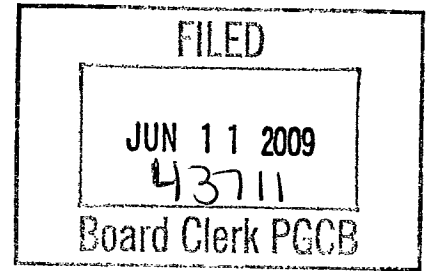


DONNA ADELSBERGER & ASSOCIATES, P.C.
By: Mary Elisa Reeves
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6 Royal Avenue
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Attorneys for Petitioners,
Senators Farnese and Stack
and Representatives McGeehan,
M. O'Brien, J. Taylor, and B. Josephs



IN RE:	: COMMONWEALTH OF PENNSYLVANIA
THE APPLICATION OF	: BEFORE THE PENNSYLVANIA GAMING
PEDP L.P. FOR AN	: CONTROL BOARD
EXTENSION OF TIME	:
	: Docket No. 1367

LEGISLATORS' PETITION TO INTERVENE AS AMICUS CURIAE

Petitioners, Senator Lawrence M. Farnese, Jr., Senator Michael J. Stack, Representative Michael H. O'Brien, Representative Michael P. McGeehan, Representative John Taylor and Representative Babette Josephs (hereinafter referred to as "Legislators"), by and through their counsel, Donna Adelsberger and Associates, P.C., hereby petition for permission to intervene pursuant to 58 Pa. Code § 493a.12 (b), in the above-captioned matter in order to be heard in opposition to the Application of Philadelphia Entertainment and Development Partners L.P. ("PEDP") for an Extension of Time, and in support thereof aver as follows:

1. The legislative districts of Senator Lawrence M. Farnese, Jr., Senator Michael J. Stack, Representative Michael P. McGeehan, Representative Michael P. O'Brien, Representative John Taylor and Representative Babette Josephs are contiguous to the Delaware River within the City of Philadelphia. Their constituents are

taxpayers and citizens of the Commonwealth, and the site in question includes lands held in the public trust for their benefit. They seek to intervene as *amicus curiae* in their legislative capacity.

2. On May 29, 2008, the Pennsylvania Gaming Control Board ("Board") issued a Category 2 Slot Machine License No. F-1367 ("License") to PEDP.

3. The License granted to PEDP mandated, pursuant to Section 1210(a) of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1101 et. seq. ("Act"), that PEDP operates and make available to play a minimum of 1,500 machines within one year of the issuance of the License by the Board.

4. The legislative intent of the Act is to provide "a significant source of new revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and similar initiatives." 4 Pa. C.S. §1102(3).

5. On May 22, 2009, PEDP filed an Application for an Extension of Time pursuant to 4 Pa. C.S. § 1210(b) for an additional 24 months to make slot machines available to play.

6. The Legislators intervene to preserve their rights to participate in the Gaming Process and to oppose the application for an extension of time.

7. Granting an extension to PEDP for continued development of the Columbus Boulevard site will further delay the economic benefits intended by the Legislature in passing the Act.

8. The intended economic benefits should not be further delayed.

9. PEDP urges that it has “good cause” to seek an extension because the development has been extraordinarily delayed by the City Council and Administration of the City which required it to file five applications with the Pennsylvania Supreme Court.

10. Four of the five applications filed by PEDP occurred prior to License “issuance” and, therefore, have in no way impacted PEDP’s development of the Columbus Boulevard site.

11. All of the applications that PEDP filed have been directly related to the controversial location selected by PEDP (Columbus Boulevard).

12. There has been little progress to date in developing the Columbus Boulevard site.

13. PEDP must still obtain a number of additional permits before construction can commence on the Columbus Boulevard site, including but not limited to:

UNITED STATES ARMY CORPS OF ENGINEERS (“CORPS”) PERMITS

14. PEDP submitted an application for Jurisdictional Determination (JD) to the Corps on November 15, 2007.

15. The Corps issued its JD decision on April 11, 2008.

16. The JD states that the Columbus Boulevard site is subject to § 10 of the Rivers and Harbors Act. (See Corps Jurisdictional Determination Form, at 1, attached hereto as Exhibit “A”).

