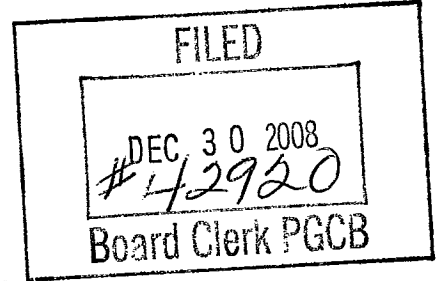


DONNA ADELSBERGER & ASSOCIATES, P.C.
By: Mary Elisa Reeves
Attorney I.D. No. 44194
6 Royal Avenue
P.O. Box 530
Glenside, PA 19038
Tel: 215-576-8690
Fax: 215-576-8695
Attorneys for Petitioners,
Senators Farnese and Stack
and Representatives Keller,
McGeehan, M. O'Brien and J. Taylor

RECEIVED

2008 DEC 30 AM 10:35

PA GAMING CONTROL BOARD
OFFICE OF THE CLERK



IN RE: : COMMONWEALTH OF PENNSYLVANIA
THE APPLICATION OF : BEFORE THE PENNSYLVANIA GAMING
HSP GAMING, L.P. FOR AN : CONTROL BOARD
EXTENTION OF TIME :
: Docket No. 1356

LEGISLATORS' PETITION TO INTERVENE

Petitioners, Senator Lawrence M. Farnese, Jr., Representative Michael H. O'Brien, Senator Michael J. Stack, Representative William F. Keller, Representative Michael P. McGeehan and Representative John Taylor (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 preserve standing and oppose the Application of HSP Gaming L.P. ("HSP") for an Extension of Time, and in support thereof aver as follows:

1. Senator Lawrence M. Farnese, Jr.¹ and Representative Michael P. O'Brien reside, work and own property within the City of Philadelphia, and their legislative districts of the Legislators encompass the proposed development site of the

¹ Senator Farnese is actually the Senator Elect for the District in which the proposed Sugarhouse site is situated.

Sugarhouse Casino. They seek to intervene in their individual capacity as taxpayers and citizens of the City and the Commonwealth, and the site in question includes lands held in the public trust for their benefit, as well as for the benefit of their constituents. Senator Farnese and Representative M. O'Brien also seek to intervene as amicus in their legislative capacities.

2. The legislative districts of Senator Michael J. Stack, Representative William F. Keller, Representative Michael P. McGeehan and Representative John Taylor are contiguous to the Delaware River within the City of Philadelphia. The 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 in their legislative capacity.

3. On January 10, 2008, the Pennsylvania Gaming Control Board ("Board") issued a Category 2 Slot Machine License No. F-1356 ("License") to HSP.

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

5. 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).

6. On December 9, 2008, HSP filed an Application for an Extension of Time pursuant to 4 Pa. C.S. § 1210(b) for an additional year to make slot machines available to play.

7. The Legislators have a substantial, direct and immediate interest in seeing the legislative intent of the Act carried out.

8. The Legislators may be bound by the decision of the Board.

9. This interest of the Legislators is not adequately represented by any party to this proceeding.

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

11. Granting an extension to HSP for continued development of the Sugarhouse site will further delay the economic benefits intended by the Legislature in passing the Act.

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

13. HSP urges that it has "good cause" to seek an extension because the development has been delayed by the defense or prosecution of more than ten separate lawsuits.

14. Many of the challenges made to HSP's license award occurred prior to License "issuance" and, therefore, have in no way impacted HSP's development of the Sugarhouse site.

15. The litigation that HSP has faced subsequent to "issuance" of its License has been directly related to the controversial location selected by HSP (Sugarhouse).

16. This Board has concluded, and indeed HSP has conceded, that the site selection was chosen by the applicant.² The decision to award a license to HSP was based on many factors, and the location was only one of them.

² In Re: Petitions for Extension of Time by HSP Gaming, L.P., et al, PCGB Docket Nos. 1367, 1356, Hearing Transcript at 105-106 (Sept. 6, 2007).

17. The \$100 million HSP alleges it has already expended on development is irrelevant to the Board's decision, and does not constitute good cause for an extension. Moreover, this amount is only a fraction of the estimated \$550 million in construction costs for Phase I.³

18. There has been little physical progress to date in developing the Sugarhouse site.

19. HSP must still obtain a number of additional permits before construction can commence on the Sugarhouse site, including but not limited to:

UNITED STATES ARMY CORPS OF ENGINEERS PERMIT

20. The United States Army Corps of Engineers ("Corps") § 404 permit process has been ongoing for at least eighteen months.⁴

21. The Corps has not yet issued a § 404 permit to HSP.

22. The § 404 permit is required for development of the Sugarhouse site.

23. The Corps is not likely to do so in the near future for the following reasons:

24. Before issuing a § 404 permit, the Corps must conduct an Environmental Assessment ("EA") of the Sugarhouse site and make a determination as to the significance of the environmental impact and either prepare an Environmental Impact Statement, or issue a finding of no significant impact.

25. The Corps must perform a public interest review prior to issuing a § 404 permit. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest.

³ In Re: Application of HSP Gaming L.P. ¶ 39.

⁴ Corps Permit Checklist, current through December 10, 2008.

26. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered, including the cumulative effects thereof. Among those are:

- a. conservation;
- b. economics;
- c. aesthetics;
- d. general environmental concerns;
- e. wetlands;
- f. historic properties;
- g. fish and wildlife values;
- h. flood hazards;
- i. floodplain values;
- j. land use;
- k. navigation;
- l. shore erosion and accretion;
- m. recreation;
- n. water supply and conservation;
- o. water quality;
- p. energy needs;
- q. safety;
- r. food and fiber production;
- s. mineral needs; and
- t. the general needs and welfare of the people.

