to the pending appeal of the Water Quality Certificate denial, The Program did not issue an extension or Modification-in-Detail. As a result of the Permit Extension Act, the permit had been extended to December 31, 1996. In a letter dated March 10, 1997, the applicant requested a new Modification-in-Detail to eliminate seven stormwater outfalls, one culvert, one water main crossing and one sanitary sewer crossing; relocate one sanitary sewer crossing; and add one water main crossing.

On September 10, 1997, the Program received a Freshwater Wetlands Individual Permit application. On October 9, 1997, the Program issued a deficiency letter requiring the applicant provide revisions to the submitted plans and a narrative explanation addressing the issues in the letter. The applicant provided response to the deficiency letter on December 19, 1997.

On April 10, 1998, based upon comment from the U.S. Fish and Wildlife Service, US Environmental Protection Agency issued an objection to the project proposal by Hidden Mill Associates. Subsequently, the Program held meetings to resolve the stated objections of USEPA. Meeting participants included representatives of the Program, the applicant and U.S. Fish & Wildlife. As a result of these meetings, the applicant agreed to a series of permit conditions put forth by the U.S. Fish & Wildlife Service (see conditions at end of analysis).

On January 10, 2002, the U.S. Environmental Protection Agency withdrew its previous objection to the issuance of a Freshwater Wetlands Individual Permit, if the draft NJDEP special conditions and the USFWS modifications are incorporated into the permit.

IV. PROJECT AND SITE DESCRIPTIONS

Hidden Mill

Hidden Mill is a 168 unit residential development located on a 90-acre tract off of Little Mill Road, Gloucester Township, Camden County, New Jersey.

There are five wetland and wetland buffer encroachments necessary to construct the Hidden Mill Development. The total disturbance for wetlands fill is 0.5950 acres and 0.2285 acres disturbance to the transition areas.

The applicant proposes to fill 0.2352 acres of freshwater wetlands to construct a road across wetlands to provide access (called Hidden Drive) from Little Mill Road to uplands within the Hidden Mill property.

A twin 3'by 7' box culvert, 49' long to carry the stream flow under Hidden Drive. The encroachment is for the culvert and sideslopes needed to bring the road back to existing wetland grades. On the west side of Little Mill Road, there will be improvements to County Bridge #8D8-1978. There is also grading (cut and fill) adjacent to the road to facilitate stormwater management, sidewalk construction and erosion control. This activity will impact 0.2410 acres of wetlands.

There is also a proposed sanitary sewer crossing of 8" "D.I.P." gravity main that will cross a tributary of Mason's Run. The crossing is located along a segment of the sewer main that extends from Little Mill road to the pump station location north of Hidden Drive next to tennis court. This activity will impact 0.11 acres of wetlands.

At Little Mill Road, the applicant is proposing improvements to an existing culvert at Station 9+60 impacting 0.0088 acres of wetlands and 0.2245 acres of transition area for road widening.

The project site consists of 90 acres of forestland, which includes wooded and Palustrine wetlands that occupy most of the property. Steep slopes give rise to upland areas. The upland portions of the site lie along Little Mill Road and extend westward. The site is located on Block 1, Lots 5 and 6, Block 14402, Lots 45 and 46, Gloucester Township, Camden County. The site is bordered by Little Mill Road to the east and privately owned lots both developed and undeveloped to the north, west and south. The Program classified the wetlands of this tributary as exceptional resource value because of their unique nature. These wetlands contain rare and endangered plant species, one of which is Swamp Pink (Helonias bullata). An unnamed tributary section of Mason's Run is just downstream of the only trout production water's in Southern New Jersey.

Murray Hill Estates

Murray Hill Estates is a 48 single family homes and 51 townhouse unit residential development located on a 49.46 acre tract Gloucester Township, Camden County, New Jersey. The site is bordered by Blenheim-Erial-New Brooklyn Road (County Route 706) to the south, privately owned lots both developed and undeveloped to the north, west and east. The Program classified the wetlands as exceptional resource value because of their unique nature. These wetlands contain rare and endangered species, Swamp Pink (Helonias bullata) and Red Shouldered Hawk (.

The freshwater wetland transition area encroachments are for the purpose of constructing fifty-one townhouse dwellings, a stormwater/water quality basin and a development roadway (Hidden Drive). The total encroachment of Freshwater Transition Area is 34,398 square feet (0.79 acres) with transition area compensation of 35,286 square feet (0.81 acres).

The project site consists of 49.46 acres of disturbed upland/woodlands and forest wetlands on Block 18799, Lot 1, Block 18799, Lot 1 Gloucester Township, Camden County.

V. FRESHWATER WETLAND ANALYSIS

The analysis which follows is based on Subchapter 3 of the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A) as revised to June 6, 1998. This analysis refers to applicable subchapters by the administrative code section.

In accordance with section 7:7A-1.4 of the Rules, disturbance of wetlands for a road crossing and widening is a nonwater dependent activity, and therefore, the permit application has been reviewed under criteria contained in 7:7A-3.1 to 3.5 of the Rules.

Requirements for granting individual freshwater wetland and open water fill (7:7A-3.1) permits and Requirements for Non-water Dependent Activities (7:7A-3.3)

Section 3.1 (a) states the Department shall issue a freshwater wetlands or open water fill permit if it finds that there is no practicable alternative to the proposed activity. An alternative shall be practicable if it is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes. An alternative shall not be excluded from consideration under this provision merely because it includes or requires an area not owned by the applicant which could reasonably have been obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

Section 3.3(a) states that the Department shall issue a freshwater wetlands or open water fill permit for a non-water dependent activity only if it finds that the regulated activity has no practicable alternative which would: not involve a freshwater wetlands; or involve a freshwater wetland but would have a less adverse impact on the aquatic ecosystem; and not have other significant adverse environmental consequences for those attendant on the original proposal. For all freshwater wetlands, it shall be a rebuttable presumption that there is a practicable alternative to any nonwater-dependent regulated activity, which alternative does not involve a freshwater wetlands or State open water, and that such an alternative to any regulated activity would have less of an impact on the aquatic ecosystem. In order to rebut this presumption, the applicant must demonstrate all of the following:

1. That the basic project purpose cannot reasonably be accomplished utilizing one or more other sites in the general region that would avoid, or reduce, the adverse impact on an aquatic ecosystem;

2. That the basic project purpose cannot be reasonably been accomplished if there is a reduction in size, scope, configuration or density of the project as proposed;

3. That the basic project purpose cannot be reasonably be accomplished by any alternative designs that would avoid, or result in less adverse impact on an aquatic ecosystem;

4. That in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as inadequate zoning, infrastructure, or parcel size, the applicant has made reasonable attempts to remove or accommodate such constraints.

The applicant presented the review of alternatives addressed during the original Water Quality Certificate review and the Department's denial response (File No. 0408-881208.3WQC issued January 18, 1991) at that time, which is now the rational for the chosen alternative (see attachment). The applicant has provided the requirements for the road crossing access from Little Mill Road, secondary road access through the Murray Hill Estates property, and the widening of Little Mill Road and evaluation of alternative sites.

ALTERNATIVE ANALYSIS

No Build Alternative -

As shown above, the applicant acquired the property for development in the 1977. To date the applicant has spent over $4,344,000.00, which includes the acquisition of the adjacent property for secondary access (Murray Hill Estates). Therefore, the applicant found the no action alternative not practicable and since the applicant had obtained ownership of adjacent upland areas in order to lessen impacts on the freshwater wetlands, this alternative is not feasible.

Scale Down Alternative –

The applicant states the project, as presently proposed for the Hidden Mill site, is a reduction from 220 dwelling units to 168 dwelling units, which includes the loss of 5 single family dwelling units to eliminate a basin discharging into a wetland containing swamp pink. The applicant submits that the diminution of units is a downsizing to reduce the total impacts to freshwater wetlands. Further reduction in units will not however, lesson the need for access to the upland portion of the property or eliminate the need for the wetlands crossing.

Program Findings

The Program finds the acquisition of Hidden Mill site in 1978 predates the Freshwater Wetland Protection Act, therefore the applicant should reasonably expect to develop the site within the limits of the Act. The Program acknowledges the acquisition of the Murray Hill Estates property by the applicant at the recommendation of the Program is an act of utilizing another site in the region. The Program finds the applicant has minimized the impact to the freshwater wetlands by elimination dwelling units and by limiting the road crossing to Hidden Drive, the impact of which is 0.235 acres. Therefore, the Program finds that there is no practicable alternative to this project. The Program concurs that the proposed entry access along the dirt road point of access off of Little Mill Road is the alternative that has the least amount of permanent affect to the wetlands .

Widening Little Mill Road

The applicant stated the Little Mill Road at the project entrance is currently a one-lane road. In order to accommodate traffic entering and leaving the site, the applicant is proposing to provide, as a requirement of the "Residential Site Improvements Standards" for Gloucester Township, a widened road linked to a cul-de-sac beyond the entrance of the site. The applicant's alternatives to the widening were not feasible, i.e. do not widen the road and file suit in seeking to overturn the mandated requirement or do not build the project.

Program Findings

The Program finds it is in agreement with the applicant's reasoning regarding the widening of Little Mill Road. The Gloucester Township mandate is to provide a safe entry and egress from the development. The Little Mill Road will be brought up to meet the "Residential Site Improvements Standards" for a standard two-lane road. These standards are imposed for the public health, safety and interest and provide the minimum safe width for the widened road lanes. The Program finds the applicant has minimized the impacts of the widening to the greatest extent possible given the constraints to provide for public safety.

Standard Requirements (7:7A-3.5)

As sets forth in this subchapter, the Department shall issue a permit for a regulated activity only if the activity complies with all the conditions outlined under this policy. Based upon preliminary review of the proposed project, the alternatives considered, and the imposition of a condition requiring acceptable water quality measures, it appears this project will cause minimal impacts to, or impairment of, the aquatic ecosystem, including contour, vegetation, fish and wildlife resources, and aquatic circulation of the freshwater wetland and hydrologic patterns of the watershed. The wetlands disturbance is restricted to the area for the entrance road, the widening of Little Mill Road and the sewer main crossing. The wetlands impacted by the proposed project are considered to be of intermediate resource value, since there are neither present nor documented habitat of threatened or endangered species listed pursuant to "The Endangered and Nongame Species Conservation Act", N.J.S.A. 23:2A-1 et seq., or which are listed on the Federal endangered species list as defined at N.J.A.C. 7:7A-1.4.

Program Findings

The Program has considered all of the requirements listed under this section and made the following determinations:

1. Based upon review of the proposed project and the alternatives considered, the Program finds that this project will cause minimal impacts to, or impairment of, the aquatic ecosystem, including contour, vegetation, fish and wildlife resources, and aquatic circulation of the freshwater wetland and hydrologic patterns of the watershed.

2. The Program finds with the USFWS that the proposed regulated activity will minimize any affect to or jeopardize, any threatened or endangered species or their habitat. The Program finds that there are neither present nor documented habitat of threatened or endangered species listed pursuant to "The Endangered and Nongame Species Conservation Act", N.J.S.A. 23:2A-1 et seq., or which are listed on the Federal endangered species list as defined at N.J.A.C. 7:7A-1.4. conducive to endangered and threatened species.

3. The Program finds with the USFWS that the proposed regulated activity will not result in the destruction or adverse modification of a critical habitat.

4. The Program finds the stormwater from the proposed project will be routed to stormwater basins, which are designed to meet water quality standards.

5. The Program finds there is no discharge proposed. The project will tie into an existing sewer system. Therefore, it will not cause or contribute to a violation of any effluent standards.

6. The Program finds the proposed project will not violate any requirement imposed by the U.S. government to protect any marine sanctuary. The site is located inland.

7. The Program finds the proposed project will not cause or contribute to a significant degradation of ground or surface waters. The stormwater from the site will be first filtered through stormwater basins and will be treated to meet water quality standards prior to discharge to receiving waters or wetlands.

8. The Program finds the project will not impact any properties which are listed or eligible for listing on the National Register of Historic Places.

9. The Program finds the project required a Stream Encroachment modification approval and the Permittee will obtained said approval via this permit. Therefore the project will not violate any provision of the Flood Hazard Area Control Act N.J.S.A. 58:16A-50 et. seq. or implementing rules at N.J.A.C. 7:13.

10. The Program finds the activity is lawful, and

11. The Program finds the project is in the public interest as determined by the Department in consideration of the following:

Lastly, under Section 3.5, condition 11, a proposed activity must be in the public interest, in accordance with the criteria contained therein. In determining whether a proposed activity is in the public interest the Department considers the preservation of natural resources and the interest of property owners in reasonable economic development, the relative extent of the public and private need for the development, the practicability of using reasonable alternative locations and methods, the extent and permanence of beneficial or detrimental effects, the quality and resource value classification of the wetlands to be affected, the amount to be affected, the economic value of the proposed activity to the general area, and the ecological value and probable impact on public health and fish and wildlife.

The proposed road crossing and widening by the Hidden Mill Associates, Inc. is to provide access to an upland property. The applicant has demonstrated that the crossings and widening are needed to provide access to the upland portion of the site, alleviate a potential traffic congestion/traffic safety problem with its potential adverse public health and safety effects in the area. Alternatives were discussed under N.J.A.C. 7:7A-3.2. Since the wetland disturbance associated with the project will be minimized as much as possible, and the applicant has demonstrated that no suitable alternative location exists, the Program does not anticipate that there will be a permanent detrimental impact on public health, fish and wildlife.

The Program has considered all criteria as discussed above, and has determined that the proposed project is in the public interest.

Waiver of Transition Area and Transition Area Waiver Averaging Plan

The Program had previously determined the Hidden Mill site was exempt from Transition area standards due to receiving the proper subdivision approvals prior to the initiation of the Freshwater Wetlands Protection Act.

The Program has determined that the wetlands affected by this permit authorization are of exceptional resource value on the Murray Hill site. The resource value classification is the basis for determining the standard width of transition area required for the wetlands affected by this permit authorization. The authorization of activities under this Freshwater Wetlands Individual Permit includes a transition area waiver. This waiver allows encroachment only in that portion of the transition area that has been determined by the Program to be necessary to accomplish the authorized activities.

In addition, the Murray Hill project underwent a review for a transition area waiver-averaging plan. The project as submitted was not in compliance with the rules and the Program required the applicant to make the design changes to relocate a townhouse away from a steep slope area. The applicant was required to provide a revised plan showing the relocation. The applicant was required to provide revised calculations showing the total area of transition area compensation (0.81 acres) as equal to or greater than the encroachment (0.79 acres). The applicant provided the necessary changes, as noted, the Program is able to issue the Transition Area Waiver Averaging Plan.

Waiver of Transition Area-Special Activity General Permit No. 11

Based upon a review of the submitted information, the Department has determined that the proposed modified transition area boundary line as shown on one sheet entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY FINAL GRADING & UTILITY PLAN, SEC 3" March 28, 1994, last revised December 13, prepared by Hugh J. Dougherty, P. E. is authorized for the activities involving the Freshwater Wetlands Transition Area Waiver-Special Activities/General Permit No. 11 for stormwater outfall in association of a basin with a disturbance of 0.07 acres.

Mitigation (7:7A-14)

This section states that the Department shall require as a condition of an individual permit that all appropriate measures have been, or will be carried out to restore vegetation, minimize the area of disturbance, and to replace or create wetlands when a permit allows the permanent loss of wetlands. Consequently, the permittee shall be required to compensate for the loss of 0.59 acres of Palustrine forested wetland as a result of the construction of the road crossings, road widening of little Mill Road and sewer main crossing pursuant to N.J.A.C. 7:7-14.1 et. seq. The permittee shall also be required to restore any wetlands that are proposed to be temporarily disturbed within six months of the regulated activity, in order to reverse or remedy the effects of the activity on the wetland, and to restore the site to pre-activity condition.

Prior to construction, the applicant must submit a mitigation plan for review pursuant to N.J.A.C. 7:7A-14.4 for Program review and written approval.

VII. WATER QUALITY CERTIFICATE

This approval to conduct a regulated activity (placement of fill) in a wetland or open water includes the Program's approval of a Water Quality Certificate for these activities.

VIII. CONCLUSION

Based upon the above analysis the Director of the Land Use Regulation Program is able to make the positive findings required under Subchapter 3 of the Freshwater Wetlands Protection Act Rules, for approval of an Individual Permit with the following required conditions.

IX. PERMIT CONDITIONS

1. No construction authorized by this permit may begin until the enclosed permit acceptance form has been signed by the applicant and is returned to the Land Use Regulation Program at P. O. Box 439, Trenton, New Jersey 08625-0439. By signing and submitting this form, the applicant accepts this permit in its entirety and agrees to adhere to all of its terms and conditions. Please be advised that this permit may be declared null and void should it be determined that adequate measures had not been taken by the applicant and/or its agents to ensure the continuous implementation of these terms and conditions.

2. Within ten (10) days of the receipt of this permit by the applicant, this permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this permit is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

3. Consistency with Areawide Water Quality Management Plan

Acting in its capacity as the Statewide Water Quality Management Planning Agency, the Department has found this project to be consistent with provisions and recommendation of the Tri-County Water Quality Management Plans. Please be advised that this determination shall no longer be valid if any modifications are made to the herein approved plans which would result in a change in the anticipated wastewater flow volumes (such as the addition of sewerage generating structures or a proposed increase in size to any previously proposed or herein approved structures), or if there is any change in the proposed method of wastewater treatment. Plans amended as such must be resubmitted to the Department for a new consistency determination prior to the commencement of the herein approved activities.

4. Approvals from the following are required by the permittee prior to the commencement of the herein permitted activities:

Camden County Soil Conservation District
Bureau of Connections and Construction – Treatment Works Approval

SPECIAL CONDITIONS

In addition to the standard conditions set forth in section 7:7A-7, the following special conditions

must be met for the activity authorized under this individual permit and transition area waiver.

1. Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U. S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention: Lisa Arroyo and Telephone: 609-646-9310.

2. Prior to site preparation, the Permittee must provide enhanced soil and erosion control mechanisms during construction for both Hidden Mill and Murray Hill Estates sites. The enhanced erosion controls are to be placed at the interface of the transition areas and the upland lot areas. Along the south side of the Hidden Mill development the applicant must immediately stabilize exposed soils that lie upslope of the wetland on the south side of the project via methods described in "Standards for Soil Erosion and Sediment Control in New Jersey" for either "Temporary Vegetative Cover for Soil Stabilization" or "Stabilization with Mulch only" (New Jersey State Soil Conservation Committee, 1987). Additionally, the Permittee must utilize both silt fence and a bale barrier parallel to one another, along the slope contour as described in "Standards for Soil Erosion and Sediment Control in New Jersey". At the Murray Hill site, the Permittee must incorporate the same sediment controls methods (described above for the Hidden Mill site) and must also construct, at the limits of the clearing along the western edge of the site, a small soil berm between 2 and 4 feet in height to prevent water from moving down-slope toward wetlands containing swamp pink. This condition shall be printed on all applicable construction plans. The Permittee must correct any excessive soil erosion condition immediately upon its identification.

3. The Permittee must provide unrestricted access to the U. S. Fish and Wildlife Service to monitor construction activities at the public right-of way areas to both the Hidden Mill and Murray Hill developments. The Permittee must also provide the U. S. Fish and Wildlife Service, unrestricted access at public right-of way areas to both the Hidden Mill and Murray Hill developments for monitoring of swamp pink occurrences for the life of the projects.

4. Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Hidden Mill site for review and approval by the Program and the Service. Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, utilities). Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,100 feet in length at the Hidden Mill site between the townhouses on the southern side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "FINAL SITE PLANS & FINAL SUBDIVISION PLANS SECTIONS 1, 2 AND 5 HIDDEN MILL ASSOCIATES" "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY FINAL GRADING & UTILITY PLAN SEC-2 ", dated February 10, 1992, last revised April 9, 2001, Drawing No. C0202.

5. Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and the Service. Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, utilities). Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, dated March 28, 1994, last revised January 7, 1999" Drawing No. C0202 "GRADING & UTILITY PLAN, SECTION 2"; "GRADING & UTILITY PLAN, SECTION 3" Drawing No. C0203.

6. Prior to initiation of site preparation, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall occur in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act.

MITIGATION CONDITIONS

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below.

2. Purchase previously acquired credits but not used, from the Woodbury Creek Wetland Mitigation Bank as detailed below.

a) The Permittee must submit proof of the purchase of 1.20 mitigation credit to Virginia Kop'Kash, from the Land Use Regulation Program, before the authorized construction may begin. To purchase previously acquired credits from the mitigation bank, the Permittee must contact Marge Della Vecchia from the Cherry Hill Township Engineers Office. If the Permittee waits more than sixty days to make that purchase she/he must first contact Virginia Kop'Kash, from the Land Use Regulation Program at (609) 777-0454 to determine if the mitigation credits are still available for sale.

3. For an on-site or off-site individual mitigation project the Permittee must submit a mitigation proposal to the Land Use Regulation Program, to create, enhance or restore an area of freshwater wetlands of equal ecological value to those, which will be lost by the authorized activity for review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal. If the Permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a fifty-foot transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the Permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation off-site.

a) Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.

b) Once the Program has approved the conceptual plan of the mitigation project the Permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.

c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.

d) In accordance N.J.A.C. 7:7A-14.1, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the Permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the Permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.

e) The Permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal.

f) The Permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the Permittee, the contractor, the consultant and the Program.

g) The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection.

h) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. Mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.

i) Immediately following the final grading of the mitigation site and prior to planting, the Permittee shall notify the Program for a post-grading construction meeting between the Permittee, contractor, consultant and the Program.

j) Immediately following final grading and planting of the wetland mitigation project, the Permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the Permittee shall submit as built plans of the site and photos with a photo location map of the completed project.

k) The Permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the Permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.

l) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the Permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the Permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.

m) The Permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed-forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The Permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).

n) Throughout the monitoring period, the Permittee must eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site.

o) All monitoring report will include all the following information (see attached monitoring report checklist):

i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the Permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);

ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent aerial coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan. If the Permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent aerial coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria lobata (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.

iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the Permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

p) Once the required monitoring period has expired and the Permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the Permittee demonstrates all of the following:

i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The Permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows acres of emergent/scrub shrub/forested wetlands have been created/restored/enhanced;

ii. The site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria montana (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose);

iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

q) All remaining financial surety, if required, will be released concurrent with the Program notifying the Permittee that the mitigation project is a success.

r) If the mitigation project is considered a failure, the Permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the Permittee satisfies the success criteria as stipulated in item (p).

Hidden Mill

The plans hereby approved are seventeen sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN" dated February 10, 1992, last revised August 3, 2001, Sheet 2 of 30, Drawing No. C0101;
"GRADING AND UTILITY PLAN, SEC-1", dated February 10, 1992, last revised November 20, 2001, Sheet 3 of 30, Drawing No. C0201;
"FINAL GRADING AND UTILITY PLAN, SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 4 of 30, Drawing No. C0202;
"FINAL GRADING AND UTILITY PLAN, SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 5 of 30, Drawing No. C0205;
"FINAL GRADING AND UTILITY PLAN, SEC-6", dated February 10, 1992, last revised November 20, 2001, Sheet 6 of 30, Drawing No. C0206;
"FINAL HIDDEN MILL PROFILE", dated February 10, last revised August 3, 2001, Sheet 10 of 30, Drawing No. C0801;
"FINAL ROAD PROFILES", dated February 10, 1992, last revised August 3, 2001, Sheet

11 of 30 Drawing No. C0802;
"FINAL LITTLE MILL ROAD PROFILE", dated February 10, 1992, last revised April 9, 2001, Sheet 12 of 30, Drawing No. C0806;
"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 13 of 30, Drawing No. C0808;
"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 14 of 30, Drawing No. C0809;
"FINAL DETAILS", dated February 10, 1992, last revised November 1, 1996, Sheet 15 of 30, Drawing No. C1101;
"FINAL DETAILS", dated February 10, 1992, last revised November 20, 2001, Sheet 16 of 30, Drawing No. C1102;
"FINAL SOIL CONSERVATION PLAN SEC-1", dated February 10, 1992, last revised August 3, 2001, Sheet 20 of 30, Drawing No. C1201;
"FINAL SOIL CONSERVATION PLAN SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 21 of 30, Drawing No. C1202;
"FINAL SOIL CONSERVATION PLAN SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 22 of 30, Drawing No. C1205;
"FINAL SOIL CONSERVATION PLAN SEC-6", dated February 10, 1992, last revised August 3, 2001, Sheet 23 of 30, Drawing No. C1206;
"FINAL SOIL EROSION CONTROL DETAILS", dated February 10, 1992, last revised January 29, 2001, Sheet 24 of 30, Drawing No. C1301.

Murray Hill

The plans hereby approved are eight sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":
"FINAL OVERALL SITE PLAN", dated March 28, 1994, last revised May 1, 2001, Sheet 2 of 25, Drawing No. C0101;
"FINAL GRADING & UTILITY PLAN, SECTION 2", dated March 28, 1994, last revised June 15, 2001, Sheet 4 of 25, Drawing No. C0202;
"FINAL GRADING & UTILITY PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001, Sheet 5 of 25, Drawing No. C0203;
"FINAL DETAILS", dated March 28, 1994, last revised January 29, 2001 Sheet 14 of 25, Drawing No. C1103;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 2", dated March 28, 1994, last revised April 25, 1995, Sheet 16 of 25, Drawing No. C1202;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001 Sheet 17 of 25, Drawing No. C1203;
"FINAL SOIL CONSERVATION DETAILS", dated March 28, 1994, last revised December 13, 2000 Sheet 19 of 25, Drawing No. C1301.

Little Mill Road Improvements

The plans hereby approved are five sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TWP., CAMDEN COUNTY, NEW JERSEY"

"PLAN & PROFILE (STA. 4+00 TO 12+00) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 3 of 18, Drawing No.C0851;
"PLAN & PROFILE (STA. 22+00 TO 31+47.88) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 5 0f 18, Drawing No.C0853;
"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 6 of 18, Drawing No.C0854;
"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 7 of 18, Drawing No.C0855;
"FINAL DETAILS", dated February 22, 2001, last revised November 28, 2001 Sheet 18 of 18, Drawing No.C1101.

Murray Hill Estates

The plan hereby approved is one sheet prepared by Vincent R. Mariani for Pennoni Associates Inc entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY" " FINAL WETLANDS PERMITTING PLAN RAI COMMERCIAL, INC.", dated March 3, 1994, last revised May 2001.

Prepared By: Andrew D. Gale
Andrew D. Gale, Project Manager
Bureau of Coastal Regulation

Recommended By: K. J. Broderick
Kevin J. Broderick, Manager
Bureau of Coastal Regulation

Approved By: Mark N. Mauriello DATE: 3/21/02
Mark N. Mauriello, Director
Land Use Regulation Program

EXHIBIT F

PROFESSIONAL PROFILE

CHRISTOPHER C. SQUAZZO

EDUCATION

B.S./1999/Environmental Sciences with Biology Minor/The Richard Stockton College of New Jersey

Certified Wetland Delineator Candidate

24 Hour Hazardous Waste Site Worker Training

Professional Courses:

Threatened and Endangered Species of Northern New Jersey

Threatened and Endangered Species of Southern New Jersey

Wetland Vegetation Identification

Hydric Soils for Wetland Identification

Methodology for Delineating Wetlands

Coastal Area Facility Review Act, CAFRA

Professional Affiliations:

Member of the Township of Haddon, New Jersey Environmental Commission

REPRESENTATIVE PROJECT EXPERIENCE

WETLANDS IDENTIFICATION AND DELINEATION

County of Burlington, New Jersey
Completed wetland delineation on a 2,300± linear foot tract along Juliustown and Monmouth Roads in Springfield Township, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Assisted in the preparation of New Jersey Freshwater Wetland and Stream Encroachment Permits.

Matrix Development Group, Cheltenham Township, PA
Completed wetland delineation at a 72±-acre tract located at The Cedarbrook Country Club in Cheltenham, Pennsylvania. Identifying and determining the presence and configuration of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Prepared a Jurisdictional Determination application package to be submitted to the USACE. The wetland line was verified.

Township of Moorestown, Burlington County, NJ
Completed wetland delineation on a 7,000± linear foot tract along North Church Street in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permits #7 & #10 and a Transition Area Waiver - Special Activity #10 permit application. The permits were approved.

Tanner Pump Station, Township of Northampton, Bucks County, PA
Completed a wetland delineation at a 5.9± acre parcel located in the Township of Northampton, Bucks County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Jurisdictional Determination application package to the USACE. The wetland line was verified.

Township of Moorestown, Burlington County, NJ
Completed a wetland delineation of a man-made drainage swale along Locust Street in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #11 application package. The permit was approved.

Township of Moorestown, Burlington County, NJ
Completed a wetland delineation of a 10.48 acre site with ordinary and intermediate value wetlands at the Moorestown Sewage Disposal Site in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permits #6 & #10 application package. The permits were approved.

Robin's Nest Inc., Borough of Glassboro, Gloucester County, NJ
Completed a wetland delineation of a 6.09 acre site located along Delsea Drive in the Borough of Glassboro, Gloucester County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #6, General Permit #11, Letter of Interpretation and a Transition Area Waiver - Averaging Plan application package. The permits were approved and the wetland line was verified.

Borough of Pine Hill, Camden County, NJ
Completed a wetland delineation of an intermittent stream located at Bowen Field in the Borough of Pine Hill, Camden County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #2 and a Transition Area Waiver - Averaging Plan. Both the Statewide General Permit and the Averaging Plan were approved.

Washington Township Sports Medicine LLC, Washington Township, Gloucester County, NJ
Completed a wetland delineation of 4.15 acre site located in Washington Township, Gloucester County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Letter of Interpretation. The wetland line was verified.

Thornbury Township Regional Sewer, Thornbury Township, Delaware County, PA
Completed a wetland delineation at a 38.19 acre parcel located in Thornbury Township, Delaware County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Jurisdictional Determination application package to the USACE. The wetland line was verified.

The Diocese of Camden, Galloway Township, Atlantic County, NJ
Completed an absence/presence of freshwater wetlands study on a 4.86 acre lot in the Pinelands. Submitted an application and report to the Pinelands Commission. The application was approved.

Bridgewater Road Extension, Bensalem Township, Bucks County, PA
Completed a wetland delineation at a 120.20± acre parcel located in Bensalem Township, Bucks County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Jurisdictional Determination application package to the USACE. The wetland line was verified.

Township of Moorestown, Burlington County, NJ
Completed a wetland delineation of a 64.60 acre parcel along Creek Road in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #6, Waterfront Development, Letter of Interpretation and Transition Area Waiver - Averaging Plan application package. The line and permits were approved.

Warlyga Tract, Lot 11, Lower Providence Township, Montgomery County, PA
Completed a wetland delineation at a 4± acre parcel located in Lower Providence Township, Montgomery County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Jurisdictional Determination application package to the USACE. The wetland line was verified. Submitted a Joint Permit Application to the Pennsylvania Department of Environmental Protection for a Fill Permit. The permit was approved.

C.V.S. Whitpain, Whitpain Township, Montgomery County, PA
Completed a wetland delineation at a 6.23± acre parcel located in Whitpain Township, Montgomery County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Jurisdictional Determination application package to the USACE. The wetland line was verified.

Plymouth Meeting Commons, Plymouth Township, Montgomery County, PA
Completed a wetland delineation at a 41.50± acre parcel located in Plymouth Township, Montgomery County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Joint Permit Application to the Pennsylvania Department of Environmental Protection for a Stream Enclosure Permit. The permit was approved.

Staybridge Suites, Township of Mount Laurel, Burlington County, NJ
Completed an Environmental Impact Statement ("EIS") on Block 1301, Lot 1.04, a 4.28± acre parcel located in the Township of Mount Laurel, Burlington County, New Jersey. The EIS was submitted a the Township of Mount Laurel Planning Board for approval. The E.I.S. was approved.

Township of Moorestown, Burlington County, NJ
Completed wetland delineation on a 3,100± linear foot tract along Borton's Landing Road in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #10 and a Flood Hazard Control Act, Major Stream Encroachment application. The permits were approved.

C.V.S. Pharmacy, Whiting, Manchester Township, Ocean County, NJ
Completed an absence/presence of freshwater wetlands study on Block 96, Lot 4 (portion), a 5.98 acre lot along Pinewald-Keswick and Schoolhouse Roads in Whiting, Manchester Township, Ocean County, New Jersey. A Pinelands Commission application has been submitted. The application was approved.

Township of Moorestown, Burlington County, NJ
Completed a wetland delineation of a 11.87 acre parcel at The Wesley Bishop Park along North Church Street in the Township of Moorestown, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #6, application package. The permit was approved.

The Granite Group, Gloucester Township, Camden County, NJ
Completed a wetland delineation of 99.37 acre site located in Gloucester Township, Camden County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Letter of Interpretation and a Statewide General Permit #11, application package. The line was verified.

The Township of Lower Merion, Montgomery County, PA
Completed a wetland delineation in several areas located in the Township of Merion, Montgomery County, Pennsylvania. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the

Pennsylvania Dam Safety and Waterway Management. Submitted a Pennsylvania General Permit #5 application package. The permit was approved.

Tiger Distributors, Township of Howell, Monmouth County, NJ
Completed an absence/presence of freshwater wetlands study and report on Block 219, Lot 14.01, a 3.03 acre lot located on Squankum-Yellow Brook Road in the Township of Howell, Monmouth County, New Jersey.

Gerald Golden, Borough of Barrington, Camden County, NJ
Completed a wetland delineation of 0.81 acre site located in the Borough of Barrington, Camden County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Letter of Interpretation. The line was verified.

County of Burlington, New Jersey
Completed wetland delineation on a 500± linear foot tract along Church Street in Mt. Laurel Township, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #10. The permit was approved.

Consumers Water Company of New Jersey, Greenwich Township, Warren County, NJ
Completed wetland delineation along a tributary to Merrill Creek in Greenwich Township, Warren County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. I submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #2 and a New Jersey Flood Hazard Control Act, Minor Stream Encroachment application. The permit was approved.

Consumers Water Company of New Jersey, Chesterfield Township, Burlington County, NJ
Completed wetland delineation along a tributary to Crosswicks Creek in Chesterfield Township, Burlington County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. I submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #2 and a New Jersey Flood Hazard Control Act, Minor Stream Encroachment application. The permit was approved.

Consumers Water Company of New Jersey, Lopatcong Township, Warren County, NJ
Completed wetland delineation across a wetland swale in Lopatcong Township, Warren County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a New Jersey Freshwater Wetlands Protection Act, Statewide General Permit #2 application.

Meineke Muffler, Mill Creek Hundred, New Castle County, DE
Completed a wetland delineation at a 0.63± acre parcel located in Mill Creek Hundred, New Castle County, Delaware. Identifying and determining the presence of any freshwater wetlands and/or waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Delaware Natural Resource Environmental Council. Submitted a Jurisdictional Determination application package to the USACE.

City of Millville, Cumberland County, NJ
Completed a wetlands delineation along parts of the Maurice River in the City of Millville, Cumberland County, New Jersey. Identifying and determining the presence and configuration of any freshwater wetlands and/or State open waters, regulated by the State of New Jersey Department of Environmental Protection. Submitted a Coastal Zone Management Waterfront Development application package to repair two existing bridges.

United States Naval Base, City of Philadelphia, Philadelphia County, PA
Prepared a permit to construct a mooring dolphin along an existing pier that extends into Waters of the United States that are jointly regulated by the United States Army Corp of Engineers under Section 404 of the Clean Water Act, and the Pennsylvania Department of Environmental Protection under Chapter 105 of the Pennsylvania Dam Safety and Waterway Management. Submitted a Joint Permit Application to the Pennsylvania Department of Environmental Protection for a pier extension.

EXHIBIT G

ENHANCEMENT PLAN

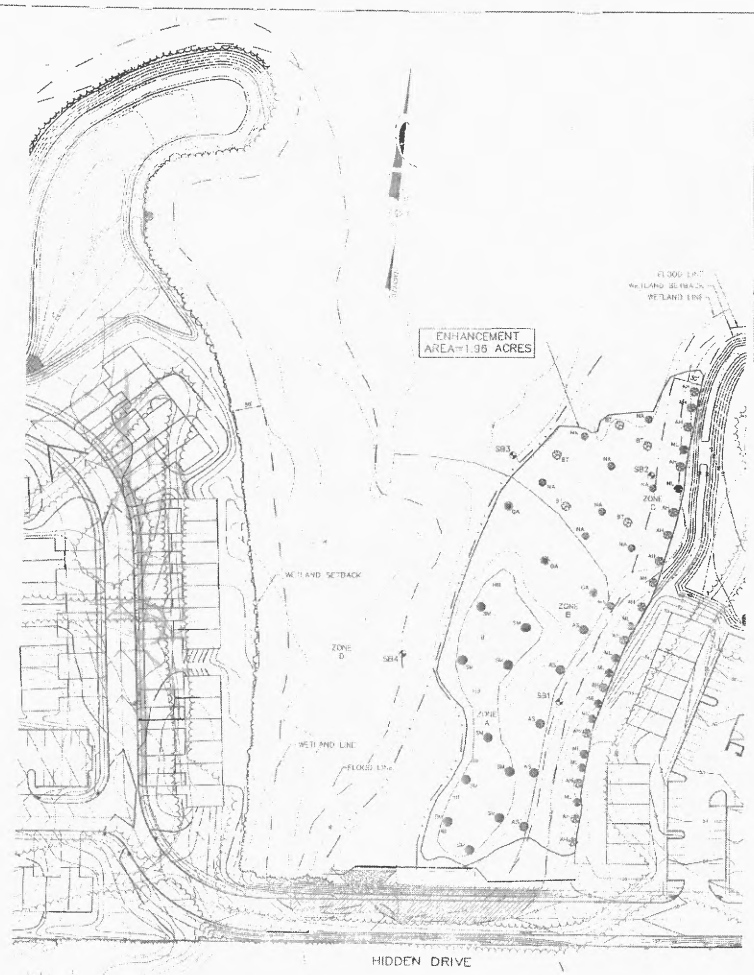
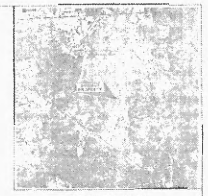


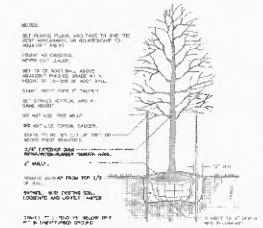
TABLE 1
PLANTING SCHEDULE
PROPOSED HIDDEN MILL ENHANCEMENT
GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY

COMMON NAME	SCIENTIFIC NAME	QUANTITY	HEIGHT	STRATUM
[illegible]	[illegible]	[illegible]	[illegible]	TREE
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	TREE
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

EXISTING VEGETATION	ZONE A	ZONE B	ZONE C	ZONE D
[illegible]	[illegible]	[illegible]	RED MAPLE (DECIDUOUS)	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]



LOCATION MAP



TYPICAL TREE PLANTING DETAIL
N.T.S.

SHRUB PLANTING DETAIL
N.T.S.

PLANTING NOTES:

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]

Pennoni Associates Inc.
Consulting Engineers
915 Crown Street
Haddon Heights, NJ 08035

Pennoni

RUSSELL C. SHIVELER, JR.
PROFESSIONAL ENGINEER
NEW JERSEY LICENSE NO. 24GE03[illegible]

HIDDEN MILL
GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY

WETLAND ENHANCEMENT PLAN
HIDDEN MILL ASSOCIATES
[illegible] STREET
PHILADELPHIA, PA 19[illegible]

E1501

Exhibit F

Compliance Evaluation Summary and Checklist with ALL Requirements

Date Printed: 2/23/2024

Activity: INV 030001 Incident Investigation (0415-03-0001.1)

Title Description: Incident #44843 Inspection

Start Date/Time: 01/14/2003 **End Date/Time:** 01/14/2003

Program Interest: HIDDEN MILL ASSOCIATES 0415-03-0001.1 (COASTAL AND LAND USE) LITTLE MILL RD & NEW BROOKLYN RD GLOUCESTER TWP, CAMDEN COUNTY

Mailing Address: 3001 MARKET ST PHILADELPHIA PA 19104

Responsibility Entity(s)	Program Interests included in Inspection:
Hidden Mill Associates	0415-03-0001.1 (Coastal And Land Use)

Block(s) and Lot(s): Block 14402 Lot 45, Block 1 Lot 5, Block 1 Lot 6, Block 14402 Lot 46

Lead Investigator	Other Investigators	Persons Interviewed	Witnesses
Nicol, Harry	Gale, Andrew	Vince Pennoni	

Site Insp. 1-14-2003 revealed non compliance with any and all of the special conditions requied in IFWW permits 0414-97-0011.1 & 0414-92-0012.3. Extensive clearing beyond that allowed in the permits, failure to maintain silt fencing and soil erosion controls, causing washouts of soil into wetlands areas.