17. The JD also states that the Columbus Boulevard site is subject to § 404 of the Clean Water Act. (See Exhibit “A”).

18. Development of the Columbus Boulevard site requires Corps permits.

19. Fifteen months have passed since PEDP first submitted its permit application to the Corps for development of the Columbus Boulevard site.

20. No permit has been issued by the Corps and, in fact, on February 9, 2009 the Corps notified PEDP that it was withdrawing PEDP's permit application for inaction. (See Corps email from Mr. Boyer to Ms. Hill, attached hereto as Exhibit "B").

21. PEDP has not objected to the withdrawal of their permit by the Corps and has had no communication with the Corps since, evidencing an abandonment of the Columbus Boulevard site.

22. Because development of the Columbus Boulevard site requires federal permits, the Corps, as the lead federal agency, is responsible under § 106 of the Historical Preservation Act to take into account the effect of their undertakings on historic properties. 36 C. F. R. 800.1(a).

23. It has already been determined that the Columbus Boulevard site contains significant, intact archaeological resources associated with industrial development of the Philadelphia riverfront during the second-half of the nineteenth century. (See February 2008 Richard Grubb & Associates Phase IB Archaeological Survey, at 4-2, attached hereto as Exhibit "C"). A Phase II archeological study is recommended by PEDP's consultant, Richard Grubb and Associates ("Grubb").

24. Grubb's report points out that the particular industrial development period of the city's history is underrepresented in the archaeological record. (See Exhibit "C")

25. It is noteworthy that the § 106 review of the "Sugarhouse" waterfront site has been ongoing for nearly two years thus far.

26. It is therefore likely that the § 106 review of the Columbus Boulevard waterfront site will take a similar amount of time to complete.

CITY OF PHILADELPHIA PERMITS

27. The City, along with members of City Council, has determined that it is not necessary or desirable to locate gaming establishments on Philadelphia's waterfront.

28. The Governor, Legislators and the City have requested that PEDP relocate its casino from the waterfront.¹

36. PEDP continues to require various licenses and/or permits from the City and/or the Commonwealth, including the Philadelphia Water Department and the Pennsylvania Department of Transportation and Pennsylvania Department of Environmental Protection.

IMPACT OF REQUESTED EXTENSION

29. PEDP has failed to obtain all of the necessary federal, state, county, local or other agency approvals that are a prerequisite to use and occupancy of the initial development phase.

30. In light of the foreseeable delays, PEDP could have filed, and should have filed with the Board, an application pursuant to 4 Pa. C.S. § 1329, to move or relocate the physical location of the licensed facility so that it could have met its obligations under the Act.

31. Moreover, PEDP could have filed a petition for, and indeed should have sought, permission from the Board to use a temporary facility pursuant to 4 Pa. C.S. 4 § 1207(17).

¹ In Re PEDP Application for an Extension of Time, at 7-8.

32. Irrespective of the controversial nature of the location and the various legal challenges, PEDP knew or should have known that it could not make 1,500 slots available for play within 12 months of the issuance of the License.

33. PEDP has unnecessarily delayed the Act's stated legislative intent, which is to provide a "significant source of new revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and similar initiatives." 4 Pa. C.S. §1102(3).

34. The License issued by this Board to PEDP is a privilege, and is conditioned on the discharge of the applicant's affirmative responsibility to ensure that its casino supports the policies set forth in the Act. 4 Pa. C.S. §1102(7). It is not an entitlement. 4 Pa. C.S. §1325(a).

35. As set forth above and for the reasons set forth in the accompanying Memorandum of Law, the Legislators seek to intervene as amicus in their official capacity by reason of their substantial direct and immediate interest in seeing that the legislative intent of the Act is carried out in an expeditious manner.