33 C.F.R. § 320.4(a)(1).

27. In addition, the Corps must analyze the project's impact in relation to the "significance" factors contained in the Council on Environmental Quality regulations, which include:

- a. the short and long term effects on the locale;
- b. the severity of the impacts;
- c. the degree to which public health and safety will be affected;
- d. the unique characteristics of the geographic area;
- e. the degree to which the effects on the quality of the human environment are likely to be highly controversial;
- f. the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks;
- g. the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
- h. whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts;
- i. the degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of

Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources;

j. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973; and

k. whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

40 C.F.R. §1508.27.

28. The historical properties of the Sugarhouse site was underestimated by HSP as evidenced by the fact that the Corps' historical review has been ongoing for more than six months, and is not yet complete.

29. The Corps analysis of the remaining aforementioned factors is not yet complete and is likely to take many more months before the Corps issues a final EA.

30. When the Corps issues the final EA and its determination of the project's environmental significance, that determination is likely to face a legal challenge.

31. Corps' regulations require that an Alternatives Analysis be performed before issuing a § 404 permit and where a practicable alternative exists the Corps is prohibited from issuing the permit.

32. HSP identified a number of alternate sites in its application for a License, therefore practicable alternatives to the Sugarhouse site exist, including sites submitted to the Board by other applicants that the Board deemed acceptable.

33. Because practicable alternatives exist, the issuance of a § 404 permit is also likely to face a legal challenge.

CITY OF PHILADELPHIA PERMITS

34. The City of Philadelphia ("City") disagrees with HSP's stated purpose of the Sugarhouse Casino as an entertainment center and catalyst for development.

35. 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.

36. The City does not believe that the Sugarhouse site is compatible with the "Civic Vision Report" created by Penn Praxis, at the City's request, for the Central Delaware River waterfront.⁵

36. HSP continues to require various licenses and/or permits from the City and/or the Commonwealth, including the Pennsylvania Department of Transportation.

FEDERAL OPPOSITION

37. In written comments submitted to the Corps, the U.S. Environmental Protection Agency "strongly" recommended denial of the § 404 permit as proposed.⁶

38. Similarly, comments from the U.S. Fish and Wildlife Service recommended that the Sugarhouse site development not be authorized as proposed.⁷

39. The expiration of the Water Resources Development Act of 1988 leaves HSP without clear title to the Sugarhouse site because the submerged lands upon which the Casino is to be constructed is once again subject to a navigational servitude. 46 U.S.C. §59j-1.

⁵ August 27, 2008, letter from Philadelphia City Planning Commission to Chief, Corps Regulatory Branch.

⁶ April 1, 2008 letter from EPA Region III to Chief, Corps Regulatory Branch.

⁷ April 3, 2008 letter from USFWS Pennsylvania Field Office to Corps District Engineer, supplemented by August 29, 2008 e-mail.

COMMUNITY OPPOSITION

40. HSP has not reached an agreement with several community groups, including Fishtown Neighbor's Association ("FNA"), the Old Richmond Civic Association ("ORCA") and the Northern Liberties Neighbors Association ("NLNA").

41. Various neighborhood and community groups have challenged the issuance of a sewer permit by the Department of Environmental Protection.⁸

IMPACT OF REQUESTED EXTENSION

42. HSP knew as early as October 2, 2007 that it would face delay in making slot machines available for play.

43. Board Chairman Colins advised the Licensee "that delays to gain all necessary approvals required to begin construction should not have been unexpected by Sugarhouse . . ."⁹

44. HSP 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 as required by ¶ 50 of the Statement of Conditions to Category 2 Slot Operator License #F-1356.

45. In light of the foreseeable delays, HSP 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.

⁸ On November 3, 2008, Northern Liberties Neighbors Association, Delaware River Keeper Network, and Delaware River Keeper and Herbert Shallcross filed an appeal of the Pennsylvania Department of Environmental Protection's issuance of a Sanitary Sewer Permit to HSP for the Sugarhouse site.

⁹ PGCB October 2, 2007, Press Release, "Gaming Control Board Denies Request from Philadelphia Casinos for Extension to Pay \$50 million License Fees."

46. Moreover, HSP 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).

47. In fact, the Board's issuance of the License to HSP was based in part on its "plans to have an interim facility that will be in operation within twelve (12) months of its licensure."¹⁰

48. Irrespective of the controversial nature of the location and the various legal challenges, HSP 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, and should have honored its commitment to establish an interim facility.

49. HSP 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).

50. The License issued by this Board to HSP 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).

51. 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. They will be bound

¹⁰ Adjudication of the Pennsylvania Gaming Control Board in the Matters of the Applications for Category 2 Slot Machine Licenses in the City of the First Class at 81 (February 1, 2007).

by the Board's action, and their interest is not adequately represented by a party to the proceeding.

52. As set forth herein and in the accompanying Memorandum of Law, Senator Farnese and Representative M. O'Brien have standing to intervene in their individual capacities as taxpayers who live, work and own property within the City of Philadelphia who have a direct, substantial and immediate interest in the tax relief and other economic benefits of the Gaming Act.

53. 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 "A").

WHEREFORE, Petitioners, Senator Lawrence M. Farnese, Jr., Representative Michael H. O'Brien, Senator Michael J. Stack, Representative William F. Keller, Representative Michael P. McGeehan, and Representative John Taylor respectfully request that the Board grant this Petition for Permission to Intervene.