Inspection Attribute(s):	Quantity(s)
Photos Taken	12

Number of Attributes: 1

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

0415-03-0001.1 LFW1 0 - FWW permit condition

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]	OC	failure to comply with all of the special conditions of Freshwater Wetland Individual Permit, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate, Permit No. 0414-97--0011.1, 0414-92--0012.3. In addition, excessive clearing has taken place within the 20 ft. wide sanitary easement.	Rules

0415-03-0001.1 LFW 0 - FWW regulated activities

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the following activities are regulated when performed in a freshwater wetland and State open waters and require prior permit approval from the Department: the removal, excavation, disturbance or dredging of soil, sand, gravel, or aggregate material of any kind; the drainage or disturbance of the water level or water table so as to alter the existing elevation of groundwater or surface water, regardless of the duration of such alteration; the dumping, discharging, or filling with any material; the driving of pilings; the placing of obstructions, including depositing, constructing, installing or otherwise situating any obstacle which will affect the values or functions of a freshwater wetland; or the destruction of plant life which would alter the character of a freshwater wetlands, including killing vegetation by applying herbicides or by other means, the physical removal of wetland vegetation, and/or the cutting of trees; and the placement of any portion of a residential development project as defined at N.J.A.C. 7:7A-1.4 . [N.J.A.C. 7:7A- 2 .2(a)]	NA		Rules

Exhibit G

State of New Jersey
Department of Environmental Protection

James E. McGreevey
Governor

Bradley M. Campbell
Commissioner

Coastal and Land Use Compliance and Enforcement
Southern Section
1510 Hooper Avenue
Toms River, NJ 08753
Telephone: (732) 255-0787 Fax: (732-255-0877

CERTIFIED MAIL/RRR

NOTICE OF VIOLATION

EA ID #: PEA030001 - 0415-03-0001.1

Name of violator: HIDDEN MILL ASSOCIATES
3001 MARKET STREET
PHILADELPHIA, PENNSYLVANIA, 19104

Location: LITTLE MILL RD & NEW BROOKLYN RD,
GLOUCESTER TOWNSHIP, NEW JERSEY 08012

Identifying #: 0415-03-0001.1
Block and Lot: [1, 5] [1, 6] [14402, 45] [14402, 46]

Person interviewed and title: Vince Pennoni, Engineer.

You are hereby NOTIFIED that during a compliance evaluation at the above location on 01/14/2003, the following violations of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.) was observed. These violations shall be recorded as part of the permanent enforcement history of HIDDEN MILL ASSOCIATES at the above location.

Subject:

Requirement: Pursuant to, N.J.A.C. 7:7A-13.1(a) the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]

Description of Noncompliance: failure to comply with all of the special conditions of Freshwater Wetland Individual Permit, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate, Permit No. 0414-97-0011.1, 0414-92-0012.3. In addition, excessive clearing has taken place within the 20ft. wide sanitary easement. Failure to properly install a low flow fish culvert at Station 15+80 of Hidden Drive.

You must take the following corrective actions:

1. Comply with the approved permit and conditions: Within 30 days of receipt of this document specifically:
   A. Provide and implement a mitigation proposal to restore the area of excessive clearing, and the removal of soil and sediments, which have entered the surrounding wetlands and tributary as a result of inadequate erosion control, measures.
   B. Properly install a low flow fish culvert at Station 15+80 of Hidden Drive.
   C. Comply with all of the special conditions of Freshwater Wetland Individual Permit, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate, Permit No. 0414-97-0011.1, 0414-92-0012.3.

Within **10** calendar days of receipt of this Notice of Violation, you shall submit in writing to the case manager, **Harry R. Nicol**, an explanation of the corrective measures you have taken or will take to achieve compliance.

Issuance of this Notice of Violation serves as notice to you that the Department has determined that a violations has occurred and does not preclude the State of New Jersey or any of its agencies from initiating administrative or judicial enforcement action, or from assessing penalties or from modifying this Notice of Violation, with respect to this or other violations. Violations of the above regulations are subject to penalties of up to $10,000 per day for each violation.

Issued by: Michael Bisani Date: 2/13/2003

cc: Land Use Regulation Program
Municipal Construction Official

Exhibit H

HIDDEN MILL ASSOCIATES

April 24, 2008

Mr. Roderick Falla, Regional Supervisor
State of New Jersey
Department of Environmental Protection
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street
PO Box 422
Trenton, NJ 08625-0422

Re: Permit No. 0414-97-0011.1, 0414-92-0012.3

Dear Mr. Falla;

As a follow up to your letter signed February 25, 2008, enclosed are the recorded deed restrictions for Hidden Mill. This document was recorded on June 15, 2004.

Your Item B – Description of Non-Compliance was completed prior to the start of construction. The fence details were added to the permit plans; the fence was erected prior to construction and is maintained by the homeowners association.

Hidden Mill Associates is evaluating the site for a location to provide wetlands enhancement.

Please do not hesitate to call me at (215) 275-2775 if you have any questions or require additional information.

Very truly yours,

HIDDEN MILL ASSOCIATES

Vincent R. Pennoni

3001 MARKET STREET, SUITE 200
PHILADELPHIA, PA 19104
Tel: (215) 222-3000/Fax: (215) 222-6830

750-39551 KM/LK

CHARGE & RETURN
Congress Title Corp
P O Box 5479
Barclay Pavilion East
Cherry Hill, NJ 08034

CAMDEN COUNTY, NJ
JAMES BEACH, COUNTY CLERK
DECLAR COV-OR BOOK 07486 PG 1422
RECORDED 06/15/2004 13:57:04
FILE NUMBER 2004078905
RCPT#: 124136; RECD BY: lisut
RECORDING FEES 1,010.00
MARGINAL NOTATION 0.00

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

THE WOODS AT HIDDEN MILL, A PLANNED COMMUNITY

PREPARED BY

Archer & Greiner
A Professional Corporation
One Centennial Square
Haddonfield, New Jersey 08033

Camden County Clerk, James Beach
Court House - Room 102
520 Market Street
Camden, New Jersey 08102
Phone (856) 225-5300
www.camdencounty.com

DATE:06/15/2004
TIME:01:57:04 PM
RECEIPT:124136

FIDELITY NATIONAL TITLE INS CO

ITEM -01 DECLAR COV 01:57:04 PM
FILE:2004078905 BK/PG:7486/1422
HIDDEN MILL ASSOCIATES
PENCHIL LLC
RECORDING FEE 1,010.00
Sub. Total 1,010.00

AMOUNT DUE: $1,010.00
PAID ESCROW: $1,010.00
TOTAL PAID: $1,010.00

Thank You!

CHARGE & RETURN
Chicago Title Corp.
P.O. Box 5479
Bishop Pavilion East
Cherry Hill, NJ 08034

750 39936

CAMDEN COUNTY, NJ; JAMES BEACH, COUNTY CLERK; DECLAR COV-OR BOOK 07352 PG 0234 RECORDED 02/04/2004 08:02:49
FILE NUMBER 2004019192;RECORDING FEES130.00; M-NOT 0.00;RTF 0.00; RECORDED BY: armap

DECLARATION OF RESTRICTION AND LIMITED ACCESS AGREEMENT

THIS DECLARATION, made this 21st day of November, 2003, by HIDDEN MILL ASSOCIATES, a New Jersey General Partnership, having an office at c/o Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, Pennsylvania 19104, hereinafter referred to as the "Declarant."

WITNESSETH

WHEREAS, the Declarant is the owner of certain property located in Gloucester Township, County of Camden and State of New Jersey, designated as Lots 45 and 46, Block 14402, on the official tax map of Gloucester Township, Camden County, New Jersey, commonly known as the Hidden Mill residential development community (hereinafter "the Property"); and

WHEREAS, the Declarant has previously requested authorization from the New Jersey Department of Environmental Protection (hereinafter the "NJDEP") to conduct certain regulated activities that will have an impact on approximately 0.6 acres of Palustrine wetlands to facilitate the construction of residential development on a portion of the Property, pursuant to the New Jersey Freshwater Wetlands Protection Act, (N.J.S.A.13:9B-1 et. seq.) and the rules promulgated thereunder (hereinafter collectively the "FWPA"); and

WHEREAS, the United States Fish and Wildlife Service (hereinafter "the Service") has provided certain comments to the NJDEP, pursuant to a Memorandum of Agreement between the NJDEP and the Service, regarding the presence of the federally listed plant species Helonias Bullata more commonly known as Swamp Pink (hereinafter referred to as "Swamp Pink"); and

(* SEE ATTACHED LEGAL COVERS PIQ)

Book7352/Page234

WHEREAS, the Service initially objected to the Declarant's application alleging that the proposed development of the Property could adversely affect Swamp Pink by way of secondary impact; and

WHEREAS, the Service has agreed to rescind its objections based upon the Declarant agreeing to preclude subsequent development of certain remaining open space and wetlands areas, including certain wetlands transition areas on the Property, more particularly described in Exhibits "A" and "B" attached hereto (the "Areas Restricted From Further Development"); and

WHEREAS, the Service has also requested that the Declarant provide the service with certain limited access rights to the Property for the purpose of monitoring Swamp Pink (the "Limited Access Rights");

WHEREAS, the NJDEP has the authority to require the deed restrictions set forth herein under the New Jersey Conservation Restriction and Historic Preservation Restriction Act, N.J.S.A. 13:8B-1, et. seq.; and

WHEREAS, the Declarant is desirous of so restricting the Areas Restricted From Further Development and providing the Service with the requested Limited Access Rights.

NOW, THEREFORE, the Declarant declares that the Areas Restricted From Further Development shall be held, transferred, conveyed, leased, occupied and used subject to the following restrictions and conditions:

1. The Areas Restricted From Further Development, are hereby restricted in perpetuity from any further development activity, unless and until such future development activity is first approved by the NJDEP. This restriction specifically prohibits regulated activities as defined at N.J.A.C. 7:7A-6.2 within freshwater wetlands and transition areas,

without the prior approval of the NJDEP. The NJDEP will grant approval of regulated activities within the Areas Restricted From Further Development if the Declarant demonstrates a "compelling public need" as defined in N.J.A.C. 7:7A-1.4 greater than the need to protect the mitigation site.

2. Maintenance of any existing, buried infrastructure (i.e., pipelines, cables, etc.) contained within any existing rights of way within the Areas Restricted From Further Development shall be subject to the provisions of the FWPA.

3. The Declarant agrees to provide the Service with unrestricted access to the Areas Restricted From Further Development for the purpose of monitoring any Swamp Pink population located on or in the vicinity of the Property. Access by the Service to the Areas Restricted From Further Development shall be limited to points of access off of public right-of-way areas adjacent to the Property (the "Limited Access Areas"). The purpose and intent of having specifically designated areas of access is to ensure that the Service's monitoring activities will not interfere with the day-to-day activities of the residential property owners in the Hidden Mill residential communities, and that such activities will not in any way interfere with the property rights of or result in unpermitted trespassing on the lands of the homeowners that will be acquiring residential lots and units within the Property. The Declarant does agree that the Service shall have total unrestricted access to the entire Property for the monitoring of Swamp Pink during the construction phase of the development of the Property. However, such unlimited access rights shall end, and the Limited Access Rights shall commence, upon the issuance of the first certificate of occupancy for any residential unit within the Property. Upon

the commencement of the Limited Access Rights, all access to the Property by the Service shall be limited to the designated Limited Access Areas.

4. The restrictions set forth in Paragraphs 1, 2 and 3 hereunder shall run with the land and be binding upon the Declarant, its successors and assigns and shall not be modified without the prior approval of the NJDEP and the Service or their successor entity or entities, except as otherwise set forth in this document. Notice of this Declaration of Restriction and Limited Access shall be given to all holders of easements in the Areas Restricted From Further Development by the Declarant within 30 days of recording by the County Clerk.

IN WITNESS WHEREOF, the Declarant has caused these presents to be signed by its proper corporate officers and has caused its corporate seal to be affixed hereto on the date first above written.

Witness/Attest:

HIDDEN MILL ASSOCIATES
a New Jersey General Partnership

By: LITTLE MILL, INC., a New Jersey corporation, its general partner

By: _____
Celestino R. Pennoni, President

By: PENCHIL LLC, a New Jersey limited liability company, its general partner

By: _____
Vincent X. Pennoni,
Authorized Member

1276754v1

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF PHILADELPHIA :

BE IT REMEMBERED, that on the 21st day of November, 2003, before me, the subscriber, a Notary Public, in and for the County and State aforesaid, personally appeared C.R. Pennoni, who, I am satisfied, is the President of Little Mill, Inc., a New Jersey corporation, the general partner of HIDDEN MILL ASSOCIATES, a New Jersey general partnership, the partnership described in and which executed the foregoing Declaration of Restriction and Limited Access Agreement, and thereupon signed, sealed and delivered the same as and for the voluntary act and deed of said partnership for the uses and purposes therein expressed.

Mary Ann R. DeAngelis
Notary Public

NOTARIAL SEAL
MARY ANN R. DeANGELIS, Notary Public
City of Philadelphia, Phila. County
My Commission Expires Dec. 11, 2004

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF PHILADELPHIA :

BE IT REMEMBERED, that on the 21st day of November, 2003, before me, the subscriber, a Notary Public, in and for the County and State aforesaid, personally appeared Vincent R. Pennoni, who, I am satisfied, is an Authorized Member of Penchil LLC, a New Jersey limited liability company, the general partner of HIDDEN MILL ASSOCIATES, a New Jersey general partnership, the partnership described in and which executed the foregoing Declaration of Restriction and Limited Access Agreement, and thereupon signed, sealed and delivered the same as and for the voluntary act and deed of said partnership for the uses and purposes therein expressed.

Mary Ann R. DeAngelis
Notary Public

NOTARIAL SEAL
MARY ANN R. DeANGELIS, Notary Public
City of Philadelphia, Phila. County
My Commission Expires Dec. 11, 2004

Pennoni

EXHIBIT "A"

Mury 7759.003.00

July 2, 2002
Rev. April 30, 2003

DEED DESCRIPTION FOR
HIDDEN MILL
RESTRICTED CONSERVATION AREA D
TOWNSHIP OF GLOUCESTER, COUNTY OF CAMDEN
STATE OF NEW JERSEY

All that certain parcel or tract of land situate in Gloucester Township, Camden County and the State of New Jersey, as shown on a plan entitled, "Hidden Mill, Open Space / Key Plan / Section 1 Subdivision Plan", prepared by Pennoni Associates Inc., Drawing No. S0801, dated July 2, 2002, revised to April 30, 2003 and being bounded and described as follows:

Beginning at a point on the Southeasterly line of Lot 44, Block 14402, said point being S 63°15'32" W, a distance of 400.84 feet from the Westerly Right of Way Line of Little Mill road (30.0 ft. from centerline);

THENCE (1) Leaving said line of Block 14402, Lot 44 along Lot 93, Block 14403, S37°57'39"E, distance of 115.35 feet to a point;

THENCE (2) S 51°58'40" E, a distance of 45.33 feet to a point;

THENCE (3) N 81°33'00" E, a distance of 49.32 feet to a point;

THENCE (4) S 49°21'47" E, a distance of 78.90 feet to a point:

THENCE (5) S 61°07'21" E, a distance of 104.58 feet to a point;

THENCE (6) S 63°43'23" E, a distance of 20.70 feet to a point;

THENCE (7) S 70°23'17" E, a distance of 29.96 feet to a point;

THENCE (8) S 57°52'58" E, a distance of 51.73 feet to a point;

THENCE (9) S 52°55'29" E, a distance of 42.86 feet to a point;

THENCE (10) S 47°23'33" E, a distance of 35.89 feet to a point;

THENCE (11) S 42°55'54" E, a distance 57.00 feet to a point;

THENCE (12) S 36°24'44" E, a distance of 19.00 feet to a point;

THENCE (13) S 45°39'28" E, a distance of 62.61 feet to a point;

THENCE (14) S 42°28'21" E, a distance of 62.38 feet to a point;

THENCE (15) S 39°54'10" E, a distance of 30.19 feet to a point:

THENCE (16) S 34°54'21" E, a distance of 39.89 feet to a point;

THENCE (17) S 69°12'06" E, a distance of 22.43 feet to a point;

THENCE (18) N 62°02'00" E, a distance of 51.17 feet to a point;

THENCE (19) S 25°43'37" E, a distance of 87.37 feet to a point;

THENCE (20) S 06°28'25" E, a distance of 330.89 feet to a point;

THENCE (21) S 35°24'11" W, a distance of 27.25 feet to a point;

THENCE (22) S 08°19'58" E, a distance of 61.72 feet to a point;

THENCE (23) S 03°30'52" W, a distance of 36.01 feet to a point;

THENCE (24) S 08°36'57" E, a distance of 89.47 feet to a point;

THENCE (25) N 87°02'48" E, a distance of 28.41 feet to a point;

THENCE (26) S 07°47'04" E, a distance of 23.63 feet to a point in the line of Section 2 of Hidden Mill;

THENCE (27) Along said line, S 82°15'14" W, a distance of 69.49 feet to a point;

THENCE (28) Still along said line, N 66°26'46" W, a distance of 62.11 feet to a point;

THENCE (29) Still along said line, N 60°43'53" W, a distance of 150.79 feet to a point;

THENCE (30) Still along said line, N 07°47'51" W, a distance of 25.12 feet to a point;

THENCE (31) Still along said line, N 61°06'12" W, a distance of 211.26 feet to a point;

THENCE (32) Still along said line, N 27°32'04" E, a distance of 7.39 feet to a point;

THENCE (33) Still along said line, N 60°10'25" W, a distance 61.62 feet to a point;

THENCE (34) S 27°32'04" W, a distance of 6.88 feet to a point in the line of Section 5 of Hidden Mill;

THENCE (35) Along said line, N 62°19'45" W, a distance of 460.20 feet to a point;

THENCE (36) N 48°36'09" W, a distance of 261.27 feet to a point of curvature;

THENCE (37) Along a curve concave to the south having a radius of 55.00 feet, an arc length of 148.68 feet, a central angle of 154°53'02" and a chord bearing of, S 53°57'20" W, to a point of tangency;

THENCE (38) S 23°29'11" E, a distance of 145.51 feet to a point;

THENCE (39) S 43°40'02" E, a distance of 33.46 feet to a point;

THENCE (40) S 03°33'20" W, a distance of 49.20 feet to a point;

THENCE (41) S 12°52'27" E, a distance of 196.87 feet to a point;

THENCE (42) S 23°27'26" E, a distance of 37.04 feet to a point;

THENCE (43) S 28°22'52" E, a distance of 121.34 feet to a point;

THENCE (44) S 55°23'33" W, a distance of 141.15 feet to a point;

THENCE (45) N 73°39'48" W, a distance 19.39 feet to a point;

THENCE (46) S 57°36'50" W, a distance of 123.42 feet to a point;

THENCE (47) S 20°41'11" W, a distance of 15.39 feet to a point;

THENCE (48) S 58°31'21" W, a distance of 61.98 feet to a point;

THENCE (49) Along the line of Hidden Mill Section 6, N 28°08'59" W, a distance of 146.52 feet to a point:

THENCE (50) Still along said line, N 31°50'10" W, a distance of 45.43 feet to a point;

THENCE (51) Still along said line, N 24°34'03" W, a distance of 42.99 feet to a point;

THENCE (52) Still along said line, N 35°50'30" W, a distance of 56.04 feet to a point;

THENCE (53) Still along said line, N 39°58'18" W, a distance of 135.75 feet to a point;

THENCE (54) Still along said line, N 31°36'16" W, a distance of 23.14 feet to a point;

THENCE (55) Still along said line, N 39°28'18" W, a distance of 26.64 feet to a point;

THENCE (56) Still along said line, N 44°24'22" W, a distance 49.09 feet to a point;

THENCE (57) Still along said line, N 50°40'34" W, a distance of 63.10 feet to a point;

THENCE (58) Partially along said line, N 64°24'44" W, a distance of 35.83 feet to a point;

THENCE (59) N 64°32'22" W, a distance of 53.57 feet to a point;

THENCE (60) N 70°48'38" W, a distance of 2.05 feet to a point;

THENCE (61) N 63°18'47" W, a distance of 9.91 feet to a point of curvature;

THENCE (62) Along a curve concave to the northeast having a radius of 35.00 feet, an arc length of 16.92 feet, a central angle of 27°42'13" and a chord bearing of, N 49°27'41" W, to a point of tangency;

THENCE (63) N 35°36'34" W, a distance of 68.20 feet to a point of curvature;

THENCE (64) Along a curve concave to the east having a radius of 35.00 feet, an arc length of 49.93 feet, a central angle of 81°43'59" and a chord bearing of, N05°15'25"E, to a point of tangency;

THENCE (65) N 46°07'25" E, a distance of 56.41 feet to a point curvature;

THENCE (66) Along a curve concave to the southwest having a radius of 55.00 feet, an arc length of 162.49 feet, a central angle of 169°16'13" and a chord bearing of, N 38°30'42" W, to a point of tangency;

THENCE (67) S 56°51'12" W, a distance of 18.63 feet to a point;

THENCE (68) S 43°16'41" W, a distance of 70.34 feet to a point of curvature;

THENCE (69) Along a curve concave to the east having a radius of 190.00 feet, an arc length of 242.46 feet, a central angle of 73°06'58" and a chord bearing of, *S* 06°43'12" W, to a point of tangency;

THENCE (70) S 29°50'17" E, a distance of 100.45 feet to a point of curvature;

THENCE (71) Along a curve concave to the northwest having a radius of 75.00 feet, an arc length of 138.26 feet, a central angle of 105°37'23" and a chord bearing of, *S* 22°58'24" W, to a point of tangency;

THENCE (72) S 75°47'06" W, a distance of 64.70 feet to a point;

THENCE (73) S 18°47'31" W, a distance 120.06 feet to a point;

THENCE (74) S 20°09'53" E, a distance of 194.13 feet to a point;

THENCE (75) S 05°24'32" W, a distance of 116.96 feet to a point;

THENCE (76) S 15°20'04" E, a distance of 93.17 feet to a point;

THENCE (77) S 50°51'32" E, a distance of 20.72 feet to a point in the line of Murray Hill Estates, Section 3;

THENCE (78) Along said line and Lots 43, 44, 45 and 46, Block 13701, S 88°22'52" W, a distance of 839.47 feet to a point;

THENCE (79) Along the division line of Block 13701, Lots 25 & 26 and Block 13799, Lot 1, N 25°30'47" E, a distance of 1830.77 feet to a point;

THENCE (80) Along the division line of Block 14402, Lot 43, S 48°11'32" E, a distance of 189.29 feet to a point;

THENCE (81) Along the division line of Block 14402, Lot 43, N 63°15'32" E, a distance of 483.62 feet to a point:

THENCE (82) Along the division line of Block 14402, Lot 44, S 27°58'00" E, a distance of 400.00 feet to a point;

THENCE (83) Along the division line of Block 14402, Lot 44, N 63°15'32" E, a distance of 414.15 feet to the Point of Beginning.

BEING BLOCK 14403, LOT 11 ON THE GLOUCESTER TOWNSHIP TAX MAPS

CONTAINING 48.7008 ACRES OF LAND, MORE OR LESS

4-30-03
Date

Richard W. Lipko, P.P., P.L.S.
N.J. License No. 22423

H:\projects\mury\7759003.00\Hidden\Legals\Restricted Area D.doc

Pennoni

MURY 7759.003.00

EXHIBIT "B"

July 2, 2002
Rev. April 30, 2003

DEED DESCRIPTION FOR
HIDDEN MILL
RESTRICTED CONSERVATION AREA E
TOWNSHIP OF GLOUCESTER, COUNTY OF CAMDEN
STATE OF NEW JERSEY

All that certain parcel or tract of land situate in Gloucester Township, Camden County and the State of New Jersey, as shown on a plan entitled, "Hidden Mill, Open Space / Key Plan / Subdivision Plan", prepared by Pennoni Associates Inc., Drawing No. S0801, dated July 30, 2002, revised to April 30, 2003 and being bounded and described as follows:

Beginning at a point on the Westerly proposed right of way line on Little Mill Road, (30' feet from centerline) said point being, S 07 23'47" E, a distance of 138.00 feet from the centerline of Hidden Drive;

THENCE (1) Along said proposed westerly right of way line of Little Mill Road, S 07°23'47" E, a distance of 1485.82 feet to a point;

THENCE (2) Leaving said westerly right-of-way line of Little Mill Road and along the line of Block 14402, Lot 48, S 34°27'10" W, a distance of 115.19 feet to a point;

THENCE (3) Along the division line of Block 14402, Lots 49, 50 and 51, N 23°09'55" W, a distance of 2403.47 feet to a point;

THENCE (4) Leaving said division line of Block 14402, and along the line of Hidden Mill Section 2, Lot 51, S 34°58'59" E, a distance of 158.47 feet to a point:

THENCE (5) Along said line, S 10°46'44" E, a distance of 106.46 feet to a point;

THENCE (6) Along said line, S 60°32'51" E, a distance of 232.04 feet to a point;

THENCE (7) Along said line, S 75°41'43" E, a distance of 72.27 feet to a point;

THENCE (8) Along said line, S 34°55'59" E, a distance of 186.02 feet to a point;

THENCE (9) Along said line, S 48°45'49" E, a distance of 218.32 feet to a point;

THENCE (10) Along said line, N 82°36'13" E, a distance 167.23 feet to the Point of Beginning.

Being Lot 1, Block 14404 on the Gloucester Township Tax Map
CONTAINING 13.2283 ACRES OF LAND, MORE OR LESS

4-30-03
Date

Richard W. Lipko, P.P., P.L.S.
NJ License No. 22423

H:\projects\mury\7759003.00\Hidden\Legals\Restricted Area E.doc

11.

DOCKET# 40967 DB 4000 P 227

PREPARED BY:

EVA M. FATENKO, ESQUIRE
Archer & Greiner,
A Professional Corporation

DEED

This Deed is made on June 9 2005,

BETWEEN, HIDDEN MILL ASSOCIATES, a New Jersey general partnership, having an address located at c/o Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, Pennsylvania 19104, referred to as the Grantor,

AND HIDDEN MILL COMMUNITY ASSOCIATION, INC., a New Jersey non-profit corporation, having an address located at c/o Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, Pennsylvania 19104, referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of ONE DOLLAR ($1.00). The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-1.1) Township of Gloucester, County of Camden, State of New Jersey, Block 14403, Lot 11 and Block 14404, Lot 1.

Property. The property consists of the land and all improvements thereon in the Township of Gloucester, County of Camden and State of New Jersey. The legal descriptions are attached hereto and made a part hereof as Schedule A.

BEING the same land and premises conveyed unto HIDDEN MILL ASSOCIATES, a New Jersey general partnership, by Deed from T. T. A. Development Co., a New Jersey corporation, dated March 26, 1986, and recorded on April 1, 1986, in the Camden County Clerk's Office, in Deed Book 4119, Page 588&c.

Subject to all conditions, restrictions and maintenance obligations as set forth in the Declaration of Covenants and Restrictions for The Woods at Hidden Mill, a Planned Community, recorded on June 15, 2004, in the Office of the Camden County Clerk, in Deed Book 7486, Page 1422&c.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. This Deed is signed and attested to by the Grantor's proper corporate officers as of the date above.

Witness:

HIDDEN MILL ASSOCIATES, a New Jersey general partnership

By: LITTLE MILL INC., a New Jersey corporation, general partner

By:
Name: C.R. Pennoni
Title: President

By: PENCHIL LLC, a New Jersey limited liability company, general partner

By:
Name: Vincent R. Pennoni
Title: Member

CAMDEN COUNTY, NJ
JAMES BEACH, COUNTY CLERK
DEED-OR BOOK 07871 PG 1783
RECORDED 07/08/2005/ 10:44:26
FILE # 2005076384
RECEIPT#: 254033; RECORDED BY: ann
RECORDING FEES 140.00
MARGINAL NOTATION 0.00

CONSIDERATION: $1.00 EXEMPT CODE: E

County	State	N.P.H.R.F.	
$.00	$.00	$.00	
P.H.P.F.A.	E.A.A.		Total
$.00	$.00		$.00
GEN PURP	C)$1M		

N:GOBIM $.00ate: 6/20/2005

Book7871/Page1783

DOCKET# 40967 DB 4000 P 228

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF PHILADELPHIA :

I CERTIFY that on 6-9, 2005, Celestino R. Pennoni, President of LITTLE MILL, INC., which is a general partner of HIDDEN MILL ASSOCIATES, a New Jersey general partnership, personally came before me and acknowledged under oath, to my satisfaction, that he:

1. is named in and personally signed this Deed;
2. signed, sealed and delivered this Deed as his act and deed; and
3. made this Deed for $1.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

NOTARIAL SEAL
NICOLE HAMPTON, Notary Public
City of Philadelphia, Phila. County
My Commission Expires May 5, 2007

Nicole Hampton
Print Name: Nicole Hampton
Title: Notary Public
Commission Expires: 5-5-07

COMMONWEALTH OF PENNSYLVANIA :
SS.
COUNTY OF PHILADELPHIA :

I CERTIFY that on 6-9, 2005, Vincent R. Pennoni, who is a member of PENCHIL LLC, a New Jersey limited liability company, which is a general partner of HIDDEN MILL ASSOCIATES, a New Jersey general partnership, personally came before me and acknowledged under oath, to my satisfaction, that he:

1. is named in and personally signed this Deed;
2. signed, sealed and delivered this Deed as his act and deed; and
3. made this Deed for $1.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

NOTARIAL SEAL
NICOLE HAMPTON, Notary Public
City of Philadelphia, Phila. County
My Commission Expires May 5, 2007

Nicole Hampton
Print Name: Nicole Hampton
Title: Notary Public
Commission Expires: 5-5-07

SCHEDULE "A"

DOCKET# 40967 DB 4000 P 229

Mury 7759.004.07

July 2, 2002
Rev. September 22, 2003

DEED DESCRIPTION FOR
THE WOODS AT HIDDEN MILL – PHASE 1
RESTRICTED CONSERVATION AREA D
TOWNSHIP OF GLOUCESTER, COUNTY OF CAMDEN
STATE OF NEW JERSEY

All that certain parcel or tract of land situate in Gloucester Township, Camden County and the State of New Jersey, as shown on a plan entitled, "The Woods at Hidden Mill, Open Space / Key Plan / Section 1 Subdivision Plan", prepared by Pennoni Associates Inc., Drawing No. S0801, dated July 2, 2002, revised to April 30, 2003 and being bounded and described as follows:

Beginning at a point on the Southeasterly line of Lot 44, Block 14402, said point being S 63°15'32" W, a distance of 400.84 feet from the Westerly Right of Way Line of Little Mill road (30.0 ft. from centerline);

THENCE (1) Leaving said line of Block 14402, Lot 44 along Lot 93, Block 14403, S37°57'39"E, distance of 115.35 feet to a point;

THENCE (2) S 51°58'40" E, a distance of 45.33 feet to a point;

THENCE (3) N 81°33'00" E, a distance of 49.32 feet to a point;

THENCE (4) S 49°21'47" E, a distance of 78.90 feet to a point:

THENCE (5) S 61°07'21" E, a distance of 104.58 feet to a point;

THENCE (6) S 63°43'23" E, a distance of 20.70 feet to a point;

THENCE (7) S 70°23'17" E, a distance of 29.96 feet to a point;

THENCE (8) S 57°52'58" E, a distance of 51.73 feet to a point;

THENCE (9) S 52°55'29" E, a distance of 42.86 feet to a point;

THENCE (10) S 47°23'33" E, a distance of 35.89 feet to a point;

THENCE (11) S 42°55'54" E, a distance 57.00 feet to a point;

THENCE (12) S 36°24'44" E, a distance of 19.00 feet to a point;

THENCE (13) S 45°39'28" E, a distance of 62.61 feet to a point;

THENCE (14) S 42°28'21" E, a distance of 62.38 feet to a point;

THENCE (15) S 39°54'10" E, a distance of 30.19 feet to a point:

THENCE (16) S 34°54'21" E, a distance of 39.89 feet to a point;

THENCE (17) S 69°12'06" E, a distance of 22.43 feet to a point;

THENCE (18) N 62°02'00" E, a distance of 51.17 feet to a point;

THENCE (19) S 25°43'37" E, a distance of 87.37 feet to a point;

THENCE (20) S 06°28'25" E, a distance of 330.89 feet to a point;

THENCE (21) S 35°24'11" W, a distance of 27.25 feet to a point;

THENCE (22) S 08°19'58" E, a distance of 61.72 feet to a point;

THENCE (23) S 03°30'52" W, a distance of 36.01 feet to a point;

THENCE (24) S 08°36'57" E, a distance of 89.47 feet to a point;

THENCE (25) N 87°02'48" E, a distance of 28.41 feet to a point;

THENCE (26) S 07°47'04" E, a distance of 23.63 feet to a point in the line of Section 2 of Hidden Mill;

THENCE (27) Along said line, S 82°15'14" W, a distance of 69.49 feet to a point;

THENCE (28) Still along said line, N 66°26'46" W, a distance of 62.11 feet to a point;

THENCE (29) Still along said line, N 60°43'53" W, a distance of 150.79 feet to a point;

THENCE (30) Still along said line, N 07°47'51" W, a distance of 25.12 feet to a point;

THENCE (31) Still along said line, N 61°06'12" W, a distance of 211.26 feet to a point;

THENCE (32) Still along said line, N 27°32'04" E, a distance of 7.39 feet to a point;

THENCE (33) Still along said line, N 60°10'25" W, a distance 61.62 feet to a point;

THENCE (34) S 27°32'04" W, a distance of 6.88 feet to a point in the line of Section 5 of Hidden Mill;

THENCE (35) Along said line, N 62°19'45" W, a distance of 460.20 feet to a point;

THENCE (36) N 48°36'09" W, a distance of 261.27 feet to a point of curvature;

THENCE (37) Along a curve concave to the south having a radius of 55.00 feet, an arc length of 148.68 feet, a central angle of 154°53'02" and a chord bearing of, S 53°57'20" W, to a point of tangency;

THENCE (38) S 23°29'11" E, a distance of 145.51 feet to a point;

THENCE (39) S 43°40'02" E, a distance of 33.46 feet to a point;

THENCE (40) S 03°33'20" W, a distance of 49.20 feet to a point;

THENCE (41) S 12°52'27" E, a distance of 196.87 feet to a point;

THENCE (42) S 23°27'26" E, a distance of 37.04 feet to a point;

THENCE (43) S 28°22'52" E, a distance of 121.34 feet to a point;

THENCE (44) S 55°23'33" W, a distance of 141.15 feet to a point;

THENCE (45) N 73°39'48" W, a distance 19.39 feet to a point;

THENCE (46) S 57°36'50" W, a distance of 123.42 feet to a point;

THENCE (47) S 20°41'11" W, a distance of 15.39 feet to a point;

THENCE (48) S 58°31'21" W, a distance of 61.98 feet to a point;

THENCE (49) Along the line of Hidden Mill Section 6, N 28°08'59" W, a distance of 146.52 feet to a point:

THENCE (50) Still along said line, N 31°50'10" W, a distance of 45.43 feet to a point;

THENCE (51) Still along said line, N 24°34'03" W, a distance of 42.99 feet to a point;

THENCE (52) Still along said line, N 35°50'30" W, a distance of 56.04 feet to a point;

THENCE (53) Still along said line, N 39°58'18" W, a distance of 135.75 feet to a point;

THENCE (54) Still along said line, N 31°36'16" W, a distance of 23.14 feet to a point;

THENCE (55) Still along said line, N 39°28'18" W, a distance of 26.64 feet to a point;

THENCE (56) Still along said line, N 44°24'22" W, a distance 49.09 feet to a point;

THENCE (57) Still along said line, N 50°40'34" W, a distance of 63.10 feet to a point;

THENCE (58) Partially along said line, N 64°24'44" W, a distance of 35.83 feet to a point;

THENCE (59) N 64°32'22" W, a distance of 53.57 feet to a point;

THENCE (60) N 70°48'38" W, a distance of 2.05 feet to a point;

THENCE (61) N 63°18'47" W, a distance of 9.91 feet to a point of curvature;

THENCE (62) Along a curve concave to the northeast having a radius of 35.00 feet, an arc length of 16.92 feet, a central angle of 27°42'13" and a chord bearing of, N 49°27'41" W, to a point of tangency;

THENCE (63) N 35°36'34" W, a distance of 68.20 feet to a point of curvature;

THENCE (64) Along a curve concave to the east having a radius of 35.00 feet, an arc length of 49.93 feet, a central angle of 81°43'59" and a chord bearing of, N05°15'25"E, to a point of tangency;

THENCE (65) N 46°07'25" E, a distance of 56.41 feet to a point curvature;

THENCE (66) Along a curve concave to the southwest having a radius of 55.00 feet, an arc length of 162.49 feet, a central angle of 169°16'13" and a chord bearing of, N 38°30'42" W, to a point of tangency;

THENCE (67) S 56°51'12" W, a distance of 18.63 feet to a point;

THENCE (68) S 43°16'41" W, a distance of 70.34 feet to a point of curvature;

THENCE (69) Along a curve concave to the east having a radius of 190.00 feet, an arc length of 242.46 feet, a central angle of 73°06'58" and a chord bearing of, *S* 06°43'12" W, to a point of tangency;

THENCE (70) S 29°50'17" E, a distance of 100.45 feet to a point of curvature;

THENCE (71) Along a curve concave to the northwest having a radius of 75.00 feet, an arc length of 138.26 feet, a central angle of 105°37'23" and a chord bearing of, *S* 22°58'24" W, to a point of tangency;

THENCE (72) S 75°47'06" W, a distance of 64.70 feet to a point;

THENCE (73) S 18°47'31" W, a distance 120.06 feet to a point;

THENCE (74) S 20°09'53" E, a distance of 194.13 feet to a point;

THENCE (75) S 05°24'32" W, a distance of 116.96 feet to a point;

THENCE (76) S 15°20'04" E, a distance of 93.17 feet to a point;

THENCE (77) S 50°51'32" E, a distance of 20.72 feet to a point in the line of Murray Hill Estates, Section 3;

THENCE (78) Along said line and Lots 43, 44, 45 and 46, Block 13701, S 88°22'52" W, a distance of 839.47 feet to a point;

THENCE (79) Along the division line of Block 13701, Lots 25 & 26 and Block 13799, Lot 1, N 25°30'47" E, a distance of 1830.77 feet to a point;

THENCE (80) Along the division line of Block 14402, Lot 43, S 48°11'32" E, a distance of 189.29 feet to a point;

THENCE (81) Along the division line of Block 14402, Lot 43, N 63°15'32" E, a distance of 483.62 feet to a point:

THENCE (82) Along the division line of Block 14402, Lot 44, S 27°58'00" E, a distance of 400.00 feet to a point;

THENCE (83) Along the division line of Block 14402, Lot 44, N 63°15'32" E, a distance of 414.15 feet to the Point of Beginning.

BEING BLOCK 14403, LOT 11 ON THE GLOUCESTER TOWNSHIP TAX MAPS

CONTAINING 48.7008 ACRES OF LAND, MORE OR LESS

9-22-03
Date

Richard W. Lipko, P.P., P.L.S.
N.J. License No. 22423

H:\projects\mury\7759004.07\Hidden\Legals\AREAS\WoodsAreaD.doc

DOCKET# 40967 DB 4000 P 234

MURY 7759.004.07

July 2, 2002
Rev. September 22, 2003

DEED DESCRIPTION FOR
THE WOODS AT HIDDEN MILL – PHASE 1
RESTRICTED CONSERVATION AREA E
TOWNSHIP OF GLOUCESTER, COUNTY OF CAMDEN
STATE OF NEW JERSEY

All that certain parcel or tract of land situate in Gloucester Township, Camden County and the State of New Jersey, as shown on a plan entitled, "The Woods at Hidden Mill, Open Space / Key Plan / Subdivision Plan", prepared by Pennoni Associates Inc., Drawing No. S0801, dated July 30, 2002, revised to April 30, 2003 and being bounded and described as follows:

Beginning at a point on the Westerly proposed right of way line on Little Mill Road, (30' feet from centerline) said point being, S 07 23'47" E, a distance of 138.00 feet from the centerline of Hidden Drive;

THENCE (1) Along said proposed westerly right of way line of Little Mill Road, S 07°23'47" E, a distance of 1485.82 feet to a point;

THENCE (2) Leaving said westerly right-of-way line of Little Mill Road and along the line of Block 14402, Lot 48, S 34°27'10" W, a distance of 115.19 feet to a point;

THENCE (3) Along the division line of Block 14402, Lots 49, 50 and 51, N 23°09'55" W, a distance of 2403.47 feet to a point;

THENCE (4) Leaving said division line of Block 14402, and along the line of Hidden Mill Section 2, Lot 51, S 34°58'59" E, a distance of 158.47 feet to a point:

THENCE (5) Along said line, S 10°46'44" E, a distance of 106.46 feet to a point;

THENCE (6) Along said line, S 60°32'51" E, a distance of 232.04 feet to a point;

THENCE (7) Along said line, S 75°41'43" E, a distance of 72.27 feet to a point;

THENCE (8) Along said line, S 34°55'59" E, a distance of 186.02 feet to a point;

THENCE (9) Along said line, S 48°45'49" E, a distance of 218.32 feet to a point;

THENCE (10) Along said line, N 82°36'13" E, a distance 167.23 feet to the Point of Beginning.

