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February 28, 2006

Lisa Jackson, Commissioner
New Jersey Department of Environmental Protection
PO Box 402
Trenton NJ 08625-401

Adjudicatory Hearing Request
NJDEP - Office of Legal Affairs
PO Box 402
Trenton NJ 08625-0402

Re: Appeal of Wetlands General Permit #4
Cranbury Development Corporation/Viridian Property,
Block 10, Lot 10 and Block 12, Lot 10, Cranbury, Mercer County, NJ

Dear Commissioner Jackson:

Thank you for meeting with the Environmental Summit last week and for engaging in a brief discussion with me about the Cranbury Development Corporation (CDC) site in Cranbury Township.

As I mentioned to you at the meeting, the Stony Brook-Millstone Watershed Association (Watershed Association) is very concerned about the proposed development on this 400-acre tract of mostly forested wetlands. While a portion of the site includes the remains of the Unexcelled Corporation's old munitions production facility, the tract is the largest parcel of unpreserved open space left in Cranbury Township and is home to a number of sensitive environmental features.

The CDC site contains two streams that feed the nearby Millstone River and approximately 200 acres of wetlands, including areas determined by the state to be of "exceptional resource value." The site is appropriately designated "rural—environmentally sensitive" (Planning Area 4B) on the State Plan Policy Map and "permanent open space (proposed)" in Cranbury Township's Master Plan.

While we are certainly supportive of the state-ordered remediation of the site, the area's natural resources should be protected to the greatest extent possible during this process. We are very concerned that the Notice of Violation initially issued by the Department of Environmental Protection for unauthorized disturbance of wetlands on the site morphed into a General Permit for this activity.

The Watershed Association objects to this permit, and pursuant to NJAC 7:7A-12.7 respectively requests a hearing to appeal the Wetlands General Permit #4 for the Cranbury Development Corporation site, due to the lack of a field verified wetland delineation, a comprehensive bio-inventory, and adequate mitigation requirements.

Background on History and Enforcement Status

The site has been vacant since 1954 after an explosion and fire. The previous owner manufactured ordnances and other hazardous materials on a portion of the site and the CDC bought the site in 1974. Middlesex County considered purchasing the property in 2000 for parkland, but the Preliminary Assessment confirmed that munitions and explosive compounds (MECs) remain on a portion of the site and they referred the matter to the NJDEP. NJDEP ordered CDC to cleanup the contamination and an Administrative Order on Consent (ACO) was signed in January 2005.

After completing a due diligence review, the Viridian Company purchased the site from CDC in January 2006, with the intent to remediate the hazardous materials and redevelop the property. Approximately 2.8 million square feet of commercial warehouses have been proposed in conceptual drawings. Nearly 200 acres of the site are wetlands, and the proposed warehouses are interspersed near these sensitive natural areas. Viridian is also interested in being reimbursed with state funding for their remedial activities.

In early February 2006, the NJDEP approved a Wetlands General Permit #4 to clear vegetation and remove contaminated material that may be located in wetland areas. We understand that as much as 20-40 acres of wetlands could be disturbed during the cleanup. The Watershed Association appreciates the dangers posed by the site and the need to perform the cleanup; however, we *strongly object to the limited delineation of the wetlands and the limited mitigation measures that were proposed.*

Viridian did not perform field verifications to evaluate and inventory the plants and wildlife present on the site. Vernal pools may be present throughout the forested site, but were not investigated. Instead, the permit application relied on old, general information from 1999 or earlier. Without a comprehensive bio-inventory, the true cost of disturbing and mitigating the wetland disturbances cannot be understood. We note that the US EPA often becomes involved in wetland disturbances greater than 5 acres, although they may not be aware of this permit and the ongoing activities.

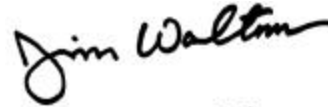
The Watershed Association also objects to the proposed wetland mitigation plans, which suggested that soil would be returned to the excavated areas, and the existing seedbed in the soil would help re-propagate the wetland vegetation. Some additional wetland plantings would also be provided. This proposal falls very short of typical wetland mitigation projects where the responsible parties are required to replace wetlands by a 2 to 1 ratio or greater, depending on the wetlands habitat values.

We are also extremely concerned that Viridian is attempting to secure “pre-approval” for the development of 2.8 million square feet of warehouses on the site. We note that portions of this site, especially the 147 acres located in its northwest corner, have been found to contain suitable habitat for wood turtles, and that habitat for wood turtles has been identified nearby. Accordingly, a 1999 Letter of Interpretation (LOI) from the NJDEP identified several areas as “exceptional resource value wetlands.” Additional investigations are planned in the northwestern portion of the site, but initial work did not detect hazardous materials in this area.

We appreciate this opportunity to comment on the permit and look forward to discussing this issue with you and your staff in more detail. We respectfully request that the appropriate person at DEP contact my office as soon as possible to organize a hearing with the Wetland Appeal Board, in accordance with NJAC 7:7A.

The Watershed Association is a non-profit member-supported organization with more than 1,600 members in Central New Jersey. We are dedicated to the protection of clean water and the environment in the 265-square mile area drained by Stony Brook and the Millstone River.

Sincerely,

A handwritten signature in black ink that reads "Jim Waltman". The signature is written in a cursive, flowing style.

James R Waltman,
Executive Director

cc: Thomas Panconi, Jr., Mayor, Cranbury Township
David Stout, Cranbury Township Committee
Thomas Harvey, Chair, Cranbury Planning Board
Peter Sibley, Chair, Cranbury Environmental Commission
Tom Witt, Cranbury Administrator
Abby Fair, ANJEC and Wetland Mitigation Council
Mark Mauriello, Acting Assistant Commissioner, NJDEP-LURP
Christopher Jones, NJDEP-LURP
Virginia Kopkash, NJDEP Wetland Mitigation
Colleen Kokus, NJ Brownfield Remediation Initiative Team (BRIT)
Adam Meek, CDC representative