Respectfully submitted,

BY: 

Mary Elisa Reeves, Esquire
DONNA ADELSBERGER & ASSOCIATES, P.C.
6 Royal Avenue
P.O. Box 530
Glenside, PA 19038
Tel: 215-576-8690
Fax: 215-576-8695

Counsel for Petitioners

Dated: December 29, 2008

DONNA ADELSBERGER & ASSOCIATES, P.C.

By: Mary Elisa Reeves

Attorney I.D. Nos. 44194

6 Royal Avenue

P.O. Box 530

Glenside, PA 19038

Tel: 215-576-8690

Fax: 215-576-8695

Attorneys for Petitioners,

Senator Farnese and

Representative O'Brien

IN RE:

THE APPLICATION OF

HSP GAMING, L.P. FOR AN

EXTENTION OF TIME

: COMMONWEALTH OF PENNSYLVANIA

: BEFORE THE PENNSYLVANIA GAMING

: CONTROL BOARD

:

: Docket No. 1356

-

VERIFICATION

I, Michael H O'Brien hereby state that the facts set forth above 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 H O'Brien

Date: 12/23/2008

DONNA ADELSBERGER & ASSOCIATES, P.C.
By: Mary Elisa Reeves
Attorney I.D. Nos. 44194
6 Royal Avenue
P.O. Box 530
Glenside, PA 19038
Tel: 215-576-8690
Fax: 215-576-8695
Attorneys for Petitioners,
Senator Farnese and
Representative O'Brien

IN RE:	: COMMONWEALTH OF PENNSYLVANIA
THE APPLICATION OF	: BEFORE THE PENNSYLVANIA GAMING
HSP GAMING, L.P. FOR AN	: CONTROL BOARD
EXTENSION OF TIME	:
	: Docket No. 1356

VERIFICATION

I hereby state that the facts set forth above 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: 

Date: 12/29/08

Corps Permit
Checklist (fn. 4)

DEPARTMENT OF THE ARMY PERMITS

- DA PERMIT LTR NO OBJ WITHDRAWN
 LTR PERMIT LTR NO JUR DENIED

JURISDICTION DETERMINATION - No (JD performed separately from the permit action.)

Yes: Field (site inspected)

Office (site not inspected)

APPLICATION NUMBER 2007-120

	IN-HOUSE	OUTSIDE
1. APPLICATION RECEIVED	6-20-07	
2. APPLICATION REVIEWED	06/21/2007	
3. INFORMATION REQUESTED	6/21/07 → 2/1/08	
4. INFORMATION RECEIVED	12/17/07 → 2/4/08	
*5. INFORMATION COMPLETE	02-24-2008	
6. EIS ASSESSMENT COMPLETE		
7. DATE OF NOTICE		
8. DOI COMMENTS RECEIVED		
9. EPA COMMENTS RECEIVED		
10. NOAA COMMENTS RECEIVED		
11. STATE APPROVAL RECEIVED		
12. WQC RECEIVED		
13. OTHER RECEIVED		
14. EXPIRATION DATE OF NOTICE		
15. DATE PERMIT IS CIRCULATED FOR SIGNATURE		

* IN-HOUSE PROCESSING TIME BEGINS AT NUMBER 5.

TOTAL DAYS OF PROCESSING TIME _____

Aug 27, 2008 Letter
from Thila. (fn. 5)

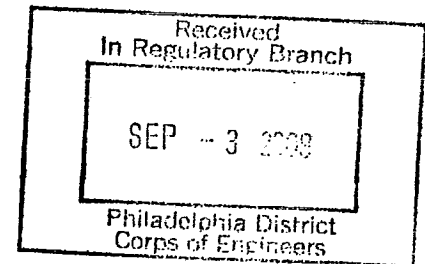


CITY OF PHILADELPHIA

Philadelphia City Planning Commission
1515 Arch Street
13th Floor
Philadelphia, PA 19102
(215) 683-4600
FAX (215) 683-4630

August 27, 2008

Samuel L. Reynolds
Chief, Application Section
Regulatory Branch
Army Corps of Engineers, Philadelphia District
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390



RE: Comments to Public Notice No. CENAP OP-R-2007-24 relating to SugarHouse Casino

Dear Mr. Reynolds:

On behalf of the City of Philadelphia, thank you for this opportunity to comment on HSP Gaming, L.P.'s (SugarHouse) application submitted to the Army Corps of Engineers (ACOE) to relocate the City's Laurel Street Combined Sewer Outfall (CSO) to the southwest edge of the property, and fill in the remaining two open pier slips, for the purpose of the redevelopment of the property located at 941-1025 North Delaware Avenue. The City is opposing the issuance of this ACOE permit for reasons that are outlined below.

The City believes that this unique waterfront property is not required for the establishment of a gaming facility.

The SugarHouse Casino is not water-dependent. There are several potential locations appropriate for a gaming facility in Philadelphia, not on the Delaware River. Some of these locations are well known. In 2005, as part of the City's effort to prepare for gaming, the Philadelphia Gaming Advisory Task Force produced a report that outlined and discussed numerous sites throughout the City, six of which are not located along the Delaware River, which would be suitable for gaming establishments. Further, in 2005 one of the applicants for a casino license from the Pennsylvania Gaming Control Board was for a site not located on the Delaware Riverfront. Although the applicant for this site was not awarded one of the two licenses in Philadelphia, the Gaming Control Board determined that the site was approvable. These factors demonstrate that it is not necessary for a gaming establishment to locate its operation on the Delaware Riverfront and that there are viable alternative sites for casinos.

SugarHouse did not accurately represent the value of gaming facilities on the Delaware Riverfront to the City of Philadelphia.