Being Lot 1, Block 14404 on the Gloucester Township Tax Map
CONTAINING 13.2283 ACRES OF LAND, MORE OR LESS

9.22.03
Date

Richard W. Lipko, P.P., P.L.S.
NJ License No. 22423

H:\projects\mury\7759004.07\Legals\Areas\WoodsAreaE.doc

Exhibit I

State of New Jersey
Department of Environmental Protection
Land Use Regulation Program
P.O. Box 439, Trenton, NJ 08625-0439
Fax # (609) 292-8115
Fax # (609) 777-3656
www.state.nj.us/landuse

James E. McGreevey
Governor

Bradley M. Campbell
Commissioner

June 24, 2004

Vincent Pennoni
Pennoni Associates Inc.
515 Grove Street, Suite 2A
Haddon Heights, New Jersey 08035

RE: Freshwater Wetland Mitigation Proposal
Project: Hidden Mill
LURP Permit #0414-97-0011.1-FWIP
Gloucester Township, Camden County
Blocks 1/14402, Lots 5,6/45,46

Dear Mr. Pennoni:

On March 21, 2002, the Department of Environmental Protection issued an Individual Freshwater Wetlands Permit to Hidden Mill Associates that authorized the filling of .5950 acres of freshwater wetlands. Mitigation condition #1 of said permit required mitigation for the filling of those wetlands. This letter is to advise you that the proposed Hidden Mill Wetlands Enhancement Project is not approved. The following letter will explain the rationale behind that decision and also provides a mitigation alternative.

On August 8, 2002 the Land Use Regulation Program received a wetland mitigation proposal entitled:

> Hidden Mill Wetland Enhancement Project, Proposed Hidden Mill Enhancement, Block 14402, Lots 45 & 46, Gloucester Township, Camden County , New Jersey, prepared by Russell C. Shiveler and Christopher C. Squazzo, dated August 2, 2002 and unrevised.

Staff of the Land Use Regulation Program conducted a site inspection on November 14, 2002 to determine if the proposed property was suitable for wetland enhancement. Pennoni Associates was represented by Russell Shiveler and Christopher Squazzo. Based on that site inspection it was determined that the area proposed for enhancement was a functioning palustrine forested wetland. Consequently, enhancement of that wetland system was not a viable wetland mitigation alternative. Both Mr. Shiveler and Mr. Squazzo were advised of that decision during the site inspection.

On November 27, 2002 I advised you that the wetland enhancement site/project was not approvable and that you should investigate other mitigation alternatives. We also discussed the fact that the permitted activities had been conducted in violation of the Freshwater Wetland Individual Permit. Subsequent to our conversation, the Office of Coastal and Land Use Compliance and Enforcement issued a Notice of Violation to Hidden Mill Associates on February 13, 2003.

On April 17, 2003 and April 15, 2004 I contacted you to discuss the outstanding wetland mitigation aspects of the permit. I again advised you that the enhancement project could not be approved as it did not meet the definition of enhancement. I indicated that a letter to that effect would follow and that you should consider investigating other mitigation alternatives.

During the telephone conversation that we had on April 15, 2004, I advised you of a possible mitigation alternative involving the preservation of several parcels of land in Gloucester Township. The parcels in question are contained within the headwaters of a tributary to Mason's Run. Mason's Run is classified as Trout Production waters and is in fact the only known stream in southern New Jersey considered as such. The owner is amenable to selling said parcels and his consultant, Frances Pandullo (FPPE Consulting Engineers, INC.), is attempting to form a consortium of purchasers that include Gloucester Township, Pine Hill Golf Course and Hidden Mills Associates, should you be interested. Mr. Pandullo can be reached at (609) 641-8787.

Please be advised that this alternative is a suggestion only. You are under no obligation to participate in this land acquisition project. However, please be advised that you continue to be responsible to satisfy all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued.

Please feel free to call me at (609) 984-0162 or by e-mail at dave.fanz@dep.state.nj.us should you like to discuss this letter.

Sincerely,

David B Fanz

David B. Fanz
Supervising Environmental Specialist
Bureau of Coastal Regulation

c: Robert Pacione – Compliance and Enforcement
Lisa Arroyo – United States Fish and Wildlife Service

Exhibit J

Compliance Evaluation Summary and Checklist with ALL Requirements

Date Printed: 2/23/2024

Activity: SCI 040002 *Standard Compliance Inspection (0415-03-0001.1)

Title Description: CE 8-26-04

Start Date/Time: 08/26/2004 **End Date/Time:** 08/26/2004

Program Interest: HIDDEN MILL ASSOCIATES
0415-03-0001.1 (COASTAL AND LAND USE)
LITTLE MILL RD & NEW BROOKLYN RD
GLOUCESTER TWP, CAMDEN COUNTY

Mailing Address: 3001 MARKET ST PHILADELPHIA PA 19104

Responsibility Entity(s)	Program Interests included in Inspection:
Hidden Mill Associates	0415-03-0001.1 (Coastal And Land Use)

Block(s) and Lot(s): Block 14402 Lot 45, Block 1 Lot 5, Block 1 Lot 6, Block 14402 Lot 46

Lead Investigator	Other Investigators	Persons Interviewed	Witnesses
Pacione, Bob			

Inspection reveals that the developer has performed all items noted in the prior notice of violation namely:

1. A low flow fish channel has been created to allow fish migration through the existing culvert.
2. Sediment deposited in wetland areas has been removed.
3. The power line which was previously over cleared has been restored and replanted with wetlands vegetation (see site photos below). It is recommended that a closure letter be sent to the developer.

Inspection Attribute(s):	Quantity(s)
Photos Taken	6

Number of Attributes: 1

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

0415-03-0001.1 LFW1 0 - FWW permit condition

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]	IC	Compliance inspection revealed special conditions of the permit are satisfied. More specifically: 1. Erosion control measures have been taken; 2. Excessive clearing of freshwater wetland and freshwater wetland transition areas on the power line have been restored by grading and planting of wetland vegetation; 3. A fish through way (concrete swale) has been constructed and is functioning.	Rules T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

Exhibit K

Coastal and Land Use Compliance and Enforcement
Southern Section
1510 Hooper Avenue
Toms River, NJ 08753
Telephone: 732-255-0787 Fax: 732-255-0877

2nd NOV

October 18, 2004

PEA ID #: PEA030001 - 0415-03-0001.1
Name of violator: HIDDEN MILL ASSOCIATES
3001 MARKET STREET
PHILADELPHIA, PENNSYLVANIA, 19104
Location: LITTLE MILL RD & NEW BROOKLYN RD,
GLOUCESTER TOWNSHIP, NEW JERSEY 08012

Identifying #: 0415-03-0001.1
Block and Lot: [1, 5 & 6] [14402, 45 & 46]

On February 13, 2003 the Department issued a Notice of Violation for the failure to comply with all of the special conditions of Freshwater Wetland Individual Permit, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate, Permit No. 0414-97-0011.1, 0414-92-0012.3. More specifically, excessive clearing has taken place within the 20ft. wide sanitary easement and a low flow fish culvert at Station 15+80 of Hidden Drive was not installed. In addition sediments, had entered the surrounding wetlands and tributary as a result of inadequate erosion control, measures.

On August 26, 2004 a site inspection of the property indicated that the above issues for which you were originally cited have been resolved. Thank you for your assistance in the resolution of this matter.

Please be advised that additional permit conditions remain such as the performance of required wetlands mitigation which must be completed on or before the expiration date of the permit.

Should you have any further questions or concerns please contact Bob Pacione at the address and telephone number listed above.

Sincerely,

John Foley, Region Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

c: County Officials
Land Use Regulation

Site Inspection Hidden Mill Associates 8-26-04

Inspection reveals that the developer has performed all items noted in the prior notice of violation namely:

1. A low flow fish channel has been created to allow fish migration through the existing culvert
2. Sediment deposited in wetland areas has been removed.
3. The power line which was previously over cleared has been restored and replanted with wetlands vegetation. (see site photos below) It is recommended that a closure letter be sent to the developer.

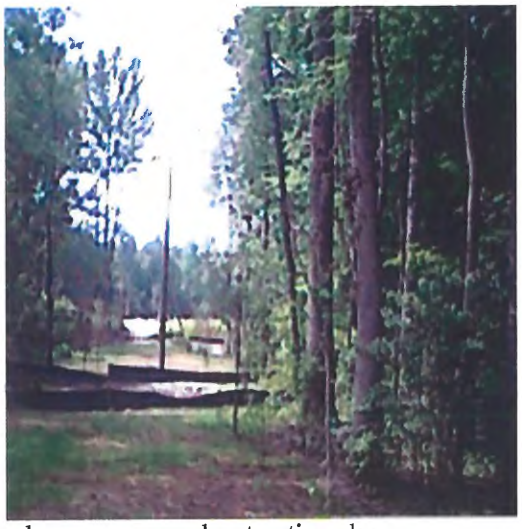
Note all site photos taken by Bob Pacione on 8-26-04

P1 fish migration channel installed

P2 channel during low flow conditions (sediment staining along side walls indicates normal flows)

P3 eroded sediment removed from wetlands

P4 Eroded sediment removed from wetlands



P5,6 Power line easement restored as per approved restoration plan

Exhibit L

Compliance Evaluation Summary and Checklist with ALL Requirements

Date Printed: 2/23/2024

Activity: INV 070001 Incident Investigation (0415-03-0001.1)

Title Description: Compliance Evaluation

Start Date/Time: 06/08/2007 **End Date/Time:** 06/08/2007

Program Interest: HIDDEN MILL ASSOCIATES
0415-03-0001.1 (COASTAL AND LAND USE)
LITTLE MILL RD & NEW BROOKLYN RD
GLOUCESTER TWP, CAMDEN COUNTY

Mailing Address: 3001 MARKET ST PHILADELPHIA PA 19104

Responsibility Entity(s)	Program Interests included in Inspection:
Hidden Mill Associates	0415-03-0001.1 (Coastal And Land Use)

Block(s) and Lot(s): Block 14402 Lot 45, Block 1 Lot 5, Block 1 Lot 6, Block 14402 Lot 46

Lead Investigator	Other Investigators	Persons Interviewed	Witnesses
Sekoni, Olufunsho R			

Inspection Attribute(s):	Quantity(s)
Number of Attributes: 0	

0415-03-0001.1 LFW2 0 - FWW permit condition

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]	OC	failure to comply with Mitigation condition # 1 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497 which states that the permitte shall mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2 .	Rules T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

Exhibit M

Compliance Evaluation Summary and Checklist with ALL Requirements

Date Printed: 2/23/2024

Activity: PEA 070002 NOV (0415-03-0001.1)

Title Description: Compliance Evaluation

Start Date/Time: 12/12/2007 **End Date/Time:** 12/12/2007

Program Interest: HIDDEN MILL ASSOCIATES 0415-03-0001.1 (COASTAL AND LAND USE) LITTLE MILL RD & NEW BROOKLYN RD GLOUCESTER TWP, CAMDEN COUNTY

Mailing Address: 3001 MARKET ST PHILADELPHIA PA 19104

Responsibility Entity(s)	Program Interests included in Inspection:
Hidden Mill Associates	0415-03-0001.1 (Coastal And Land Use)

Block(s) and Lot(s): Block 14402 Lot 45, Block 1 Lot 5, Block 1 Lot 6, Block 14402 Lot 46

Lead Investigator	Other Investigators	Persons Interviewed	Witnesses
Sekoni, Olufunsho R			

Second NOV must be sent, mitigation plans submitted by respondent not acceptable- they were previously rejected by DLUR. Additional violaitons found- failure to file deed restriction and failure to install fencing around swamp pink. This NOV will supercede the first.

Inspection Attribute(s):	Quantity(s)

Number of Attributes: 0

#MULTIVALUE

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

#MULTIVALUE

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	comply with the approved permit and conditions: Within 30 days of receipt of this document specifically, comply with the Mitigation Conditions # 1, #2 & #3 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497. Speicifially, mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2. [N.J.S.A. 13:9B]	ON	failure to comply with the Mitigation Conditions # 1, #2 & #3 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497. Speicifially, failure to mitigate for the loss of . 5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2. The Respondents submitted a letter dated January 4, 2008, with an enclosed wetlands mitigation plan entitled: Wetlands Enhancement Plan (sheet 1 of 1) and Enhancement Notes and Details (sheet 2 of 2) prepared by Pennoni Associates, Inc. and dated February 21, 2002 for Hidden Mill , Block 14402 Lots 45 and 46, Gloucester Township, Camden County, New Jersey. This plan was previously rejected by the Department and does not satisfy the aforementioned mitigation conditions. Therefore, this violation remains unresolved.	PEA 070002 S

#MULTIVALUE

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]	OC	failure to comply with condition #5 of Freshwater Wetland Individual Permit #0414-97-0011.1, 0414-92-0012.1, Modification # 15947 which states that: Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and Service. Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containg swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g wood,wire). The fence must be constructed prior to the beginning construction of townhouses or their related infrastructure (e.g roads and utilities). Permittee must provide a maintenance plan for the repair and the replacement of the fence for the life of the project. The Permitte must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entittled : " MURRAY HILL ESTATES BLOCK 18799 LOT1, BLOCK 18899 LOT1, GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, dated march 28, 1994, last revised January 7, 1999" Drawing No. C0202 "GRADING & UTILITY PLAN SECTIO N2"; GRADING & UTILITY PLAN, SECTION 2" drawing No. C0203.	Rules T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

#MULTIVALUE

Reqt. Included Flag	Requirement	Status RTC	Results or Comments	Reqt Source Ref # Reqt. Type
Y	the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]	OC	failure to comply with condition #6 of Freshwater Wetland Individual Permit #0414-97-0011.1, 0414-92-0012.1, Modification # 15947 which states that: Prior to the initiation of site preparation, Permitttee shall sign a Department approved deed restriction for the subject parcels. The restriction shall be included on the deed and recorded in the office of the County Clerks (the REGISTRAR OF DEEDS AND MORTGAGES) in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act.	Rules T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

Exhibit N

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street
PO Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

CERTIFIED MAIL/RRR
7003- 0500 0000 6367- 1101

December 20, 2007

Hidden Mill Associates
3001 Market St
Philadelphia, PA 19101-2897

RE: Hidden Mill Associates
Notice of Violation
Block 1, Lot 5; Block 1, Lot 6; Block 14402, Lot 45; Block 14402, Lot 46;
Gloucester Twp, Camden County
EA ID #: PEA070002 - 0415-03-0001.1

Dear Sir/Madame:

Enclosed for service upon you is a Notice of Violation issued by the Department.

If you have any questions concerning the enclosed Notice of Violation you may contact Olufunsho Sekoni of my staff at (609) 292-1240 or by letter at the address above.

Sincerely,

Roderick Falla, Regional Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure
C: Zoning Officials, Gloucester Township, Camden County.
Dave Fanz, Supervisor Division of Land Use Regulation
File

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street
PO Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

CERTIFIED MAIL/RRR
7003 0500 0000 6367 1101

DEC 20 2007

NOTICE OF VIOLATION

EA ID #: PEA070002 - 0415-03-0001.1

Name of violator: Hidden Mill Associates
Location: Little Mill Rd & New Brooklyn Rd,
Gloucester Twp, NJ 08012
Block and Lot: Block 1, Lot 5; Block 1, Lot 6; Block 14402, Lot 45; Block 14402, Lot 46;
Identifying #: 0415-03-0001.1

You are hereby NOTIFIED that during a compliance evaluation at the above location on 06/08/2007, the following violation(s) of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.) was observed.

Requirement: Pursuant to N.J.A.C. 7:7A-13.1(a), the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act. [N.J.A.C. 7:7A-13.1(a)]

Description of Noncompliance: failure to comply with the Mitigation Conditions # 1, #2 & #3 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497. Speicifially, failure to mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2.

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY.

You must take the following corrective actions:

a. Comply with the approved permit and conditions within 30 days of receipt of this document specifically, comply with the Mitigation Conditions # 1, #2 & #3 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497. Speicifially, mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2.

Within 15 calendar days of receipt of this Notice of Violation, you shall submit in writing to the case manager, Olufunsho Sekoni an explanation of the corrective measures you have taken or will take to achieve compliance.

This **Notice of Violation** serves as notice that the NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement, has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You **may** appeal or contest such formal actions. Penalties may be assessed on a daily basis.

Issued by: Roderick Falla, Regional Supervisor
Print Name

Date: 12/20/07

Signature: _____
Sign Name

Exhibit O

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street, P.O. Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

February 25, 2008

CERTIFIED MAIL/RRR
7005 0500 0000 6367 1484

Hidden Mill Associates
3001 Market St
Philadelphia, PA 19101-2897

RE: Hidden Mill Associates / Murray Hill Estates
Notice of Violation
Block 1, Lot 5; Block 1, Lot 6; Block 14402, Lot 45; Block 14402, Lot 46;
Gloucester Township, Camden County
EA ID #: PEA080001 - 0415-03-0001.1

Dear Sir/Madame:

Enclosed for service upon you is a Notice of Violation issued by the Department.

If you have any questions concerning the enclosed Notice of Violation you may contact Olufunsho Sekoni of my staff at (609) 292-1240 or by letter at the address above.

Sincerely,

Roderick Falla, Regional Supervisor
Bureau of Coastal and Land Use Compliance and Enforcement

Enclosure
c: Construction Official, Gloucester Township, Camden County
Dave Fanz, Supervisor Division of Land Use Regulation
File

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street, P.O. Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

CERTIFIED MAIL/RRR
7005 0500 0000 6367 1484

NOTICE OF VIOLATION

EA ID #: PEA080001 - 0415-03-0001.1

Name of violator: Hidden Mill Associates
Location: Murray Hill Estates
Little Mill & New Brooklyn Roads,
Gloucester Township, Camden County
Block and Lot: Block 1, Lots 5 & 6; Block 14402, Lots 45 & 46
Identifying #: 0415-03-0001.1

You are hereby NOTIFIED that during compliance evaluations conducted at the above location on June 8 and December 12, 2007, the following violations of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and the regulations (N.J.A.C. 7:7A-1 et seq.) were observed.

Requirement: Pursuant to N.J.A.C. 7:7A-13.1(a), the permitee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act.

a. Description of Noncompliance: Failure to comply with Mitigation Condition #1 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, Modification #15497 which required that the permittee shall mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in Mitigation Condition #3, or if available through the purchase of mitigation credits as detailed in Mitigation Condition #2.

b. Description of Noncompliance: Failure to comply with Condition #5 of Freshwater Wetland Individual Permit #0414-97-0011.1, 0414-92-0012.1, Modification #15947 which required that:

"prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and Service. Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed

prior to the beginning construction of townhouses or their related infrastructure (e.g. roads and utilities). Permittee must provide a maintenance plan for the repair and the replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1, GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, dated March 28, 1994, last revised January 7, 1999" Drawing No. C0202 "GRADING & UTILITY PLAN SECTIO N2"; GRADING & UTILITY PLAN, SECTION 2" drawing No. C0203."

c. Description of Noncompliance: Failure to comply with Condition #6 of Freshwater Wetland Individual Permit #0414-97-0011.1, 0414-92-0012.1, Modification #15947 which required that:

"Prior to the initiation of site preparation, Permittee shall sign a Department approved deed restriction for the subject parcels. The restriction shall be included on the deed and recorded in the office of the County Clerks (the REGISTRAR OF DEEDS AND MORTGAGES) in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act."

ALL UNAUTHORIZED ACTIVITIES MUST CEASE IMMEDIATELY.

You must take the following corrective actions:

a. Comply with the approved permit and conditions within 30 days of receipt of this document specifically, comply with the Mitigation Conditions # 1, #2 & #3 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497. Specifically, mitigate for the loss of .5950 acres of forested wetland through either an on-site or off- site creation, restoration or enhancement project as detailed in condition 3 or if available through the purchase of mitigation credits as detailed in condition 2. [N.J.S.A. 13:9B] **Please be advised, the "Wetlands Enhancement Plan" (sheet 1 of 1) and "Enhancement Notes and Details" (sheet 2 of 2) dated February 21, 2002, prepared by Pennoni Associates Inc., and submitted with your letter dated January 4, 2008, were previously rejected by the Department. This submitted information does not comply with the aforementioned Mitigation Conditions. The Department had previously determined that the area shown on your proposed Wetlands Enhancement Plan was not suitable for mitigation. This determination remains unchanged. Therefore, you must prepare a new mitigation plan consistent with the Department's mitigation standards to comply with this requirement.**

b. Comply with the approved permit and conditions within 30 days of receipt of this document specifically, comply with Condition # 5 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497.

c. Comply with the approved permit and conditions immediately upon of receipt of this document specifically, comply with Condition # 6 of the Freshwater Wetland Individual Permit # 0414-97-0011.1, 0414-92-0012.3, modification to 15497.

Within 15 calendar days of receipt of this Notice of Violation, you shall submit in writing to the case manager, Olufunsho Sekoni, an explanation of the corrective measures you have taken or will take to achieve compliance.

This Notice of Violation serves as notice that the NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement, has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Penalties may be assessed on a daily basis.

Issued by: Roderick Falla, Regional Supervisor Date: 2/25/08

for

Signature:

Exhibit P

COMEGNO
LAW GROUP

RICHARD F. ROY, JR., ESQUIRE
MEMBER NJ AND NC BARS

521 PLEASANT VALLEY AVENUE
MOORESTOWN, NJ 08057
888.313.IDEA
856.234.4114
856.234.4262 FAX
COMEGNOLAW.COM

October 30, 2008

HAND DELIVERED

New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, NJ 08625

Barbara Baus, Section Chief
Bureau of Coastal and Land Use Compliance & Enforcement
401 East State Street
P.O Box 422
Trenton, NJ 08625-0422

Re: Hidden Mill Associates
Administrative Order and Notice of Civil Administrative Assessment
Block 1, Lots 5 & 6 and Block 14402, Lots 45 & 46
Gloucester Township, Camden County
EA ID#: PEA030001 – 0415-03-0001.1

Dear Sir/Madam:

Enclosed please find the Administrative Hearing Request Checklist and Tracking Form and all required exhibits and attachments in connection with the above matter. I would appreciate you scheduling this matter and advising when it will be considered.

Please do not hesitate to contact me with any questions.

Very truly yours,

Richard F. Roy Jr.

RICHARD F. ROY, JR.

RFR/TAL/dm
Enclosure
cc: Mr. Vincent Pennoni
Albert W. Ricciardi, P.P.

Administrative Hearing Request Checklist and Tracking Form

I. Document Being Appealed: EA ID # PEA070001 – ID# 0415-03-0001.1

August 5, 2008
Date Document Issued

II. Person Requesting Hearing:

Vincent Pennoni/Hidden Mill Associates and all named parties.
Name/Company

3001 Market Street

Suite 200
Address

Philadelphia, PA 19104

Telephone #

COMEGNO LAW GROUP, P.C.

Richard F. Roy, Jr.
Name of Attorney (if applicable)

521 Pleasant Valley Avenue

Moorestown, NJ 08057
Address

(856) 234-4114
Telephone #

III. Please Include the Following Information As Part of Your Request:

A. The date the alleged violator received the Enforcement Document.
B. A **copy of the Enforcement Document** and a list of all issues being appealed.
C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
D. The defenses to each of the findings of fact in the enforcement document;
E. Information supporting the request;
F. An estimate of the time required for the hearing;
G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625

2. Barbara Baus, Section Chief
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street
PO Box 422
Trenton, New Jersey 08625-0422

IV. Signature: Richard F. Roy, Jr. Date: 10/30/08
RICHARD F. ROY, JR., ESQUIRE

III. Please Include the Following Information as Part of Your Request:

A. The date the alleged violator received the Enforcement Document:

August 12, 2008. Thereafter a request was made and an extension granted requiring this response to be filed by October 31, 2008.

B. A copy of the Enforcement Document and a list of all issues being appealed.

1. See attached Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA"). Exhibit "1".

2. List of all issues being appealed.

   a. Respondent appeals the determination made by the Assistant Commissioner of Compliance and Enforcement and/or his assignees, that Respondents have violated the Freshwater Wetlands Protection Act and the regulations promulgated pursuant thereto (Paragraph 16) and as further described in Paragraphs 17 through 20 of the AONOCAPA, wherein Respondent was ordered to immediately submit a Wetlands Mitigation Proposal for the restoration of 1.487 acres of wetlands as compensation for wetlands allegedly destroyed by Respondent.

   b. Respondent appeals the determination made by the Assistant Commissioner of Compliance and Enforcement and/or his assignees described in Paragraphs 21 through 26 of the AONOCAPA, wherein Respondent was assessed a civil administrative penalty in the amount of $330,000.0, plus additional accrued penalties, as may be assessed.

   c. Respondent appeals all determinations made by the Assistant Commissioner of Compliance and Enforcement and/or his assignees that Respondent failed to comply with the terms of the above referenced permit.

C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge.

1. Findings Paragraph 1: The identification of the Site is admitted. Respondent denies the findings in Paragraph 1 that Hidden Mill Associates is the owner of all property identified.

2. Findings Paragraph 2: No response required.

3. Findings Paragraph 3: Respondent admits that the Division of Land Use Regulation issued a combined Land Use Permit and Modification to the 1988

Stream Encroachment Permit to Respondent on March 21, 2002. To the extent that Paragraph 3 alleges any wrongdoing on the part of Respondent, such allegations are denied.

4. Findings Paragraph 4: Respondent admits that the Land Use Permits and approved drawings, issued on March 21, 2002, contained Special Mitigation Conditions, including, (i) the notification of the U.S. Fish and Wildlife Service; (ii) the recordation of a Department approved deed restriction; (iii) the creation, restoration or enhancement of on-site or off-site wetlands or the purchase of certain mitigation credits; (iv) the construction of a low-flow fish passage culvert. To the extent that Paragraph 4 alleges any wrongdoing on the part of Respondent, such allegations are denied.

5. Findings Paragraph 5: Respondent admits being advised by a Division of Land Use Regulation representative on November 27, 2002, of its determination that Respondent's actions in enhancing certain wetlands did not constitute a viable wetland mitigation alternative, a conclusion with which Respondent did not agree. Respondent lacks knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph 5, and, therefore, denies same. To the extent that Paragraph 5 alleges any wrongdoing on the part of Respondent, such allegations are denied.

6. Findings Paragraph 6: Respondent lacks knowledge or information sufficient to form a belief as to the allegations contained in paragraph 6, and, therefore, denies same. To the extent that Paragraph 6 alleges any wrongdoing on the part of Respondent, such allegations are denied.

7. Findings Paragraph 7: Respondent admits being issued a Notice of Violation by the Department's Bureau of Coastal and Land Use Compliance and Enforcement on February 13, 2003. To the extent that Paragraph 7 alleges any wrongdoing on the part of Respondent, such allegations are denied.

8. Findings Paragraph 8: Respondent admits the findings in Paragraph 8.

9. Findings Paragraph 9: Respondent admits being issued a letter by the Department's Division of Land Use Regulation on June 24, 2004. In further discussion with the Department of Environmental Protection following this letter, it was indicated to Respondent that DEP personnel were in the process of attempting to implement the possible mitigation alternative of a land preservation project in Gloucester Township and that Respondent would be notified if that represented a viable alternative. To the extent that Paragraph 9 alleges any wrongdoing on the part of Respondent, such allegations are denied.

10. Findings Paragraph 10: Respondent lacks knowledge or information sufficient to form a belief as to the allegations contained in paragraph 10, and, therefore, denies same.

11. Findings Paragraph 11: Respondent admits being issued a letter by the Department's Bureau of Coastal and Land Use Compliance and Enforcement on October 18, 2004. To the extent that Paragraph 11 alleges any wrongdoing on the part of Respondent, such allegations are denied.

12. Findings Paragraph 12: Respondent lacks knowledge or information sufficient to form a belief as to the allegations contained in paragraph 12, and, therefore, denies same. To the extent that Paragraph 12 alleges any wrongdoing on the part of Respondent, such allegations are denied.

13. Findings Paragraph 13: Respondent admits being issued a Notice of Violation by the Department's Bureau of Coastal and Land Use Compliance and Enforcement on December 20, 2007. To the extent that Paragraph 13 alleges any wrongdoing on the part of Respondent, such allegations are denied.

14. Findings Paragraph 14: Respondent admits being issued a Notice of Violation by the Department's Bureau of Coastal and Land Use Compliance and Enforcement on February 25, 2008. To the extent that Paragraph 14 alleges any wrongdoing on the part of Respondent, such allegations are denied.

15. Findings Paragraph 15: Respondent admits corresponding with the Department's Bureau of Coastal and Land Use Compliance and Enforcement on April 24, 2008. Respondent lacks knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph 15, and, therefore, denies same. To the extent that Paragraph 15 alleges any wrongdoing on the part of Respondent, such allegations are denied.

16. Findings Paragraph 16: Respondent denies the findings in Paragraph 16. Additionally, Paragraph 16 asserts legal conclusions to which no response is required.

D. Defenses to each of the findings of fact in the enforcement document.

1. Respondent has, at all times, acted in good-faith and in accordance with the settlement agreement between the Respondent and the Department.

2. As a result of Respondent's activities, the mitigation area on site was restored to a functioning wetlands state, in compliance with the Permit condition.

3. The required low flow fish channel was in fact constructed as required by the Permit.

4. The required deed restriction was filed before work commenced on the portion of the site intended to be benefited by the deed restriction.

5. The Respondents relied upon the terms of the settlement of the litigation which resulted in the issuance of the Permit and modified the site

plan/development to Respondent's detriment and the Department's attempt to treat this matter outside the context of those settlement terms is impermissible.

6. The Respondent relied on the representations of Department personnel concerning a possible mitigation alternative.

7. Respondent reserves the right to supplement these defenses as this matter progresses.

E. Information Supporting the Request.

Attached as Exhibit "2" is the Report of Respondent's environmental expert detailing the history of this project, from its inception in the 1970's through the present. Attached to Exhibit "2" as exhibits "A" through "F" are further supporting documents regarding the background of this matter and in support of this Hearing request.

F. Estimate of the time required for the hearing.

Respondent believes three (3) to five (5) days will be necessary for the hearing of this matter.

G. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

Respondent does not require a barrier-free hearing location.

H. A clear willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law.

Respondent is willing to participate in good-faith settlement negotiations with the Department prior to its processing this request to the Office of Administrative Law. The Respondent specifically requests that, given the long history of this matter, the fact that this matter was the result of a previously contested case, and the complexity of this matter, that such negotiations/settlement discussions take place.

I. This form, completed, signed and dated with all of the information listed above.

Please see attached.

Administrative Hearing Request Checklist and Tracking Form

I. Document Being Appealed: **EA ID #** PEA070001 – ID# 0415-03-0001.1

August 5, 2008
Date Document Issued

II. Person Requesting Hearing:

Vincent Pennoni/Hidden Mill Associates and all named parties.
Name/Company

3001 Market Street

Suite 200
Address

Philadelphia, PA 19104

Telephone #

COMEGNO LAW GROUP, P.C.

Richard F. Roy, Jr.
Name of Attorney (if applicable)

521 Pleasant Valley Avenue

Moorestown, NJ 08057
Address

(856) 234-4114
Telephone #

III. Please Include the Following Information As Part of Your Request:

A. The date the alleged violator received the Enforcement Document.
B. A copy of the Enforcement Document and a list of all issues being appealed.
C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
D. The defenses to each of the findings of fact in the enforcement document;
E. Information supporting the request;
F. An estimate of the time required for the hearing;
G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625

2. Barbara Baus, Section Chief
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street
PO Box 422
Trenton, New Jersey 08625-0422

IV. Signature: Richard F. Roy, Jr. Date: 10/30/08
RICHARD F. ROY, JR., ESQUIRE

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
401 East State Street P.O. Box 422
Trenton, New Jersey 08625-0422
Telephone: (609) 292-1240 Fax: (609) 633-6798

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

CERTIFIED MAIL/RRR
7007 0220 0002 1050 0318

IN THE MATTER OF HIDDEN MILL ASSOCIATES and, LITTLE MILL, INC., and PENCHIL, LLC., and CELESTINO R. PENNONI, Individually, and VINCENT PENNONI, Individually	:	ADMINISTRATIVE ORDER AND NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

Hidden Mill/Murray Hill Estates
Block 1, Lots 5 & 6; Block 14402, Lots 45 & 46
Gloucester Township, Camden County

EA ID # PEA070001 - 0415-03-0001.1

This Administrative Order and Notice of Civil Administrative Penalty Assessment (hereinafter AONOCAPA) is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter NJDEP or the Department) by N.J.S.A. 13:1D-1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. (the "Act"), and duly delegated to the Assistant Commissioner of Compliance and Enforcement and his assignees pursuant to N.J.S.A.13:1B-4.

FINDINGS

1. Hidden Mill Associates is owner and developer of property situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County, New Jersey (the "site"). After resubdivision, the above tracts are now encompassed within approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406 18701, 18702, 18703, 18801 and 18802.

2. Hereinafter, Hidden Mill Associates (a New Jersey General Partnership), Little Mill, Inc. (General Partner), Penchil LLC (General Partner), Celestino R. Pennoni, Individually and as President of Little Mill Inc., and Vincent Pennoni, Individually and as a member of Penchil LLC, shall collectively be referred to as the "Respondents."

3. On March 21, 2002, the Division of Land Use Regulation (DLUR) issued a combined Land Use Permit (DLUR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to the Respondents for conducting certain regulated activities at the site in conjunction with the proposed contruction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates" as well as proposed improvements to Little Mill Road. The combined Land Use Permit included:

   a. Freshwater Wetland Individual Permit;
   b. Freshwater Wetland Transition Area Waiver Averaging Plan;
   c. Freshwater Wetland Transition Area Waiver - Special Activity
   d. Freshwater Wetlands Statewide General Permit # 11;
   e. Modification in Detail to a 1988 Stream Encroachment Permit #15497; and
   f. Water Quality Certificate

4. The Land Use Permits and approved drawings, issued on March 21, 2002, contained specific General, Special and Mitigation Conditions with which the Respondents were required to comply, including the following:

   a. SPECIAL CONDITION #1: Required that "**two weeks prior to commencement of land clearing activities and wetland impacts...the Permittee must notify the U.S. Fish and Wildlife Service in writing...ATTENTION: Lisa Arroyo...**"

   b. SPECIAL CONDITION #6: Required that "**Prior to initiation of site preparation,** the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. <u>The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands</u>. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

   c. MITIGATION CONDITION #1: Required the Respondents to "Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below."

   d. In addition, the Land Use Permits required the construction of a low-flow fish passage culvert at Station 15+80 of Hidden Drive.

5. On November 14, 2002, DLUR Representatives conducted a site inspection, to ascertain whether a specific portion of the site was suitable for wetland "enhancement" as had been proposed by the

Respondents via a submittal on August 8, 2002 to satisfy Mitigation Condition #1 described in paragraph 4c above. The DLUR Representatives discovered that the proposed enhancement area was NOT suitable for enhancement because the said area was already a functioning palustrine forested wetland requiring no enhancement. The Respondents' environmental consultants were advised that the proposed enhancement of the wetland system was not a viable wetland mitigation alternative. The Respondents were directly advised of this decision by a DLUR Representative on November 27, 2002. DLUR Representatives also observed on November 14, 2002, that significant site clearing and construction had been conducted within regulated areas, including the construction of a sewer line and the construction of a road crossing culvert. The CLUE Representatives also observed that sediment had washed into regulated areas because of inadequate soil erosion and sediment controls.

6. On January 14, 2003, a Representative of the Department's Bureau of Coastal and Land Use Compliance and Enforcement ("CLUE" or "Bureau"), conducted a site inspection and permit compliance evaluation. The inspection revealed a number of permit condition violations and unauthorized activities within regulated areas, including:

   a. The excessive clearing of freshwater wetlands, totaling approximately 20,000 square feet along a 20-foot wide sanitary sewer easement;
   b. Failure to construct the required low-flow fish passage culvert at Station 15+80 of Hidden Drive, resulting in a completely impassable section of stream channel; and
   c. Failure to comply with the special conditions of the Land Use Permit, including those described in paragraph 4 above.

7. On February 13, 2003, CLUE issued a Notice of Violation (NOV) to the Respondents for failure to comply with the permit conditions, and for conducting unauthorized regulated activities within regulated areas (excessive clearing of approximately 20,000 square feet of wetlands along a 20-foot wide sanitary sewer easement). The NOV required the Respondents to immediately comply with the approved permit conditions within 30 days of receipt of the NOV and to provide and implement a proposal to take corrective actions.

8. On or about June 15, 2004, the Respondents filed the required deed restriction in accordance with Special Condition #6 of the Land Use Permit.

9. On June 24, 2004, DLUR issued a letter to the Respondents concerning the outstanding wetlands mitigation requirements. The letter advised that the wetland enhancement proposal, described in paragraph 5 above, was **not approved**. The letter also informed the Respondents of a viable mitigation alternative which was then available involving a land preservation project in Gloucester Township. The Respondents were further informed that they were under no obligation to participate in the land preservation project, but that they "continue to be responsible to satisfy all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued."

10. On August 26, 2004, CLUE Representatives conducted a follow up site inspection and observed that the specific land clearing violations cited in the February 13, 2003 NOV had been resolved by revegetating the affected areas, and the low-flow fish passage culvert had been installed. The CLUE Representatives also noted that compliance with the Wetlands Mitigation Conditions had not been achieved.

11. On October18, 2004, the Bureau issued a letter to the Respondents indicating that some of the noncompliance issues of the February 13, 2003, NOV had been resolved, including the excessive clearing and low flow fish culvert. However, the letter also advised the Respondents that additional permit conditions remained in noncompliance, including the performance of the required wetlands mitigation, which must be completed on or before the expiration date of the Land Use Permit (March 21, 2007).

12. On June 8 and December 12, 2007, a Representative of CLUE conducted follow up compliance evaluations. The evaluations revealed that the Respondents had still not complied with the Mitigation Conditions of the Land Use Permit.

13. On December 20, 2007, CLUE issued another NOV to the Respondents for failure to comply with Mitigation Condition #1 and [Special] Condition #6 of the March 21, 2002 Land Use Permit. The Respondents were required to comply within 30 days.

14. On February 25, 2008, CLUE issued another NOV to the Respondents for failure to comply with Mitigation Condition #1 and [Special] Condition #6 of the March 21, 2002 Land Use Permit. The Respondents were required to comply within 30 days.

15. On April 24, 2008, the Respondents replied to the most recent NOVs. Respondents indicated that "Hidden Mills Associates is evaluating the site for a location to provide wetlands enhancement." The Respondents also attached a copy of the deed restriction (as per Special Condition #6 of the Land Use Permit) that had been filed with the Camden County Clerk on or about June 15, 2004, which was approximately 20 months after Department Representatives had observed that extensive site work was already completed by November, 2002, as described in paragraph 5 above.

16. Based on the facts set forth in these FINDINGS, the Department has determined that the Respondents have violated the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and the regulations promulgated pursuant thereto specifically, N.J.A.C. 7:7A-2.2(a), N.J.A.C. 7:7A-2.6(a) and N.J.A.C. 7:7A-13.1.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

17. The Respondents shall comply with the following:

    a. Immediately submit a Wetlands Mitigation Proposal, in accordance with the Mitigation Conditions of the Land Use Permit and N.J.A.C. 7:7A-15, providing suitable and viable mitigation as compensation for the freshwater wetlands destoyed during construction of the project. Pursuant to N.J.A.C. 7:7A-15.3:

        "If a permittee fails to perform mitigation within the applicable time period in (a) above, the acreage of mitigation required shall be increased by 20% each year after the date mitigation was to begin. This will compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay. For example, a permit may authorize a

disturbance, and require 10 acres of creation to compensate for that disturbance. If the disturbance is begun on January 1, 2001, but the mitigation is not performed prior to or concurrently with the disturbance and continued according to the approved schedule as required under (a)1 above, the acreage of creation required increases to 12 acres on January 1, 2002, in order to compensate for the absence of wetlands functions and values from the ecosystem during the time between the disturbance and the creation."

Therefore, pursuant to N.J.A.C. 7:7A-15.3, the total acreage, for which the Respondents shall be required to provide mitigation, currently stands at 1.487 acres.

18. Should the Department determine that the wetlands mitigation proposal is inadequate or incomplete, the Department shall provide comments to the Respondents or a consultant on their behalf. Within 10 calendar days of receipt of the Department's comments, the Respondents shall submit a revised proposal that conforms to the Department's comments. The determination as to whether or not the wetlands mitigation proposal as resubmitted conforms to CLUE's comments shall made solely by the Department.

19. The wetlands mitigation proposal must be approved by the Department prior to implementation. Upon the Department's approval, the Respondents shall implement the approved wetlands mitigation proposal in accordance with the approved time schedule.

20. This Order shall be effective upon receipt by the Respondents or someone on the Respondents' behalf authorized to accept service.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT AND NOTICE OF RIGHT TO A HEARING

21. Pursuant to N.J.S.A. 13:9B-21 and N.J.A.C. 7:7A-16.1, and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against the Respondent(s) in the amount of $330,000.00. The Department's rationale for the civil administrative penalty is set forth in the attachment, and incorporated herein.

    a. Pursuant to N.J.A.C. 7:7A-16.1(d), the Department hereby assesses a further, ongoing penalty of $250 per day per violation, which assessment shall begin to accrue starting 30 days from receipt of this AONOCAPA, for any violations that are the subject of this AONOCAPA which remain unresolved from that time forward. Any such penalties shall be calculated and reduced to a specific dollar amount at the hearing on this matter.

    b. If no hearing request is timely filed, and granted, then the further ongoing assessment pursuant to (a) above shall be deemed withdrawn, but the Department may issue another AONOCAPA for the violations that are the subject of the within action and which have not been corrected or, if corrected, for any period of time during which they remained uncorrected, including the above correction period. Such penalties will be assessed in accordance with the provisions of the Freshwater Wetlands regulations.

22. Pursuant to N.J.A.C. 7:7A-16.12, the Department may, in addition to any other civil administrative penalty assessed, include as a civil administrative penalty the economic benefit (in dollars) which a violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act.

23. Pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A.13:9B-21(b), the Respondents are entitled to request a hearing. The Respondent(s) shall, in its request for a hearing, complete and submit the enclosed ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this ORDER.

24. If no request for a hearing is received within 35 calendar days from receipt of this AONOCAPA, it shall become a Final Order upon the 36th calendar day following its receipt, and the penalty shall be due and payable.

25. If a timely request for a hearing is received, payment of the penalty is due when the Respondents receives a notice of the denial of the request, or, if the hearing request is granted, when the Respondents withdraw the request or abandons the hearing, or, if the hearing is conducted, when the Respondents receive a final decision from the Commissioner in this matter.

26. Payment shall be made by check payable to Treasurer, State of New Jersey and shall be submitted along with the enclosed Enforcement Invoice to:

Department of Treasury - Division of Revenue
P.O. Box 417
Trenton, NJ 08646-0417

GENERAL PROVISIONS

27. This AONOCAPA is binding on the Respondents, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.

28. No obligations imposed by this AONOCAPA are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.

29. This AONOCAPA is issued only for the violations identified in the FINDINGS herein above and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, NJDEP does not waive its rights to initiate additional enforcement actions.

30. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve the Respondent(s) of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.

31. The Respondents are not entitled to approval of any permit application(s) submitted pursuant to requirements contained herein. In the event the Department determines that regulated activities do not meet the requirements for permit approval, full restoration of the unauthorized disturbance will be required.

32. Pursuant to N.J.A.C. 7:7A-16.5, any person who violates the provisions of the Act, or any code, rule regulation or order promulgated or issued pursuant thereto, or who fails to pay a civil administrative penalty in full, shall be subject, upon order of the court, to a civil penalty not to exceed $10,000 per day. Each day during which the violation continues constitutes an additional, separate and distinct offense.

33. Pursuant to N.J.S.A.13:9B-21(f), any person who willingly or negligently violates the provisions of the Act, or any code, rule, regulation, administrative order or court order, promulgated or issued pursuant thereto, is guilty of a crime of the fourth degree.

DATE: July 31, 2008

Wolfgang Skacel, CHMM
Assistant Commissioner

Administrative Hearing Request Checklist and Tracking Form

I. Document Being Appealed: **EA ID #** PEA070001 – ID# 0415-03-0001.1

_____
Date Document Issued

II. Person Requesting Hearing:

_____	_____
Name/Company	Name of Attorney (if applicable)
_____	_____
_____	_____
Address	Address
_____	_____
Telephone #	Telephone #

III. Please Include the Following Information As Part of Your Request:

A. The date the alleged violator received the Enforcement Document.
B. A **copy of the Enforcement Document** and a list of all issues being appealed.
C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
D. The defenses to each of the findings of fact in the enforcement document;
E. Information supporting the request;
F. An estimate of the time required for the hearing;
G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625

2. Barbara Baus, Section Chief
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street
PO Box 422
Trenton, New Jersey 08625-0422

IV. Signature:_____ Date:_____

FRESHWATER WETLANDS PROTECTION ACT

"The Legislature of New Jersey has found and declared that freshwater wetlands protect and preserve drinking water supplies by serving to purify surface water and groundwater resources; that freshwater wetlands provide a natural means of flood and storm damage protection, and thereby prevent the loss of life and property through the absorption and storage of water during high runoff periods and the reduction of flood crests; that freshwater wetlands serve as a transition zone between dry land and water courses, thereby retarding soil erosion; that freshwater wetlands provide essential breeding, spawning, nesting, and wintering habitats for a major portion of the State's fish and wildlife, including migrating birds, endangered species, and commercially and recreationally important wildlife; and that freshwater wetlands maintain a critical baseflow to surface waters through the gradual release of stored flood waters and groundwater, particularly during drought periods."

"The Legislature therefore determines that in this State, where pressures for commercial and residential development define the pace and pattern of land use, it is in the public interest to establish a program for the systematic review of activities in and around freshwater wetland areas designed to provide predictability in the protection of freshwater wetlands; that it shall be the policy of the State to preserve the purity and integrity of freshwater wetlands from random, unnecessary or undesirable alteration or disturbance ...."

The Legislature then established the protection of freshwater wetland transition areas. N.J.S.A. 13:9B-16 states that transition areas are lands adjacent to a freshwater wetlands that serve to minimize adverse impacts on the wetland and are an integral component of the wetlands ecosystem which provide an ecological transition zone from uplands to freshwater wetlands. Transition areas provide temporary refuge for freshwater wetlands fauna during high water episodes, critical habitat for animals dependent upon but not resident in freshwater wetlands, and a sediment and storm water control zone to reduce the impacts of development upon freshwater wetlands and freshwater wetlands species.

Inspections and investigation, as detailed in the FINDINGS of this AONOCAPA, revealed that unauthorized regulated activities have occurred within freshwater wetlands and/or freshwater wetland transition areas.

PENALTY CALCULATION

In accordance with the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-16.8c, the point value for each factor is calculated as such:

1. Freshwater Wetland Resource Value (Quality):

   Ordinary = 1 Point
   Intermediate = 2 Points
   Exceptional = 3 Points (Documented presence of Swamp Pink at site)

   Resource Value is Exceptional = **3 Points**

2. Conduct of Violator: Conduct has been determined as follows:

Minor - any conduct not identified as major or moderate	= 1 Point
Moderate - any unintentional but foreseeable act or omission	= 2 Points

Major- any intentional, deliberate, purposeful, knowing or willful act or omission = 3 Points

The Respondents have had ample opportunity and time to submit alternative wetland mitigation proposals to the Department since late 2002, when they were first informed about the non-viability of their enhancement plan, and certainly since June, 2004, when the Department wrote to the Respondents concerning their mitigation obligations. The Respondents disregarded other permit conditions and site plan requirements as well, including the requirement to contact the US Fish and Wildlife Service prior to commencing site work and excessive clearing along a sanitary sewer crossing. The Respondents also failed to record the required deed restriction "prior to the initiation of site preparation."

The failure to record an approved deed restriction jeopardizes the integrity of the Department's permitting strategy for the protection of these freshwater wetlands. Without the benefit of a deed restriction notifying future land owners or other interested parties in perpetuity of the location of and prohibition against development occurring in these areas, interested parties may not be aware of the restrictions on the land, and thus the wetlands and/or transition areas are more likely to be negatively impacted and encroached upon.

The Respondents enjoyed the economic gain of conducting regulated activities for development within freshwater wetlands and/or freshwater wetland transition area without fully complying with an important condition of the Land Use Permit that authorized this activity. Thus the Respondents enjoyed the benefits of the Department's authorization without complying with its terms and conditions.

The Land Use Permit required that prior to any regulated activities occurring on the site, the Respondents were to submit a Declaration of Restriction for Modified Transition Area to the Department for review and approval. Respondents were then required to file and record the Declaration of Restriction for Modified Transition Area with the County Clerk and forward a copy of the recorded restriction to the Department. Therefore, until the proper deed restriction was recorded and forwarded to the Department, the Respondents were not authorized to conduct regulated activities at the site. Inspections and investigations in late 2002 and early 2003, described in the above FINDINGS, revealed that regulated activities such as clearing, filling, and grading within freshwater wetlands and wetland transition area had occurred by November 14, 2002 and continued until June 15, 2004, prior to compliance with the deed restriction requirement. Therefore, Respondents were in violation during that time and are subject to the appropriate penalty assessments on a daily basis.

Therefore the conduct of the Respondents in this matter shall be consider **Major**.

Conduct of the Violator = **3 Points**

3. Acreage of freshwater wetland disturbance:

Less than 1 acre	**= 1 Point**
1 to 3 acres	= 2 Points
Greater than3 acres	= 3 Points

Acreage of Disturbance = **1 Point**

Total Points = 7 Points

The total number of points is 7 and the amount of penalty per day utilizing the Assessment Table shown below from N.J.A.C. 7:7A-16.8(d) is calculated as $7,500.00

PENALTY ASSESSMENT TABLE	
Total Points	Penalty Amount
9	$10,000
8	$ 9,000
7	$ 7,500
6	$ 6,000
5	$ 4,500
4	$ 3,000
3	$ 1,500

Pursuant to N.J.A.C. 7:7A-16.5, any person who violates the provisions of the Act, or any code, rule, regulation or order promulgated or issued pursuant thereto, shall be subject to a civil administrative penalty not to exceed $10,000 per day.

Pursuant to N.J.A.C. 7:7A-16.1(d), for all violations under this subchapter, each day during which the violation continues constitutes an additional, separate and distinct offense for which a separate penalty may be assessed.

Pursuant to N.J.A.C. 7:7A-16.1(e), each violation of any applicable law and/or condition [of a permit or approval] shall constitute an additional, separate, and distinct violation for which a separate penalty may be assessed.

A. Penalty for Failure to Comply with Special Condition #1 of Land Use Permit

The Respondents failed to contact Lisa Arroyo of the U.S. Fish and Wildlife Service "two weeks prior to commencement of land clearing activities and wetland impacts." This permit condition was to ensure that adequate measures were taken to protect the federally-listed species Swamp Pink during construction activity. Initial observations by NJDEP Representatives in late 2002 and 2003 indicate that the Respondents did not take all measures to prevent sediment from washing into wetland areas, sediment which the Respondents later were required to remove from the wetlands. Ms. Arroyo was informed of the commencement of the project by NJDEP personnel on or about November 22, 2002, approximately 4-6 months after land clearing activities and wetland impacts had begun.

The Department is using its discretion to assess a penalty for 1 day of violation per month that the violation continued. Therefore the total penalty shall be:

4 days @ $7,500 per day = $30,000

B. Penalty for Unauthorized Clearing and Destruction of Vegetation within Wetlands

During initial inspections in late 2002 and early 2003, Department Representatives observed that the Respondents had conducted excessive clearing of approximately ½ acre of wetlands along a sanitary sewer crossing beyond the 0.11 acre of wetland disturbance authorized by the Land Use Permit. The affected areas were restored 12-18 months after issuance of the NOV

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation continued. Therefore the total penalty shall be:

6 days @ $7,500 per day = $45,000

C. Penalty for Failure to Comply with Mitigation Condition #1 of Land Use Permit

Despite repeated requests since November 2002 for a suitable wetland mitigation proposal, the Respondents have refused to cooperate with Representatives of both the Division of Land Use Regulation and the Bureau of Coastal and Land Use Compliance and Enforcement.

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation has continued. The Respondents were put on notice as early as November 2002 that their initial mitigation proposal involving purported "enhancement" was not a viable mitigation option. In June of 2004, the Division of Land Use Regulation wrote to the Respondents specifically with regard to the wetland mitigation issue and informed the Respondents that their enhancement proposal was not approved. Therefore the total penalty shall be:

24 days @ $7,500 per day = $180,000

D. Penalty for Failure to Comply with Special Condition #6 of Land Use Permit

The Respondents were required to sign and record, with the Camden County Clerk, a deed restriction protecting all wetlands and transition areas at the site, **prior to initiation of site preparation**. Inspections in November, 2002 by Department personnel revealed that site preparation work was well underway since the Spring of 2002. The Respondents failed to file the required deed restriction until June 15, 2004.

The Department is using its discretion to assess a penalty for 1 day of violation per 2 months that the violation continued. Therefore the total penalty shall be:

10 days @ $7,500 per day = $75,000

Total Civil Administrative Penalty Assessment.

A. Penalty for Failure to Comply with Special Condition #1 of Land Use Permit.....$ 30,000
B. Penalty for Unauthorized Clearing and Destruction of Vegetation within Wetlands.....$ 45,000
C. Penalty for Failure to Comply with Mitigation Condition #1 of Land Use Permit.....$180,000
D. Penalty for Failure to Comply with Special Condition #6 of Land Use Permit.....$ 75,000

Total Penalty Assessment = $330,000.00

Pursuant to the Section above entitled "NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT AND NOTICE OF RIGHT TO A HEARING", the Department is assessing a continuing penalty of $250 per day for the herein violations not resolved within 35 days of receipt of this Order. This continuing penalty shall be added to the $330,000.00 initial assessment at the time of the hearing or settlement of this matter.

Let's protect our earth

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENFORCEMENT-FRESHWATER WETLANDS

INVOICE NO.
081158070

Program Interest	Type of Notice	Amount Due
HIDDEN HILL ASSOCIATES LITTLE HILL RD & NEW BROOKLYN RD Gloucester Twp, NJ. 08012 0415-03-0001.1	ORIGINAL(NON-INITIAL)	$ 330,000.00

Billing Date	Due Date	NJEMS Bill ID
07/31/08	09/10/08	000000050841300

Summary	
Total Amount Assessed	330,000.00
Amount Received Before Creating Installment Plan (if installment plans is allowed)	0.00
Amount Transferred To Installment Plan	0.00
Installment Amount	0.00
Total Amount Credited	0.00
Total Amount Debited (Other Than Amounts Assessed)	0.00
Total Amount Due	330,000.00

REMINDER:
- SEE BACK OF INVOICE FOR DEP CONTACT INFORMATION
- MAKE CHECKS PAYABLE TO: TREASURER - STATE OF NEW JERSEY
- WRITE PROGRAM INTEREST ID ON YOUR CHECK (SEE BOTTOM STUB)
- RETURN THE BOTTOM STUB WITH YOUR PAYMENT
- MAIL PAYMENT AND STUB TO NJ DEPARTMENT OF TREASURY (SEE BOTTOM STUB)

See Back Of Page for Billing Inquiries

INVOICE NO.
081158070

08901F (R 3/14/02)

Let's protect our earth

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENFORCEMENT-FRESHWATER WETLANDS

INVOICE NO.
081158070

NJEMS Bill ID
000000050841300

Program Interest ID	Type of Notice	Billing Date	Due Date	Amount Due
0415-03-0001.1	ORIGINAL(NON-INITIAL)	07/31/08	09/10/08	$ 330,000.00

For name and/or address change, check box and write corrections on the back of this invoice. ☐

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NJ DEPARTMENT OF TREASURY
DIVISION OF REVENUE
PO BOX 417
TRENTON, NJ 08646-0417

HIDDEN HILL ASSOCIATES
C4
3001 MARKET ST
PHILADELPHIA PA 19104-2800

EP10000401051000031000000001100111111103300000000002508115807070C46

DEP/HM 0022

Let's protect our earth

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENFORCEMENT-FRESHWATER WETLANDS

INVOICE NO.
081158070

Program Interest	Type of Notice	Amount Due
HIDDEN MILL ASSOCIATES LITTLE MILL RD & NEW BROOKLYN RD Gloucester Twp, NJ. 08012 0415-03-0001.1	ORIGINAL(NON-INITIAL)	$ 330,000.00

Billing Date	Due Date	NJEMS Bill ID
07/31/08	09/10/08	0000000508413 00

AONOCAPA
Prescribed Enforcement Action
This bill was created by the Assessments Trigger.

ASSESSMENTS
Start-End Date: 07/31/2008-07/31/2008 Activity: PEA070001
Assessment Type: PENALTY Status: Open (Pending Payment)
Regulatory Basis: [N.J.S.A. 13:9B-21] Amount: $ 330000.00

Total Amount Assessed: $ 330,000.00

D9902F (R 1/14/02)

Hidden Mill Associate's Response

to the

New Jersey Department of Environmental Protection's

Administrative Order and Notice of Civil Administrative Assessment

EA ID # PEA 030001-0415-03-0001.1

October 28, 2008

Prepared By:

Marathon Engineering and Environmental Services, Inc.
510 Heron Drive, Suite 100
Swedesboro, New Jersey 08085
Phone: 856-241-9705

Respectfully Submitted By:

Rick Ricciardi, PP, AICP
Principal Environmental Scientist

HMA 001.01

Marathon

October 28, 2008 HMA 001.01

I. INTRODUCTION

Marathon Engineering and Environmental Services, Inc. (Marathon) is assisting Hidden Mill Associates and the other named parties in the above referenced matter. It is our understanding that the above referenced Administrative Order and Notice of Civil Administrative Assessment was issued by the New Jersey Department of Environmental Protection (NJDEP) in part, due to the applicant, Hidden Mill Associates not implementing the wetlands mitigation plan for the disturbance of 0.595 acres of freshwater wetlands, as required as a condition of the Individual Freshwater Wetlands Permit # 0414-97-0011.1, 0414-92-0012.3 and modification to 15497, dated March 21, 2002. A copy of this Permit is provided in Attachment A.

The purpose of this letter report is to demonstrate to the NJDEP that Hidden Mill Associates did not disregard the condition of the Individual Freshwater Wetlands Permit that required wetlands mitigation be undertaken prior to or concurrent with the construction of the approved project. In fact, Hidden Mill Associates had relied on verbal guidance and recommendations that were received from the NJDEP staff and Deputy Attorney General to move forward with portions of this wetland enhancement within a severely degraded area of the site, even prior to the issuance of the Individual Freshwater Wetlands Permit. Finally, by the NJDEP's own admission, this wetland area, downslope of the proposed road crossing and deemed to be severely degraded in 1991 has restored back to a viable palustrine forested wetland in 2002 after the activities, described in more detail in this report were undertaken by Hidden Mill Associates in the 1990s.

I have personally been involved with the assistance and preparation of the federal and state regulatory applications for the Hidden Mill project from July of 1980 through the issuance of the Individual Freshwater Wetlands Permit in March of 2002. I am also intimate with the project history and discussions that occurred between the respondent, the New Jersey Attorney General's Office, the New Jersey Department of Environmental Protection (NJDEP) and the United States Army Corps of Engineers as I have worked on this project as a Senior Environmental Scientist at Pennoni Associates from July 1980 through September 1997 and as a Principal Environmental Scientist with Marathon from September of 1997 through March 21, 2002.

II. PROJECT HISTORY

Due to the long history of this project spanning almost 40 years, it is important that the current staff at NJDEP be familiar with the background of the development and Hidden Mill Associates. Therefore, I feel it is essential that some background on the project be provided.

The Hidden Mill Residential Development has been in various stages of design and development since the 1970s. For various reasons, the project was never able to advance to ultimate final approval due to municipal administrative issues that had nothing to do with this project, Superfund landfill contamination constraints that were perceived to have impacts on health, safety and welfare of the future residents of the Hidden Mill development, third party litigation on three separate accounts and ultimately the assumption of Section 404 of the federal Clean Water Act by the NJDEP from the United States Army Corps of Engineers.

In the 1980s, a formal wetland delineation was performed by Pennoni Associates and a Wetlands Jurisdictional Determination was issued by the United States Army Corps of Engineers. Development regulated activities were approved by the United States Army Corps of Engineers on March 4, 1983 for the filling of headwater wetlands within the Subject Property. Essentially the entire project encompassed headwater wetlands and could have been filled under this approval without the need to obtain approval from the NJDEP. A copy of this Nationwide Permit is provided in Attachment B. However, due to the offsite GEMS landfill contamination, the project was not able to be advanced until the groundwater contamination issues were evaluated by the United States Environmental Protection Agency and the NJDEP and a determination was made that the landfill contamination would not jeopardize the health of the future Hidden Mill residents. While the evaluation of GEMS Landfill was taking place by federal and state agencies, the Nationwide Permit rules changed, thereby not permitting many of the previously approved wetland activities. This resulted in significant changes to the design of the Hidden Mill development.

On November 6, 1986, after the project was redesigned, a second Department of the Army Nationwide Permit was issued by the United States Army Corps of Engineers for the filling of wetlands to construct a secondary access road through the adjacent Greenbriar project, an internal road access point to connect two upland areas that were to be developed, stormwater outfalls, road widening of Little Mill Road and the installation of underground utilities. A copy of this Nationwide Permit is provided as Attachment C. However, under the Section 404 Permit review process, the applicant, Hidden Mill Associates was now required to obtain a companion 401 Water Quality Certificate from the NJDEP. The NJDEP ultimately denied the 401 Water Quality Certification on January 18, 1991. This application was denied based on criteria that were never formally adopted by the NJDEP under the 401 Water Quality Certification review process. The lack of criteria was the basis for Hidden Mill Associates filing an appeal of this denial and ultimately entering into a settlement agreement with the NJDEP on a significantly revised site plan that culminated from numerous meetings with the NJDEP, Gloucester Township and other federal environmental resource agencies.

It is noteworthy that while the Hidden Mill 401 Water Quality Certification application was under review by the NJDEP, the NJDEP assumed authority of the federal 404 Wetlands Program, thereby eliminating the need to go to the United States Army Corps of Engineers to obtain wetland permits. Because Hidden Mill Associates had secured

subdivision and site plan approval from the Gloucester Township Planning Board prior to the effective date of the New Jersey Freshwater Wetlands Protection Act of 1987, the Hidden Mill project was determined to be exempt by the NJDEP from the New Jersey Freshwater Wetlands Protection Act. Enclosed as Attachment D is the May 24, 1989 Exemption Letter confirming that the Hidden Mill project was exempt from the requirements of the New Jersey Freshwater Wetlands Protection Act.

During the appeal of the 401 Water Quality Certificate denial, there were numerous discussions with the New Jersey Attorney General's Office, the NJDEP, the United States Army Corps of Engineers, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service with regard to a settlement agreement being negotiated between Hidden Mill Associates and the NJDEP. Many of the discussions focused on the applicant making significant design changes that would minimize wetland impacts. These changes included the elimination of a secondary point of access through Broad Acres Drive within the adjacent Greenbriar Development, the elimination of dwelling units from uplands areas that were outside wetlands and wetland transition areas, maintaining wetland transition areas throughout the development though the project was exempt from buffers and the acquisition of what is now known as the Murray Hill development to provide a secondary point of access that would not have any wetland impact. As these suggestions were evaluated, Hidden Mill Associates entered into a settlement agreement with the NJDEP and submitted an Individual Freshwater Wetlands Permit application for the changes that were negotiated. The settlement agreement significantly altered the layout of the development, resulted in a loss of lots and required the imposition of restrictions, which had the respondent prevailed, the litigation would not have been required.

III. WETLAND ENHANCEMENT PLAN

During the above noted settlement discussions, it was suggested by the NJDEP that to compensate for filling of the wetlands, Hidden Mill Associates could perform wetland enhancement of a degraded wetland area downslope of the internal road crossing. This proposed road crossing was located over an existing dirt roadway that extended through the tributary of Little Mill. The quality of this wetland had deteriorated due to considerable erosion taking place from unstable soil conditions that were attributed to dirt bike trafficking through the site and the highly erodible Westphalia soils. The existing pipe culvert that was essential to maintaining the stream flow had failed causing the stream flow to flood the roadway. The disrupted conditions of the road were so significant that hydrologic flow was impeded at the existing dirt-covered road crossing and the upslope wetland corridor was often flooded. The downslope wetland area was deposited with soil erosion that resulted in the growth of invasive herbaceous wetland plant species that degraded the quality of the wetlands and entirely changed the wetland species composition from a palustrine forested broad leaved deciduous wetland to a combined emergent- palustrine forested wetland system. Correspondence and memos between Hidden Mill Associates, the NJDEP and the Attorney General's Office make continued reference to the acknowledgement that the enhancement of this wetland area was acceptable to the NJDEP, however, the Enhancement Plan would

have to be submitted to the NJDEP and approved, prior to starting of construction. Copies of this correspondence are provided in Attachment E.

In fact, Hidden Mill Associates relying on representatives of the NJDEP during these settlement discussions initiated many of the corrective measures in the 1990s I order to restore the hydrologic characteristics of the area to their original conditions; replaced the silted in drainage pipes underneath the existing dirt roadway where the development roadway was proposed; removed sediments from wetlands that were situated in downslope of the crossing; and stabilized the disturbed soil conditions that were contributing to the sedimentation of this wetland. The only remaining work that needed to be completed was the preparation of a Wetland Enhancement Plan that showed the plant species that were going to be planted and the ultimate approval of the plan prior to its implementation.

When the Individual Freshwater Wetlands Permit was issued by the NJDEP, Hidden Mill Associates was provided the option to mitigate for the loss of 0.5950 acres of forested wetlands through either onsite or offsite creation, restoration or enhancement or if available, through the purchase of 1.2 mitigation credits from the Woodbury Creek Wetland mitigation Bank. Because of their reliance on the conditions of the settlement agreement and the previous work that had been performed, they decided that the enhancement of the existing wetlands was a more favorable option. On August 8, 2002, a formal Wetland Enhancement Plan was submitted to the NJDEP for review. On November 14, 2002, a site inspection was conducted by the NJDEP and Pennoni Associates. At that meeting, it was concluded that the Wetland Enhancement Plan, submitted by Pennoni Associates was not a viable wetland mitigation alternative. Hidden Mill Associates was advised to explore other mitigation alternatives. On June 24, 2004, correspondence documenting that the Wetlands Enhancement Plan was not acceptable to the NJDEP was sent to Hidden Mill Associates. The NJDEP letter also stated that it had been determined that the proposed enhancement area was now functioning as palustrine wetland system. A copy of this letter is provided in Attachment F.

While the previous site work that was performed within the wetland enhancement area during the settlement discussions did not include the planting of trees, the work was obviously sufficient enough to eliminate the invasive herbaceous wetland plants that had been established, the area and allowed for the palustrine forested wetland to reestablish itself in. Had Hidden Mill Associates known that they would be required to purchase 1.2 mitigation credits from a wetland mitigation bank at the cost of $400,000 per credit, they would never had agreed to the conditions of the settlement agreement and quite possibly would have prevailed.

Finally, all but of significance to the evaluation of this matter, of the wetland activities that were proposed by Hidden Mill Associates were permitted under various Statewide General Wetlands Permit criteria with the exception of the construction of the internal

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roadway. The reason the internal roadway had to be reviewed under an Individual Freshwater Wetlands Permit application was because the road length was greater than 100 feet. In 2003, the criteria for a General Permit 10B – Minor Road Crossing was revised by the NJDEP to permit the construction of the proposed roadway provided the disturbance was no greater than one-quarter acre. The roadway constructed fell within these criteria. A revision to the Permit at that time would have eliminated the need to obtain the Individual Freshwater Wetlands Permit and the need to provide wetlands mitigation.

m/eng/hma00101/pkeledy10-28-08.ltr

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

(See Issuing Division below)

PERMIT*

The New Jersey Department of Environmental Protection grants this permit in accordance with your application, attachments accompanying same application, and applicable laws and regulations. This permit is also subject to the further conditions and stipulations enumerated in the supporting documents which are agreed to by the permittee upon acceptance of the permit.

Permit No. 0414-97-0011.1, 0414-92-0012.3, Modification to 15497	**Application No.**

Issuance Date MAR 2 1 2002	Effective Date MAR 2 1 2002	Expiration Date MAR 2 1 2007

Name and Address of Applicant Hidden Mill Associates 3001 Market Street Philadelphia, 19104-2897	**Name and Address of Owner** Applicant	**Name and Address of Operator** Applicant
Location of Activity/Facility ***(Street Address)*** Little Mill Road and New Brooklyn Road Gloucester Township, Camden County Waterway: Tributary to Mason's Creek	**Issuing Division** Land Use Regulation Program	**Statute(s)** NJSA 13:9B-1 NJSA 58:10A

Type of Permit: Freshwater Wetland Individual, Freshwater Wetland Transition Area Waiver Averaging Plan, Freshwater Wetland Transition Area Waiver-Special Activity General Permit No.11, Modification and Water Quality Certificate	Maximum Approved Capacity, if applicable

This permit grants permission to: construct an entry road ("Hidden Drive") for access to the site by filling 0.2352 acres of freshwater wetlands from Little Mill Road to uplands within the Hidden Mill property using a twin 3'by 7' box culvert, 49' long to carry the stream flow under Hidden Drive. On the west side of Little Mill Road, there will be improvements to County Bridge #8D8-1978, including grading (cut and fill) adjacent to the road to facilitate stormwater management, sidewalk construction and erosion control, which will impact 0.2410 acres of wetlands. Construct a sanitary sewer crossing of 8" "D.I.P." gravity main that will cross a tributary of Mason's Run along a segment of the sewer main that extends from Little Mill road to the pump station location north of Hidden Drive. This activity will impact 0.11 acres of wetlands. Modification in Detail (Project No. 15947) to eliminate seven stormwater outfalls, one culvert, one water main crossing and one sanitary sewer crossing; relocate one sanitary sewer crossing; and add one water main crossing. At the Murray Hill Estates property, the freshwater wetland transition area encroachments are for the purpose of constructing fifty-one townhouse dwellings, a stormwater/water quality basin and a development roadway (Hidden Drive). The total encroachment of Freshwater Transition Area is 34,398 square feet (0.79 acres) with transition area compensation of 35,286 square feet (0.81 acres). Construct a stormwater basin outfall with a transition area encroachment of 2,900 square feet (0.07 acres). The site is located on Block 1, Lots 5 and 6, Block 14402, Lots 45 and 46, Gloucester Township, Camden County. Mitigate for the fill of 0.5950 acres of Freshwater Wetlands.

PROJECT IS SHOWN ON APPROVED DRAWINGS LISTED ON PAGES 9, 10 and 11 OF THIS PERMIT.

Prepared by: Andrew D. Gale ✓
Andrew Gale, Project Manager

DB5221-0144

Revised Date	Approved by the Department of Environmental Protection Name (Print or Type) _____ Title _____ Signature SEE PAGE 10 OF PERMIT Date _____

DEP/HM 0030

**The word permit means "approval, certification, registration, etc."*

(General Conditions are on Page Two)

Permit General Conditions

1. This permit is revocable, or subject to modification or change at any time, pursuant to the applicable regulations, when in the judgement of the Department of Environmental Protection of the State of New Jersey such revocation, modification or change shall be necessary.

2. The issuance of the permit shall not be deemed to affect in any way action by the Department of Environmental Protection of the State of New Jersey on any future application.

3. The works, facilities, and/or activities shown by plans and/or other engineering data, which are this day approved, subject to the conditions herewith established, shall be constructed and/or executed in conformity with such plans and/or engineering data and the said conditions.

4. No change in plans or specifications shall be made except with the prior written permission of the Department of Environmental Protection of the State of New Jersey.

5. The granting of this permit shall not be construed to in any was affect the title or ownership of property, and shall not make the Department of Environmental Protection or the State a party in any suit or question of ownership.

6. This permit does not waive the obtaining of Federal or other State or local government consent when necessary. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.

7. A copy of this permit shall be kept at the work site, and shall be exhibited upon request of any person.

8. In cases of conflict, the conditions of this permit shall supersede the plans and/or engineering data.

IN ADDITION TO THE GENERAL CONDITIONS PRINTED ABOVE, THE FOLLOWING CONDITIONS SHALL ALSO APPLY:

9. Limit and Extent of Approval

   a. This approval grants permission to the applicant and/or its agents to undertake an activity regulated by the State of New Jersey as described by the text of this permit and as detailed by the herein approved plans.

   b. All activities authorized by this permit shall be completed within five years of the issuance date as listed on the first page of this document. At that time, this approval, if not previously revoked, shall automatically become null and void, and none of the activities referenced herein may commence or continue until the Department has granted a new approval.

10. Responsibilities of Applicant

a. The granting of this permit does not in any way relieve the applicant and/or its agents from the responsibility for damages caused by any construction or activities hereby approved, nor does the Department accept responsibility for any structural designs.

b. No construction authorized by this permit may begin until the enclosed permit acceptance form has been signed by the applicant and is returned to the Land Use Regulation Program at P.O. Box 439, Trenton, New Jersey 08625-0439.By signing and submitting this form, the applicant accepts this permit in its entirety and agrees to adhere to all of its terms and conditions. Please be advised that this permit may be declared null and void should it be determined that adequate measures had not been taken by the applicant and/or its agents to ensure the continuous implementation of these terms and conditions.

c. Within ten (10) days of the receipt of this permit by the applicant, this permit shall be recorded in its entirety in the office of the County Clerk or the Registrar of Deeds and Mortgages for each county where this permit is located. Verified notice of this action shall be forwarded to the Department immediately thereafter.

11. Consistency with Areawide Water Quality Management Plan

Acting in its capacity as the Statewide Water Quality Management Planning Agency, the Department has found this project to be consistent with provisions and recommendation of the Tri-County Water Quality Management Plans. Please be advised that this determination shall no longer be valid if any modifications are made to the herein approved plans which would result in a change in the anticipated wastewater flow volumes (such as the addition of sewerage generating structures or a proposed increase in size to any previously proposed or herein approved structures), or if there is any change in the proposed method of wastewater treatment. Plans amended as such must be resubmitted to the Department for a new consistency determination prior to the commencement of the herein approved activities.

12. Approvals from the following are required by the permittee prior to the commencement of the herein-permitted activities:

Camden County Soil Conservation District
Bureau of Connections and Construction – Treatment Works Approval

SPECIAL CONDITIONS

In addition to the standard conditions set forth in section 7:7A-7, the following special conditions must be met for the activity authorized under this individual permit and transition area waiver.

1. **Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U. S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention: Lisa Arroyo and Telephone: 609-646-9310.**

2. **Prior to site preparation, the Permittee must provide enhanced soil and erosion control mechanisms during construction for both Hidden Mill and Murray Hill Estates sites.** The enhanced erosion controls are to be placed at the interface of the transition areas and the upland lot areas. Along the south side of the Hidden Mill development the applicant must immediately stabilize exposed soils that lie upslope of the wetland on the south side of the project via methods described in "Standards for Soil Erosion and Sediment Control in New Jersey" for either "Temporary Vegetative Cover for Soil Stabilization" or "Stabilization with Mulch only" (New Jersey State Soil Conservation Committee, 1987). Additionally, the Permittee must utilize both silt fence and a bale barrier parallel to one another, along the slope contour as described in "Standards for Soil Erosion and Sediment Control in New Jersey". At the Murray Hill site, the Permittee must incorporate the same sediment controls methods (described above for the Hidden Mill site) and must also construct, at the limits of the clearing along the western edge of the site, a small soil berm between 2 and 4 feet in height to prevent water from moving down-slope toward wetlands containing swamp pink. The Permittee must correct any excessive soil erosion condition immediately upon its identification. **This condition shall be printed on all applicable construction plans**.

3. The Permittee must provide unrestricted access to the U. S. Fish and Wildlife Service to monitor construction activities at the public right-of way areas to both the Hidden Mill and Murray Hill developments. The Permittee must also provide the U. S. Fish and Wildlife Service, unrestricted access at public right-of way areas to both the Hidden Mill and Murray Hill developments for monitoring of swamp pink occurrences for the life of the projects.

4. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Hidden Mill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, utilities). Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,100 feet in length at the Hidden Mill site between the townhouses on the southern side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "FINAL SITE PLANS & FINAL SUBDIVISION PLANS SECTIONS 1, 2 AND 5 HIDDEN MILL ASSOCIATES" "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY FINAL GRADING & UTILITY PLAN SEC-2 ", dated February 10, 1992, last revised April 9, 2001, Drawing No. C0202.

5. **Prior to site preparation, the Permittee must erect flagging demarcating the location of the fence and the wetland line at the Murray Hill site for review and approval by the Program and the Service.** Prior to construction, the Permittee must provide a detail of the

fence which should be designed to restrict access to the wetland containing swamp pink by people and vehicles from the project site and should not be less than 4 feet in height and should be constructed of a suitably durable material (e.g. wood, wire). The fence must be constructed prior to beginning construction of townhouses or their related infrastructure (e.g., roads, Permittee must provide a maintenance plan for the repair and replacement of the fence for the life of the project. The Permittee must construct a contiguous fence of approximately 1,200 feet in length at the Murray Hill Estates site between the townhouses on the western side of development and the freshwater wetland containing swamp pink, which is depicted on the plans entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY, FINAL GRADING & UTILITY PLAN, SECTION 2 dated March 28, 1994, last revised June 15, 2001" Drawing No. C0202 and "FINAL GRADING & UTILITY PLAN, SECTION 3" Drawing No. C0203.

6. **Prior to initiation of site preparation**, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall occur in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act.

MITIGATION CONDITIONS

The following special conditions must be met for the activity to be authorized under these permits:

1. Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below.

2. Purchase previously acquired credits but not used, from the Woodbury Creek Wetland Mitigation Bank as detailed below.

a) The Permittee must submit proof of the purchase of 1.20 mitigation credit to Virginia Kop'Kash, from the Land Use Regulation Program, before the authorized construction may begin. To purchase previously acquired credits from the mitigation bank, the Permittee must contact Marge Della Vecchia from the Cherry Hill Township Engineers Office. If the Permittee waits more than sixty days to make that purchase she/he must first contact Virginia Kop'Kash, from the Land Use Regulation Program at (609) 777-0454 to determine if the mitigation credits are still available for sale.

3. For an on-site or off-site individual mitigation project the Permittee must submit a mitigation proposal to the Land Use Regulation Program, to create, enhance or restore an area of freshwater

review and approval. Attached to this permit is a list of the necessary information that must be included in that on-site or off-site mitigation proposal. If the Permittee is proposing to construct a wetland creation or restoration project, two acres of creation or restoration must be performed for each acre disturbed and the mitigation area must, in addition to this, include a fifty foot transition area. The slope of the created transition area must be fairly flat and therefore have a slope no greater than 10:1. If the Permittee is proposing to construct a wetland enhancement project, the ratio of wetlands enhanced to wetlands disturbed shall be sufficient to replace loss of ecological value from the permitted project and shall be approved by the Program. The following conditions and information must be adhered to when performing mitigation off-site.

a) Submit for review and approval a conceptual plan showing the location and proposed hydrology of the mitigation site.

b) Once the Program has approved the conceptual plan of the mitigation project the Permittee must submit a final design of the mitigation project and include all the items listed on the attached on-site/off-site mitigation proposal checklist.

c) The mitigation project must be conducted prior to or concurrent with the construction of the approved project.

d) In accordance N.J.A.C. 7:7A-14.1, obtain a secured bond, or other financial surety acceptable to the Department including an irrevocable letter of credit or money in escrow, that shall be sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the Permittee default. The financial surety for the construction of the mitigation project shall be posted in an amount equal to 115 percent of the estimated cost of the construction. In addition, financial surety to assure the success and maintenance of the mitigation project shall be posted in an amount equal to 30 percent of the estimated cost of construction. The Department will review the financial surety annually and the Permittee shall adjust the surety to reflect current economic factors. Please be advised if a governmental body is performing the mitigation the need for financial assurance is waived.

e) The Permittee shall complete and sign the Department approved conservation restriction for the mitigation site (copy attached). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages in some counties), in the county wherein the lands of the mitigation project are located, within 10 days of approval of the wetland mitigation proposal.

f) The Permittee shall notify the Land Use Regulation Program, in writing, at least 14 days in advance of the start of construction of the wetland mitigation project for an on-site pre-construction meeting between the Permittee, the contractor, the consultant and the Program.

g) The mitigation designer must be present during critical stages of construction of the mitigation project this includes but is not limited to herbicide applications, sub-grade inspection, final grade inspection, and planting inspection.

h) Immediately following final grading of the site, a disc must be run over the site to eliminate compaction. Mitigation designer must be present to oversee this phase of the project and confirm with the Department this activity has occurred prior to planting of the site.

i) Immediately following the final grading of the mitigation site and prior to planting, the Permittee shall notify the Program for a post-grading construction meeting between the Permittee, contractor, consultant and the Program.

j) Immediately following final grading and planting of the wetland mitigation project, the Permittee shall notify the Land Use Regulation Program, in writing that the construction of the mitigation project has been completed in accordance with the approved plan. In addition to the notice, the Permittee shall submit as built plans of the site and photos with a photo location map of the completed project.

k) The Permittee shall post the mitigation area with several permanent signs, which identify the site as a wetland mitigation project and that mowing, cutting, dumping and draining of the property is prohibited. The sign must also state the name of the engineering/environmental firm that designed and constructed the mitigation site with a phone number. In addition, the Permittee shall visibly mark/staked (oak stakes) the extent of the wetland mitigation area and ensure the stakes remain that way for the entire monitoring period with the location of those stakes shown on the as built plan.

l) If the Program determines that the mitigation project is not constructed in conformance with the approved plan, the Permittee will be notified in writing and will have 60 days to submit a proposal to indicate how the project will be corrected. No financial surety will be released by the Program until the Permittee demonstrates that the mitigation project is constructed in conformance with the approved plan and all soil has been stabilized and there is no active erosion.

m) The Permittee shall monitor the wetland mitigation project for 5 full growing seasons if it is a proposed forested wetland and for 3 full growing seasons for a scrub/shrub or emergent wetland after the mitigation project has been constructed. The Permittee shall submit monitoring reports to the Land Use Regulation Program no later than November 15th of each monitoring year (All monitoring report must include the standard items identified in the attachment and the information requested below).

n) Throughout the monitoring period, the Permittee must eliminate either through hand-pulling, application of a pesticide or other Department approved method any occurrence of an invasive/noxious species on the mitigation site.

o) All monitoring report will include all the following information (see attached monitoring report checklist):

i. The monitoring reports submitted prior to the final one must include documentation that it is anticipated, based on field data, that the goals of the wetland mitigation project including the transition area, as stated in the approved wetland mitigation proposal and the permit will be satisfied. If the Permittee is finding problems with the mitigation project and does not anticipate the site will be a full success then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation to demonstrate that the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. Documentation for this report will also include a field wetland delineation of the wetland mitigation project based on techniques as specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989);

ii. The monitoring reports submitted prior to the final one must include documentation that the site is progressing towards the 85 percent survival and percent aerial coverage of mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified

on the mitigation planting plan. If the Permittee is finding problems with the mitigation project and does not anticipate the site will or has achieved the 85 percent survival and 85 percent aerial coverage criteria then recommendations on how to rectify the problems must be included in the report with a time frame in which they will be completed. The final monitoring report must include documentation the site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. Documentation to demonstrate the site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria lobata (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose). If the site is more than 10 percent occupied by invasive or noxious species then the monitoring report must include a proposed remediation plan and a time frame in which it will be completed.

iv. Demonstrate through soil borings and a soil test that a minimum six inch layer of top-soil or A-Horizon was used/retained on the mitigation site and if the natural top-soil was used at least 8% organic carbon content (by weight) was incorporated into the A-horizon for sandy soil and for all other soil types 12% organic content or if manmade top soil was used it consisted of equal volumes of organic and mineral materials. If the site fails to meet this standard the monitoring report must include a proposed remediation plan and a time frame in which it will be completed. The final monitoring report must include documentation that the site contains hydric soils or there is evidence of reduction occurring in the soil; and

v. The monitoring reports submitted prior to the final report must include documentation that demonstrates the proposed hydrologic regime as specified in the mitigation proposal appears to be met. If the Permittee is finding problems with the mitigation project and does not anticipate the proposed hydrologic regime will be or has not been met then recommendations on how to rectify the problem must be included in the report along with a time frame within which it will be completed. The final monitoring report must include documentation that demonstrates that the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

p) Once the required monitoring period has expired and the Permittee has submitted the final monitoring report, the Program will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the Permittee demonstrates all of the following:

i. That the goals of the wetland mitigation project including the required transition area, as stated in the approved wetland mitigation proposal and the permit, has been satisfied. The Permittee must submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows acres of emergent/scrub shrub/forested wetlands have been created/restored/enhanced;

ii. The site has an 85 percent survival and 85 percent aerial coverage of the mitigation plantings or target hydrophytes which are species native to the area and similar to ones identified on the mitigation planting plan;

iii. The site is less than 10 percent occupied by invasive or noxious species such as but not limited to Phalaris arundinacea (Reed canary grass), Phragmities australis (Common reed grass), Pueraria montana (Kudzu), Typha latifloia (Broad-leaved cattail), Typha angustifolia (Narrowed leaved cattail), Lythrum salicaria (Purple loosestrife), Ailanthus altissima (Tree-of-heaven), Berberis thunbergi (Japanese barberry), Berberis vulgaris (Common barberry), Elaeagnus angustifloia (Russian olive), Elaeagnus umbellata (Autumn olive), Ligustrum obtusifolium (Japanese privet), Ligustrum vulgare (Common privet) and Rosa multiforia (Multiflora rose);

iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

v. That the proposed hydrologic regime as specified in the mitigation proposal, which proves the mitigation site is a wetland has been satisfied. The documentation shall include when appropriate monitoring well data, stream gauge data, photographs and field observation notes collected throughout the monitoring period.

q) All remaining financial surety, if required, will be released concurrent with the Program notifying the Permittee that the mitigation project is a success.

r) If the mitigation project is considered a failure, the Permittee is required to submit a revised mitigation plan to rectify the wetland mitigation site. The plan shall be submitted within 60 days of receipt of the letter from the Program indicating the wetland mitigation project was a failure. The financial surety, if required, will not be released by the Program until such time that the Permittee satisfies the success criteria as stipulated in item (p).