36. If permission to intervene is granted, the Legislators intend to file the attached Response in Opposition to the Application for Additional Time to Make Slots Available for Play, and reserve the right to submit additional evidence and argument in support of that opposition. (See Exhibit "D").

WHEREFORE, Petitioners, Senator Lawrence M. Farnese, Jr., Representative Michael H. O'Brien, Senator Michael J. Stack, Representative Michael P. McGeehan, Representative John Taylor and Representative Babette Josephs respectfully request that the Board grant this Petition for Permission to Intervene as *amicus curiae*.

Respectfully submitted,

BY: Mary E. Reeves
Mary Elisa Reeves, Esquire
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Tel: 215-576-8690
Fax: 215-576-8695

Counsel for Petitioners

Dated: June 10, 2009

DONNA ADELSBERGER & ASSOCIATES, P.C.

By: Mary Elisa Reeves

Attorney I.D. No. 44194

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Attorneys for Petitioners,
Senators Farnese and Stack
and Representatives McGeehan,
M. O'Brien and J. Taylor

IN RE:
THE APPLICATION OF
PEDP L.P. FOR AN
EXTENSION OF TIME

: COMMONWEALTH OF PENNSYLVANIA
: BEFORE THE PENNSYLVANIA GAMING
: CONTROL BOARD
:
: Docket No. 1367

VERIFICATION

I, Michael N O'Brien, hereby state that the facts set forth in the attached Petition to Intervene are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

By: Michael N O'Brien

Date:

DONNA ADELSBERGER & ASSOCIATES, P.C.

By: Mary Elisa Reeves

Attorney I.D. No. 44194

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Attorneys for Petitioners,

Senators Farnese and Stack and

Representatives McGeehan

M. O'Brien, J. Taylor and B. Josephs

IN RE:	: COMMONWEALTH OF PENNSYLVANIA
THE APPLICATION OF	: BEFORE THE PENNSYLVANIA GAMING
PEDP, L.P. FOR AN	: CONTROL BOARD
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**MEMORANDUM OF LAW IN SUPPORT OF PETITION TO INTERVENE AS AMICUS
CURIAE**

Petitioners seek to intervene as *amicus curiae* in the proceedings before the Board to oppose the application of Philadelphia Entertainment and Development Partners, L.P. (PEDP) for additional time to make slot machines available to play. Petitioners submit this Memorandum of Law in support of their Petition.

Senators Farnese and Stack, Representatives M. O'Brien, McGeehan, J. Taylor, and B. Josephs (Petitioners) seek to intervene as *amicus curiae* in their legislative capacity. They are elected members of the Pennsylvania General Assembly, who represent citizens in the districts which encompass the casino site and/or which are contiguous with the Delaware River. Petitioners and their constituents are taxpayers and citizens of the Commonwealth who live and/or work within the City of Philadelphia. Petitioners and their constituents have a direct, substantial and immediate interest in ensuring that the legislative intent of the Gaming Act is achieved by providing "a

significant source of new revenue to the Commonwealth to support property tax relief, wage tax reduction, economic development opportunities and similar initiatives.” 4 Pa. C.S. §1102(3).

Standing as Legislators

The decision to grant a petition to intervene is within the discretion of this Board. 58 Pa. Code §493a12(a). The Board should exercise its discretion in favor of allowing the Legislators to intervene as amicus so that their views may be heard. A full and frank discussion of both the pros and cons of granting the extension is called for, and the input of the Legislators is necessary to provide a balanced look at whether good cause can be shown. *See, e.g. Liberty Resources, Inc. v. Philadelphia Housing Authority*, 395 F. Supp 2d 206, 210 (E.D. Pa. 2005) [participation as amicus proper to ensure “complete and plenary presentation of difficult issues so that the Court may reach a proper decision ... or where an issue of general public interest is at stake”]; *see also Neonatology Assoc., P.A. v. Commissioner of Internal Revenue*, 293 F. 3d 128 (3d Cir. 2002) *aff’d* 299 F.3d 221 (3d Cir. 2002).