The City of Philadelphia disagrees with SugarHouse's stated purpose of its project as quoted on page 4 of the ACOE Public Notice, and as described in Exhibit N of the application. SugarHouse claims that its project is: "to serve as an entertainment center and a catalyst for the positive redevelopment of former industrial facilities along the northern waterfront of the City of Philadelphia. This anchor facility will be interconnected to other city facilities and services to function as a core redevelopment centerpiece, and thereby promote the sustained economic and social development of the local community."

The City does not agree with this claim. For the past eight months, Mayor Nutter and his Administration, along with members of City Council and several community groups and coalitions, have testified that it is not necessary or desirable to locate gaming establishments on Philadelphia's riverfront. During 2006 and 2007, Penn Praxis (the clinical arm of the School of Design of the University of Pennsylvania) and hundreds of design professionals partnered to create an new image for the Central Delaware River waterfront, which resulted in a 2007 report, which the Mayor has said will be the basis of a waterfront plan by the City Planning Commission. Based on the findings in the report, Mayor Nutter tasked Penn Praxis to evaluate the two proposed gaming facility sites and determine whether they are compatible with the Civic Vision report. The SugarHouse plan was evaluated by casino development experts and Penn Praxis determined that, in its current design, SugarHouse could not contribute to the civic vision of the Delaware River waterfront.

For these reasons, although the City remains steadfast in its belief that gaming will add important revenues to the City's tax base, the City does not believe that the proposed facility as designed should be on the Delaware River, because such an establishment in this location would not be an "anchor" or "catalyst" for the positive redevelopment of the Delaware River.

Should you have any questions on this matter, please contact me at 215-683-4600.

Sincerely,



Gary J. Jastrzab
Acting Executive Director
Philadelphia City Planning Commission

EPA Comment (fn 6)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

April 1, 2008

Frank J. Cianfrani
Chief, Regulatory Branch
Philadelphia District, Corps of Engineers
Wanamaker Building
100 Penn Square East
Philadelphia PA 19107-3390

Re: CENAP-OP-R-2007-120-24
Sugar House Casino

Dear Mr. Cianfrani;

This letter is written in regards to the above referenced public notice. The applicant proposes to redevelop a former industrial and port facility to construct a casino and entertainment complex known as "Sugar House" and to provide new public access (greenway and river promenade), with a ferry boat dock and river taxi dock. The proposed facilities would be constructed in several phases. Total permanent impacts to open waters from filling activities would be 1.411 acres. An additional 1.49 acres of open waters would be impacted by dredging and 0.139 acres of existing open waters would be impacted by the placement of stone rip-rap from revetments.

Upon review of this permit application the U.S. Environmental Protection Agency "EPA" is concerned with the absences of any alternatives to the proposed footprint of this entertainment complex. While we appreciate that all three phases of the proposed construction have been identified up front, the lack of alternatives fails to satisfy the Clean Water Act Section 404 (b)(1) Guidelines. The majority of the proposed project, the casino and the entertainment complex, are non-water dependent and, as such, alternatives are presumed to exist. EPA believes that the applicant needs to provide a comprehensive alternatives analysis that includes alternatives in layout and/or building design, and examines other offsite upland alternatives in order to satisfy the Guidelines.

It is incumbent upon the applicant to fully vet avoidance and minimization measures and to take into consideration the direct, indirect, secondary and cumulative impacts to aquatic resources resulting from the proposed project. EPA believes that the applicant has not adequately addressed the issues of avoidance and minimization or impacts to aquatic resources and should be required to do so. Additionally it is unclear whether the applicant plans to mitigate for the secondary shading impact proposed for the deck. The proposed deck would impact 1.08 acres of open water. These secondary impacts need to be considered during the permitting process.

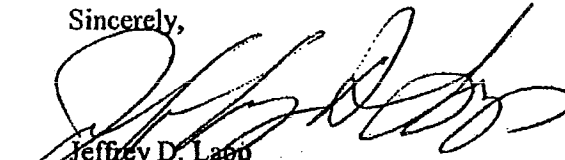
*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474*



Based on the information provided and for the reasons stated above, EPA believes that the applicant has not adequately addressed the provisions of the Clean Water Act Section 404(b)(1) Guidelines that protect "waters of the United States". EPA strongly recommends denial of a permit authorizing impacts for the project as it is currently proposed.

If you have any questions or would like further clarification please feel free to contact Jamie Davis of my staff at 570-842-1044.

Sincerely,



Jeffrey D. Lapp
Wetlands and Oceans Program Manager

cc: Cindy Tibbot, U.S. Fish and Wildlife Service



FWS Comments (fn 7)



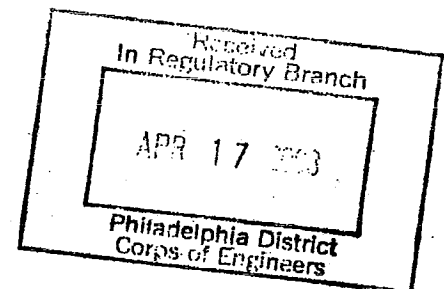
United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pennsylvania Field Office
315 South Allen Street, Suite 322
State College, Pennsylvania 16801-4850

April 3, 2008

Lt. Colonel Gwen Baker, District Engineer
Philadelphia District, U.S. Army Corps of Engineers
Wanamaker Building
100 Penn Square East
Philadelphia, Pennsylvania 19107-3390



Dear Colonel Baker:

The Fish and Wildlife Service has reviewed Public Notice CENAP-OP-R-2007-120-24, dated March 5, 2008, regarding an application by HSP Gaming, L.P., to redevelop Piers 41 through 48 North, on the Delaware River in Philadelphia, Pennsylvania. The applicant proposes to construct a casino and entertainment complex known as "SugarHouse," and to provide new public access (greenway and river promenade), with a ferry boat dock and river taxi dock. The total permanent impacts to open waters from filling would be 1.411 acres; an additional 1.49 acres of open water would be dredged; and 0.139 acre would be filled with riprap. The following comments are provided pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, 16 U.S.C. 661 *et seq.*) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). The are to be used in your determination of 404(b)(1) Guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

Federally Listed and Proposed Species

This project lies within the range of the federally-listed, endangered shortnose sturgeon (*Acipenser brevirostrum*). This species is under the jurisdiction of the National Marine Fisheries Service; please contact that agency at 978-281-9328 for more information.