Hidden Mill

The plans hereby approved are seventeen sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN" dated February 10, 1992, last revised August 3, 2001, Sheet 2 of 30, Drawing No. C0101;
"GRADING AND UTILITY PLAN, SEC-1", dated February 10, 1992, last revised November 20, 2001, Sheet 3 of 30, Drawing No. C0201;
"FINAL GRADING AND UTILITY PLAN, SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 4 of 30, Drawing No. C0202;
"FINAL GRADING AND UTILITY PLAN, SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 5 of 30, Drawing No. C0205;
"FINAL GRADING AND UTILITY PLAN, SEC-6", dated February 10, 1992, last revised November 20, 2001, Sheet 6 of 30, Drawing No. C0206;
"FINAL HIDDEN MILL PROFILE", dated February 10, last revised August 3, 2001, Sheet 10 of 30, Drawing No. C0801;
"FINAL ROAD PROFILES", dated February 10, 1992, last revised August 3, 2001, Sheet 11 of 30 Drawing No. C0802;
"FINAL LITTLE MILL ROAD PROFILE", dated February 10, 1992, last revised April 9, 2001, Sheet 12 of 30, Drawing No. C0806;
"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 13 of 30, Drawing No. C0808;

"FINAL UTILITY PROFILES", dated February 10, 1992, last revised January 29, 2001, Sheet 14 of 30, Drawing No. C0809;
"FINAL DETAILS", dated February 10, 1992, last revised November 1, 1996, Sheet 15 of 30, Drawing No. C1101;
"FINAL DETAILS", dated February 10, 1992, last revised November 20, 2001, Sheet 16 of 30, Drawing No. C1102;
"FINAL SOIL CONSERVATION PLAN SEC-1", dated February 10, 1992, last revised August 3, 2001, Sheet 20 of 30, Drawing No. C1201;
"FINAL SOIL CONSERVATION PLAN SEC-2", dated February 10, 1992, last revised November 20, 2001, Sheet 21 of 30, Drawing No. C1202;
"FINAL SOIL CONSERVATION PLAN SEC-5", dated February 10, 1992, last revised November 20, 2001, Sheet 22 of 30, Drawing No. C1205;
"FINAL SOIL CONSERVATION PLAN SEC-6", dated February 10, 1992, last revised August 3, 2001, Sheet 23 of 30, Drawing No. C1206;
"FINAL SOIL EROSION CONTROL DETAILS", dated February 10, 1992, last revised January 29, 2001, Sheet 24 of 30, Drawing No. C1301.

Murray Hill

The plans hereby approved are seven sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY":

"FINAL OVERALL SITE PLAN", dated March 28, 1994, last revised May 1, 2001, Sheet 2 of 25, Drawing No. C0101;
"FINAL GRADING & UTILITY PLAN, SECTION 2", dated March 28, 1994, last revised June 15, 2001, Sheet 4 of 25, Drawing No. C0202;
"FINAL GRADING & UTILITY PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001, Sheet 5 of 25, Drawing No. C0203;
"FINAL DETAILS", dated March 28, 1994, last revised January 29, 2001 Sheet 14 of 25, Drawing No. C1103;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 2", dated March 28, 1994, last revised April 25, 1995, Sheet 16 of 25, Drawing No. C1202;
"FINAL SOIL EROSION CONTROL PLAN, SECTION 3", dated March 28, 1994, last revised May 1, 2001 Sheet 17 of 25, Drawing No. C1203;
"FINAL SOIL CONSERVATION DETAILS", dated March 28, 1994, last revised December 13, 2000 Sheet 19 of 25, Drawing No. C1301.

Little Mill Road Improvements

The plans hereby approved are five sheets prepared by Hugh J. Dougherty for Pennoni Associates, Inc. entitled: "HIDDEN MILL BLOCK 14402 – LOTS 45 & 46 GLOUCESTER TWP., CAMDEN COUNTY, NEW JERSEY"

"PLAN & PROFILE (STA. 4+00 TO 12+00) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 3 of 18, Drawing No.C0851;
"PLAN & PROFILE (STA. 22+00 TO 31+47.88) LITTLE MILL ROAD", dated March 9, 2001, last revised November 28, 2001, Sheet 5 0f 18, Drawing No.C0853;

"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 6 of 18, Drawing No.C0854;
"FINAL LITTLE MILL ROAD", dated February 22, 2001, last revised November 28, 2001, Sheet 7 of 18, Drawing No.C0855;
"FINAL DETAILS", dated February 22, 2001, last revised November 28, 2001 Sheet 18 of 18, Drawing No.C1101.

Murray Hill Estates

The plan hereby approved is one sheet prepared by Vincent R. Mariani for Pennoni Associates Inc entitled: "MURRAY HILL ESTATES BLOCK 18799 LOT 1, BLOCK 18899 LOT 1 GLOUCESTER TOWNSHIP, CAMDEN COUNTY, NEW JERSEY" " FINAL WETLANDS PERMITTING PLAN RAI COMMERCIAL, INC.", dated March 3, 1994, last revised May 2001.

Approved By: Mark N. Mauriello DATE: 3/21/02
Mark N. Mauriello, Director
Land Use Regulation Program

RETURN TO ⇒ ✓ Env. __ Label

ROBERT W. BUCKMAN
ARCHER & GREINER
ONE CENTENNIAL SQUARE
HADDONFIELD NJ 08033

Deed Book Permit

RECORDED CAMDEN COUNTY
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DEP/HM 0040

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DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT, CORPS OF ENGINEERS
CUSTOM HOUSE—2 D & CHESTNUT STREETS
PHILADELPHIA, PENNSYLVANIA 19106

IN REPLY REFER TO
Permits Branch

04 MAR 1983

Subject: NAPOP-R-NP83-035, Hidden Mill Run Residential Development

Mr. Albert Ricciardi
Pennoni Associates, Inc.
555 New Jersey Avenue
P.O. Box 566
Absecon, New Jersey 08201

Dear Mr. Ricciardi:

This is in further regard to your letter received February 8, 1983, on behalf of Mill Run Residential Development within the tract of Mason Run/North Branch Tributaries of Big Timber Creek located on Little Mill Road, Gloucester Township, Camden County, New Jersey.

Current Department of the Army regulations limit the Corps' regulatory authority on this project to the discharge of dredged or fill material into waters of the United States including their adjacent wetlands. Therefore, the proposed project is subject to the jurisdiction of this office. However, such discharges into non-tidal streams and their impoundments including adjacent wetlands that are located above the point where the average annual flow is less than five cubic feet per second are permitted provided certain conditions are met. Since the proposed project is located in such an area, it is approved by a Department of the Army nationwide permit provided the attached conditions are met.

This authorization does not affect your responsibility to obtain any other Federal, State or local approval(s) required by law for the proposed work. If you should have any further questions regarding this matter, please contact Mr. George Oliver of this office at (215) 597-4723.

Sincerely,

John M. Olson
for Frank J. Cianfrani
Acting Chief, Permits Branch

Enclosure

DEPARTMENT OF THE ARMY
PHILADELPHIA DISTRICT, CORPS OF ENGINEERS
CUSTOM HOUSE—2 D & CHESTNUT STREETS
PHILADELPHIA, PENNSYLVANIA 19106-2991

REPLY TO ATTENTION OF
Regulatory Branch

SUBJECT: NAPOP-R-Hidden Mill Run Development

Mr. C. R. Pennoni, P.E.
Pennoni Associates, Inc.
1911 Arch Street
Philadelphia, Pennsylvania 19103

Dear Mr. Pennoni:

This is in regard to your letter dated August 26, 1986, concerning the validity of a Nationwide Permit issued by the Corps of Engineers for the Hidden Mill Development located adjacent to Mason Run, Gloucester Township, Camden County, New Jersey.

In the enclosed letter dated March 4, 1983, this office informed you of the applicability of Nationwide Permit 33 CFR 330.4(a)(1) for the discharge of dredged and/or fill material into wetlands located on the above referenced property. This Nationwide Permit authorized the discharge of dredged and/or fill material into non-tidal streams and their impoundments including adjacent wetlands that were located above the headwaters of Mason Run.

On October 5, 1984, Nationwide Permit 33 CFR 330.4(a)(1) of the Corps' July 22, 1982 Interim Final Regulations was modified and reissued as Nationwide Permit 33 CFR 330.5(a)(26). In accordance with this reissued Nationwide Permit, discharges of dredged and/or fill material which cause the loss or adverse modification of 10 acres or more of headwater or isolated waters or wetlands requires individual Department of the Army approval whereas discharges affecting 0 to 10 acres requires notification of the District Engineer and are eligible for nationwide permit approval.

Discharges authorized by Nationwide Permit 33 CFR 330.4(a)(1) continued to be authorized (grandfathered) for 18 months from October 5, 1984, provided that the permittee demonstrate to the District Engineer on or before December 4, 1984, that investments made toward the discharge in reliance on the previous authorizations of the above mentioned Nationwide Permits could not be modified to comply with Federal regulations 33 CFR 320. et. seq. without substantial loss to the permittee. Because this office did not receive correspondence from the permittee demonstrating reliance on the previous authorization prior to December 4, 1984, and since the 18 month "grandfathering" period expired on April 4, 1986, the Nationwide Permit 33 CFR 330.4(a)(1) referenced in our letter dated March 4, 1983, is no longer applicable to the Hidden Mill Project.

? Feb 86 consent approval & Mayor's ltr. to ? ACOE.

RECEIVED
NOV 6 1986
DEP/HM 0042
PENNONI ASSOC., INC.

Leaders in Customer Care

Furthermore, in response to the reissuance of Nationwide Permit 33 CFR 330.5(a)(26) the State of New Jersey blanketly denied Water Quality Certification for discharges of dredged and/or fill material that cause the loss or adverse modification of 1 to 10 acres of headwater or isolated waters or wetlands. Presently discharges of dredged or fill material which cause the loss or substantial adverse modification of less than one acre of headwater or isolated waters or wetlands are authorized by this Nationwide Permit provided special conditions and management practices are met. Any fills proposed in headwaters, isolated waters or their adjacent wetlands that would cause the loss or substantial adverse modification of one acre or more of headwater or isolated wetlands in New Jersey currently require individual Department of the Army permit approval.

As evidenced by this letter, recent changes in Federal regulations affecting work in headwater or isolated waters or wetlands represent complex regulatory issues. This office is available to answer any further questions pertaining to this issue. If you should have any questions regarding this matter, please contact Mr. Frank J. Cianfrani, Chief of the Regulatory Branch at (215) 597-2812.

Sincerely,

Ralph V. Locurcio
Lieutenant Colonel (P), Corps of Engineers
District Engineer

Enclosure

M 29-7754 CUS

Let's protect our earth

MAY 0 1989

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
TRENTON

DIVISION OF COASTAL RESOURCES

PLEASE ADDRESS REPLY TO:
CN 401
TRENTON, N.J. 08625

May 24, 1989

Albert W. Ricciardi
Pennoni Associates, Inc.
555 New Jersey Ave.
P.O. Box 566
Absecon, New Jersey 08201

Re: Freshwater Wetlands Exemption Letter
Project Name : Hidden Mill Associates
BFW File No. 0415-881208.2-EX
Block 14402;Lots 45 & 46
Gloucester Township, Camden County
Big Timber Creek Watershed, Delaware River Basin

Dear Mr. Ricciardi:

Please be advised that, pursuant to N.J.S.A. 13:9B-1 et seq., and the implementing rules of the New Jersey Freshwater Wetlands Protection Act, specifically N.J.A.C. 7:7A-2.7(d)1, all of the structures, lots, road improvements, and other appurtenant development depicted on "Hidden Mill Gloucester Township, Camden Co., NJ, Preliminary Stream Encroachment Plan", submitted to this office, consisting of sheets 1 through 4 Of 8, prepared by Vincent R. Mariani, dated October 8, 1986, and last revised October 24, 1988, are exempt from the requirement of obtaining a NJDEP Freshwater Wetlands or Open Water Fill permit subject to the following limitations:

1. The exemption is based on information available to the department, including information submitted by the applicant for the exemption letter. If the information on which this exemption letter is based is found to be inaccurate, the department will void the exemption and require a permit, pursuant to the Freshwater Wetlands Protection Act, for these activities,

2. This exemption does not obviate the need for any permits, approvals, or certifications required by any other Federal, State, county, or municipal

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review agency with jurisdiction over this project. The exemption applies only to the requirements of the Freshwater Wetlands Protection Act, (N.J.S.A. 13:9B-1 et seq.) and the rules adopted pursuant to that Act, in N.J.A.C. 7:7A-1 et seq.

3. Pursuant to N.J.A.C. 7:7A-2.7(e), this exemption shall be considered null and void if significant changes are made to the aforementioned plans. A significant change shall be deemed to have been made if, under the Municipal Land Use Law (N.J.S.A. 40:55d-1 et seq.) the change would void the preliminary approval and would require the submittal or approval of a new or amended application to the local review agency. This exemption will be effective for five years or as long as the site plan or subdivision approval is effective, which ever is shorter. Projects not initiated within five years from July 1, 1987, shall lose their exemption from the requirements of the Freshwater Wetlands Protection Act.

4. If any discharge of dredged or fill material into a freshwater wetland or State open water resulting from this project contains any toxic pollutant listed under section 307 of the Federal Clean Water Act, such discharge shall be subject to all applicable toxic effluent standards or prohibition, and the discharge shall require a NJDEP Freshwater Wetlands or Open Water Fill Permit.

5. This exemption shall become null and void as of the date of assumption by the State of New Jersey of the Federal 404 program.

6. A final municipally approved and signed copy of the plans must be submitted to this office within 30 days of final municipal approval

Please note that this project requires an individual Section 404 ACOE Permit. Therefore, it will also require Water Quality Certification from the Division of Coastal Resources.

Please contact Ms. Kathleen Stroud of our staff should you have any questions regarding this exemption. Be sure to indicate the Bureau's file number in all communication.

Sincerely,

Robert Piel Jr., Chief
Bureau of Freshwater Wetlands

cc: U.S. Army Corps of Engineers; Philadelphia District
U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
NJDEP Bureau of Flood Plain Management
Barbara Hearst, NJDEP Bureau of Municipal Waste Water Assistance
David Risilia, NJDEP Bureau of Water Quality Planning
Gloucester Township Clerk
Gloucester Township Planning Board
Camden County Planning Board

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NOV 22 1993

ARCHER & GREINER
A PROFESSIONAL CORPORATION

MEMORANDUM

TO: Bob Bucknam, Rich Lipko

FROM: Rick Ricciardi

DATE: November 16, 1993

RE: 401 Water Quality Certification Denial Appeal
for Hidden Mill Development
MURY-7759.003.00

As a result of our November 8, 1993 settlement conference with NJDEPE on the Individual 401 Water Quality Certification denial of the above referenced project, it has become apparent that NJDEPE will apply recent changes in the rules and regulations of various State permits in their review of this project, although they have agreed to certain concessions from our previous settlement conference in May of 1992. Outlined below are some of the changes that have taken place over this duration that affect the Hidden Mill project.

1. There has been a complete overhaul in NJDEPE personnel as noted below:

	May 1992	November 1993
Director	Robert Tudor	Ernie Hahn
Regional Supervisor	Richard Brown	Andrew Heyl
Project Review Officer	Lou Cattuna	Andrew Gale
Stream Encroachment Review	Scott Grochner	Nicole Einthoven

This new group is not intimate with the history of this project nor are they familiar with conditions agreed upon at our settlement conference in May 1992. Andrew Heyle is applying current day standards to this application. He is even soliciting comments from Ruth Ehinger on this project, who is supervisor from a different region.

2. On January 12, 1992, the NJDEPE denied the U.S. Army Corps of Engineers' authority to issue 401 Water Quality Certifications on New Jersey's behalf. This enabled NJDEPE to obtain regulatory authority over the reconstruction of Jaggard's Pond under the 401 Water Quality Certification Program. As a result of this authority, the State is requiring that the dam improvements be consistent with the New Jersey Freshwater Wetlands Protection Act. They are requiring that an alternative analysis be provided and they questioned whether Jaggard's Pond is a currently serviceable dam. This contradicts the agreement we originally had with NJDEPE in that they recognized the dam reconstruction would require 401 Water Quality Certification from their office, however, agreed that it could be approved based on a one paragraph alternative analysis. As you

well know, the requirement of an alternative analysis for a 401 Water Quality Certification is the basis of our appeal against NJDEPE for the Broadacres Drive extension.

3. On March 16, 1992, the Department adopted the Freshwater Wetland Band-aid Regulations, including an additional Statewide General Wetlands Permit for Dam Rehabilitations. This permit required that:

   a. The activity is conducted in accordance with an approved Dam Permit.
   b. That the facility be currently serviceable.
   c. That the previously authorized structure has not been put to uses differing from those specified in any permit authorizing its original construction.
   d. The activity will not increase the normal water surface elevation.
   e. The activity results in the filling of no more than 1 acre of wetlands or State open water.

4. Some time on or about March 1992 the Department developed a policy that if projects, which were exempt from New Jersey's Freshwater Wetlands Protection Act (yet needed a 401 WQC) had wetland activities which did not conform with the Statewide General Permits, then wetlands mitigation at a 1:1 ratio would be required. As you know it was agreed upon that in lieu of wetlands mitigation, we would provide wetland enhancement in that area adjacent to the interior wetland crossing.

5. With the adoption of the Freshwater Band-aid Regulations on March 12, 1992, the Department required that water quality basins be provided for those projects which were discharging into freshwater wetlands and required a Statewide General Permit #11. This requirement was triggered for the off-site Little Mill Road improvements.

6. In August 1993, the U.S. Army Corps of Engineers issued a Regulatory Guidance Letter pertaining to the removal of vegetation in 404 regulated areas. We should check to see what ramifications the Regulatory Guidance Letter may have on our utilization of Nationwide Permit #3 and #25.

/jr

ANALYSIS OF HOW THE WETLAND ACTIVITIES OF HIDDEN MILL DEVELOPMENT SATISFY THE NEW JERSEY STATEWIDE GENERAL WETLAND PERMIT CRITERIA

JUNE 22, 1992

PREPARED BY:

PENNONI ASSOCIATES INC.
515 GROVE STREET
HADDON HEIGHTS, NJ 08035

MURY-7759.003.00

This report is a follow-up to our May 20, 1992 meeting regarding the settlement agreement for the 401 Water Quality Certification Denial for the Hidden Mill project. As requested, we have provided an analysis of how the proposed wetland activities satisfy the Statewide General Wetlands Permit criteria.

It is our understanding based on discussion of this meeting, that mitigation or enhancement of wetlands will be required if this project does not satisfy the General Permit requirements of the Freshwater Wetlands Protection Act.

ACTIVITY 1	Little Mill Road Improvements at Station 9+75 (culvert replacement and road widening	0.015 AC of wetland disturbance
ACTIVITY 2	Little Mill Road Improvements at Station 28+50 (ditch with riprap)	0.04 AC
ACTIVITY 3	Little Mill Road Improvements at Station 44+20 (at the bridge at Little Mill)	0.128 AC
		Acreage total is 0.183

The activities described above satisfy the requirements of the Statewide General Permit #10 for minor road crossing fills and expansion of existing road crossings, as:

1) The crossing is bridged, culverted or otherwise designed to prevent the restriction of, and/or to withstand, expected high flows. This is substantiated by the issuance of a Stream Encroachment Permit by NJDEPE.

2) The disturbance of freshwater wetlands does not extend more than 50 foot on either side of the high water mark of State open waters. In this instance, the distance criteria does not apply to widening of existing roadways.

3) Total area of freshwater wetlands and/or State open water disturbed or modified does not exceed 0.25 acres. We are disturbing 0.183 acres.

4) The total to be placed, per crossing, in State open waters does not exceed 200 cubic yards of fill below top of bank or high water mark. There is no fill below the top of bank or high water mark.

5) The crossing is designed to minimize disturbances and other detrimental affects upon freshwater wetlands or State open waters through the use of best management practices. By eliminating the secondary access to College Drive, we have minimized disturbances to wetlands.

ACTIVITY 4 Jaggards Pond Dam Rehabilitation 0.331 acres of wetland disturbance

The rehabilitation of Jaggards Pond qualifies for Statewide General Permit #1, which provides for the repair, rehabilitation, replacement, maintenance or reconstruction of any preciously authorized, currently serviceable structure, fill, roadway, public utility, active irrigation or drainage ditch, or stormwater management facility lawfully existing prior to July 1, 1988 or permitted under the Act provided such activities do not deviate from plans of the original activity, and further provided that the previously authorized structure, fill, roadway, utility ditch or facility has not been and will not be put to uses differing from those specified in any permit authorizing its original construction.

Additionally, the activity also satisfies the conditions of Statewide General Permit #18, which provides for the repair, rehabilitation, replacement, maintenance or reconstruction as required by the Dam Safety Standards of any previously authorized, currently serviceable dam

structure as defined in NJAC 7:20-1.2, including pertinent structures, lawfully existing prior to July 1, 1988 or permitted under the Act, provided that the previously authorized structure has not been put to uses differing from those specified in any permit authorizing its original construction. Minor deviations due to changes in materials or construction techniques which are necessary to make repairs, rehabilitation, replacement, maintenance or reconstruction are allowed provided that:

1) The activity is conducted in accordance with Dam Permit issued pursuant to NJAC 7:20-1. This activity satisfies this requirement as a Dam Permit was issued by the Department and is valid until November 19, 1992.

2) The activity results in the filling of no more than one acre of wetlands or State open waters. The proposed of volume of fill to upgrade and rehabilitate the dam is 0.331 acres.

3) The activity is designed to minimize disturbance and other detrimental affects upon freshwater wetlands or State open waters through the use of best management practices.

4) The activity will not increase the normal water surface elevation.

ACTIVITY 5 Internal Road Construction of Hidden Drive 0.243 acres

This road crossing does not satisfy the Statewide General Permit requirements for GP #10. Consequently, we will provide a Wetland Enhancement Plan for the 0.243 acres of wetlands which will be impacted.

Wetland enhancement will occur in the area just downslope of Hidden Drive (see attached map). This area, which was previously a forested wetland, has been silted in from upstream soil erosion and sedimentation. As a result, a number of opportunistic wetland herbaceous species have invaded the area and diminished its value. As part of the enhancement program:

1) We will excavate the channel from the Hidden Drive crossing to an area where stabilized soils are identified.

2) We will remove the sediment that has accumulated within the wetland area and place it in a suitable upland area.

3) We will stabilize upslope areas which are contributing to the erosion. This should be greatly diminished because of the construction of the roadway which will serve to buffer downstream areas from the sedimentation.

4) We will add some aesthetic wetland plants at a density of 20 foot on center. Approximately 36 red maple/sweetgum plants will be planted within the enhancement area.

In summary, the total wetland impact is 0.757 acres. Of this, only the internal road construction of Hidden Drive does not satisfy the General Permit Requirement. Upon your verbal approval of the Wetland Enhancement Plan concept NJDEPE, we will elaborate on the Wetland Enhancement Plan.

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COUNSELLORS AT LAW
ONE CENTENNIAL SQUARE
P.O. BOX 3000
HADDONFIELD, N.J. 08033-0968
609 - 795-2121
FAX 609 - 795-0574

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June 8, 1998

Robert Shinn, Commissioner
New Jersey Department of Environmental Protection
401 East State Street
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COPY

Re: Hidden Mill Associates
Hidden Mill Residential Development
Little Mill Road
Block 14402, Lots 45 and 46
Gloucester Township, Camden County
Individual Freshwater Wetlands Application No. 0414-97-0011.1
FWIP
Our File No. HID-004-001

Dear Commissioner Shinn:

We represent Hidden Mill Associates, the applicant for an individual freshwater wetlands permit for the above project, under the State's assumption of the Federal wetlands permit program.

Pursuant to a 1993 Memorandum of Agreement among the New Jersey Department of Environmental Protection ("the NJDEP"), the United States Environmental Protection agency ("the USEPA"), and the Department of the Interior (" the DOI"), the NJDEP submitted the application to the USEPA for comment by the Fish and Wildlife Service of the DOI ("the Service"). The Service's comments were attached to USEPA Regional Administrator Jeanne M. Fox's April 10, 1998 letter to you. The Service asserted that populations of swamp pink in Mason's Run were likely to be "adversely affected" because of alleged secondary and

cumulative impacts of development. The Service recommended denial of the permit. Administrator Fox's letter adopted the Service's comments and stated that the USEPA objected to the issuance of the permit.

For reasons which will follow, the applicant respectfully urges the NJDEP to disagree with the USEPA's objections to issuance of the requested freshwater wetlands permit.

Introduction--Permitting History

The application under review is not the first time the Hidden Mill residential development has undergone freshwater wetlands scrutiny. Because the history of wetlands permitting for this project is inextricably part of the issues now under review, we summarize it here.

The 1978 Development Approvals

A subdivision and development plan for 229 single family homes for the Hidden Mill site was first approved in September 1978. The Hidden Mill Drive wetlands crossing qualified for a Nationwide Wetlands Permit, as did a much longer proposed wetlands crossing from the Hidden Mill development to the Greenbriar segment adjacent to College Drive.

The 1987 Development Approvals

For various reasons, including market swings and ordinance changes, that 1978-approved development plan was never constructed. The subdivision now under review had its genesis in a preliminary approval granted by the Gloucester Township Planning Board in August of 1987. Because that approval pre-dated the July 1, 1988 effective date of the New Jersey Freshwater Wetlands Protection Act, the development was exempt from that Act's requirements as to disturbances of both wetlands and transition areas. The NJDEP confirmed the exemption by letter of May 24, 1989.

The approved subdivision plan called for 220 dwelling units. The approval was conditioned upon installation of a secondary access road from the Hidden Mill subdivision to College Drive. That secondary access road--referenced above in the discussion of the 1978-approved residential development-- would have crossed roughly 1267 feet of freshwater wetlands, and required the filling or disturbance of approximately 1.62 acres of those wetlands. Therefore, its construction required an individual wetlands permit from the U.S. Army Corps of Engineers' ("the COE"), which the applicant applied for in July of 1987. (Note that but for the secondary access road, the development would not have needed an individual wetlands permit, since the Hidden Drive crossing within Hidden Mill (now one of four elements of the pending wetlands permit application) and the other wetlands impacts

would have qualified for Nationwide Permits # 14 and 26. Indeed, in March of 1983 the Hidden Drive crossing had received a Nationwide Permit No. 26 under previous iterations of the subdivision, since it met the requirements of that Permit.)

Even though the project was exempt from the Freshwater Wetlands Protection Act, the NJDEP nonetheless had jurisdiction to issue a Water Quality Certificate in connection with the application to the COE. On June 7, 1990, as part of the review process, the Service wrote to the NJDEP's John Weingart, objecting to the issuance of the Water Quality Certificate, and suggesting that the installation of a road that would connect existing roads to New Brooklyn Road would be a preferable "less environmentally damaging" alternative. (That alternative road, now called the "Murray Hill alternative", has been incorporated in the current subdivision plan, in the manner recommended by the Service in 1990. It runs through the adjacent proposed Murray Hill development and connects the Hidden Mill development to New Brooklyn Road (County Route 706), crossing no wetlands.)

On July 16, 1991 the NJDEP denied Hidden Mill Associates' application for a Water Quality Certificate, stating that the proposed secondary access road would cause the disturbance of 1.6 acres of wetlands, and was not deemed to be the best alternative. Instead, the NJDEP echoed the Service's suggestion favoring the "Murray Hill alternative". The Water Quality Certificate denial was appealed by Hidden Mill Associates through the New Jersey Office of Administrative Law.

The Murray Hill Tract--access easement

At that time the Murray Hill development was owned by Mr. Thomas Howland, who was contending that the Murray Hill project had valid preliminary approvals allowing for the development of 266 residential units in 133 twin buildings on the Murray Hill tract. Mr. Howland was, ultimately, proven to be correct when New Jersey Superior Court Judge Theodore Davis, J.S.C., later ruled that the Murray Hill development approvals, which predated the New Jersey Freshwater Wetlands Protection Act, were indeed in full force and effect, and that Mr. Howland had valid municipal preliminary approvals for the 266 unit development.

In an effort to settle the OAL appeal, Hidden Mill Associates began to explore the Murray Hill alternative, as recommended by the NJDEP and the Service. In that regard, Hidden Mill Associates negotiated a Cross-Easement Agreement with Mr. Howland for access through the Murray Hill site. This Agreement provided that, while Mr. Howland's litigation with Gloucester Township was still ongoing and the validity of the Murray Hill approvals was in dispute, Hidden Mill Associates and its successors and assigns, would have the right to install an emergency access roadway through the Murray Hill tract, which would be situated at

the same location as the Murray Hill roadway system shown on the Township approved plans that were the subject of the approval validity dispute.

Settlement of the OAL appeal regarding the NJDEP's denial of the Water Quality Certificate

During the course of the next several months, Hidden Mill Associates had various settlement discussions and meetings with the NJDEP regarding the scope of revisions to the project plans that would be required in order for the NJDEP to agree to issue a Water Quality Certificate for the project. As a result of Hidden Mill Associates obtaining the easement rights through the Murray Hill tract, Hidden Mill Associates and the NJDEP Land Use Regulation Program staff were able to reach an agreement as to a revised development plan (the "Revised Development Plan") which the NJDEP could endorse and approve, and which Hidden Mill Associates could accept.

As a consequence of the revisions that were made to the plans to address the NJDEP's concerns, the number of units to be developed on the Hidden Mill tract was reduced from 220 to 189, and the project roadway system was redesigned to replace the College Drive secondary access with primary access through Little Mill Road and secondary access (for emergency vehicles) through the Murray Hill tract. In addition, the Cross-Easement Agreement with Mr. Howland provided that the emergency access would, if necessary, be relocated and become part of a permanent through roadway, if and when the appropriate valid approvals were determined to be in place for the Murray Hill residential development.

In reliance upon the NJDEP's agreement to issue any necessary approvals for the Revised Development Plan, Hidden Mill Associates applied for and obtained revised preliminary development approvals from the Gloucester Township Planning Board in February of 1993. Thereafter, the Borough of Pine Hill, which had strongly supported the College Drive secondary access for the Hidden Mill project, filed a lawsuit to challenge the revised approval which had served to eliminate that access, in March of 1993. Still relying upon the continued assurances from the NJDEP that the Revised Development Plan was acceptable to the NJDEP and that the required permits would be issued by the NJDEP for the revised development, Hidden Mill Associates and Gloucester Township aggressively litigated the Pine Hill challenge to the Revised Development Plans, which had incorporated the concepts and changes required by the NJDEP.

As had occurred throughout the OAL proceedings prior to the Pine Hill litigation, periodic telephone status conference calls were scheduled with Administrative Law Judge John Tassini to discuss the progress of the litigation with Pine Hill, and the respective positions of Hidden Mill Associates and the NJDEP regarding the Revised Development Plan for the Hidden Mill project. During each of these telephone conferences, counsel for the NJDEP

continually assured Judge Tassini that there was a settlement agreement between the parties, that the NJDEP fully supported the Revised Development Plan, and that the required NJDEP permits could be issued and the Office of Administrative Law appeal of the Water Quality Certificate denial could be dismissed, once the litigation with Pine Hill had been concluded, provided that Hidden Mill Associates agreed to develop the project based upon the Revised Development Plan.

It is important to note that during the course of the litigation with the Borough of Pine Hill, in February of 1994, the NJDEP assumed jurisdiction of the Federal Freshwater Wetlands Permitting Program and the Hidden Mill projects' total exemption from wetlands permitting under the New Jersey Freshwater Wetlands Protection Act was lost. However, during the course of the several meetings and ongoing settlement discussions between Hidden Mill Associates and the NJDEP and during the status conferences with Judge Tassini, Hidden Mill Associates and Judge Tassini were continually assured that the individual freshwater wetlands permit and stream encroachment permit required to develop the Revised Development Plan would be issued, if Hidden Mill Associates agreed to develop the project as modified and reflected on the Revised Development Plan.

Acquisition of the Murray Hill Tract

In order to assure its ability to address the conditions of the Settlement Agreement with the NJDEP by providing for the Murray Hill alternative, Hidden Mill Associates and RAI Commercial, Inc. purchased the Murray Hill tract from Thomas Howland in September of 1993, for a price in excess of $500,000. Thereafter, RAI Commercial had the Murray Hill development plans modified to reduce the 266 twin units to 99 single-family residential lots or units. The dramatically scaled-back Murray Hill project, which the applicant voluntarily agreed would be subject to the Freshwater Wetlands Protection Act transition areas (despite a Superior Court determination that the pre-1987 municipal preliminary approval was still in effect) was greeted with enthusiasm by both Gloucester Township and Pine Hill residents.

Settlement of the Pine Hill Litigation

On Monday, December 4, 1995, Hidden Mill Associates met with counsel for the NJDEP and various members of the NJDEP staff, including Mr. Ernest Hahn, the Acting Director of the Land Use Regulation Program. During the course of that meeting, the parties reviewed draft plans that had been further revised (the "Further Revised Development Plans"), in an effort to reach a settlement with the Borough of Pine Hill.

These Further Revised Development Plans served to eliminate the development of any improvements associated with the Hidden Mill project within the Borough of Pine Hill, with the exception of the improvements associated with the upgrading of Little Mill Road. The plans provided for the further downsizing of the Hidden Mill project from 189 units to 173

units, which largely resulted from the elimination of Jaggard's Pond (located within the Borough of Pine Hill) as the stormwater management facility serving the project, which, in turn, required the creation of on-site stormwater management facilities at a cost of 16 otherwise developable units. Once again, both at the December 4, 1995, meeting with the NJDEP and during numerous telephone status conference calls involving counsel for the NJDEP and counsel for Hidden Mill Associates, the NJDEP continued to indicate that permits for the regulated activities that would result from the development of the Further Revised Development Plans, would be issued as part of the settlement of the ongoing Office of Administrative Law Administrative Appeal.

Having reached a settlement agreement with both the NJDEP and the Borough of Pine Hill with respect to the acceptability of the Further Revised Development Plan, Hidden Mill Associates applied to the Gloucester Township Planning Board for revised preliminary major subdivision and revised preliminary major site plan approval for the Hidden Mill project. Those revised approvals were granted by the Township Planning Board in February of 1997.

The pending Individual Freshwater Wetlands Permit

In the meantime, in February 1996, in order to consummate the revised subdivision plan calling for secondary access through the Murray Hill subdivision (the route earlier recommended by both the NJDEP and the U.S. Fish & Wildlife Service), the applicant filed the freshwater wetlands permit application now under review. The application seeks a permit to fill four small wetland areas totaling 0.6 acres (for the Hidden Drive road crossing, bridge improvements, sanitary sewer crossing, and culvert improvement). The Hidden Drive road crossing disturbance of 0.24 acres connects two upland portions of the overall Hidden Mill development and thereby effectuates the secondary access to the entire development through the Murray Hill tract.

The Fish and Wildlife Service's Report regarding the Current Application

Pursuant to the applicable federal regulations and the Memorandum of Agreement mentioned above, the Service submitted a report dated March 13, 1998 to the USEPA wetlands protection section of Region 2. In that letter and its enclosure, the Service asserted:

1. A proposed stormwater facility outfall structure would adversely effect Swamp Pink by altering the hydrologic regime of the forested wetland, increasing the nutrient load, and increasing the amount of sediment entering the wetland.

2. Upland construction activities have the potential to adversely effect Swamp Pink because soils disturbed during construction might erode during storm events to

the forested wetland containing Swamp Pink.

3. Swamp Pink would be adversely effected as "secondary impacts associated with implementation of the Hidden Mill development"

4. Cumulative impacts" from other future development activities in the Mason Run watershed, together with the proposed Hidden Mill and Murray Hill projects, would potentially adversely effect the Swamp Pink populations in the Mason Run watershed.

5. The Federally-approved wetlands jurisdiction line has "expired", and in any event seems to include some wetlands as uplands.

(The Service also asserted that the proposed Hidden Mill Development would have adverse impacts on forest interior neotropical migratory birds via forest "fragmentation". We question the relevance of this comment (since it goes well beyond any inquiry regarding the effects on endangered species), as well as the absurdity of the Service's claim that "the direct and secondary impact of the proposed project on forest interior neotropical migrant bird habitat would far exceed 100 acres." (Report, at p. 9)

As will be seen from the analysis that follows, the Service's assertions and conclusions should be rejected because they are based on flawed factual premises, faulty assumptions, and disregard of existing regulatory programs designed and intended to prevent adverse impacts upon sensitive environmental habitat and protected species.

Moreover, the Service's report runs counter to the Service's 1990 comment which rejected the then-proposed access to College Drive, and recommended secondary access to Hidden Mill through the Murray Hill tract, the very roadway which has been incorporated into the current plans for the Hidden Mill project.

I. Site/Project Description

1. Existing Conditions

The Fish and Wildlife Service comments give the impression that the site of the Hidden Mill and Murray Hill developments is heavily forested. But that is not so. Passing for a moment the question of whether the Hidden Mill project and the Murray Hill project are "interdependent", a review of aerial photos of the site from 1965 through 1995, and the plans for development reveal the following facts:

a. Hidden Mill Project

This project covers 89 acres overall. 39 of those acres are uplands. Most of the upland portions of the site--with the exception of a small portion adjacent to Little Mill Road at the eastern end of the site--consist of either disturbed fields, or former fields with "successional" woods, *not* the "mature forested upland" cited by The Service as habitat for migrant neotropical birds.

The Hidden Mill project calls for 15 single-family dwellings (to be located along Little Mill Road), 120 townhouses, and 38 apartment condominiums. ***Forty-nine acres*** of wetlands will remain undisturbed. ***Sixty-four acres*** of the overall 89 acres are to be preserved in open space.

b. Murray Hill Project

The Murray Hill project encompasses 49.82 acres. 39.57 acres are uplands, and as with the Hidden Mill project, most of those acres are disturbed agricultural fields with successional vegetation. There are 10.25 acres of wetlands on the site. The project calls for 48 single-family dwellings and 52 townhouses. The plans provide a wetlands buffer of 150 feet and the preservation of 23.42 acres of open space, which includes all the wetlands and 13.17 acres of uplands.