There can be little doubt that these members of the General Assembly have a strong interest in making sure that the spirit and the letter of its legislation is carried out consistently with the legislative intent with which it was adopted. *See, e.g., Shapp v. Sloan*, 480 Pa. 449, 476, 391 A.2d 595 (1978). Further, the Board has previously granted *amicus* status to legislators. *In Re HSP Gaming L.P. Application for an Extension of Time*, Docket No. 42824.

For the reasons set forth in this Memorandum of Law and in the Petition to Intervene, the Petition should be granted.

Respectfully submitted,

BY: Mary E. Reeves

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DONNA ADELSBERGER & ASSOCIATES, P.C.
6 Royal Avenue
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Glenside, PA 19038
Tel: 215-576-8690
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Counsel for Petitioners

Dated: June 10, 2009

DONNA ADELSBERGER & ASSOCIATES, P.C.

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IN RE:
THE APPLICATION OF
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: COMMONWEALTH OF PENNSYLVANIA
: BEFORE THE PENNSYLVANIA GAMING
: CONTROL BOARD
:
: Docket No. 1367

CERTIFICATE OF SERVICE

I, Mary Elisa Reeves, Esquire, hereby certify that on the date set forth below, I sent a copy of the Legislator's Petition to Intervene with Supporting Memorandum of Law and Exhibits via First Class mail, postage prepaid, to the following:

LeRoy S. Zimmerman, Esquire
Robert A. Graci, Esquire
ECKERT SEAMANS CHERIN & MELLOTT, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

Stephen D. Schier, Esquire
BLANK ROME LLP
One Logan Square
130 N. 18th Street
Philadelphia, Pa 19103-6998


Mary Elisa Reeves, Esquire
Attorney for Petitioners

DATE: June 10, 2009

EXHIBIT A



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

CENAP-OP-R (1145)

James N. Boyer/df/5826

April 10, 2008

APR 11 2008

Regulatory Branch
Applications Section II

SUBJECT: CENAP-OP-R-2007-912 (JD)
Project Name: Foxwoods Casino

Mr. Carl St. Pierre
Pennoni Associates, Incorporated
One Drexel Plaza
3001 Market Street
Philadelphia, Pennsylvania 19104-2897

Dear Mr. St. Pierre:

The plan identified on the following page depicts the extent of Federal jurisdiction on the subject property. The basis of our determination of jurisdiction is also provided (Enclosure 1).

Pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, a Department of the Army permit is required for work or structures in navigable waters of the United States and the discharge of dredged or fill material into waters of the United States including adjacent and isolated wetlands. Any proposal to perform the above activities within the area of Federal jurisdiction requires the prior approval of this office.

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participating in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

This letter is valid for a period of five (5) years. However, this jurisdictional determination is issued in accordance with current Federal regulations and is based upon the existing site conditions and information provided by you in your application. This office reserves the right to reevaluate and modify the jurisdictional determination at any time should the existing site conditions or Federal regulations change, or should the information provided by you prove to be false, incomplete or inaccurate.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact

CENAP-OP-R-2007-912-24 (JD)

sheet and Request for Appeal (RFA) form (Enclosure 2). If you request to appeal this determination, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

James W. Haggerty
Regulatory Appeals Review Officer
North Atlantic Division, U.S. Army Corps of Engineers
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, NY 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by JUN 10 2008.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

If you should have any questions regarding this matter, please contact me at (215) 656-5826 or write to the above address.

Sincerely,

James N. Boyer, Ph.D.
Biologist

SUBJECT PROPERTY: Foxwoods Casino site; 18.5-acre study area situated mainly between Christopher Columbus Boulevard and an existing bulkhead; located at 1499 Christopher Columbus Boulevard, in the City of Philadelphia, Philadelphia County, Pennsylvania.