Except for occasional transient species, no federally listed or proposed threatened or endangered species under the jurisdiction of the Fish and Wildlife Service is known to occur within the project impact area. Therefore, no biological assessment nor further consultation under the Endangered Species Act are required with the Service. This determination is valid for two years from the date of this letter. If the proposed project has not been fully implemented prior to this,

an additional review by this office will be necessary. Should project plans change, or if additional information on listed or proposed species becomes available, this determination may be reconsidered.

Aquatic Resources

Shallow water areas in the Delaware River usually provide important habitat for different life stages of a variety of fish species including alewife, American shad, blueback herring, gizzard shad, silvery minnow, brown bullhead, white catfish, channel catfish, banded killifish, white perch, striped bass, and largemouth bass. Fish captured in the project area in 2006 included American shad, gizzard shad, channel catfish, smallmouth bass, white sucker, white perch, yellow perch, American eel, and striped bass (Source: List distributed at the January 12, 2007, Urban Waterfront Action Group [UWAG] meeting), demonstrating the value of these inter-pier areas to a variety of fish species.

Various agency representatives also expressed concern at the 2007 UWAG meeting, over the amount of fill associated with this project, and it appears that the applicant has attempted to address that concern by constructing the public access walkways on a 1.5-acre pile-supported structure, instead of solid fill. There is no evidence that the applicant has considered alternative project designs, such as reducing the overall scale of the project, to reduce or eliminate fill in open water areas. The pile-supported promenade will itself have shading impacts; the acreage affected by shading needs to be added to the total acreage requiring compensatory mitigation.

The proposed compensatory mitigation is not adequate from an ecological standpoint. Removal of open-water pile fields and cribbing (*i.e.*, structures that are not decked) does not compensate for the loss of open water habitat, because these areas are already a type of aquatic habitat. Adding aquatic vegetation to a combined sewer overflow channel is counterproductive, because of probable sediment toxicity due to contaminants from long-term stormwater runoff. We agree that decked structures removed along the Delaware River side of the project could be counted towards the acreage needed for compensation, but not if the restored areas will ultimately be shaded by the pile-supported promenade. The proposed off-site tidal wetland area at the Baxter Water Treatment Plant is largely out-of-kind mitigation, since it provides very little shallow water, tidal habitat. The in-kind mitigation component of the Baxter site should be increased by eliminating the vegetated islands.

In summary, the project as proposed will result in the loss of productive open water habitat, which will not be replaced by the proposed compensatory mitigation. There is no evidence that the applicant has considered reducing the size of the project to avoid filling in the Delaware River. The recent increase in proposals to develop similar projects elsewhere along the riverfront, and the resulting cumulative impacts to important aquatic habitats, must also be considered. Furthermore, most aspects of the project are not water-dependent. Consequently, we recommend that the project not be authorized as proposed.


Thank you for the opportunity to offer these comments. Please contact Cindy Tibbott of my staff at 814-234-4090 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David Densmore", followed by a long horizontal line extending to the right.

David Densmore
Supervisor

Cindy Tibbott/R5/FWS/DOI
08/29/2008 11:45 AM

To "Boyer, James N NAP" <James.N.Boyer@usace.army.mil>
cc tshervinsk@state.pa.us, karen.greene@noaa.gov
bcc
Subject SugarHouse Proposed On-site Habitat Work Plan 

Hi Jim,

I've reviewed the subject document, sent by Terrence McKenna of Keating on June 18, 2008.

I can't support the use of most of the artificial in-river habitat structures proposed in this document. Regarding the "reef balls" and concrete eel tubes, I have no idea about their value in a flowing, freshwater tidal river and would want to see some literature describing their benefits to fish and eels in this environment before considering them further.

The suggestion to establish wild celery in the river is promising, but I would need to see an acreage figure. I would rather see the applicant do a good job of establishing a productive, vegetated shallow water area than spending time and money on artificial structures or daylighting under the pier -- provided a sufficient area of high-quality habitat could be provided. To provide increased habitat value, the plan should be improved to include a mix of aquatic vegetation such as pickerelweed, arrow arum, water plantain, and other species. I imagine it would be tricky to provide a suitable substrate for these plants and hold it in place as the tide fluctuates and river flows vary. Has anyone ever tried "planting" the seeds or tubers in coir logs? The coir logs could be fastened in place with rebar, perhaps in close-set lines parallel to the shoreline. I would think that sedimentation would occur between the coir logs, and the vegetation would spread to create a freshwater, tidal marsh area.

Our concerns about the non-water dependent nature of this project, and the need for further avoidance of impacts to the Delaware River, are not changed by the discussion about compensatory mitigation.

Thank you for the opportunity to comment.