Note that virtually all the forest that could be characterized as "mature forest" is located either in the protected wetlands or protected open space and buffers of both developments, and in the transition areas of Murray Hill.

II. The Applicant's Responses to the Service's Assertions

Before we commence a point-by-point review, we stress that the Service did not (and could not) find that the wetlands disturbance activities for which a permit is being sought would themselves adversely impact the Swamp Pink. The Service had to resort to so-called "secondary" or "cumulative" indirect impacts.

We will now proceed to review the Service's report, or "ENCLOSURE", using the same headings the Service employed.

INTRODUCTION

In the fourth paragraph, the Service's characterization of the site as being "centrally located within a large block of relative undisturbed forest of approximately 400 acres" is highly misleading. As noted above, outside the wetlands, the site of both Hidden Mill and Murray Hill consists primarily of disturbed old field and successional woods.

FEDERALLY LISTED SPECIES

In its general discussion of potential impacts on the swamp pink, the Service ignores the restrictive development techniques now imposed by regulation throughtout New Jersey, which serve to minimize or eliminate the potential harm to the swamp pink through "filling or draining" its wetland habitat, or degrading its habitat through "sedimentation, erosion, alteration of hydrology and adverse impacts to water quality." Such regulations include: the Pinelands Protection Act, the Pinelands Comprehensive Management Plan; the New Jersey Freshwater Wetlands Protection Act (and its provision for special buffers from wetlands with "exceptional" resource value); The Stream Encroachment Permit Program; and the Soil Erosion and Sediment Control Plan Certification required for all disturbances in excess of 5,000 square feet.

The "studies" the Service cites at page 2 in supposed support of a position that swamp pink populations "near" suburban development do not thrive as well as swamp pink populations in an "undisturbed" environment are far too general, far too speculative, and too lacking in any meaningful site description to be given any credence here. For example, one cannot tell from the cited reports (1) when the suburban development was constructed; (2) what buffers or non-buffers were involved; (2) whether or not any stormwater management facilities were incorporated in the developments; (4) what the overall conditions in the "impacted" area were, particularly upstream; (5) what differences, if any, were present in canopy intensity, soil and water acidity, flooding conditions, weather, rainfall, sunlight, or temperature, just to name a few. All these variables are blithely ignored in the studies. The authors simply presumed that the "impacted" sites were affected by human activities.

Neither the Service nor the authors of the cited studies tell us whether the "suburban development" preceded the regulatory protections that are now in effect, examples of which we gave above.

OTHER FISH AND WILDLIFE RESOURCES

As the Service notes, the trout production waters are located *upstream* of the Hidden Mill and Murray Hill developments. Jaggard's Pond discharges into those trout production waters. The 1987-approved subdivision called for Jaggard's Pond in the Borough of Pine Hill to store a significantly greater volume and rate of runoff within the watershed upslope of Hidden Mill as compensation for allowing stormwater from Hidden Mill to be discharged directly into the streams within the subdrainage basins serving Hidden Mill, without any water quality or detention basins onsite. The currently-approved subdivision no longer calls for the Jaggard's Pond to receive stormwater from the development. But that's not all. The currently-approved subdivision requires water quality basins and detention basins throughout the development, thereby removing contaminants from the discharge, and preventing the kind of discharge that might cause channelization. In short, the changes to the subdivision stormwater management features have improved both trout production waters and the waters where swamp pink are located.

INTERDEPENDENT PROJECTS

The Service's contention that the Hidden Mill development and the Murray Hill development are interdependent is factually incorrect. Although, obviously, Hidden Mill Associates' acquisition of the Murray Hill tract and the obtaining of revised approvals to reduce the number of residential units from the original 266 units to the currently approved 99 units, was an important consideration with respect to resolving the Pine Hill litigation, it by no means made the two projects interdependent. As can be seen from the phasing plan for each project, several phases of the Murray Hill development can be completed, without ever triggering the requirement of extending Hidden Drive to Little Mill Road from the Murray Hill tract. The Service's contention that the Gloucester Township Planning Board has required that both the proposed Hidden Mill and Murray Hill developments have two points of access is especially incorrect, in that it fails to recognize the fact that the two points of access are not required until the latter stages of the two developments.

Even if the two projects are to be regarded as interdependent, their joint impact on wetlands and the swamp pink cannot be shown to "jeopardize the continued existence" of the swamp pink. 16 U.S.C.A. §1536(a)(2) In order to "jeopardize the continued existence of" an endangered species, the action must reasonably be expected "directly or indirectly, to <u>reduce appreciably the likelihood</u> of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

As discussed in detail elsewhere in this letter, all but 0.6 acres of the 72.42 acres of on-

site wetlands will remain undisturbed as protected open space, along with 150 foot wetlands transition areas in the Murray Hill tract and additional buffers in the Hidden Mill project. Soil Erosion and Control Plan Certifications will be obtained. In addition, the outlet from Stormwater Detention Basin #5 in the Hidden Mill project has been designed in accordance with the Soil Conservation Service Criteria. Furthermore, there is an approximately 50 acre tract of wetlands immediately adjoining Murray Hill and Hidden Mill to the south.

WETLANDS DELINEATION

Even if the original COE-approved wetlands delineation has expired, and even if, assuming soleley for the sake of argument, that the Service is correct in stating that certain wetlands were mapped as uplands, that is no reason to deny the wetlands permit currently under review. The alleged error in wetlands delineation does not involve areas of the site that are proposed for regulated activities for which the freshwater wetlands permit is sought. Furthermore, even if a new jurisdictional line has to be established, if the new line shows more wetlands and less uplands, then there will have to be a reduction in the development "footprint" to accommodate that change. Such an adjustment can only be beneficial to the wetlands.

COMPLIANCE WITH THE SECTION 404(b)(1) GUIDELINES

The Service's contention that the applicant has failed to comply with the Guidelines by not considering relocation of the development to another site should be rejected out of hand as being a gross distortion of the intent and purpose of the Guidelines that comes far too late in the process, particularly since in 1990 and 1991 both the Service and the NJDEP recommended that secondary access to the Hidden Mill tract be provided through the Murray Hill tract.

The Section 404(b)1 Guidelines appear at 40 CFR §230.1 et seq. The alternatives analysis refers to the specific project for which the permit is sought, in this case the wetlands crossings, particularly the roadway crossing for Hidden Drive. §230.10 talks of a "practicable alternative" and states that "an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purposes." (§230.10(a) In this case the proposed wetlands crossings are the only practicable means of accessing the uplands. Given the virtual sea of wetlands separating the uplands of Murray Hill and Hidden Mill, the proposed crossings are the least environmentally intrusive, and the only "practicable alternatives." Because of those facts Hidden Mill Associates agreed to revise the project development plans to provide for the roadway and access alternatives recommended by both the NJDEP and the Service.

As for minimizing effects on wetlands, accepting for a moment the Service's contention that Murray Hill and Hidden Mill are to be considered as "interdependent", one cannot rationally conclude that the disturbance of 0.6 acres of a total of 60 acres of wetlands, and the preservation of 28 acres of surrounding uplands does not represent optimum protection of the wetlands. The road crossing for Hidden Drive is designed in accordance with the State's Stream Encroachment regulations which insure that there is adequate hydrological exchange between the wetlands that are upstream and downstream of the crossing. Furthermore, the design for the Hidden Drive crossing requires *enhancement* of wetlands by improving their quality. And, of course, burying pipes within the utility crossings, followed by the required restoration and replanting of the disturbed areas, will allow the wetlands to re-establish themselves.

There is no practicable alternative to the proposed project that would be less damaging to the aquatic environment. And all reasonable and practicable steps have been taken to minimize adverse effects on the aquatic environment.

Secondary and Cumulative Effects

1. Swamp pink

The Service's contention that swamp pink located within 200 feet of the storm water outfall structure for detention basin number 5 would be adversely affected by discharges from that outlet are simply gross assertions that ignore the following facts:

a. The existing outfall structure is located downstream from the swamp pink population referred to. Furthermore, the applicant would be willing to locate it even further downstream as a condition of approval of the requested permit.

b. The hydrologic regimen of the forested wetland would not be altered. The Hydrologic regimen of the forested wetlands and the impact of the development was analyzed in the Stormwater Management and Sedimentation Control Report, prepare by Pennoni Associates, Inc., last revised February 3, 1998. The existing sub-drainage area which includes the swamp pink is 16.2 acres. This area has an average slope of 0.01%, a curve number of 61 and a 2-year peak discharge rate, at the downstream end of the sub-drainage area of 2.10 cfs.

The proposed improvement for the sub-drainage area includes one and one

half (1.5) single family homes, water quality basin No.5, a tennis court with four (4) parking spaces and Little Mill Road improvements from station 53+60 to 62+75 (915 ft). The post-developed sub-drainage area is divided into two (2) areas.

Stormwater runoff from the tennis court and the back half of the one and a half single family lots sheet flows to the existing wetlands. This sub-drainage area is 13.49 acres, the area has an average slope 0.01% and the runoff curve number is 62. The developed areas of this subdrainage area flow to the existing wetlands, through water quality basin No.5. This includes the Little Mill Road improvements, the front half of the one and a half single family lots and the tennis court parking area. This sub-area is 2.56 acres in size with a runoff curve number of 71 and an average slope of 4%. The combined post-developed 2-year peak discharge to the existing wetland area is 2.40 cfs, an insignificant increase that will have no effect on the swamp pink.

Further testament that the development of less then 2.5 acres (15% of the drainage area) will have no effect on the swamp pink population is the runoff number. This number is determined by the hydrologic soil groups, cover type, treatment, hydraulic condition and antecedent runoff condition. All factors related to runoff and infiltration. It is a unit less number which defines for stormwater calculations the water retained in surface depressions, water intercepted by vegetation, evaporation and infiltration. The existing runoff curve number is 61 and the proposed runoff curve number is 63. A nominal increase for a 16.2 acres watershed. Deed restrictions for open areas will prevent further increases of the runoff curve number.

Furthermore, because Basin #5 has been designed, and will be constructed, to meet the Off-Site Stability Criteria of the Soil Conservation Service, discharges from that basin will not result in the kind of channelization that might alter wetland hydrology (by lowering the water table in the vicinity of the channel).

Also, because the basin is a water quality basin, discharges will not result in any sedimentation that would threaten the populations of swamp pink in question. (We emphasize that these criteria were specifically developed by the SCS as part of a Memorandum of Agreement with the

NJDEP so that discharges from sheet flow would not result in channelization. These criteria require stormwater discharges to occur at velocities that are slow enough to prevent channelization and the erosion associated with it.)

c. The proposed development will not be a source of noticeable increase in nutrient levels in the drainage subbasin in which the swamp pink population is located. The sub-drainage area for this swamp pink is 16.24 acres. The areas capable of sustaining grass will be in public open areas including the right of way for Little Mill Road and grass areas around the tennis courts. These areas will be maintained by a qualified landscape contractor. The maintenance association will maintain the public open space and the only requirement is that these lawn areas be mowed, approximately eight to ten times per year. The Township of Gloucester and the Borough of Pine Hill will maintain the right of way on Little Mill Road. For both instances no fertilizer would be added to the public open areas. Runoff from Lot 11 and about half of Lot 12 on Little Mill Road will eventually, either through water quality basin No. 5 or sheet flow, flow to the wetland area. These lots, because of the existing and proposed steep slopes, about 20%, will not support lawns. The applicant will landscape and stabilize these areas with periwinkle, baltic, ivy or aaronsbeard.

Furthermore, the Service cites no authority for the proposition that an increase in nutrient load to the wetlands might somehow adversely impact the swamp pink. To the contrary, one of the research articles cited by the Service states, " Variations in soil nutrient levels seemed to have little positive or negative influence on *Helonias* performance, so it appears that nutrient enrichment of wetlands may not reduce the probability of *Helonias* population survival." Peterson, "Impact Assessment of Six Extant Populations of *Helonia Bullata* in New Jersey--1992". at p. 14.

The Service's stated concern about upland construction activities having "the potential to adversely affect swamp pink" ignores the requirement that all site disturbance for the development must be pursuant to a Soil Erosion and Sediment Control Plan that must be certified by the Gloucester County district of the State Soil Conservation Service. Bromley Estates, cited by the Service as causing sediment that

buried swamp pink, is a notorious example of extremely bad construction management, and the developers of this project should not be painted with the same brush.

And there is no factual basis for the Service's comment that

> the proposed project has the potential to adversely affect swamp pink through the alteration of local hydrology associated with decreased infiltration capacity of surrounding uplands. As impervious surface area increases upslope of the forested wetland containing swamp pink, the amount of precipitation that enters upland soils to later discharge to wetlands will decrease. Decreased infiltration capacity of upland soils could result in a drying of the forested wetlands containing swamp pink on the proposed project site.
> (Page 7 of the Enclosure)

As in the case with nutrients, there should be no noticeable decrease in infiltration capacity of the surrounding uplands. Little Mill Road is a packed gravel road with a current runoff nearly as great as when it will be paved. Beside it are steep slopes which now have little infiltration capacity, and which will continue to have little infiltration capacity. There are only 2 1/2 homes in the uplands in question, and it is not possible that the changes there could "result in a drying of the forested wetlands containing swamp pink on the proposed project site", as claimed by the Service.

The Service's assertion that completion of the Murray Hill development is dependent upon issuance of FWPA permits for the Hidden Mill development is not true. All of Murray Hill can be built without the Hidden Drive crossing. The Murray Hill development already incorporates the 150 foot wetlands transition area or buffer required for Exceptional Resource Value wetlands--because of the swamp pink population presence.

As for the Service's undocumented assertion that "large quantities of untreated stormwater" entered a Mason Run tributary at Erial Avenue in Pine Hill", we simply do not see what that has to do with this development which has been designed to comply with all regulations regarding the management of stormwater and stormwater quality under the Flood Hazard Area Control Act, and the State's Stream Encroachment Program.

Overall, the Service's comments represent a viewpoint that goes far beyond the allowable criteria for "effects of the action", and "cumulative effect" as set forth in the Interior Department's regulations (50 CFR Part 402), and as explained and clarified in the Preamble to the notice of adoption of those regulations. See, 51 FR No. 106, Tuesday, June 3, 1986 at p.19933. See, also Solicitor's Opinion "CUMULATIVE IMPACTS UNDER SECTION 7 OF THE ENDANGERED SPECIES ACT", August 27, 1981. (88 Interior Dec. 903).

The Service's (and the EPA's) review is confined to "Effects of the action" and "cumulative effects" as defined at 50 CFR §402.02:

> *Effects of the action* refers to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action, that will be added to the environmental baseline. The environmental baseline includes the past and present impacts of all Federal, State or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process. *Indirect effects are those that are caused by the proposed action and are later in time, but still are reasonably certain to occur. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration.* (Italics supplied)
>
> *Cumulative effects* are those effects of future State or private activities, not involving Federal activities, that are *reasonably certain to occur within the action area* of the Federal action subject to consultation.

The "action area", and the "effects of the action" cannot be fairly considered to extend beyond the Hidden Mill development and the adjacent wetlands. The improvements for which the permit is sought will not jeopardize the survival of the swamp pink. Nor will the development of Drainage Basin #5, which does not involve any regulatd activities covered by the permit application. In addition, there are no other "interrelated actions" or

"interdependent actions" as defined by 50 CFR 402.02 that will have any detrimental effect upon the swamp pink or its habitat. As we noted above, 49 acres of wetlands are remaining undisturbed in the Hidden Mill Project, 10 acres of wetlands in the Murray Hill Tract, and roughly 50 acres in the adjoining tract to the south. Additionally, a 150 foot "extraordinary resource" transition area has been incorporated into the Murray Hill Tract.

As noted in the Preamble to the Interior Department Regulations,

> Future federal actions proposed for the same area would have to be separately evaluated under section 7 and could not occur unless they were able, in their own right, to avoid jeopardizing the continued existence of the affected species or destroying or adversely modifying critical habitat. Since all future Federal actions will at some point be subject to the section 7 consultation process pursuant to these regulations, their effects on a particular species will be considered at that time *and will not be included in the cumulative effects analysis*.
> 51 FR at 19933 *(Emphasis supplied)*

As for "cumulative effects", in order for them to be found to "jeopardize the continued existence" of the swamp pink, they must be found to be (1) "reasonably certain to occur" and (2) to have such an impact on the swamp pink as to "reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species." There is no basis for such a conclusion being reached here, primarily because any State or private future development in the area will be subject to the New Jersey Freshwater Wetlands Protection Act and regulations that together require the designation of swamp pink-containing wetlands as "exceptional wetlands" that require a 150 foot "transition area" or buffer. Also, any development activity that requires a New Jersey Freshwater Wetlands Act Permit will, because of the Memorandum of Agreement be subject to the same ESA-required review process that the instant application is now undergoing.

In summary, any properly conducted "cumulative impact" analysis must conclude that issuing the requested wetlands impact in this case will not "jeopardize the continued existence" of the swamp pink. This is readily illustrated by an article in the June 1, 1998 edition of the Philadelphia Inquirer entitled "This Pink isn't pretty for N.J. developers", and listing all the developments--including the proposed Pine Hill golf course referred to by the Service--that have been stopped, curtailed, or radically altered as a result of the government's protection of the swamp pink.

2. Forest Fragmentation and neo-tropical migrants.

There are several problems with the Service's comments. In the first place they have nothing to do with impacts on endangered species. In the second place, they rest upon the mistaken premise that the Hidden Mill and Murray Hill tracts consist of a huge undisturbed mature upland forest. Any knowledgeable person visiting the site and reviewing the historical aerial photographs would readily see that (1) almost the entire mature forest is contained in only the wetlands; (2) the *upland* mature forest is confined to a small area at the southern end of Hidden Mill Drive, and it is already "fragmented"; (3) the bulk of the upland area is either disturbed fields or successional woods, and in many places those successional woods are already "fragmented' by corridors, trails and historical vehicle paths.

Summary and Conclusion

The Service's comments should be rejected out of hand. They are little more than offhand speculations about possible effects of this project and future projects, speculations which ignore the environmental specifics of this project, and which ignore both federal and state environmental regulations that will limit future development that might impact the swamp pink.

Beyond the lack of scientific foundation for the Service's comments, their acceptance by the NJDEP would work a totally unjustified hardship on this applicant, who has spent hundreds of thousands of dollars in repeated efforts to satisfy the regulatory agencies, and who has been assured by the NJDEP that its most recent downsizing and redesign of both the Hidden Mill and the Murray Hill Projects would be supported by the NJDEP.

We don't ask, however, that the NJDEP reject the Service's comments just because notions of common decency and fundamental fairness cry out for those comments to be rejected, given the tortured history of this project, the applicant's relentless efforts to satisfy the concerns of the regulatory agencies, and the applicant's reliance on the NJDEP's position in downsizing the project generally, and building in environmental protection features beyond those which the law requires. The underlying and fundamental point is that the development as currently designed is "not likely to jeopardize the continued existence of" the swamp pink. 16 U.S.C.A. §1536(a)(2)

To the extent that a meeting or meetings of the parties would be helpful in resolving the impasse presented by the Service's comments and the USEPA's reliance on them, we pledge our and our client's full and timely cooperation in any such effort.

Respectfully.

CHARLES LEE HARP, JR.

ROBERT W. BUCKNAM, JR.

cc: Ms. Ruth Ehinger
Judeth Piccinini-Yeany, DAG
Mr. Andrew Gale
Mr. Lawrence Torok

CLH/RWB:eml
Enclosures

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3.17

RECEIVED
DEC 23 1998
ARCHER & GREINER
A PROFESSIONAL CORPORATION

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
RICHARD J. HUGHES JUSTICE COMPLEX
25 MARKET STREET
P.O. BOX 093
TRENTON, NJ 08625-0093
E-Mail: yeanyjud@law.dol.lps.state.nj.us

CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

JEFFREY J. MILLER
Assistant Attorney General
Director

(609) 633-8109

December 22, 1998

Hon. John R. Tassini, ALJ
Office of Administrative Law
P.O. Box 049
Trenton, New Jersey 08625-0049

Re: Hidden Mill Associates v. Div. of Coastal Resources, NJDEP, OAL Docket No. ESA 08562-91S, Agency Ref. No. 0408-881208.3WQC

Dear Judge Tassini:

As you requested during our telephone conference on December 2, 1998, the purpose of this letter is to summarize the status of the above-captioned matter. As you are aware, this matter has a long history, the pertinent parts of which I will summarize below.

In December 1989, the Department of Environmental Protection's ("Department's") former Division of Coastal Resources (now the Land Use Regulation Program) received an application for a Water Quality Certificate from Hidden Mill Associates ("Hidden Mill"). Through the Water Quality Certificate mechanism, Hidden Mill sought to fill 1.62 acres of freshwater wetlands in connection with the proposed construction of a 220-unit subdivision on a 90-acre site in Gloucester Township, Camden County. The Department denied the Water Quality Certificate application in January 1991.

The main concern expressed in the Department's denial was the impact of the proposed secondary access road for the development on freshwater wetlands, including habitat for Helonias bullata (swamp pink), a federally-listed endangered plant species. Accordingly, the Department recommended an alternative upland route for the access road through the adjacent Murray Hill property.

After several years of negotiations, Hidden Mill agreed in principle to pursue the upland alternative suggested by the Department. The developer then took a number of steps toward implementing this agreement, including reducing the proposed number of units to be constructed, acquiring the adjacent Murray Hill property and defending litigation brought by neighboring Pine Hill Township. However, because of the Department's assumption of jurisdiction over the freshwater wetlands permitting program from the U.S. Environmental Protection Agency, it was also necessary for Hidden Mill Associates to apply for an individual freshwater wetlands permit for the (formerly exempt) project as modified.

Hidden Mill formally filed its wetlands permit application on September 10, 1997. The Department conducted a preliminary review of the application and issued a deficiency letter on October 9, 1997. Hidden Mill responded to the Department's deficiency letter on December 17, 1997.

While Hidden Mill was in the process of addressing the deficiencies in the permit application, the application was also being reviewed by the U.S. Fish and Wildlife Service ("Service") under the terms of the Memorandum of Agreement ("MOA") governing the assumption of the federal wetlands permitting program. On December 3, 1997, the Service provided preliminary negative comments on the Hidden Mill application to the Department. On March 4, 1998, Mr. Bucknam and I attended a meeting on the application with representatives of the U.S. EPA, the Service, the Army Corps of Engineers, Hidden Mill and the Department. The meeting was held at Hidden Mill's request in order to afford the applicant the opportunity to address the Service's preliminary comments before a formal objection to the application was made.

On April 15, 1998, the Department received a letter from the U.S. EPA formally objecting to the Hidden Mill application. Essentially, the letter stated that the U.S. EPA was obligated

under the MOA to adopt the Service's objections to the project, and requested that the Department respond to these objections within 20 days. On May 5, 1998, the Department requested an extension of time from the U.S. EPA to respond to the objection letter. On May 6, 1998, the U.S. EPA notified the Department that the Service would not agree to the requested comment period extension.

Despite the Service's refusal to grant an extension of time for the Department to respond to its comments, the Department felt it should not respond without giving Hidden Mill sufficient opportunity to respond to the Service's letter. Therefore, the Department did not send the U.S. EPA a response to the issues raised by the Service until June 19, 1998. The Department included as an attachment to its response a copy of a June 17, 1998 position paper, prepared by Hidden Mill, which contained a detailed response to each of the Service's concerns. In its letter, the Department also outlined a number of permit conditions and project modifications that it believed would address the issues raised by the Service.

After receiving the Department's June 19, 1998 response, the U.S. EPA took the position that under the MOA, it was necessary for the Department to state its intention to deny the Hidden Mill permit in order to avoid immediate assumption of jurisdiction over the permit application by the Army Corps of Engineers. Accordingly, the Department sent a letter to the U.S. EPA on July 15, 1998, stating that it intended to deny the individual freshwater wetlands permit application unless Hidden Mill agreed to (1) reevaluate the freshwater wetlands line on its property (one of the issues disputed by the Service), (2) relocate one of the stormwater outfalls for the proposed project further downgradient from the swamp pink community and (3) minimize secondary impacts of the project by eliminating five houses that were proposed to be constructed on an extension of Little Mill Road. However, the obvious implication of the Department's letter was that it would grant the permit application if Hidden Mill agreed to the changes to the project.

The Service did not respond to the Department's June 19, 1998 letter until October 5, 1998, when it sent a letter to the U.S. EPA providing further comments on the Hidden Mill project. After discussing the background of the Hidden Mill project and the

timeframes of the MOA, the letter from the Service stated that it concurred with the Department's intention to deny the Hidden Mill permit application and that, given the Department's intention to deny the permit application, "no further action is required by the Service at this time." However, the Service also stated that if the Hidden Mill project were to be modified and re-considered for approval, its "remaining concerns" should be taken into account. Finally, the Service noted that because "the 90-day time limit for federal oversight of State permits has expired for the Hidden Mill project review," any modified permit application would have to be forwarded to the Army Corps of Engineers for processing under 40 C.F.R. §250(j).

On November 3, 1998, the U.S. EPA requested that the Service clarify its October 5, 1998 letter. Specifically, the U.S. EPA asked the Service to comment on the project changes proposed by the Department and to clarify whether it is still opposed to the Department's issuance of the freshwater wetlands permit. The U.S. EPA letter also asked the Service to provide specific information to support its contentions about adverse impacts to swamp pink on the adjacent Murray Hill parcel from the Murray Hill project.

Unfortunately, the U.S. EPA's November 3, 1998 letter did not set a deadline for the Service's response, and the MOA does not address (nor did it anticipate) this particular situation. Therefore, the Department cannot predict when the U.S. EPA will make a final determination of whether it agrees with the Service's concerns about the Hidden Mill project. Once the Department receives the U.S. EPA's final determination, it will then be in a position to grant or deny Hidden Mill's freshwater wetlands permit application. If the permit is granted, I believe this will resolve the underlying dispute in this appeal and allow the parties to execute a Stipulation of Settlement.

Given the long history of the project and the applicant's continued cooperation, the Department will make every effort to obtain a timely response from the U.S. EPA, expedite the review of the permit application, and bring this long-standing administrative appeal to closure. Please do not hesitate to contact me if you have any questions on the above.

Sincerely yours,

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

By: Judeth Piccinini Yeany
Judeth Piccinini Yeany
Deputy Attorney General

c: Robert W. Bucknam, Jr., Esq.
Ruth Ehinger, DEP
Andrew Gale, DEP

State of New Jersey

James E. McGreevey
Governor

Department of Environmental Protection
Land Use Regulation Program
P.O. Box 439, Trenton, NJ 08625-0439
Fax # (609) 292-8115
Fax # (609) 777-3656
www.state.nj.us/landuse

Bradley M. Campbell
Commissioner

June 24, 2004

Vincent Pennoni
Pennoni Associates Inc.
515 Grove Street, Suite 2A
Haddon Heights, New Jersey 08035

RE: Freshwater Wetland Mitigation Proposal
Project: Hidden Mill
LURP Permit #0414-97-0011.1-FWIP
Gloucester Township, Camden County
Blocks 1/14402, Lots 5,6/45,46

Dear Mr. Pennoni:

On March 21, 2002, the Department of Environmental Protection issued an Individual Freshwater Wetlands Permit to Hidden Mill Associates that authorized the filling of .5950 acres of freshwater wetlands. Mitigation condition #1 of said permit required mitigation for the filling of those wetlands. This letter is to advise you that the proposed Hidden Mill Wetlands Enhancement Project is not approved. The following letter will explain the rationale behind that decision and also provides a mitigation alternative.

On August 8, 2002 the Land Use Regulation Program received a wetland mitigation proposal entitled:

> Hidden Mill Wetland Enhancement Project, Proposed Hidden Mill Enhancement, Block 14402, Lots 45 & 46, Gloucester Township, Camden County , New Jersey, prepared by Russell C. Shiveler and Christopher C. Squazzo, dated August 2, 2002 and unrevised.

Staff of the Land Use Regulation Program conducted a site inspection on November 14, 2002 to determine if the proposed property was suitable for wetland enhancement. Pennoni Associates was represented by Russell Shiveler and Christopher Squazzo. Based on that site inspection it was determined that the area proposed for enhancement was a functioning palustrine forested wetland. Consequently, enhancement of that wetland system was not a viable wetland mitigation alternative. Both Mr. Shiveler and Mr. Squazzo were advised of that decision during the site inspection.

On November 27, 2002 I advised you that the wetland enhancement site/project was not approvable and that you should investigate other mitigation alternatives. We also discussed the fact that the permitted activities had been conducted in violation of the Freshwater Wetland Individual Permit. Subsequent to our conversation, the Office of Coastal and Land Use Compliance and Enforcement issued a Notice of Violation to Hidden Mill Associates on February 13, 2003.

On April 17, 2003 and April 15, 2004 I contacted you to discuss the outstanding wetland mitigation aspects of the permit. I again advised you that the enhancement project could not be approved as it did not meet the definition of enhancement. I indicated that a letter to that effect would follow and that you should consider investigating other mitigation alternatives.

During the telephone conversation that we had on April 15, 2004, I advised you of a possible mitigation alternative involving the preservation of several parcels of land in Gloucester Township. The parcels in question are contained within the headwaters of a tributary to Mason's Run. Mason's Run is classified as Trout Production waters and is in fact the only known stream in southern New Jersey considered as such. The owner is amenable to selling said parcels and his consultant, Frances Pandullo (FPPE Consulting Engineers, INC.), is attempting to form a consortium of purchasers that include Gloucester Township, Pine Hill Golf Course and Hidden Mills Associates, should you be interested. Mr. Pandullo can be reached at (609) 641-8787.

Please be advised that this alternative is a suggestion only. You are under no obligation to participate in this land acquisition project. However, please be advised that you continue to be responsible to satisfy all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued.

Please feel free to call me at (609) 984-0162 or by e-mail at dave.fanz@dep.state.nj.us should you like to discuss this letter.

Sincerely,

David B. Fanz

David B. Fanz
Supervising Environmental Specialist
Bureau of Coastal Regulation

c: Robert Pacione – Compliance and Enforcement
Lisa Arroyo – United States Fish and Wildlife Service

Exhibit Q

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

33 Washington Street
Newark, NJ 07102
(201) 648-6003

P.O.Box 049
Trenton, NJ 08625-0049
(609) 588-6577

FROM: NJ Department of Environmental Protection

NAME OF AGENCY Office of Legal Affairs
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625-0402
ADDRESS
Janis E. Hoagland, Director

TRANSMITTING OFFICER
(609) 292-0716

TELEPHONE NUMBER

****
***OAL OFFICIAL USE** *

***COUNTY**_____ *

***N/S**_____ *
****

THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED:

1. Nature of the case. Please include references to statutes or rules and briefly summarize the facts and law involved. Attach pleadings to this form.

2. Estimated time required for hearing.

3. Legal requirements (State or Federal) mandating a date for Agency Decision.

4. Is a court stenographer requested?

5. Special features to be anticipated in this matter, i.e. emergent relief, discovery motions, prehearing conference, conference hearing, remand, expedited hearings, location (county).

6. Has the agency conducted any settlement?

7. Is a barrier-free location needed?

8. Have the attached documents been exchanged between the parties?

9. Names of other agencies claiming jurisdiction over transmitted dispute.

10. Names and address of all parties and their representatives (other than witnesses) to full extent known.

ECE-LU

New Jersey Department of Environmental Protection -
Coastal and Land Use Compliance and Enforcement

VS.
HIDDEN MILL ASSOCIATES AND LITTLE MILL, INC., AND PENCHIL, LLC., AND CELESTINO R. PENNONI, INDIVIDUALLY, AND VINCENT PENNONI, INDIVIDUALLY

Name of Contested Case or Short Title

PEA070001-0415-03-0001.1
Agency Docket / Reference Number

Appeal of a(n) Administrative Order and Notice of Civil Administrative Penalty Assessment

5 Day(s) or _____ Hour(s)

_____ Yes X No; if yes, please specify requirement and citation:

X Yes _____ No

_____ Yes _____ No; If Yes, date _____

Yes _____ No X Uncertain _____

X Yes _____ No; if no, the documents shall be served on or offered to the parties on _____.

NONE

_____ (Type on other side

Transmitting officer or other person to receive OAL hearing notices pursuant to **N.J.A.C. 1:1-8.2(a) 13.** This person need not be served by the parties with motions, correspondence, etc.

Janis E. Hoagland, Director
NJDEP/Office of Legal Affairs
P.O. Box 402, 401 East State Street
Trenton, New Jersey 08625

SERVICE LIST
Parties Names in this Proceeding and their Representatives
For additional parties, attach names, addresses and telephone numbers of each party linked with that representative if any.

1.
Vincent Pennoni/Hidden Mill Associates and all Named Parties
3001 Market Street
Suite 200
Philadelphia, PA 19104
TELEPHONE#

Richard F. Roy, Jr., Esq.
REPRESENTATIVE OF 1.
Comegno Law Group, P.C.
521 Pleasant Valley Avenue

Moorestown, NJ 08057
TELEPHONE# 856-234-4114

Scott Brubaker
2.
Bureau of Coastal and Land Use Compliance and Enforcement
401 East State Street, 4th Floor
P.O. Box 422
Trenton, NJ 08625-0422

TELEPHONE# (609) 984-0564

Bruce A. Velzy, DAG
Representative of 2

NJ Dept. of Law and Public Safety, Division of Law
Hughes Justice Complex
P.O. Box 093
Trenton, NJ 08625-0093

Telephone: 609-292-1509
E-Mail Address: velzybru@dol.lps.state.nj.us

3.

TELEPHONE#

REPRESENTATIVE OF 3.

TELEPHONE#

4.

TELPHONE#

REPRESENTATIVE OF 4.

TELEPHONE#

Exhibit R

State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INTERLOCUTORY ORDER ON MOTION FOR PARTIAL SUMMARY DECISION

OAL DKT. NO. ECE-LU 02227-10

AGENCY DKT. NO. PEA070001-0415-03-0001.1

STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT,

Petitioner,

v.

HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC; CELESTINO R. PENNONI (INDIVIDUALLY), AND VINCENT PENNONI (INDIVIDUALLY),

Respondents.

Bruce A. Velzy, Deputy Attorney General, for petitioner (Paula T. Dow, Attorney General of New Jersey, attorney)

Richard F. Roy, Jr., Esq., for respondents (Comegno Law Group, P.C., attorneys)

BEFORE **JEFF S. MASIN**, ALJ:

In 2008, the Department of Environmental Protection (DEP), Bureau of Solid Waste Compliance and Enforcement, issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) to Hidden Mill Associates; Little Mill

Inc.; Penchil, LLC, Celestino R. Pennoni, individually, and Vincent Pennoni, individually, asserting that they had violated permit conditions that were imposed in respect to a Combined Land Use Permit (DLUR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) issued in March 2002. More specifically, DEP claimed that the respondents had failed to notify in writing the United States Fish and Wildlife Service (F&WS) two weeks prior to the commencement of land clearing activities on the permitted site, as required by Special Condition #1 of the Permits; failed to sign a Department approved deed restriction for the subject propert(ies) and to record the same prior to the implementation of any project activity that would impact wetlands, as required by Special Condition #6; and failed to comply with a requirement to mitigate the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement, as required by Mitigation Condition #1. The AONOCAPA imposed a civil administrative penalty of $330,000 for these alleged violations of the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.

The respondents requested an administrative hearing in which to challenge the AONOCAPA and the contested case was transferred to the Office Administrative Law for hearing. The DEP has now moved for partial summary decision, pursuant to N.J.A.C. 1:1-12.5. The respondents have replied in opposition to partial summary decision, and also seek to have the charge against Celestino R. Pennoni dismissed on summary decision. The DEP has opposed the dismissal as to Celestino R. Pennoni. Oral argument was held on October 3, 2011.

The respondents do not contest certain facts in regard to the DEP's claims. In each instance, while acknowledging that they did not comply with the letter of the requirements of Special Conditions #'s 1 and 6, they assert that they complied with the "intent and purpose" of the Conditions. While they agree that the written notice to the Fish and Wildlife Service was not provided two weeks prior to the commencement of land clearing, they nevertheless contend that Fish and Wildlife Service representatives were on site on several occasions prior to the implementation of any project activity and had "actual" notice of the scope, kind and commencement of the work on the Property. They agree that the deed restriction was not signed and was not filed prior to the

implementation of any project activity. However, they assert that the Home Owners' Association Master Deed contained the restrictions, was recorded and was in full effect prior to any portion of the property being transferred to a successive owner.

As to Mitigation Condition #1, they claim that when a Notice of Violation was issued to them on February 13, 2003, contending that they had cleared a larger area of wetlands than permitted by the Permit, rather than dispute facts as to whether only a portion of the area disturbed was within the wetlands area, they began to work on a plan for "corrective measures." The full correction of the disturbance and approval for that correction was acknowledged by DEP on October 18, 2004. Had the respondents known that in 2008, five years after the issuance of the NOV, the DEP would pursue civil penalties for the alleged violation, they would have disputed the area of wetland disturbance. In addition, the respondents contend that they had previously undertaken restoration work on a "degraded area" and had restored this area into a functioning wetland. They contend that the DEP had on "numerous" occasions prior to the issuance of the Permit, represented that this restoration work would be credited or otherwise factored into any mitigation requirements imposed under the Permit. They therefore wish to present at hearing materials regarding work done and interactions with DEP concerning this restoration and the alleged understandings regarding "credit." These materials may have been produced and may be relevant to matters occurring prior to the issuance of the Permit in March 2002. The DEP has filed a motion in limine, seeking to prevent reference to matters involving the parties and the property occurring prior to the issuance of the Permit. DEP contends that as regulations provide that no consideration of mitigation issues may occur prior to the determination of whether a Permit application is to be granted, anything that occurred prior to the issuance of the Permit is legally irrelevant to the issues in this case, a position that the respondents dispute as they oppose the motion in limine.

In addition to the above, Celestino R. Pennoni, who by Certification acknowledges that he is the one hundred percent owner of respondent, Little Mill, Inc., a fifty percent owner of Hidden Mill Associates (Penchil, LLC, with which he claims to have no ownership or management involvement, being the other fifty percent owner), seeks summary decision dismissing the DEP's AONOCAPA as it is directed to him in

an individual capacity, arguing that the DEP has not asserted evidence that could meet the test for piercing the corporate veil and that it has not offered any viable legal basis for personal liability on his part. DEP responds that under applicable case law, he is a proper person to hold personally liable for the violations of the respondents in regard to the property and this Permit. DEP contends that the existing law permits the imposition of liability on Pennoni and that liability is not actually a function of piercing the veil, but is the result of Pennoni's role in the control and management of the respondents.

Summary Decision

Summary decision is a well-recognized procedure for resolving cases in which the facts that are crucial to the determination of the matters at issue at not actually in dispute and the application to that set of material facts of the applicable law and standard of proof lead to a determination of the case without the necessity of a hearing at which evidence and testimony need be taken. The Supreme Court has elaborated on the motion and its standard in Brill v. The Guardian Life Insurance Company of America, et al., 142 N.J. 520 (1995). Under the Brill standard, a motion for summary decision may only be granted where there are no "genuine disputes" of "material fact." The determination as to whether disputes of material fact exist is made after a "discriminating search" of the record, consisting as it may of affidavits, certifications, documentary exhibits and any other evidence filed by the moving party and any such evidence filed in response to the motion, with all reasonable inferences arising from the evidence being accorded to the opponent of the motion. In order to defeat the motion, the opposing party must establish the existence of "genuine" disputes of material fact. The facts upon which the party opposing the motion relies to defeat the motion must be something more than "facts which are immaterial or of an insubstantial nature, a mere scintilla, fanciful, frivolous, gauzy or merely suspicious, . . . ," Judson v. People's bank & Trust Company of Westfield, 17 N.J. 67, 75 (1955) (Brennan, J.). The Brill decision focuses upon the analytical procedure for determining whether a purported dispute of material fact is "genuine" or is simply of an "insubstantial nature." Brill, supra, at 530. Brill concludes that the same analytical process used to decide motions for a directed verdict is used to resolve summary decision motions. "The essence of the inquiry in each is the same: 'whether the evidence presents a sufficient disagreement to require

submission to a jury or whether it is so one-sided that a party must prevail as a matter of law.' " Id. at 536, quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251-52, 106 S.Ct. 2505, 2512, 91 L.Ed.2d 202, 214. In searching the proffered evidence to determine the motion, the judge must be guided by the applicable substantive evidentiary standard of proof, that is, the "burden of persuasion" which would apply at trial on the merits, whether that is the preponderance of the evidence or the clear and convincing evidence standard. If a careful review under this standard establishes that no reasonable fact finder could resolve the disputed facts in favor of the party opposing the motion, then the uncontradicted facts thus established can be examined in the light of the applicable substantive law to determine whether or not the movant is clearly entitled to judgment as a matter of law. However, where the proofs in the record are such that "reasonable minds could differ" as to the material facts, then the motion must be denied and a full evidentiary hearing held.

In pertinent part, Special Condition #1 states:

> **Two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates site, the Permittee must notify the U.S. Fish and Wildlife Service in writing** . . . .

Special Condition #6 reads, again in relevant part

> **Prior to initiation of site preparation**, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the REGISTRAR OF DEEDS AND MORTGAGES) . . . The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands.

Mitigation Condition #1

> Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project as detailed in condition number 3 below or if available through the purchase of mitigation credits as detailed in condition 2 below.