SURVEY DESCRIPTION: Plan prepared by Pennoni Associates, Incorporated; Sheet 1 of 1 (Drawing Number WS-1); dated 11/14/07, last revised 4/3/08; entitled "FOXWODS CASINO ... WETLANDS STUDY ..."

COMMENTS: Site inspection by representative of this office on January 10, 2008.

Enclosures

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): **APR 11 2008**

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAP-OP-R-2007-912-24, Foxwoods Casino

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Pennsylvania County/parish/borough: Philadelphia City: Philadelphia
Center coordinates of site (lat/long in degree decimal format): Lat. 39.927222 N Long. -75.142222 W
Universal Transverse Mercator:

Name of nearest waterbody: Delaware River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Delaware River
Name of watershed or Hydrologic Unit Code (HUC): 02040202

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date:
 Field Determination. Date(s): 10-JAN-2008

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There are "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- Waters subject to the ebb and flow of the tide.
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: The Delaware River is subject to the ebb and flow of the tide and contains a Federal navigation project.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

- a. Indicate presence of waters of U.S. in review area (check all that apply):¹
- TNWs, including territorial seas
 - Wetlands adjacent to TNWs
 - Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 - Non-RPWs that flow directly or indirectly into TNWs
 - Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 - Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 - Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 - Impoundments of jurisdictional waters
 - Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 875 linear feet: width (ft) and/or acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: established by Mean (average) High Water
Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain:

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

EXHIBIT B

Boyer, James N NAP

From: Boyer, James N NAP
Sent: Monday, February 09, 2009 10:39 AM
To: 'mhill@blankrome.com'
Subject: Foxwoods

Margaret -- This is to follow up on our conversation today and confirm that we will withdraw your application without prejudice and place it in an inactive status. The primary reason for this action is due to the lack of activity in moving the Section 106 process forward. If you have any questions regarding this matter, or if you decide in the future to re-activate the application and Section 106 process, please let me know.

Jim Boyer
Corps of Engineers
Regulatory Branch
(215) 656-5826

EXHIBIT C

PHASE IB ARCHAEOLOGICAL SURVEY
FOXWOODS CASINO
1499, 1505, & 1533 CHRISTOPHER COLUMBUS BOULEVARD
FIRST WARD
CITY OF PHILADELPHIA, PHILADELPHIA COUNTY
PENNSYLVANIA
FEBRUARY 2008

RICHARD GRUBB & ASSOCIATES, INC.
Cultural Resource Consultants

No evidence of an early bulkhead was encountered at the site. Trenches T-63-65 were excavated down to the level where a railroad line had once been located. To ensure that no buried bulkheads were present, Trench T-65 was excavated to a depth of 13.0-feet. No wooden elements or intact bulkhead frames were encountered and it appeared that all of the soils were part of the original fill.

A total of 1,133 artifacts were recovered from the site. The overwhelming majority were non-architectural ceramics (n=678) and vessel glass (n=235), followed by architectural material (n=92), faunal (n=47), fuel (n=18), personal (n=16), industrial (n=8), clay pipe (n=6), natural/prehistoric lithics (n=2), hardware (n=2), activity (horseshoe) (n=1) and miscellaneous (n=28). These were recovered mainly from general fill contexts, however, a moderate percentage were recovered from features or defined strata within a particular trench.

Artifact types such as ceramics, clay pipe and bottle glass may be associated with workers at the site and may have been deposited during activities in the workplace, or from domestic contexts that originated at the location of worker housing. Other artifacts, such as metal fixtures, chemical bottles and a glass tube can possibly be related to the commercial operation of a particular industry within the APE.