Appeal of DEP Permit
(fn 8)



PUBLIC INTEREST LAW
CENTER OF PHILADELPHIA

AFFILIATED WITH THE LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW

STAFF

November 3, 2008

Jennifer R. Clarke
Executive Director

VIA FAX & FIRST CLASS MAIL

Judith A. Gran
Director, Disabilities Project

Adam H. Cutler
Bessie Dewar

James Eiseman, Jr.
Barbara E. Ransom

Aaron B. Zisser
Attorney

Michael Churchill
Thomas K. Gilhool
Of Counsel

Edwin D. Wolf
Executive Director
1974-1976

Environmental Hearing Board
2nd Floor – Rachel Carson State Office Building
400 Market Street – Post Office Box 8457
Harrisburg, PA 17105-8457
Fax #: 717-783-4738
Attn: William T. Phillipy IV, Secretary to the Board

RE: Notice of Appeal of Approval of Sewage
Facilities Planning Module for Land
Development, SugarHouse Casino, DEP Code
1-51000-974-3J, APS ID 648157, SITE ID
691276

Dear Secretary Phillipy:

Enclosed via first class mail please find an original and three copies of the Notice of Appeal of Third-Party Appellants Northern Liberties Neighbors Association, Delaware Riverkeeper Network, The Delaware Riverkeeper, and Herbert Shallcross, in connection with the above-referenced action by the Department. I have filed a copy with the Board via facsimile earlier today in accordance with EHB Rule 1021.32(c)

Please return a date-stamped copy to me in the enclosed self-addressed, stamped envelope to confirm the filing. Thank you for your assistance.

Respectfully yours,

Adam H. Cutler

Attachment (via facsimile, to Secretary Phillipy)

Enclosure (via first class mail, to Secretary Phillipy and all ccs)

cc: Connie Luckadoo, PA DEP, Office of Chief Counsel, Litigation Support Unit
Stefanie Yosmanovich, PA DEP Water Management, Southeast Regional Office
City of Philadelphia Law Department
HSP Gaming, L.P., c/o Terrence J. McKenna, Owner's Representative

ENVIRONMENTAL HEARING BOARD
2nd Floor, Rachel Carson State Office Building
400 Market Street, Post Office Box 8457
Harrisburg, Pennsylvania 17105-8457

NORTHERN LIBERTIES NEIGHBORS
ASSOCIATION, Third-Party Appellant
700 N. 3rd Street, Philadelphia, Philadelphia
County, Pennsylvania 19123
(Telephone (215) 627-6562);

DELAWARE RIVERKEEPER NETWORK, AN
AMERICAN LITTORAL SOCIETY AFFILIATE,
Third-Party Appellant
300 Pond Street, Second Floor, Bristol,
Bucks County, Pennsylvania 19007
(Telephone (215) 369-1188);

THE DELAWARE RIVERKEEPER, Third-
Party Appellant
300 Pond Street, Second Floor, Bristol,
Bucks County, Pennsylvania 19007
(Telephone (215) 369-1188);

and

HERBERT SHALLCROSS, Third-Party
Appellant
1305 East Susquehanna Avenue,
Philadelphia, Philadelphia County,
Pennsylvania 19125
(Telephone (215) 423-2045)

v.

Commonwealth of Pennsylvania,
Department of Environmental Protection,
Appellee,

and

City of Philadelphia, Water Department,
Permittee.

Docket No. _____

NOTICE OF APPEAL

1. Name, address and telephone number of Appellants:

Northern Liberties Neighbors Association
700 N. 3rd Street
Philadelphia, PA 19123
(215) 627-6562

Delaware Riverkeeper Network
300 Pond Street
Second Floor
Bristol, PA 19007
(215) 369-1188

The Delaware Riverkeeper
300 Pond Street
Second Floor
Bristol, PA 19007
(215) 369-1188

Herbert Shallcross
1305 East Susquehanna Avenue
Philadelphia, PA 19125
(215) 423-2045

2. Subject of this appeal:

- a. Action of the Department of Environmental Protection for which review is sought:

The approval of a revision to the City of Philadelphia Official Sewage Facilities Plan concerning a Sewage Facilities Planning Module for Land Development for the proposed Sugarhouse Casino, issued to the City of Philadelphia Water Department, DEP Code 1-51000-974-3J, APS ID 648157, SITE ID 691276 (the "Module"). A copy of the Department of Environmental Protection's letter dated September 11, 2008, notifying Eric Ponert, City of Philadelphia Water Department, of the approval of the above-referenced Module is attached as Exhibit A.

- b. The Department of Environmental Protection official who took the action:

Stefanie Yosmanovich
Sewage Planning Specialist 2
Water Management Program
Southeast Regional Office

- c. The location of the operation or activity which is the subject of the Department of Environmental Protection's action:

City of Philadelphia
County of Philadelphia

- d. Date and manner in which Appellants received notice of the Department of Environmental Protection's action:

The notice of the Department of Environmental Protection's approval of the Module was published in the *Pennsylvania Bulletin* on October 4, 2008, at 38 Pa. B. 5453, 5492-5493. A copy of the notice, obtained online from the Pennsylvania Bulletin's website, is attached as Exhibit B. Third-Party Appellants Delaware Riverkeeper Network, The Delaware Riverkeeper, Herbert Shallcross, and certain members of the Northern Liberties Neighbors Association received copies of the letter attached as Exhibit A from the Department via Certified Mail at times subsequent to September 11, 2008.