As noted, to the extent that the AONOCAPA is based upon the failure of the respondents to perform in a timely fashion certain steps that they were required by the conditions of the Permits to do at certain designated times, the respondents do not contest that they did not accomplish these required tasks at the designated time. As such, given the requirements spelled out in Special Conditions #'s 1 and 6, which are without doubt clearly stated and understandable, there is no genuine dispute as to the material facts regarding whether the designated tasks were performed when the Special Conditions required that they be done. Indeed, at oral argument counsel for the respondents acknowledged that he "could not get from under the facts." However, in their response to the motion for summary decision, the respondents argue that in fact there are material facts in issue that preclude summary decision. But in stating these allegedly disputed facts, the respondents appear not to actually assert that the facts pertaining to the conditions as written are in dispute, but instead appear to argue that the intent and purpose for which the Special Conditions existed were fulfilled. Thus, if Special Condition #1 stated that a written notice was required to the Fish and Wildlife Service two weeks before clearing began, they do not argue such occurred. Instead, they claim that the intent to put Fish and Wildlife on notice was accomplished by that agency's on-site presence at several times before the commencement of clearing. But such a position does not dispute that the stated Special Condition was not fulfilled as written. No written "two week" notice was provided. And similarly, the deed restriction signing and recording required by Special Condition #6 was not accomplished as that Condition stated. Again, the respondents argue that the intended result of such signing and recording was accomplished, but not that it was done as the Condition stated, "[P]rior to initiation of site preparation" and "completed prior to the implementation of any project activity that would impact wetlands." There are not material facts at issue as to whether these things were done when the Conditions required. What in fact the respondents appear to argue is not that there are genuine disputes as to these material facts, but that DEP's treatment of their failure to comply with the words of the Conditions rises to arbitrariness and involves the imposition of unreasonable and capricious penalties for what are at most "minor technical failure(s)". They paint the DEP as acting in a manner that is "patently absurd." But they do not say the DEP is wrong in its understanding of the facts as they relate to the timely carrying out of the

actions mandated in the time-sensitive language of the two Conditions. As such, it appears that what the respondents really contend is not that summary decision as to the facts of compliance with the words of the Conditions is unwarranted, but that instead the penalties imposed are themselves arbitrary, capricious and unreasonable, given that the purpose of the Conditions was actually fulfilled even if the "technical" words were not. If the function and purpose of the Conditions was fulfilled as the DEP intended, then penalizing the respondents for not fulfilling every jot and tittle of the Special Conditions is "absurd." Indeed, in their brief, the respondents summarize their position as that a "genuine issue of material fact exists regarding the DEP's demand for a massive penalty."

I **FIND** that there is no genuine dispute of material fact, indeed, there is no dispute at all, that the respondents did not comply with the Permit requirements for the sending of a written two week notice to Fish and Wildlife or that the respondents did not sign or record the deed restriction at the times required by the Permit. As such, I **CONCLUDE** that they did violate Special Conditions #'s 1 and 6. Summary decision as to the existence of these violations is warranted.

The DEP characterized its motion as seeking partial summary decision. It did offer that summary decision as to the penalties assessed for the two violations of the Special Conditions was warranted. However at trial, counsel for the DEP may have backtracked a bit on this portion of the motion. He noted that penalty matters, which in part are dependent upon assessments of such matters as intention, knowledge, willfulness and purpose, are not generally amenable to summary decision.

Penalties for violations of the FWPA are established in accordance with a matrix that includes consideration of the resource value (environmental importance) of the wetlands, the acreage of wetlands impacted and the conduct of the violator. N.J.A.C. 7:7A-16.8(c). Each of these categories is assigned a point total and these totals are then tallied and a daily penalty is determined depending upon the number of total points. N.J.A.C. 7:7A-16.8(d). The DEP determined that the penalty for the failure to file the deed restriction as required involving an area of less than one acre merited one point; three points were assessed for an intentional violation, characterized as "major"

in the regulation, and three points for disturbing exceptional wetlands because of the presence on the property that was deed restricted, of swamp pink, an endangered plant. The violation was deemed "intentional" because the permit placed the respondents' on specific notice of the requirement to file the deed restriction before they impacted the wetlands and they failed to do so. This demonstrated that the violation was "knowing" and thus "intentional." While the daily penalty could have been $7,500, the DEP nevertheless did not choose to assess a penalty for each day during which the violation existed. Instead, it only penalized for ten days during the entire period from the commencement of the land clearing, which occurred in Spring 2002 and which was the triggering event for the filing requirement, and the filing of the deed restriction in June 2004. This resulted in a $75,000 penalty for the failure to file the deed restriction. In addition, DEP assessed a penalty of $36,000 for the unauthorized disturbance of 20,000 square feet of wetlands adjacent to the sanitary sewer crossing. It assessed $6,000 a day, based upon one point for the disturbance of less than one acre; three points for an intentional violation and two points for disturbing an intermediate value wetland, the default classification under N.J.A.C. 7:7A-16.8. Again, the DEP substantially diminished the number of days for which a penalty was assessed, only seeking a penalty of $6,000 a day for a total of six days of violation between the discovery of the violation in November 2002/January 2003 and its resolution in August 2004.

DEP also assessed a $30,000 penalty for the violation of Special Condition #1, the failure to provide two weeks written notice to the Fish and Wildlife Service. This amount represented a $7,500 a day penalty assessed for four days, or one day a month during which the violation continued.

Finally, the DEP assessed a $180,000 penalty for the failure to comply with Mitigation Condition #1.

To the extent that the respondents characterize the penalties assessed for the alleged violations of Special Conditions #1 and #6 as unreasonable, the ultimate question is whether the DEP has established these in response to the demands of the regulatory scheme. The regulation instructs the agency what considerations are to be

included in determining what penalty a violator must pay. In doing so, the regulation establishes that with regard to the determination of the acreage, anything less than one acre involved is given the lowest possible point total, one point. That was done in this case. As for the resource value, it does not appear that the respondents challenge the assessments of the DEP as to the resource value of the two areas and the point totals assigned to each category by the regulation, the "default" category of "intermediate" (2) and the "exceptional" (3) for the deed restricted site, where swamp pink exists.

As more directly developed during oral argument, the respondents' real dispute is over the characterization of their conduct as "major", defined in the regulation as "i. Major conduct shall include an intentional, deliberate, purposeful, knowing or willful act or omission by the violator . . . ." The regulation also provides for characterization of the type as "ii. Moderate" meaning "conduct shall include any unintentional but foreseeable act or omission by the violator . . ." and "iii. Minor conduct" which "shall include any conduct not identified in (c)1i or ii above . . ." DEP chose the "major" category on the theory that the language of the permit "Special Conditions" was clear and to the point and not subject to any interpretation as to the meaning of the conditions and the timing of the required events. As the respondents must have known precisely what they were required to do and failed to do it, the conduct must be seen as "intentional," "knowing." There was nothing "unintentional" in the failure to send the required two week notice or to sign and record the deed as required. As such, the acts or omissions cannot reasonably be characterized as "moderate." However, the respondents contend that, as they believe the facts will demonstrate that Fish and Wildlife was fully aware of the activities at the property and was effectively on notice as to the commencement of land clearing, any failure to send the written notice two weeks in advance of such activity cannot be reasonably characterized as a knowing, willful violation. Instead, the facts may demonstrate that viewed in the context of ongoing contact between the respondents and Fish And Wildlife, the violation was no more than inadvertent and/or unintentional, or perhaps even as conduct not identified in subsections I or ii.

I **CONCLUDE** that to the extent that the motion may be read as requesting summary decision as to the penalty assessment imposed for the violation of Special

Condition #1, it is premature to conclude that the characterization of the conduct is undisputed by material facts. In part, the characterization of the "conduct" involves issues of state of mind and intention, which are not generally resolved by summary decision. It is proper here to obtain a complete record as to the situation and then assess what characterization of respondents' conduct is most appropriate.

As for the penalty imposed for the violation of Special Condition #6, there is no offer of any such contextual evidence. Although the respondents note that they did record the deed restriction before any transfer of any portion of the permitted property occurred, nevertheless the only issue as to the Special Condition was that the signing and recording occur before a certain event, that is, the "implementation of any project activity that would impact wetlands." It is undisputed that this did not occur. Unlike Special Condition #1, there is no suggestion that the context is relevant to the simple fact that what was to be done was not. The requirement to act to record the deed restriction has nothing to do with any other person or agency's knowledge of ongoing events, as perhaps might be said regarding the written two week notice. As such, there is no basis for the contextual evidence that might impact on the notice issue in Special Condition #1, where it may be argued that the failure to send the written notice was caused by an understanding that Fish and Wildlife already know of the activity. However, again, whether this was a deliberate and purposeful failure to act, or an unintentional one despite the clear requirement of the Special Condition, is best determined based upon such evidence that the parties may choose to offer at trial on the penalty issue. This may be particularly so where the deed restriction was not entirely ignored by the respondents, who apparently did include it in the Master Deed before any transactions involving the property took place.

I **CONCLUDE** that summary decision is not appropriate regarding the penalty issue. Testimony on this matter may be offered at trial.

The Motion In Limine

In its motion in limine, the DEP argues that any matters regarding discussions, documents, activities and the like relating to permitting activities and mitigation issues

predating the approval of the permit are irrelevant and should be excluded. The rationale for this is that N.J.S.A. 13:9B-13(b) provides that

> The department may require the creation, enhancement, or restoration of an area of freshwater wetlands of equal ecological value to those which will be lost, and shall determine whether the creation, enhancement, or restoration of freshwater wetlands is conducted onsite or offsite. The department shall accept and evaluate a proposal to create, enhance, or restore an area of freshwater wetlands only after the department has evaluated the permit application for which the proposal is made, and shall evaluate the proposal to create, enhance, or restore an area of freshwater wetlands independently of the permit application. The department's evaluation of a proposal to create, enhance, or restore an area of freshwater wetlands shall be conducted in consultation with the United States Environmental Protection Agency.
>
> [Ibid.] (Emphasis added.)

N.J.A.C. 7:7A-15.2(a) states

> The Department shall not consider a mitigation proposal in determining whether to approve a permit for a project.

While the provisions of law cited by the DEP do in fact place limits on the time when any proposal for mitigation can be accepted and evaluated and restrict the DEP from considering such a proposal in the course of its review and determination regarding a permit application, this does not necessarily equate to a total ban upon consideration of evidence that might exist of discussions and interactions regarding the property and the proposed activity and matters pertaining to mitigation that predate the approval. It is the acceptance and consideration of a proposal that must only occur after approval of the permit. This makes logical sense, as explained in Baron v. NJDEP, 93 N.J.A.R. 2d 75 (1993). But that restriction does not mean that anything passing between the DEP and a prospective applicant is necessarily absolutely irrelevant to the issue of what may or may not later be considered and approved once the DEP, having first considered and approved a permit application, then moves on to the consideration of a mitigation proposal filed after the permit has been approved. It is of course the case that any such prior matters cannot be asserted to bind the DEP

regarding a subsequent mitigation proposal that they are statutorily barred from even considering prior to the approval of the permit. And to that point, it is not clear whether the respondents are, in referring to having "relied upon DEP's representations made prior to the submission of the Application and the Enhancement Plan", suggesting just such a binding effect or perhaps an "estoppel" argument, which might be hard to establish given the statutory obligation not to consider a mitigation proposal prior to approval of the permit application. But a blanket ban on any evidence whatsoever of pre-permit-approval or pre-submission-contacts and discussions that may have relevance to the later consideration and determination of the post-permit-approval mitigation proposal simply goes too far. While references in N.J.S.A. 13:9B-21(a) and 21(1) to "any information" may not specifically address this specific question, they do point to the sensible concept that in determining the existence of violations it is best to consider any relevant evidence, while at the same time honoring the principle that restricts the actual acceptance and consideration of a mitigation proposal itself to that time after a permit has been approved. Indeed, if the Commissioner is permitted to rely upon "available information" in issuing orders which are generally in the form of an AONOCAPA, it is only appropriate that the Commissioner also base the ultimate determination of a final administrative decision upon such "available information", so long as it is relevant and material to the issue in the case and otherwise constitutes acceptable evidence under the relaxed standards that apply in administrative adjudication. As such, it is better to consider the specific offers of evidence at trial and determine the purpose and significance of such. In some instances it may be proper to reject evidence; in others not so. Pre-judgment as to the specifics of such determinations is not proper and would convert the meaning of the time restrictions on submission and consideration of the mitigation proposal into something more than the statutory or regulatory language suggests. The motion in limine is **DENIED**. However, it may be necessary for the respondents to demonstrate by means of an offer of proof how the specific evidence it seeks to present can have an appropriate relevance to the issue in the case. Otherwise, the discovery process may become burdensome. As such, the respondents may make specific requests regarding discovery to the DEP, particularizing the nature of the materials sought, and must be prepared to specify why and to what purpose matters pre-approval are specifically asserted to be relevant. If these are not be shown to be appropriate, then discovery and/or submission at trial may

be refused. Any specific disputes regarding this discovery will be determined as necessary on application of either party.

Celestino Pennoni

In seeking summary decision regarding the allegations made against Celestino Pennoni, the respondents offer Certifications that contend that despite his one hundred percent ownership of Little Mill and presidency of that company and its fifty percent ownership interest in Hidden Mill, Mr. Pennoni has no ownership interest or management role whatsoever in the other fifty percent owner of Hidden Mill, Penshil, LLC, and no involvement in the day-to-day operations of the development project, wetlands impact or other work on the Property. Pennoni denies that he had any actual involvement at any time in the wrongdoing or violations asserted by DEP. As such, Pennoni argues that any attempt to impose any liability for such violations upon him as an individual would be a factually deficient and legally inappropriate "piercing of the corporate veil." The evidence necessary to support such liability must demonstrate "more than passive involvement with the alleged activities which give rise to the violation of law." Actual control of day-to-day operations and events resulting in the violation must be shown.

The DEP argues that the assertion of individual liability as to Celestino Pennoni is a reflection of the scope of protection that is the hallmark of environmental legislation, citing Department of Environmental Protection v. Ventron Corp., 94 N.J. 473 (1983). In Ventron, the Court held that even where the traditional common law grounds for piercing the corporate veil did not apply, the Spill Act provided additional authority for the imposition of personal liability.

> Although it would be inappropriate to pierce Wood Ridge's corporate veil by applying the traditional common-law doctrine, liability of Velsicol may be predicated upon the 1979 amendment to the Spill Act. As amended, the Spill Act provides: "Any person who has discharged a hazardous substance *or is in any way responsible* for any hazardous substance . . . shall be strictly liable, jointly and severally, without regard to fault, for all clean up and removal costs." N.J.S.A. 58:10-23.11g(c) (emphasis added).

> The phrase "in any way responsible" is not defined in the statute. As we have noted previously, however, the Legislature intended the Spill Act to be "liberally construed to effect its purposes." N.J.S.A. 58:10-23.11x. The subsequent acquisition of land on which hazardous substances have been dumped may be insufficient to hold the owner responsible. Ownership or control over the property at the time of the discharge, however, will suffice. See State Dep't of Envtl. Protection v. Exxon Corp., 151 N.J. Super. 464, 470-74 (Ch.Div.1977). From 1967 to 1974, and thereafter, Velsicol could have controlled the dumping of mercury onto its own thirty-three-acre tract. By permitting Wood Ridge, even after it became a Ventron subsidiary in 1968, to use that tract as a mercury dump, Velsicol made possible the seepage of hazardous wastes into Berry's Creek. Furthermore, from 1960 to 1968, Velsicol was the sole shareholder of Wood Ridge and all members of the Wood Ridge Board of Directors were Velsicol employees. Velsicol personnel, officers, and directors were involved in the day-to-day operation of Wood Ridge. In addition to constant involvement in Wood Ridge's activities, Velsicol permitted the dumping of waste material on the thirty-three-acre tract. When viewed together, those facts compel a finding that Velsicol was "responsible" within the meaning of the Spill Act for the pollution that occurred from 1960 to 1968.
>
> Given the extended liability of the Spill Act, we conclude that the Legislature intended that the privilege of incorporation should not, under the circumstances that obtain here, become a device for avoiding statutory responsibility. A contrary result would permit corporations, merely by creating wholly-owned subsidiaries, to pollute for profit under circumstances when the Legislature intended liability to be imposed.
>
> [Ventron, supra. at 501-503].

DEP notes that in further explanation of the applicability of personal liability for environmental wrongdoing on the part of corporations, the Appellate Division, relying on case law from the Federal Clean Water Act and more remotely from the Federal Food, Drugs and Cosmetics Act, decided in Department of Environmental Protection v. Standard Tank Cleaning, Corp., 284 N.J. Super. 381, 402-403 (App. Div. 1995), that liability could be imposed upon a "responsible corporate official."

> Since the WPCA was designed to establish a state system for enforcement of the provisions of the Federal Clean Water Act, see Pub. Serv. Elec. & Gas Co. v. New Jersey Dept. of Envtl. Protection, 101 N.J. 95, 99-100, 501 A.2d 125 (1985); Lewis Goldshore, New Directions in Water Pollution Control, 100 N.J.L.J. 797, 806 (Sept. 8, 1977), it is reasonable to construe the term "responsible corporate official" as used in N.J.S.A. 58:10A-3(*l*) in conformity with the concept of "responsible corporate officer" developed in Dotterweich and Park and applied in Brittain. Under this view, an individual may not be held liable for a corporation's violation of the WPCA simply because he or she occupies the position of corporate officer or director. Instead, there must be a showing that a corporate officer had actual responsibility for the condition resulting in the violation or was in a position to prevent the occurrence of the violation but failed to do so. Stated another way, we construe the WPCA to impose liability only upon corporate officers who are in control of the events that result in the violation. Absent such a showing, a corporate officer cannot be said to be "responsible" for the violation.
>
> [Ibid.]

The principle that individual liability may be imposed upon corporate officials in a position to prevent the violations even where such persons are not in day-to-day charge of the activities of the corporation has been applied in other cases arising under the environmental protection statutes. Asdal Builders, LLC v. DEP, ESA 9890-06 & ECE 9763-08, Initial Decision, (May 12, 2010), adopted in pt., rejected in pt., Comm'r. (December 9, 2010) <http//lawlibrary.rutgers.edu/oal/search.html>, and N.J. Dep't of Envtl. Prot. v. Camden Asphalt & Concrete Co., Inc., & Pangia, ESW 6344-01, final decision, (June 28, 2003), http://lawlibrary.rutgers.edu/oal/final/esw6344-01.pdf, aff'd, No. A-6786-02T5 (App. Div. July 13, 2004).

Celestino Pennoni has not simply been an entirely passive owner of a corporate entity with ownership of a share of the Property at issue. According to the documents attached to the Dobbs Certification presented by the DEP, he has been listed on documents filed with regard to soil erosion and sediment control as a "Job Supervisor" for Hidden Mill and a "contact person" for that entity for the DEP's Bureau of Nonpoint Pollution Control. He signed an RFA Certification for a Construction General Permit in

1998 as a "responsible corporate officer" or, perhaps, as a "duly authorized representative" for Hidden Mill Associates. Given these facts, his assertion that he is nothing more than a passive owner with no involvement is open to dispute, especially given the law's emphasis upon the ability of an officer to "prevent the occurrence of the violation." As such, summary decision dismissing the assertion of individual liability against him is not warranted. The motion is **DENIED**.

This order may be reviewed by the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6.

November 7, 2011
DATE

JEFF S. MASIN, ALJ

mjm

Exhibit S

State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

SUPPLEMENTAL INTERLOCUTORY ORDER

OAL DKT. NO. ECE-LU 02227-10

AGENCY DKT. #PEA070001-0415-03-0001.1

STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT,

Petitioner,

v.

HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC; CELESTINO R. PENNONI (INDIVIDUALLY), AND VINCENT PENNONI (INDIVIDUALLY),

Respondents.

Bruce A. Velzy, Deputy Attorney General, for petitioner (Paula T. Dow, Attorney General of New Jersey, attorney)

Richard F. Roy, Jr., Esq., for respondents (Comegno Law Group, P.C., attorneys)

BEFORE **JEFF S. MASIN**, ALJ:

This Order is a supplement to an Interlocutory Order issued on November 7, 2011. In that Order I inadvertently did not address a portion of the motion for summary

decision dealing with the DEP's contention that the respondents violated the Freshwater Wetlands Protection Act by clearing 20,000 square feet of freshwater wetlands without a permit to do so, as required by N.J.A.C. 7:7A-2.1. The Permit that had been issued to the respondents did allow for clearing of some wetlands, however the DEP argues that the undisputed evidence establishes that the respondents exceeded the permitted area when they cleared wetlands. The respondents have advised that while they acknowledge that they did clear a portion of the property beyond that which they were permitted to clear under their Permit, they dispute the alleged extent of the area that they cleared without permit approval. However, they concede that as the DEP, in establishing the penalty assessment for the violation under the terms of N.J.A.C. 7:7A-16.8, only assessed the penalty that applies for a violation involving the minimum acreage amount, that is, less than one acre, their factual dispute over the actual extent of their violation is of no moment in regard to the penalty assessment. They do, however, dispute the DEP's determination to assess the violation as "knowing" under the "Conduct" element of the assessment matrix.

N.J.S.A. 7:7A-16.8 defines "Conduct". "i. Major conduct shall include an intentional, deliberate, purposeful, knowing or willful act or omission by the violator . . . ." The regulation also provides for characterization of the type as "ii. Moderate" meaning "conduct shall include any unintentional but foreseeable act or omission by the violator . . ." and "iii. Minor conduct" which "shall include any conduct not identified in (c)1i or ii above . . ." The states of mind and intention that lie at the heart of the definitions of "major" and "moderate" conduct are matters that are generally felt to be inappropriate to determine on summary decision. DEP argues that as the respondents had knowledge of the terms of the permit, including the limits of the area they could lawfully clear, their conduct must necessarily be characterized as "intentional, purposeful, knowing, or willful." But simply having knowledge that should guide them in what they could and could not do does not establish that if they instead went beyond that which was allowed that they did so with actual knowledge, intent and purpose to do so. It may be also that they acted thinking, perhaps incorrectly, that they acted within the allowable limits, or that some other factors mitigate against a finding that the exceedance was purposeful. It is argued in certifications offered by the respondents

that at least some of the area in which the DEP claims that they exceeded the allowable permit boundaries for clearance was not in fact within the wetlands. While any such determination in respondents' favor on this point would not impact that penalty assessment as to the size of the violation, it might impact the "Conduct" issue if it were demonstrated that the respondents unintentionally cleared areas actually protected that they mistakenly thought were not. They might have foreseen such issues given the permit provisions, but they may have nevertheless acted mistakenly. The best course here is to determine the question with full knowledge of all of the relevant facts as they may be developed at a hearing.

It is noted that in arguing that the conduct must be deemed "major" the DEP cites my initial decision in DEP v. Borough of Lavallette, ECE 08155-07, issued on June 29, 2011 and pending a final decision of the Commissioner of the DEP. In Lavellette, I granted summary decision and found that the Borough's conduct was of necessity deemed "major." However, in that case the deciding element was the fact that the Borough had consciously prepared a permit application to seek approval of the beach work that it ultimately carried out without ever filing its previously prepared application. This demonstrated that it had knowledge before it ever undertook the work that it needed DEP's specific approval for the work and yet it then proceeded to do the work without following through on its initial intention to obtain permission. In such an instance, the deliberate and willful action in derogation of the very understanding of its situation that the Borough had was so stark as to support a finding of "major" conduct even on summary decision. This situation is not quite so cut and dry, at least on the record so far. Lavallette, which is of course not a final decision and has no precedential value in any regard, simply does not support the motion on the current record. In the end the result may be same, but it is premature to determine that at this juncture.

I **CONCLUDE** that the DEP is entitled to summary decision as to the existence of a violation of N.J.S.A. 7:7A-2.1 because the respondents cleared an area of regulated wetlands in excess of that allowed under their Permit. Further, I **CONCLUDE** that while the DEP is also entitled to summary decision as to the area and resource value

elements of the penalty assessment matrix, summary decision as to the conduct element must be **DENIED**. It is so **ORDERED**.

This order may be reviewed by the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6.

November 29, 2011
DATE

JEFF S. MASIN, ALJ

mjm

Exhibit T

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
P.O. Box 420, 401 East State Street
Mail Code 401-04C
Trenton, New Jersey 08625-0420
Telephone: (609) 292-1240
Fax: (609) 633-6798

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

March 6, 2015

CERTIFIED MAIL/RRR
7007 2680 0000 2713 5408

Hidden Mill Associates
3001 Market St
Philadelphia, PA 19101-2897

CERTIFIED MAIL/RRR
7007 2680 0000 2713 5415

Vincent Pennoni
Pennoni Associates Inc.
515 Grove Street, Suite 2A
Haddon Heights, New Jersey 08035

Re: **DEMAND FOR COMPLAINCE**
The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and Rules, N.J.A.C. 7:7A-1.1 et seq.
PI # 0415-03-0001.1
Block: 1, Lots 5 and 6, Block: 14402, Lots 45 and 46
Gloucester Township, Camden County

Dear Sir or Madam:

Please be advised that the Department of Environmental Protection hereby demands compliance with the 12/19/12 Administrative Consent Order (ACO) which you entered into with the Department.

Procedural History

On 12/19/12, the Department's Bureau of Coastal and Land Use Compliance and Enforcement (Department) entered into an ACO with Hidden Mill Associates, Vincent and Celestino Pennoni and Penchil LLC and Little Mill, Inc. (hereinafter "Respondent(s)" or "you"), to resolve certain violations of the Freshwater Wetlands Protection Act as detailed therein. The ACO required that pursuant to N.J.A.C. 7:7A-15.3, the Respondents shall take certain actions as mitigation for wetland encroachments equal to 1.487 acres. The mitigation was to include the purchase of .6 wetland mitigation credits from the Willow Grove Lake Mitigation Bank and the donation of a 4.4 acre property (Block 101, Lot 324; 380 Little Mill Road, Pine Hill Borough) to a non-profit or governmental agency for conservation.

Compliance and Penalty Demand

In accordance with paragraph 20 of the ACO, you were required to complete the following actions. The Department has not been able to verify that any of these actions have been completed.

a. Within 30 days, purchase .6 mitigation credits from the Willow Grove Lake Mitigation Bank;

b. Within 30 days, remove and legally dispose of any solid waste or piles of dirt or fill on the property to be donated;

c. Within 60 days, obtain approval of the final terms and wording of a deed restriction from CLUE for the property to be donated;

d. Within 60 days after receiving approval from CLUE of the language in a deed restriction for the property to be donated, record that deed restriction with the Camden County Clerk;

e. Within 90 days, conduct and complete due diligence on the property to be donated and demonstrate to CLUE that the property is not contaminated;

f. Within 90 days, pay off a $225,000.00 loan secured by the property to be donated, remove any and all other liens which may apply to this property, remove any and all clouds to the property's title, and take any other steps necessary to ensure that the property will be donated with a "clean title".

g. Within 90 days, obtain an independent appraisal of the property's current value using an appraiser identified on DEP's Green Acres website.

h. Within 180 days, donate 4.4 acres of land in Pine Hill Borough (380 Little Mill Road, Block 101, Lot 324) to a conservation organization, environmental organization or government agency or body acceptable to and approved by the Department;

In accordance with paragraph 21 of the ACO, the Respondents are responsible for paying a penalty of $250,000.00 to the Department in 24 monthly payments (including interest), by check made payable to:

New Jersey Department of Treasury
Division of Revenue, PO Box 417
Trenton, New Jersey 08625-0417

In accordance with paragraph 24 of the ACO, if Respondents fail to pay the above penalty in accordance with the terms and conditions of this ACO, then the AO/NOCAPA shall become a final order and the FULL PENALTY of $630,000.00, along with costs and interest calculated pursuant to N.J. Court Rule 4:42 (minus amounts previously paid), shall become immediately due and owing.

As of the date of this Demand letter, the Department's records indicate that the compliance requirements in the ACO have not been completed or received.

Therefore, the Respondents are required to pay their past due penalty payments and submit any and all past due information to the Department within 30 days of receipt of this document. If these required actions are not timely completed and received by the Department, the Department will then require immediate payment of the full penalty amount as listed above.

If you have any questions concerning this written demand for compliance and penalties, please contact Trent Todash of my staff, at the address or telephone number at the top of this correspondence.

Sincerely,

Lawrence J. Baier, Chief
Bureau of Coastal and Land Use
Compliance and Enforcement

c: Township Administrator, Gloucester Township
Construction Official, Gloucester Township
Bruce A. Velzy, Deputy Attorney General, Division of Law
Bureau File

Exhibit U

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Coastal and Land Use Compliance and Enforcement
Trenton Office
Mail Code 401-04C
P.O. Box 420
Trenton, New Jersey 08625-0420
Telephone: (609) 292-1240 Fax: (609) 633-6798

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

March 12, 2015

CERTIFIED MAIL / RRR
7013 3020 0001 0794 3123

Hidden Mill Associates
3001 Market St
Philadelphia, PA 19101-2897

CERTIFIED MAIL / RRR
7013 3020 0001 0794 3130

Vincent Pennoni
Pennoni Associates Inc.
515 Grove Street, Suite 2A
Haddon Heights, New Jersey 08035

Re: **DEMAND FOR COMPLAINCE**
The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and Rules, N.J.A.C. 7:7A-1.1 et seq.
PI # 0415-03-0001.1
Block: 1, Lots 5 and 6, Block: 14402, Lots 45 and 46
Gloucester Township, Camden County

Dear Sir or Madam:

Please be advised that the Department of Environmental Protection hereby demands compliance with the 12/19/12 Administrative Consent Order (ACO) which you entered into with the Department.

Procedural History

On 12/19/12, the Department's Bureau of Coastal and Land Use Compliance and Enforcement (Department) entered into an ACO with Hidden Mill Associates, Vincent and Celestino Pennoni and Penchil LLC and Little Mill, Inc. (hereinafter "Respondent(s)" or "you"), to resolve certain violations of the Freshwater Wetlands Protection Act as detailed therein. The ACO required that pursuant to N.J.A.C. 7:7A-15.3, the Respondents shall take certain actions as mitigation for wetland encroachments equal to 1.487 acres. The mitigation was to include the purchase of .6 wetland mitigation credits from the Willow Grove Lake Mitigation Bank and the donation of a 4.4 acre property (Block 101, Lot 324; 380 Little Mill Road, Pine Hill Borough) to a non-profit or governmental agency for conservation.

Compliance and Penalty Demand

In accordance with paragraph 20 of the ACO, you were required to complete the following actions. The Department has not been able to verify that any of these actions have been completed.

a. Within 30 days, purchase .6 mitigation credits from the Willow Grove Lake Mitigation Bank;

b. Within 30 days; remove and legally dispose of any solid waste or piles of dirt or fill on the property to be donated;

c. Within 60 days, obtain approval of the final terms and wording of a deed restriction from CLUE for the property to be donated;

d. Within 60 days after receiving approval from CLUE of the language in a deed restriction for the property to be donated, record that deed restriction with the Camden County Clerk;

e. Within 90 days, conduct and complete due diligence on the property to be donated and demonstrate to CLUE that the property is not contaminated;

f. Within 90 days, pay off a $225,000.00 loan secured by the property to be donated, remove any and all other liens which may apply to this property, remove any and all clouds to the property's title, and take any other steps necessary to ensure that the property will be donated with a "clean title".

g. Within 90 days, obtain an independent appraisal of the property's current value using an appraiser identified on DEP's Green Acres website.

h. Within 180 days, donate 4.4 acres of land in Pine Hill Borough (380 Little Mill Road, Block 101, Lot 324) to a conservation organization, environmental organization or government agency or body acceptable to and approved by the Department;

In accordance with paragraph 21 of the ACO, the Respondents are responsible for paying a penalty of $250,000.00 to the Department in 24 monthly payments (including interest), by check made payable to:

New Jersey Department of Treasury
Division of Revenue, PO Box 417
Trenton, New Jersey 08625-0417

In accordance with paragraph 24 of the ACO, if Respondents fail to pay the above penalty in accordance with the terms and conditions of this ACO, then the AO/NOCAPA shall become a final order and the FULL PENALTY of $630,000.00, along with costs and interest calculated pursuant to N.J. Court Rule 4:42 (minus amounts previously paid), shall become immediately due and owing.

As of the date of this Demand letter, the Department's records indicate that the compliance requirements in the ACO have not been completed or received.

Therefore, the Respondents are required to pay their past due penalty payments and submit any and all past due information to the Department within **30 days** of receipt of this document. If these required actions are not timely completed and received by the Department, the Department will then require immediate payment of the full penalty amount as listed above.

If you have any questions concerning this written demand for compliance and penalties, please contact Trent Todash of my staff, at the address or telephone number at the top of this correspondence.

Sincerely,

Barbara Baier for

Lawrence J. Baier, Chief
Bureau of Coastal and Land Use
Compliance and Enforcement

c: Township Administrator, Gloucester Township
Construction Official, Gloucester Township
Bruce A. Velzy, Deputy Attorney General, Division of Law
Bureau File

Exhibit V

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO BOX 093
TRENTON, NJ 08625-0093

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

MICHELLE L. MILLER
Director

June 3, 2019

By Electronic Mail
For Settlement Purposes Only

Sean F. Dalton, Esquire
Cooper Levenson
1125 Atlantic Avenue
Atlantic City, NJ 08401

Re: DEP v. Hidden Mill Assocs., et al.,
OAL Dkt. No. ECE-LU 2227-10

Dear Mr. Dalton,

Please accept this letter as a follow-up to our March 25, 2019 meeting and subsequent e-mail exchanges. The Department of Environmental Protection (DEP) met with you in the hope that we could find a mutually workable way to bring your clients into compliance with the 2012 freshwater wetlands ACO they signed. We discussed several deadlines to show progress in this matter. They have not been met.

The Department remains open to resolving this matter, but needs concrete progress in your client's commitment to resolving the required actions in the ACO. The following actions and deadlines are requested:

1. Within 15 days of the date of this letter, decide whether to start the Green Acres approval process for Mr. Salvitti or decide whether to hire an appraiser on DEP's Green Acres website. It might be quicker and less expensive to conduct a new appraisal using an appraiser from DEP's Green Acres website.

    a. Within 30 days from the decision above, hire a new appraiser or submit Mr. Salvitti's paperwork to the Green Acres program with a copy to me.

For Settlement purposes
Submitted pursuant to NJRE 408

June 3, 2019

2. Penalty: Please advise DEP within 30 days of the date of this letter whether Hidden Mills wants to pursue a SEP in lieu of paying part of the outstanding penalty. Part of the penalty needs to be paid to the collection agency, approx. $53,000, and is not eligible for a SEP. Part of the penalty to be paid directly to DEP (approx. $63,319.64) may be eligible for a SEP. DEP's web-site shows where to submit SEP proposals, a map showing proposed SEPs needing funding, and a map showing past SEPs as a means to give your clients ideas for potential SEPs: https://www.state.nj.us/dep/enforcement/sep-proposals.html The Department is still prepared to offer a payment plan that starts a year and a half from now to provide your client sufficient time to pay the collections agency and purchase the mitigation credits.

3. Mitigation credits: Your clients must purchase .6 of a mitigation credit, prior to paying any penalties or a SEP in lieu of a penalty. DEP is amenable to your client purchasing .1 of a mitigation credit each month or each quarter. Within 45 days, inform us of your decision for monthly or quarterly payments. The first purchase must occur within 60 days of the date of this letter. Send the Department proofs of purchase.

4. Deed restrict and/or donate the Little Mill Road property: I sent you a draft conservation restriction, missing only the names of the grantors and the block and lot numbers. We need to finalize wording for this conservation restriction within 30 days of the date of this letter and have it filed within 60 days thereafter. DEP remains open to having this property donated to an environmental organization or other work with such organizations in the form of a SEP.

The Department has been very understanding after several years of discussing this matter with your clients, but needs to see progress. If your clients do not meet the above deadlines, the Department intends to refer this matter to the Division of Law to enforce the original ACO in Superior Court. I can be reached at (609)376-2804 with any questions.

For Settlement purposes
Submitted pursuant to NJRE 408

June 3, 2019

Thank you for your attention to this letter.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: _____
Bruce A. Velzy
Deputy Attorney General

c: Elizabeth Dragon, Chief, Coastal Land Use C&E

Exhibit W

COOPER LEVENSON
ATTORNEYS AT LAW

1125 Atlantic Avenue – 3rd Floor
Atlantic City, NJ 08401
Phone (609) 344-3161
Toll Free (800) 529-3161
Fax (609) 344-0939
www.cooperlevenson.com

Direct Phone (609) 572-7436
Direct Fax (609) 572-7437

KERRI L. KOPERVOS
EMAIL: kkopervos@cooperlevenson.com

FILE NO.: 61768-1

September 27, 2019

Camden County Clerk
Court House, Room 102
520 Market Street
Camden, NJ 08102-1375

Re: Hidden Mill Associates

To Whom it May Concern:

Enclosed herewith please find an original Grant of Conservation Restriction with exhibits thereto for recording. Enclosed please also find a check in the amount of $243.00.00 reflecting the cost for recording. Kindly return the original recorded documents to me in the return, self-addressed envelope provided for your convenience.

Thank you for your attention to this matter.

Very truly yours,

Kerri L. Kopervos, Paralegal
Sean Dalton

KLK/klk
Enclosures
CLAC 4987369.1

CAMDEN COUNTY, NJ
CAMDEN COUNTY CLERK'S OFFICE
DECLAR COV-OR BOOK 11235/1926
RECORDED 10/11/2019 16:19:15
FILE NUMBER 2019071328
RCPT #: 2214553; RECD BY: RL15
RECORDING FEES $243.00
MARGINAL NOTATION $0.00
TOTAL TAX $0.00

Camden County Document Summary Sheet

CAMDEN COUNTY CLERK 520 MARKET ST CAMDEN NJ 08102	Return Name and Address Cooper Levenson, P.A. 1125 Atlantic Ave., 3rd Floor Atlantic City, NJ 08401

Official Use Only

Submitting Company	Cooper Levenson, P.A.
Document Date (*mm/dd/yyyy*)	9/6/19
Document Type	Agreement
No. of Pages of the Original Signed Document (*including the cover sheet*)	22
Consideration Amount (*if applicable*)	0

	Name(s) (*Last Name, First Name Middle Initial, Suffix*) (*or Company Name as written*)	Address (*Optional*)
First Party (*Grantor or Mortgagor or Assignor*) (*Enter up to five names*)	Hidden Mill Associates	
Second Party (*Grantee or Mortgagee or Assignee*) (*Enter up to five names*)	New Jersey Department of Environmental Protection	

	Municipality	Block	Lot	Qualifier	Property Address
Parcel Information (*Enter up to three entries*)	Pine Hill	1.01	3.24		380 Little Mill Road

	Book Type	Book	Beginning Page	Instrument No.	Recorded/File Date
Reference Information (*Enter up to three entries*)					

DO NOT REMOVE THIS PAGE

DOCUMENT SUMMARY SHEET (COVER SHEET) IS PART OF CAMDEN COUNTY FILING RECORD. RETURN THIS PAGE FOR FUTURE REFERENCE.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff,
New Jersey Department of
Environmental Protection
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 093
Trenton, New Jersey 08625-0093

By: Paige A. Hensor
Deputy Attorney General
(609) 376-2789
Paige.Hensor@law.njoag.gov
NJ Attorney ID no.: 238722019

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION –CAMDEN COUNTY
DOCKET NO.:

C 51-24

Civil Action

CERTIFICATION OF ROBERT H. CLARK

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiff, v. HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually, Defendants.	:

I, ROBERT H. CLARK, of full age, certifies as follows:

1. I am an Environmental Specialist 4 within the Bureau of Coastal Land Use Compliance and Enforcement ("Bureau") within the

New Jersey Department of Environmental Protection ("DEP"). I have been employed in this position since February 2003 and have been in my current position since August 2021. I am responsible for performing investigations, supervising inspections, and initiating enforcement actions under the Freshwater Wetlands Protection Act and Rules. New Jersey Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 to -30, (the "FWPA") and its regulations, N.J.A.C. 7:7A-1 to - 22.20, which the Bureau is charged with enforcing.

2. This certification is based on my personal knowledge of current and historic conditions at the commercial property situated between Little Mill and Erial Roads in Gloucester Township, Camden County, New Jersey ("Site"). The Site after re-subdivision, encompasses approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406, 18701, 18702, 18703, 18801, and 18802. (See, map illustrating the Property attached as Exhibit A).

3. I submit this certification in support of DEP's Order to Show Cause to enforce its September 25, 2012 Administrative Consent Order ("ACO") entered into with Hidden Mill Associates ("Hidden Mill"), Little Mill, Inc., Penchil, LLC, Celestino Pennoni, and Vincent Pennoni, for compliance with the mitigation

credit purchase and penalty aspects of the ACO. Specifically, Hidden Mill has not purchased .6 mitigation credits and paid a civil penalty pursuant to the terms of the ACO. (See the September 25, 2015 ACO attached as Exhibit B).

4. The ACO is a final agency order of DEP and appropriately enforceable under Rule 4:67-6. (See the September 25, 2015 ACO at ¶ 24, attached as Exhibit B).

5. Defendant, Little Mill Inc., is a corporation incorporated in 1986 under the laws of the State of New Jersey, and owns fifty percent (50%) of the Hidden Mill Associates with its principal place of business at 3001 Market Street, Suite 200, Philadelphia, Pennsylvania 19104. (See, AONOCAPA attached as Exhibit C).