In addition to the physical remains from the late-nineteenth/twentieth centuries, the fill that was used to create fast land was encountered in the majority of the trenches. Artifacts that predate the commercial and industrial occupation of the site, such as glazed redware (n=25), early-nineteenth-century transfer-printed whiteware (n=9), pearlware (n=8), white salt-glazed stoneware (n=3), porcelain (n=1) and late-eighteenth/early-nineteenth-century glass bottle fragments (n=3) likely originated as part of this fill. Ceramics with manufacturing date ranges that begin in the eighteenth century were recovered from Trenches T-1-2, T-9, T-11-12, T-14-15, T-26-27, T-30, T-33, T-35-36, T-41, T-46 and T-62, indicating a wide distribution of material from prior to the first structure on the site. Data from the fill can be useful in understanding the chronology and techniques used to create the fast land on which the site was developed, and possibly the origin of the fill itself.

The results of archaeological fieldwork confirmed that portions of the APE have the potential to contain significant, intact archaeological resources associated with the industrial development of the Philadelphia riverfront during the second-half of the nineteenth century. This is a period of the city's history that is underrepresented in the archaeological record and offers a rare opportunity to advance our knowledge of the development of the outlying areas of the city and the effect that new technologies had on industry during the Industrial Revolution. As a result, a Phase II archaeological investigation is recommended for the portions of the APE that contained intact foundations or

EXHIBIT D

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Attorneys for Petitioners,
Senators Farnese and Stack
and Representatives McGeehan,
M. O'Brien, J. Taylor, and B. Josephs

IN RE:	: COMMONWEALTH OF PENNSYLVANIA
THE APPLICATION OF	: BEFORE THE PENNSYLVANIA GAMING
PEDP, L.P. FOR AN	: CONTROL BOARD
EXTENTION OF TIME	:
	: Docket No. 1367

HEARING REQUESTED

**OPPOSITION OF LEGISLATORS TO PEDP, L.P.'s
APPLICATION FOR AN EXTENTION OF TIME**

The Legislators, Senator Lawrence M. Farnese, Jr., Representative Michael H. O'Brien, Senator Michael J. Stack, Representative Michael P. McGeehan, Representative John Taylor, and Representative Babette Josephs hereby oppose Petitioner Philadelphia Entertainment and Development Partners, L.P.'s ("PEDP") Application for additional time to make slot machines available to play, and respond to the allegations in the Application as follows:

1. Admitted.
2. Admitted.
3. Denied as stated. It is denied that the Pennsylvania Gaming Control Board (Board) possesses the sole authority to determine the location of licensed slot machine facilities. The site designated in PEDP's application was selected by PEDP and subsequently approved by the Board. Alternative sites were available and remain

available for approval by the Board. Further, PEDP may still seek relocation of the licensed facility pursuant to § 1329 of the Gaming Act.

4. Denied as stated. It is denied that the Board has exclusive authority to locate slot machine facilities. The location of slot machine facilities is a two step process. The applicant's designated site is submitted to the Board as part of the application and the Board has authority to approve or deny the application. The location of a proposed facility was one of many factors considered by the Board in issuing slot machine licenses.

5. Denied as stated. The first step in the process is to submit a Plan of Development to the City's Planning Commission for approval, not passage of an ordinance designating the property as a CED. If the Planning Commission approves the Plan of Development it is then submitted to Council. Council is to then take two separate actions to designate the site for casino development: (1) designate by ordinance the site as a Commercial Entertainment district, and (2) review and approve a Plan of Development that has been submitted by the Planning Commission. Phila. Code § 14-403(1), (2).

6. Denied as stated. It is denied that PEDP has complied with the spirit and the letter of the Gaming Act, or that it is has worked diligently to ensure that the intent of the Act is carried out. Despite the anticipated challenges and considerable opposition to the proposed development at the current Columbus Boulevard site, PEDP has made no effort to set up a temporary facility for the operation of slot machines pursuant to §1207(17) of the Gaming Act, nor has it yet sought Board approval seeking to move its license to another location.

7. Denied. The Order of the Board to pay the License Fee speaks for itself. Any delay in realizing the benefits of its License Fee is related to PEDP's failure to seek alternate locations for its project or to seek portability of its License. It is denied that any delay experienced by PEDP is extraordinary.