3. Objections to the Department of Environmental Protection's action:

The Department of Environmental Protection's ("Department") action in approving the Sewage Planning Module modifying the City of Philadelphia's Official Sewage Facilities Plan was an arbitrary and unreasonable exercise of the Department's functions and duties, an abuse of the Department's discretion, contrary to law, and violated the Pennsylvania Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001; the Pennsylvania Sewage Facilities Act, Act of Jan. 24, 1966, P.L. 1535, *as amended*, 35 P.S. §§ 750.1-750.20; applicable regulations at 25 Pa. Code, Chapters 71 and 94; and Article 1, Section 27, of the Pennsylvania Constitution. Without limiting the foregoing, Third-Party Appellants object to and appeal the Department's action approving the above-referenced Module for the following reasons:

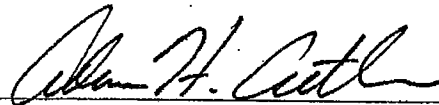
- a. The Department acted arbitrarily and unreasonably and/or abused its discretion by approving the Module despite the facts that, upon information and belief, the City of Philadelphia Water Department ("Permitee") (1) accepted a significant modification to the projected flow for the Module in November 2007 during the pendency of the 30-day period for public comment thereon, but failed to notify the public of that significant change until March 2008 at the earliest, well after the public comment period had expired, (2) failed to require a new public notice of the Module as modified, and (3) failed to provide an additional opportunity for public comment on the modified Module, thereby prejudicing Third-Party Appellants and the public at large.

- b. The Department acted arbitrarily and unreasonably and/or abused its discretion by approving the Module despite the fact that the Philadelphia Water Department certified that the proposed sewer module had adequate capacity without providing data to support the existing system's current or projected average and peak capacity and flow values for either the collection system or the conveyance system affected by the proposed casino development.
- c. The Department acted arbitrarily and unreasonably and/or abused its discretion by approving the Module without appropriate consideration of the environmental harm that is likely to occur from CSO discharges of increased frequency and/or volume that the Permittee has asserted are necessary to alleviate capacity exceedances in the collection and conveyance system during wet weather events.
- d. The action of the Department in granting approval of the Module under the circumstances is contrary to sections 5, 7, 10, and 14 of the Sewage Facilities Act, Pa. Stat. Ann. tit. 35, §§ 750.5, 750.7, 750.10, and 750.14, and the applicable regulations found at 25 Pa. Code, Chapters 71 and 94.
- e. The action of the Department in granting approval of the Module under the circumstances is contrary to sections 4, 5, 201, 202, and 207 of the Clean Streams Law, Pa. Stat. Ann. tit. 35, §§ 691.4, 691.5, 691.201, 691.202, and 691.207, and applicable regulations thereunder.
- f. The action of the Department in granting approval of the Module under the circumstances is, upon information and belief, inconsistent with the City's NPDES Permit for the Southeast Water Pollution Control Plant, Permit No. PA002662 (the "NPDES Permit").
- g. The action of the Department in granting approval of the Module is, upon information and belief, contrary to and inconsistent with the Nine Minimum Controls policy guidance promulgated by the United States Environmental Protection Agency, as incorporated into the NPDES Permit.
- h. The action of the Department in granting approval of the Module is, upon information and belief, contrary to and inconsistent with the Philadelphia Water Department's Long Term CSO Control Plan ("LTCP") dated January 24, 1997, and any updates thereto, as incorporated into the NPDES Permit.
- i. The action of the Department in granting approval of the Module is contrary to Article I, Section 27, of the Pennsylvania Constitution.

- j. The action of the Department in granting approval of the Module is otherwise contrary to law and in violation of the rights of the Third-Party Appellants.
 - k. Appellants reserve the right to raise additional grounds for appeal upon the completion of discovery.
4. Third-Party Appellants are not aware of any related appeals now pending before the Board.


The information submitted is true and correct to the best of Third-Party Appellants' information and belief.

Dated: November 3, 2008



Adam H. Cutler, PA Bar I.D. 76605
PUBLIC INTEREST LAW CENTER
OF PHILADELPHIA
125 S. 9th Street
Philadelphia, PA 19107
(215) 627-7100
(215) 627-3138 (fax)
acutler@pilcop.org

Counsel for Third-Party Appellants
Northern Liberties Neighbors Association
and Herbert Shallcross



Elizabeth Koniers Brown, PA Bar I.D. 94052
DELAWARE RIVERKEEPER
NETWORK
300 Pond Street, 2nd Floor
Bristol, PA 19007
(215) 369-1188
(215) 369-1181 (fax)
elizabeth@delawareriverkeeper.org

Counsel for Third-Party Appellants
Delaware Riverkeeper Network and The
Delaware Riverkeeper

EXHIBIT A



Pennsylvania Department of Environmental Protection

2 East Main Street
Norristown, PA 19401

Southeast Regional Office

Phone: 484-250-5970

Fax: 484-250-5971

SEP 11 2008

Mr. Eric Ponert
City of Philadelphia Water
Department
The ARAMARK Tower
1101 Market Street
Philadelphia, PA 19107-2994

Re: Planning Module for Land Development
Sugarhouse Casino
DEP Code 1-51000-974-3J
Status: ISSUED
APS ID 648157, SITE ID 691276
City of Philadelphia
Philadelphia County

Dear Mr. Ponert:

Approval is hereby granted by the Department of Environmental Protection (Department) for the above-referenced revision to the City of Philadelphia Official Sewage Facilities Plan. In accordance with the Pennsylvania Sewage Facilities Act and Title 25, Chapter 71 of the Department's Rules and Regulations, the City of Philadelphia is responsible for implementing this revision as per the approved planning module.

This revision provides for adequate sewage facilities planning to permit the development of a casino that will ultimately contain the following:

Casino Item	Patrons per day/Capacity	Gallons per Day	Total Proposed Sewage Flow
Gaming Floor (5,000 slot machines)	23,837	9	214,533
Food and Beverage seating (nonbar and cocktail seating)	10,800 patrons/day, 1,800 seats	6.67	72,036
Food and Beverage seating (bar and cocktail seating)	1,200 patrons/day, 1,200 seats	8	9,600
Event Center	5,008 patrons	3.33	16,677
Retail (18,330 sq ft)	18,330 sq ft/1,000 sq ft	120 gpd/1,000 sq ft	2,200
Office (31,500 sq ft)	31,500 sq ft/1,000 sq ft	50 gpd/1,000 sq ft	1,575
Warehouse/Storage (38,400 sq ft)	38,400 sq ft/1,000 sq ft	5gpd/1,000 sq ft	192
Hotel	1,264 rooms	75	94,800
Employees	1,350	6.67	9,005
Total:			420,618

Mr. Eric Ponert

- 2 -

SEP 11 2008

This project is located at 941-1025 North Delaware Avenue in the City of Philadelphia, Philadelphia County.