6. Defendant Penchil, LLC., is a corporation incorporated in 1998 under the laws of State of New Jersey, and owns fifty percent (50%) of the Hidden Mill Associates with its principal place of business at 3001 Market Street, Suite 200, Philadelphia, Pennsylvania 19104. (See, AONOCAPA attached as Exhibit C).

7. Defendant, Celestino R. Pennoni is an individual currently residing at 411 Valley Glen Drive, Bryn Mawr, Pennsylvania 10910 and owns twenty five percent (25%) of the Penchil, LLC. (See, AONOCAPA attached as Exhibit C).

8. Defendant, Vincent Pennoni is an individual currently residing at 30 W 7th Street, Media, Pennsylvania 19063 and owns hundred percent (100%) of the Little Mill, Inc., and is the President of Little Mill, Inc. (See, AONOCAPA attached as Exhibit C).

9. Pertaining to the allegations set forth herein, the ownership of these companies is as follows: Hidden Mill is a partnership between Little Mill, Inc. and Penchil, LLC. Penchil, LLC owns 50% of Hidden Mill. Vincent Pennoni owns 25% of Penchil, LLC; other Pennoni family members own the remainder of Penchil, LLC. Vincent Pennoni is the manager of Hidden Mill Associates and was and is active in the Hidden Mill and Murray Hill Estates development. Little Mill, Inc. owns 50% of Hidden Mill. Celestino Pennoni owns 100% of Little Mill, Inc. Celestino Pennoni serves as the President of Little Mill, Inc. Collectively, Hidden Mill Associates, Little Mill, Inc., Penchil, LLC, Celestino Pennoni, and Vincent Pennoni, shall be referred to as "Hidden Mill." Further, Hidden Mill signed the ACO on September 25, 2012. (See, AONOCAPA attached as Exhibit C).

10. Hidden Mill is the owner and developer of the property situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County ("site"). After re-subdivision,

the above tracts now encompassed approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406, 18701, 18702, 18703, 18801 and 18802. (See, AONOCAPA attached as Exhibit C).

11. On March 21, 2002, the Department's Division of Land Use Regulation ("DLUR") issued a combined Land Use Permit (DULR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to Hidden Mill for conducting certain regulated activities at the site in conjunction with the proposed construction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates," as well as proposed improvements to Little Mill Road. The combined Land Use Permit included:

a. Freshwater Wetland Individual Permit;

b. Freshwater Wetland Transition Area Waiver Averaging Plan;

c. Freshwater Wetland Transition Area Waiver – Special Activity;

d. Freshwater Wetlands Statewide General Permit # 1;

e. Modification in Detail to a 1988 Stream Encroachment Permit #15497; and

f. Water Quality Certificate.

[See, Permit attached as Exhibit D].

12. The Land Use Permits and approved drawings, issued on March 21, 2002, contained specific general, special and mitigation conditions with which the Defendants were required to comply, including the following:

a. Special Condition #1: Required that "two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates Site, the Permittee must notify the U.S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention Lisa Arroyo and Telephone: 609-646-9310.

b. Special Condition #6: Required that "Prior to initiation of site preparation, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands. The restriction shall state that no

regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

c. Mitigation Condition #1: Required the Defendants to "Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project … or … through the purchase of mitigation credits…."

d. In addition, the Land Use Permits required the construction of a low-flow fish passage culvert at Station 15+80 of Hidden Drive.

[See, Permit attached as Exhibit D].

13. On August 8, 2002, Defendants submitted a mitigation plan to satisfy Mitigation Condition #1 of the Land Use Permit

issued on the March 21, 2002. (See, Mitigation Proposal attached as Exhibit E).

14. On November 14, 2002, Department representatives conducted a site inspection for purposes of reviewing Defendants' mitigation Plan and discovered that the proposed enhancement area was not suitable for enhancement. (See the September 25, 2015 ACO ¶10).

15. On November 27, 2002, Department verbally advised Defendants that the proposed enhancement of wetland system was not a viable wetland mitigation alternative. (See the September 25, 2015 ACO ¶10).

16. On January 14, 2003, Department representatives conducted a site inspection and permit compliance evaluation and observed a number of permit condition violations and unauthorized activities within the regulated areas, including:

a. The excessive clearing of freshwater wetlands, totaling approximately 20,000 square feet along a 20-foot wide sanitary sewer easement;

b. Failure to construct the required low-flow fish passage culvert at Station 15+80 of Hidden Drive, resulting in a completely impassable section of stream channel; and

c. Failure to comply with the special conditions of the Land Use Permit.

[See, January 14, 2003 Compliance Evaluation attached as Exhibit F].

17. On February 13, 2003, the Department issued a Notice of Violation ("NOV") to the Defendants for failure to comply with the permit conditions, and for conducting unauthorized regulated activities within regulated areas. The NOV required the Defendants to immediately comply with the approved permit conditions within 30 days of receipt of the NOV and to provide and implement a proposal to take corrective actions. (See, First NOV attached as Exhibit G).

18. On or about June 15, 2004, the Defendants filed the required deed restriction in accordance with Special Condition #6 of the Land Use Permit. (See, Deed Restriction attached as Exhibit H).

19. On June 24, 2004, Department issued a letter to the Defendants concerning the outstanding wetlands mitigation requirement. The Department informed the Defendants that the proposed Hidden Mill Wetlands Enhancement Project was not approved. (See, Freshwater Wetlands Mitigation Proposal Letter attached as Exhibit I).

20. During a telephone conversation on April 15, 2004, the Department also informed the Defendants of a viable mitigation alternative involving the preservation of several parcels of land in Gloucester Township. (See, Freshwater Wetlands Mitigation Proposal Letter attached as Exhibit I).

21. The Department further informed the Defendants, in the June 24, 2004 letter, that they were under no obligation to participate in the alternative land preservation project in Gloucester Township, but that they continued to be responsible for satisfying all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued. (See, Freshwater Wetlands Mitigation Proposal Letter attached as Exhibit I).

22. On August 26, 2004, the Department conducted a site inspection which revealed that the specific land clearing violations in the February 13, 2003 NOV had been resolved by revegetating the affected areas, and the low-flow fish passage culvert had been installed. (See, August 26, 2004 Compliance Evaluation attached as Exhibit J).

23. The August 26, 2004, site inspection also revealed the non-compliance of the Wetlands Mitigation Conditions. (See, August 26, 2004 Compliance Evaluation attached as Exhibit J).

24. On October 18, 2004, the Department advised the Defendants via letter, that additional permit conditions remained

out of compliance, including the performance of the required wetlands mitigation, which had to be completed on or before March 21, 2007, the expiration date of the Land Use Permit. (See, October 18, 2004 Compliance Letter attached as Exhibit K).

25. On June 8 and December 12, 2007, a Department representative conducted follow up compliance evaluations, and revealed that the Defendants had still not complied with the Mitigation Conditions of the Land Use Permit. (See, June 8, 2007 Compliance Report attached as Exhibit L and December 12, 2007 Compliance Report attached as Exhibit M).

26. On December 20, 2007, Department issued a second NOV ("SECOND NOV") to the Defendants for failure to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were required to comply within 30 days. (See, Second NOV attached as Exhibit N).

27. On February 25, 2008, Department issued a third NOV("THIRD NOV") to the Defendants for failure to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were required to comply within 30 days. (See, Third NOV attached as Exhibit O).

28. On April 24, 2008, the Defendants responded to the NOVs and indicated that they were evaluating the site for a location to provide wetlands enhancement. Defendants also attached a copy of

the deed restriction (as per Special Condition #6 of the Land Use Permit) that had been filed with the Camden County Clerk on or about June 15, 2004. (See, Freshwater Wetlands Mitigation Proposal Letter attached as Exhibit I).

29. On August 5, 2008, Department issued an AONOCAPA against Hidden Mill Associates, Little Mill, Inc., Penchil, LLC, Celestino R. Pennoni, and Vincent Pennoni, seeking compliance with the permit's wetlands mitigation requirement and assessing a penalty of $330,000 for all violations. (See, AONOCAPA attached as Exhibit C).

30. The Department later reduced the $330,000 penalty assessment to $321,000. The Defendants had, by then, corrected the violations of Special Conditions #1 and 6 and restored the freshwater wetlands identified in the permit. (See, the September 25, 2015 ACO attached as Exhibit B).

31. Pursuant to N.J.A.C. 7:7A-16.1(d), the AONOCAPA also assessed an on-going penalty of $250 per day against the Defendants for any violations that set forth in the AONOCAPA that remain unresolved from that time forward. (See, AONOCAPA attached as Exhibit C).

32. The Defendants timely filed a hearing request in response the August 5, 2008 AONOCAPA. (See, Hearing Request attached as Exhibit P).

33. The matter was transmitted to the New Jersey Office of Administrative Law ("OAL"), docketed as OAL Docket No. ECE2227-2010N, and assigned to the Honorable Jeff Masin, ALJ. (See, OAL Transmittal attached as Exhibit Q).

34. On November 7, 2011, after hearing oral argument, Judge Masin issued an initial decision, which was supplemented and amended on November 29, 2011, finding the Defendants violated Special Condition #s 1 & 6 of the FWPA permit issued to the Defendants, and disturbed freshwater wetlands adjacent to the sanitary easement. (See, Initial Decision and Supplemental Decision attached as Exhibit R & S, respectively).

35. On February 3, 2012, Hidden Mill Associates, Little Mill, Inc., Penchil, LLC, Celestino R. Pennoni, and Vincent Pennoni reached a tentative settlement, at which time the continuing penalty of $250 per day totaled an additional $309,000.00. (See, the September 25, 2015 ACO attached as Exhibit B).

36. On September 25, 2012, the Department and all Defendants executed the ACO to resolve the pending violations and penalties. (See, the September 25, 2015 ACO attached as Exhibit B).

37. The ACO was an agreement to address the outstanding remedial obligations of the defendants and to settle a total of $630,000 in penalties, including the $321,000 civil administrative penalty in the July 31, 2008 AONOCAPA, and the $309,000 of

continuing penalties discussed in paragraph 35 above. (See, the September 25, 2015 ACO attached as Exhibit B).

ACO COMPLIANCE REQUIREMENTS AND SCHEDULE

38. In the ACO, Defendants were ordered and agreed that they would:

a. within 30 days, purchase 0.6 mitigation credits from the Willow Grove Lake Mitigation Bank;

b. Within 30 days, remove and legally dispose of any solid waste or piles of dirt or fill;

c. Within 60 days, obtain approval of the final terms and wording of a deed restriction from CLUE for the Site.

d. Within 60 days after receiving approval from CLUE of the language in a deed restriction for the Site, record that deed restriction with the Camden County Clerk;

e. Within 90 days, conduct and complete due diligence on the Site to be donated and demonstrate to CLUE that the Site is not contaminated and otherwise is "clean" (i.e. no hazardous or solid waste is present)

f. Within 90 days, pay off a $225,000 loan secured by the property, remove any and all others liens which may apply to this property, remove any

and all clouds to the property's title, and take any other steps necessary to ensure that the property will be donated with a "clean title";

g. Within 90 days, obtain an independent appraisal of the property's current value using an appraiser identified on Department's Green Acres web-site at http://www.state.nj.us/dep/greenacres/pdf/appraisers_2010.pdf. If that appraisal identifies an appraised value for 380 Little Mill Road (Block 101, Lot 324-Pine Hill Borough) that is within 20% of the $285,000 value set forth in an October 2010 appraisal for Parke Bank, performed by Benchmark Appraisal Group, then no additional appraisal will be necessary. If the appraisal performed pursuant to this sub-paragraph is less than 80% of the $285,000 value set forth in the October 2010 appraisal, then the Defendants shall obtain a second appraisal within 30 days of the first one to identify the value of 380 Little Mill Road (Block 101, Lot 324 – Pine Hill Borough). Any appraisal performed pursuant to this sub-paragraph shall be sent to the Department within 10 days of receipt of the results of the appraisal by the Defendants and/or their counsel, whoever first receives the results of the appraisal;

h. Within 180 days, donate 4.4 acres of land in Pine Hill Borough (380 Little Mill Road-Block 101, Lot 324-) to a conservation organization, environmental organization or governmental agency or body acceptable to and approved by the Department;

i. Complete a survey of 380 Little Mill Road after identification of the environmental organization or government agency or body pursuant to the prior sub-paragraph is identified, but prior to donating the property to the organization or governmental agency required by the prior sub-paragraph. The survey shall comply with the requirements set forth in Exhibit C to this Administrative Consent Order. Further guidance for a survey can be found at http://www.state.nj.us/dep/greenacres/survey/index.html.

[See, the September 25, 2015 ACO attached as Exhibit B].

39. In the ACO, Defendants agreed to pay the Department a penalty of $250,000.00, plus simple interest at the rate of 2.5%, in twenty-four monthly payments. (See, the September 25, 2015 ACO at ¶21).

40. The Defendants agreed if they failed to pay the penalty in accordance with the terms and conditions of the ACO, then the

AONOCAPA shall become a Final Agency Order ("FAO"), and the full penalty of $630,000, along with costs and interest calculated pursuant to N.J. Court Rule 4:42 (minus amounts previously paid), shall become immediately due and owing. (See, the September 25, 2015 ACO at ¶24).

41. Defendants further agreed that stipulated penalties should be paid to the Department for failure to comply with any requirement of the ACO. Specifically, stipulated penalties would total $100.00 per calendar day for 1-7 calendar days after the due date, $200.00 per calendar day for 8-14 calendar days after the due date, and $500.00 per calendar day for 15+ calendar days after the due date. (See, the September 25, 2015 ACO at ¶26).

42. Any stipulated penalty for failure to comply with this ACO shall be due and payable thirty (30) calendar days following receipt of a written demand from the Department. (See, the September 25, 2015 ACO at ¶27).

43. The Defendants made a partial payment of $138,450.00 toward the ACO penalties, with the final payment being made on December 23, 2014. Out of the $116,569.64 remainder, $53,250.00 was referred to collections. Two were referred on May 6, 2014, two were referred on July 31, 2014 and one was referred on January 6, 2015. (See, Owens Cert. at ¶6).

44. The Department used its discretion and determined that placing a conservation restriction on the entire parcel was acceptable as an alternative to the donation of 4.4 acres.

45. On March 6, 2015, the Department issued a compliance demand letter to Defendants Hidden Mill and Vincent Pennoni via certified mail. The March 6, 2015 letter advised that various compliance obligations from the ACO remained outstanding including but not limited to the purchase of mitigation credits and payment of the settled penalty. (See, March 6, 2015 Letter attached as Exhibit T).

46. On March 12, 2015, the Department resent the March 6, 2015 letter to Defendants Hidden Mill and Vincent Pennoni via certified mail. (See, March 12, 2015 Letter attached as Exhibit U).

47. The March 12, 2015 letter further advised that pursuant to paragraph 24 of the ACO, if Hidden Mill and Vincent Pennoni failed to provide the past due compliance information, such as the purchase of mitigation credits, and failed to pay their past due penalty payments, within 30 days of the March 6, 2015 compliance demand letter, that the full $630,000 penalty would be immediately due. (See, March 12, 2015 Letter attached as Exhibit U).

48. On June 3, 2019, DAG Bruce Velzy issued a letter to Defendants' counsel indicating that if Defendants did not comply

with the ACO, the Department would refer the matter to the Division of Law, and move to enforce the ACO in Superior Court. Specifically, DAG Velzy requested the Defendants:

a. Within 15 days of the June 3, 2019 letter, decide whether to start the Green Acres approval process or decide whether to hire an appraiser on DEP's Green Acres website;

b. Within 30 days from the decision in paragraph (a), hire a new appraiser or submit Mr. Salvitti's paperwork to the Green Acres program with a copy to DAG Velzy.

c. Advise DEP within 30 days of the June 3, 2019 letter whether Hidden Mill wants to pursue a Supplemental Environmental Project ("SEP") in lieu of paying part of the outstanding penalty;

d. Purchase .6 of a mitigation credit, prior to paying any penalties or a SEP in lieu of a penalty.

e. Deed Restrict and/or donate the Little Mill Road property and file within 30 days of the June 3, 2019 letter.

[See, June 3, 2019 Letter attached as Exhibit V].

49. To date, Defendants have failed to pay the full penalty of $630,000. Defendants have paid $138,450.00. The Defendants

last payment was made December 23, 2014. Additionally, the Department referred $53,250 to collection. Therefore, $554,665.65 of the ACO penalty (including interest) remains due and owing.

50. To date, Defendants provided a conservation restriction that was approved by the Department and filed September 6, 2019. Further, the Department conducted an inspection on August 26, 2004, and confirmed that the fill was removed, the low flow fish channel was created to allow fish migration through the existing culvert, and the power line that was previously over cleared has been restored and replanted with wetlands vegetation. (See, Conservation Restriction attached as Exhibit W).

51. To date, Defendants have failed to purchase any mitigation credits from the Willow Grove Lake Mitigation Bank.

52. N.J.A.C. 7:7A-11.3(c) states, "If a permittee fails to perform mitigation within the applicable time period in [the ACO], the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin. This shall compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay."

53. 20% interest applied to the 0.6 acres of required mitigation in the September 29, 2012 ACO would result in more than 1.92 acres of forested wetland mitigation credits at the time of this filing.

54. For these reasons, DEP is enforcing the ACO pursuant N.J.S.A. 58:10A-24.6.a. and Rule 4:67-6 to require Hidden Mill to satisfy their mitigation purchase to bring the Site into compliance.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

ROBERT H. CLARK

Dated: April 24, 2024

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Attorney for Plaintiff,
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION -CAMDEN COUNTY
DOCKET NO.:

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	Civil Action
Plaintiff,	:	**CERTIFICATION OF HELEN OWENS**
v.	:	
HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually,	:	
Defendants.		

I, HELEN OWENS, of full age, certifies as follows:

1. I am an Environmental Program Specialist within the Director's Office of the Division of Waste and UST Compliance and

Enforcement("Division") within the New Jersey Department of Environmental Protection ("DEP"). I have been employed in this position since January 2023 and previously with DEP from June 1990 through June 2021. I am responsible for performing data analysis, billing records management, and docketing final agency orders under the Pentalty Enforcement Law of 1999, N.J.A.C. 2A:58-10 et seq., in support of the DEP's enforcement programs.

2. This certification is based on my personal knowledge of the current and historic financial payments made regarding the September 25, 2012 Administrative Consent Order ("ACO") at the commercial property situated between Little Mill and Erial Roads in Gloucester Township, Camden County, New Jersey ("Site").

3. I submit this certification in support of DEP's Order to Show Cause to enforce its ACO entered into with Hidden Mill Associates ("Hidden Mill"), Little Mill, Inc., Penchil, LLC, Celestino Pennoni, and Vincent Pennoni, for compliance with the mitigation credit purchase and penalty aspects of the ACO. Specifically, Hidden Mill has not purchased .6 mitigation credits and paid a civil penalty pursuant to the terms of the ACO. (See the September 25, 2015 ACO attached as Exhibit B).

4. In the ACO, Defendants agreed to pay the Department a penalty of $250,000.00, plus simple interest at the rate of 2.5%,

in twenty-four monthly payments. (See, the September 25, 2015 ACO at ¶21).

5. The Defendants agreed if they failed to pay the penalty in accordance with the terms and conditions of the ACO, then the AONOCAPA shall become a Final Agency Order ("FAO"), and the full penalty of $630,000, along with costs and interest calculated pursuant to N.J. Court Rule 4:42 (minus amounts previously paid), shall become immediately due and owing. (See, the September 25, 2015 ACO at ¶24).

6. The Defendants made a partial payment of $138,450.00 toward the ACO penalties, with the final payment being made on December 23, 2014. Out of the $116,569.64 remainder, $53,250.00 was referred to collections. Two installment payment bills were referred to collections on May 6, 2014, two were referred July 31, 2014, and one was referred January 6, 2015.

7. To calculate the interest and total penalty that is due and owing the Department applied the simple interest rates for each year between March 2015 (when the March compliance demand letters advising of the violation of the ACO and the application of the acceleration clause were sent to Hidden Mill Associates and Vincent Pennoni) and present.

8. The Department took the full $630,000 penalty and subtracted the $138,450 that has been paid as well as subtracted

the $53,250 that was sent to collections to reach the total remaining principal totaling $438,300.00. Therefore, simple interest was applied to the total of $438,300.00. After applying the simple interest, we obtain a total interest to date of $116,365.65. Therefore, principal and interest for the ACO penalty totaling $554,665.65 remains due and owing.

9. To date, Defendants have failed to pay any of the remaining penalty of $554,665.65.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Helen A. Owens

HELEN OWENS

Dated: April 24, 2024

MATTHEW J. PLATKIN
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION -
CAMDEN COUNTY
DOCKET NO.:

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION Plaintiff, v. HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually, Defendants.	Civil Action **CERTIFICATION OF PAIGE A. HENSOR**

Paige A. Hensor, of full age, hereby certifies as follows:

1. I am employed as a Deputy Attorney General by the State of New Jersey, Department of Law and Public Safety. I am assigned

to the Environmental Enforcement Environmental Justice Section of the Division of Law, which provides legal representation to the State of New Jersey and its entities. I am the Deputy Attorney General responsible for the handling of this matter. I am fully familiar with the facts stated in this Certification.

2. Attached to this Certification are true and accurate copies of the following documents:

Judge Masin Order 11/7/11	Exhibit R
Judge Masin Supplemental Order 11/29/11	Exhibit S
June 3, 2019 DAG Letter	Exhibit V

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

Paige A. Hensor

Paige A. Hensor
Deputy Attorney General
238722019

DATE: April 25, 2024

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION - CAMDEN COUNTY DOCKET NO. C 51-24
Plaintiff,	:	CIVIL ACTION
v.	:	
HIDDEN MILL ASSOCIATES; LITTLE MILL, INC.; PENCHIL, LLC.; CELESTINO R. PENNONI, Individually; and VINCENT PENNONI, Individually,	:	
Defendants.	:	

BRIEF IN SUPPORT OF PLAINTIFFS' VERIFIED COMPLAINT AND ORDER TO SHOW CAUSE

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PRELIMINARY STATEMENT

Defendant Hidden Mills Associates ("Hidden Mills") redeveloped the property located between Little Mill Road and Erial Road, in Gloucester Township, Camden County ("Site"), pursuant to a land use permit issued by the New Jersey Department of Environmental Protection ("Department"). The permit allowed the redevelopment to disturb a portion of freshwater wetlands contingent upon, among other things, the developers purchasing mitigation credits to create, restore or enhance equivalent wetlands to mitigate any effect on the surrounding environment and community. Over a period of a decade, even after the Department issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA"), seeking compliance with the permit's wetlands mitigation requirement and assessing a penalty, Hidden Mills failed to conform its redevelopment to the parameters of the land use permit and ignored the Department's regulations. The Department entered an Administrative Consent Order ("ACO") with Hidden Mills and other associated defendants requiring them to abide by the parameters of the permit, but Hidden Mills and the other defendants have continued to ignore their wetland mitigation obligations and failed to pay the underlying penalties.

Freshwater wetlands protect and preserve drinking water supplies in addition to providing a natural means of flood and storm damage protection. These protections prevent loss of life and property through the absorption and storage of water during high runoff periods, as well as delaying soil erosion by serving as a transition zone between dry land and water resources. Further, freshwater wetlands provide essential breeding, spawning, nesting, and wintering habitats for a major portion of the State's fish and wildlife. The disturbance of these freshwater wetlands impacts an overburdened community (based on the percentage of minority residents) by reducing the above listed protections and benefits that the wetlands provide.

The Department and the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner") now seek to enforce the ACO pursuant to R. 4:67-6. This rule permits the Court to conduct the adjudication of this case in a summary proceeding. This complaint seeks to compel Hidden Mills and the other defendants to comply with the ACO, purchase mitigation credits to create, restore, or enhance equivalent wetlands, and pay civil penalties.

STATEMENT OF FACTS

Hidden Mills is the owner and developer of the Site, that is situated between Little Mill and Erial Roads, formerly designated as Block 1, Lots 5 & 6; and Block 14402, Lots 45 & 46, within Gloucester Township, Camden County, New Jersey. After re-subdivision, the above tracts now encompasses approximately 267 lots in the "Hidden Mill" and "Murray Hill Estates" subdivision projects within Blocks 14402, 14403, 14404, 14405, 14406, 18701, 18702, 18703, 18801 and 18802. (See, AONOCAPA attached as Exhibit C at ¶1). Hidden Mills is a general partnership that is 50% owned by Defendant Little Mill Inc. and 50% owned by Defendant Penchil, LLC. Defendant Vincent Pennoni owns 100% of Little Mill Inc., and Defendant Celestino R. Pennoni owns 25% of Penchil, LLC. (See, ACO at ¶2, attached as Exhibit B).

On March 21, 2002, the Department's Division of Land Use Regulation ("DLUR") issued a combined Land Use Permit (DULR File Nos. 0414-97-0011.1, 0414-92-0012.3 and Modification to the 1988 Stream Encroachment Permit 15497) to Hidden Mills for conducting certain regulated activities at the site in conjunction with the proposed construction of residential subdivisions known as "Hidden Mill" and as "Murray Hill Estates," as well as proposed improvements to Little Mill Road. The combined Land Use Permit included:

a. Freshwater Wetland Individual Permit;

b. Freshwater Wetland Transition Area Waiver Averaging Plan;

c. Freshwater Wetland Transition Area Waiver - Special Activity;

d. Freshwater Wetlands Statewide General Permit # 1;

e. Modification in Detail to a 1988 Stream Encroachment Permit #15497; and

f. Water Quality Certificate.

(See, Permit attached as Exhibit D).

The Land Use Permits and approved drawings, issued on March 21, 2002, contained specific general, special and mitigation conditions with which the Defendants were required to comply, including the following:

a. Special Condition #1: Requiring that "two weeks prior to commencement of land clearing activities and wetland impacts on the Hidden Mill site and the northern (townhouse section of the Murray Hill Estates Site, the Permittee must notify the U.S. Fish and Wildlife Service in writing at 927 North Main Street Building D1, Pleasantville, New Jersey 08232, Attention Lisa Arroyo and Telephone: 609-646-9310.

b. Special Condition #6: Requiring that "Prior to initiation of site preparation, the Permittee shall sign a Department approved deed restriction for the subject parcel(s). The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the land included in the permit or waiver is located. The deed restriction of the two properties must be completed prior to the implementation of any project activity that would impact wetlands. The restriction shall state that no regulated activities shall take place in the modified transition area, adjacent wetlands and upland preserved open space areas on both the Hidden Mill development and the Murray Hill Estates development in perpetuity. The restriction shall run with the land and shall be binding upon all successive owners. All individual lot surveys shall show the approved wetlands and transition area boundaries. Any regulated activities undertaken on the site before a copy of the deed restriction is submitted to the Department will be considered in violation of the Freshwater wetlands Protection Act."

c. Mitigation Condition #1: Required the Defendants to "Mitigate for the loss of 0.5950 acres of forested wetlands through either an on-site or off-site creation, restoration or enhancement project … or … through the purchase of mitigation credits…," and

d. In addition, the Land Use Permits required the construction of a low-flow fish passage culvert at Station 15+80 of Hidden Drive.

Ibid.

On August 8, 2002, Defendants submitted a mitigation plan to satisfy Mitigation Condition #1 of the Land Use Permit issued on the March 21, 2002. (See, Mitigation Proposal attached as Exhibit E). On November 14, 2002, Department representatives conducted a site inspection for purposes of reviewing Defendants' mitigation Plan and discovered that the proposed enhancement area was not suitable for enhancement. (See the September 25, 2015 ACO ¶10, attached as Exhibit B). On November 27, 2002, the Department verbally advised Defendants that the proposed enhancement of the wetland system was not a viable wetland mitigation alternative. Ibid. On January 14, 2003, Department representatives conducted a site inspection and permit compliance evaluation, and observed a number of permit condition violations and unauthorized activities within the regulated areas, including:

a. The excessive clearing of freshwater wetlands, totaling approximately 20,000 square feet along a 20-foot wide sanitary sewer easement;

b. Failure to construct the required low-flow fish passage culvert at Station 15+80 of Hidden Drive, resulting in a completely impassable section of stream channel; and

c. Failure to comply with the special conditions of the Land Use Permit.

(See, January 14, 2003 Compliance Evaluation attached as Exhibit F).

On February 13, 2003, the Department issued a Notice of Violation ("NOV") to the Defendants for failure to comply with the permit conditions, and for conducting unauthorized regulated activities within regulated areas. The NOV advised the Defendants to immediately comply with the approved permit conditions within 30 days of receipt of the NOV and to provide and implement a proposal to take corrective actions. (See, First NOV attached as Exhibit G). On or about June 15, 2004, the Defendants filed the required deed restriction in accordance with Special Condition #6 of the Land Use Permit. (See, Deed Restriction attached as Exhibit H).

On June 24, 2004, the Department issued a letter to the Defendants concerning the outstanding wetlands mitigation requirement. The

Department informed the Defendants that the proposed Hidden Mill Wetlands Enhancement Project was not approved. (See, Freshwater Wetlands Mitigation Proposal Letter attached as Exhibit I). The Department further informed the Defendants, in the June 24, 2004 letter, of an alternative land preservation project in Gloucester Township. However, the letter stated that they were under no obligation to participate in this alternative, but that they continued to be responsible for satisfying all permit conditions that were imposed when the Individual Freshwater Wetlands Permit was issued. Ibid.

On August 26, 2004, the Department conducted a site inspection which revealed that the specific land clearing violations in the February 13, 2003 NOV had been resolved by revegetating the affected areas, and the low-flow fish passage culvert had been installed. (See, August 26, 2004 Compliance Evaluation attached as Exhibit J). The August 26, 2004, site inspection also revealed the non-compliance of the Wetlands Mitigation Conditions. Ibid. On October 18, 2004, the Department advised the Defendants via letter, that additional permit conditions remained out of compliance, including the performance of the required wetlands mitigation, which must be completed on or before March 21, 2007, the expiration date of the Land Use Permit. (See, October 18, 2004 Compliance Letter attached as Exhibit K). On June 8

and December 12, 2007, a Department representative conducted follow up compliance evaluations, and revealed that the Defendants had still not complied with the Mitigation Conditions of the Land Use Permit. (See, June 8, 2007 Compliance Report attached as Exhibit L, and December 12, 2007 Compliance Report attached as Exhibit M).

On December 20, 2007, Department issued a second NOV ("SECOND NOV") to the Defendants for failure to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were advised to comply within 30 days. (See, Second NOV attached as Exhibit N).

On February 25, 2008, Department issued a third NOV ("THIRD NOV") to the Defendants for failure to comply with Mitigation Condition #1 and Special Condition #6 of the March 21, 2002 Land Use Permit. The Defendants were advised to comply within 30 days. (See, Third NOV attached as Exhibit O). On April 24, 2008, the Defendants responded to both of the NOVs, and indicated that they were evaluating the site for a location to provide wetlands enhancement. Defendants also attached a copy of the deed restriction (as per Special Condition #6 of the Land Use Permit) that had been filed with the Camden County Clerk on or about June 15, 2004. (See, Exhibit I).

On August 5, 2008, Department issued an AONOCAPA to Hidden Mill Associates, Little Mill, Inc., Penchil, LLC, Celestino Pennoni, and

Vincent Pennoni, ordering compliance with the permit's wetlands mitigation requirement and assessing a penalty of $330,000 for all violations. (See, AONOCAPA attached as Exhibit C). The Department later reduced the $330,000 penalty assessment to $321,000. The penalty was reduced because the Defendants had corrected the violations of Special Conditions #1 and 6 and restored the excessive clearing of freshwater wetlands along the sanitary sewer easement identified in the permit compliance inspection of January 14, 2003. (See, the September 25, 2015 ACO attached as Exhibit B).

Pursuant to N.J.A.C. 7:7A-16.1(d), the AONOCAPA also assessed an on-going penalty of $250 per day against the Defendants for any violations that were set forth in the AONOCAPA that remained unresolved from that time forward. (See, Exhibit C at ¶ 13). The Defendants timely filed a hearing request in response the August 5, 2008 AONOCAPA. (See, Hearing Request attached as Exhibit P). The matter was transmitted to the New Jersey Office of Administrative Law ("OAL"), docketed as OAL Docket No. ECE2227-2010N, and assigned to the Honorable Jeff Masin, ALJ. (See, OAL Transmittal attached as Exhibit Q). On November 7, 2011, after hearing oral argument, Judge Masin issued an initial decision, which was supplemented and amended on November 29, 2011, finding the Defendants violated Special Condition #s 1 & 6 of the FWPA permit issued to the Defendants, and disturbed freshwater

wetlands adjacent to the sanitary sewer easement. (See, Initial Decision and Supplemental Decision attached as Exhibit R & S, respectively).

On February 3, 2012, Hidden Mill, Little Mill, Inc., Penchil LLC, Celestino R. Pennoni, and Vincent Pennoni, reached a tentative settlement with the Department, at which time the continuing penalty of $250 per day totaled an additional $309,000.00. (See, Exhibit B, at ¶18). On September 25, 2012, the Department and all Defendants executed the ACO to resolve the pending violations and penalties. (See, Exhibit B). The ACO was an agreement to address the outstanding remedial obligations of the Defendants and to settle a total of $630,000 in penalties, including the $321,000 civil administrative penalty assessed in the July 31, 2008 AONOCAPA, and the $309,000 of continuing penalties discussed above. (See, Exhibit B, at ¶13 & 18). Further, the ACO required the purchase of 0.6 mitigation credits. (See, Exhibit B at ¶20). The Defendants made partial payments towards the civil penalty totaling $138,450.00. (See, Owens Cert at ¶ 6). The Defendants made a final partial payment towards the civil penalties on December 23, 2014. (See, Owens Cert at ¶ 6). The ACO states that if the Defendants failed to pay the penalties or otherwise comply with the obligations of the ACO, then the August 5, 2008 AONOCAPA issued to the Defendants would become a Final Agency Order ("FAO") and both the

$321,000 of penalties associated with the AONOCAPA and the $309,000 of continuing penalties would immediately be due and owing. (See, Exhibit B at ¶24).

In an effort to achieve compliance, the Department sent multiple notices of violation, and compliance demand letters to Defendants. (See, Exhibits G, N and O). The Department further sent a compliance demand letter on March 6, 2015 and resent the letter on March 12, 2015. (See, March 6 & 12, 2015 Letter attached as Exhibit T & U respectively). Deputy Attorney General ("DAG") Bruce Velzy also sent a letter to the Defendants on June 3, 2019, requesting compliance with the ACO. (See, June 3, 2019 Letter attached as Exhibit V). Despite these efforts by the Department and DAG Velzy, the Defendants remained out of compliance. (See, Clark cert at ¶¶49 & 51).

The Department now seeks enforcement of the FAO pursuant to Rule 4:67-6. These rules permit this action to be conducted in a summary manner. This rule is applicable to all actions brought by a New Jersey administrative agency to enforce a written order or determination. Therefore, the Department and the Commissioner respectfully seek an order enforcing of the FAO to require Hidden Mill's to acquire the necessary mitigation credits and to pay the outstanding civil penalties.

LEGAL ARGUMENT

POINT I:

THE DEPARMTNET IS ENTITLED TO AN ORDER ENFORCING THE FINAL AGENCY ORDER

The Department seeks enforcement of the FAO pursuant to R. 4:67, requiring the Defendants to acquire 1.92 wetland mitigation credits and pay the outstanding penalties and interest required by the ACO. R. 4:67-6 applies to "all actions by a state administrative agency . . . brought to enforce a written order or determination made by it, whether final or interlocutory, and whether the order to be enforced requires the payment of money or imposes a non-monetary requirement or includes a combination of monetary and non-monetary remedies."

In a summary action to enforce an agency's written order or determination, R. 4:67-6 does not permit any review of the validity of the underlying agency order. New Jersey Dep't of Env't Prot. v. River Lookout Assocs., LLC, No. A-2463-19, 2021 WL 4851286 (N.J. Super. Ct. App. Div. Oct 19, 2021) ("[T]he validity of an agency order shall not be justiciable in an enforcement proceeding" (quoting R. 4.67-6(c)3.)). In re Valley Road Sewerage Co., 295 N.J. Super. 278, 290 (App. Div. 1996) ("The general design of the rule is to vest the trial divisions of the Superior Court with broad jurisdiction to deal with enforcement proceedings, required

to be initiated by way of a summary action, but to preserve fully the exclusive jurisdiction of the Appellate Division to review the merits of state agency determinations pursuant to R.2:2-3(a)(2)). State Farm Mut. Auto. Ins. Co. v. State, 118 N.J. 336 (1990). ("As noted, R. 4:67-6(c)(3) does not permit a trial court to inquire into the validity of an agency order. The Rule simply gives agency orders the force of law with all of the law's panoply or power to punish for contempt"). Rather, pursuant to Rule 2:2-3(a)(2), the Appellate Division has exclusive jurisdiction to review the merits of final state agency determinations. Dep't of Envtl. Prot. v. Mazza & Sons, Inc., 406 N.J. Super. 13, 23 (App. Div. 2009)) (A "party cannot simply disregard the final agency action, wait for the agency to bring an enforcement action under Rule 4:67-6 in a trial court, and then challenge the agency action in defense of the enforcement action").

The Department need only show that Defendants have failed to comply with the FAO by failing to purchase mitigation credits as specified in the FAO for the court to grant the requested relief. There is no pending or available administrative or appellate review of the FAO or the Department's findings therein that would preclude this court's enforcement of the FAO. See R. 4:67-6(c)(1). Defendants may only challenge the interpretation or application of

the terms of the FAO. The terms here are unambiguous, requiring Defendants to comply with the regulations, purchase of mitigation credits, and payment of past issued penalties.

A. DEFENDANTS ARE REQUIRED TO COMPLY WITH THE MITIGATION CREDIT PURCHASE REQUIREMENT OF THE ACO

Defendants have not complied with the terms of the FAO. The Department ordered Defendants to purchase mitigation credits, but they have failed to do so.

To settle the wetlands disturbance, the ACO required Defendants to purchase mitigation credits pursuant to N.J.A.C. 7:7A-11.2(e). These regulations state that "if a permittee fails to perform mitigation within the applicable time period . . . the acreage of mitigation required shall be increased by 20 percent (20%) each year after the date mitigation was to begin. This shall compensate for the absence of the functions and values that were to be provided by the mitigation project during the delay." N.J.A.C. 7:7A-11.3(c). The ACO was signed on September 25, 2012, and required Defendants to purchase the 0.6 mitigation credits within thirty (30) days. Thus, Defendants were required to purchase 0.6 mitigation credits by October 18, 2012. To date Defendants have not purchased any mitigation credits. (See, Clark Cert. at ¶51). Applying 20% simple interest to the 0.6 mitigation credits, over more than 11 years results in more than 1.92 acres

today. Defendants continue to fail to comply with the ACO, which is being enforced as a FAO. Accordingly, the Court should enforce the FAO and require Defendants to purchase 1.92 wetland mitigation credits.

B. DEFENDANTS ARE REQUIRED TO COMPLY WITH THE CIVIL PENALTIES ISSUED PURSUANT TO THE ACO.

The ACO required Defendants to pay a penalty of $250,000 to the Department in 24 monthly installments. ACO at ¶ 21. Pursuant to R. 4:42-11, interest shall begin accruing on the $250,000 penalty at the simple interest rate of 2.5% annually. ACO at ¶ 22. Over twenty-four (24) months, that equals $5,019.64. ACO at ¶ 22. The ACO further explains that these payments, inclusive of interest, shall be broken down and payable as . . . twenty-three (23) monthly payments of principal and interest in the amount of $10,650.00; and a twenty-fourth (24) and final monthly payment of $10,069.64. ACO at ¶ 23.

Defendants made a partial payment totaling $138,450.00. Owens Cert at ¶ 6. Out of the 24 total required payments, Defendants made 13 payments, the final payment being on December 23, 2014. Owens cert at ¶ 6. Of the original $250,000 penalty and interest, the remaining civil penalty totals $116,569.64. Owens cert at ¶ 6. Of the $116,569.64 penalty remainder, $63,319.64 is outstanding, to be paid to the Department, and $53,250.00 was

referred to collections. Two bills were referred on May 6, 2014, two bills on July 31, 2014, and one bill on January 6, 2015. Owens cert at ¶ 6.

The ACO further states that "if Respondents fail to pay the $250,000 penalty in accordance with the terms and conditions of the ACO, then the AONOCAPA identified in paragraph 13 shall become a final order and the full penalty of $630,000.00, along with costs and interest calculated pursuant to R. 4:42 (minus amounts previously paid), shall become immediately due and owing. ACO at ¶ 24. The Department may bring a summary action in the Superior Court to collect such penalty pursuant to R. 4:67-6 and R. 4:70. ACO at ¶ 24.

To calculate the current civil penalty owed by Defendants, the Department applied the simple interest rates for each year between March 2015 (when the March compliance demand letters advising of the violation of the ACO and the application of the acceleration clause were sent to Hidden Mill Associates and Vincent Pennoni), and present. Owens Cert at ¶7. The calculated interest to date is $130,503.16. Owens Cert at ¶ 8. The total civil penalty owed currently, including interest and subtracting amount previously paid, totals $554,665.65. Owens cert at ¶8.

CONCLUSION

For the foregoing reasons, DEP respectfully requests the Court enter an order granting the relief sought in the Verified Complaint and Order to Show Cause, and such other relief as the Court deems appropriate.

Respectfully submitted,

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BY: _____
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DATE: April 25, 2024

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