8. Denied as stated. PEDP's investment in development efforts at a single site, without consideration of the delays that would be encountered, should have no relevance in the Board's determination on the Application for Extension of Time. It is the Board's mandate from the General Assembly to administer the licensing of slot machine licenses in a manner which will fulfill the express legislative intent of the Act by providing a significant source of new revenue and tax relief to the Commonwealth in an efficient and timely manner.

9. Legislators are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9.

10. It is admitted only that PEDP has been unable to obtain CED zoning for the Columbus Boulevard site and that PEDP has filed four applications with the Supreme Court of Pennsylvania.

11. Denied as stated. In addition to other approvals from the City Administration, PEDP must obtain approvals from Departments of the Commonwealth and United States Army Corps of Engineers (Corps) and other federal agencies.

12. Admitted in part. It is admitted only that Mayor Nutter was sworn in as Mayor of Philadelphia on January 7, 2008. Legislators are without knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 12.

13. Legislators are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.

14. Legislators are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.

15. Admitted in part. It is admitted only that PEDP has been unable to move forward on the development of the Columbus Boulevard site.

16. Admitted.

17. Admitted in part, denied in part. It is admitted that the Board controls the relocation of a licensed facility. It is denied that PEDP has invested substantial time, effort and money in developing the Columbus Boulevard site. The work performed on the site thus far is not substantial, and does not represent any significant progress when compared with the proposed development in its entirety. At the present rate, it is not believed that PEDP will be able to make any slots available at the Columbus Boulevard site within the next twenty-four months.

18. Denied as stated. It is admitted only that PEDP has indicated that it desires to relocate its casino to a location near the Gallery at 8th and Market Streets. The Legislators are without knowledge or information sufficient to form a belief as to the truthfulness of the allegations in paragraph 18, and therefore strict proof thereof is demanded.

19-25. Legislators are without knowledge or information sufficient to form a belief as to the truthfulness of the allegations in paragraphs 19-25 and PEDP should be required to provide a full explanation of its relocation plans.

26-30. Denied as stated. The referenced bills and statutes speak for themselves.

31. Legislators are without sufficient knowledge or information to form a belief as to the truthfulness of the allegations in paragraph 31. PEDP has made no effort to request this Board's approval for the relocation of its casino.

32. Denied. It is denied that PEDP has shown good cause to grant an extension of time to develop the Columbus Boulevard site. PEDP has abandoned its efforts to develop its approved site and in fact has concentrated its efforts in relocating the casino away from that site.

33. Denied. It is denied that the delays PEDP experienced in developing the Columbus Boulevard site are not of its own doing. PEDP's investment in development efforts at a single site, without consideration of the delays that would be encountered, should have no relevance in the Board's determination on the Application for Additional Time.

34. Legislators are without knowledge or information sufficient to form a belief as to the truthfulness of the allegations in paragraph 34 and PEDP should be required to provide a timeline for development of the Columbus Boulevard site as well as a complete list and status of all city, state and federal permits that are required for its development.

35-36. Legislators are without knowledge or information sufficient to form a belief as to the truthfulness of the allegations in paragraph 35 and PEDP should be required to provide a full explanation of its relocation plans.

37. Admitted.

38. It is denied that the delay and inability of PEDP to develop the Columbus Boulevard site is not through its own fault.

39. It is denied that the delay experienced by PEDP in developing the Columbus Boulevard site are extraordinary and that they provide good cause for an extension of time to make 1,500 slot machines available for play.

40. For the foregoing reasons, as well as those set forth in the Petition to Intervene, which is incorporated herein by reference, PEDP's Application for Extension of Time should be denied.

WHEREFORE, the Legislators respectfully submit that PEDP has not shown good cause for an extension of time under §1210. It is respectfully requested that the extension request be denied. In the alternative, the Legislators request that the Board require that PEDP provide a detailed analysis of its proposed alternative locations for its casino and that PEDP provide a timeline for development of all sites under consideration.

A hearing on the Application for Extension of Time is requested.

Respectfully submitted,

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