This project will be connected to the City of Philadelphia Water Department collection system and will generate 420,618 gallons of sewage per day to be treated at the City of Philadelphia Water Department's Southeast Water Pollution Control Facility.

We note that the City of Philadelphia Water Department's Laurel Street Combined Sewer Outfall (CSO) and regulating chamber will be relocated and improved in conjunction with the construction of this project. A new 48-inch storm sewer will be constructed, along with a third barrel for the CSO. The City of Philadelphia Water Department must secure a Department permit for the proposed combined sewer relocation and improvement activities.

Please be advised that the applicant is responsible for complying with the mitigation plan approved by the Pennsylvania Fish and Boat Commission and with the Commission's December 21, 2007, letter that states that that all in river activities should be conducted between May 1 and October 15 (excluding pile driving).

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

Mr. Eric Ponert

- 3 -

SEP 11 2008

If you have any questions, please contact Ms. Stefanie Yosmanovich of our office at 484-250-5186.

Sincerely,



Stefanie Yosmanovich
Sewage Planning Specialist 2
Water Management

cc: Philadelphia County Planning Commission
Philadelphia County Health Department
Urban Engineers, Inc.
Mr. Hirschhorn - City of Philadelphia Health Department
Mr. McKenna - Keating Consulting, LLC
Ms. Yosmanovich
Ms. Moore
Planning Section
Re 30 (GJE08WQ)253-13

EXHIBIT B

NOTICES

5453

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
9-22-2008	North Penn Bank Scranton Lackawanna County	<i>To:</i> 232 East Street Bloomsburg, PA 17815 Columbia County Amendment to Article VII of the Articles of Incorporation changes the authorized number of directors <i>From:</i> not fewer than seven nor more than 20 <i>To:</i> not fewer than five nor more than 20.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-1804. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) meeting is scheduled for Thursday, October 16, 2008, at 9 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to John Quigley at (717) 787-9632.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact John Quigley at (717) 787-9632 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 08-1805. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Permit No. 0208506MA, Minor Amendment, Public Water Supply.

Applicant Municipal Authority of Westmoreland County
124 Park & Pool Road
New Stanton, PA 15672

Borough or Township White Oak Borough

County Allegheny

Type of Facility White Oak Borough water storage tank

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
Somerset, PA 15501

Permit to Construct Issued September 19, 2008

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit issued to Slippery Rock Municipal Authority, PWSID No. 5100079, Slippery Rock, Butler County, on September 12, 2008, for operation of the newly constructed booster pump station at the Heights Apartment Complex, according to specifications approved by construction permit 1008501, issued June 25, 2008.

Operations Permit issued to Pennsylvania American Water Company-Kane, PWSID No. 6420019, Wetmore Township, McKean County, on September 22, 2008, for operation of the new chemical feed points for chlorine and caustic soda within lower reservoir No. 3 according to specifications approved by construction permit 4294501-MA2, issued May 30, 2008.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

Wellhead Protection Program Approval issued to the Meadville Area Water Authority, 18160 Rogers Ferry Road, Meadville, PA 16335, PWSID No. 6200036, City of Meadville, Crawford County on September 18, 2008.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)

Casino Item	Patrons per day/Capacity	Gallons per Day	Total Proposed Sewage Flow
Gaming Floor (5,000 slot machines)	23,837	9	214,533
Food and Beverage seating (nonbar and cocktail seating)	10,800 patrons/day, 1,800 seats	6.67	72,036
Food and Beverage seating (bar and cocktail seating)	1,200 patrons/day, 1,200 seats	8	9,600
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Retail (18,330 sq. ft.)	18,330 sq. ft./1,000 sq. ft.	120 gpd/1,000 sq. ft.	2,200
Office (31,500 sq. ft.)	31,500 sq. ft./1,000 sq. ft.	50 gpd/1,000 sq. ft.	1,575
Warehouse/Storage (38,400 sq. ft.)	38,400 sq. ft./1,000 sq. ft.	5 gpd/1,000 sq. ft.	192
Hotel	1,264 rooms	75	94,800
Employees	1,350	6.67	9,005
Total:			420,618

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Plan Location:

Borough or Township	Borough or Township Address	County
Butler Township	415 West Butler Drive Drums, PA 18222	Luzerne

Plan Description: This Plan Revision, as outlined in the Executive Summary of the Plan, calls for:

(1) Updates to the implementation schedule to reflect the current project timeline for continuing on with the 2004 Plan Revision recommendations of elimination of the Drums Wastewater Treatment Facility with subsequent replacement with a 1.0 mgd pump station and expansion of the St. John's Wastewater Treatment Facility from 0.6 mgd to 2.2 mgd.

According to the revised implementation schedule, the following task items are included:

- Completion of Construction: December 2009
- Initiation of Operation/Performance Certification: December 2009

(2) A change in the alignment routing of the force main and gravity sewer lines connecting the new Drums wastewater pump station to the St. John's Treatment Facility.

The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Plan Description: On September 11, 2008, the Southeast Regional office approved the sewage facilities planning module for the Sugarhouse Casino Project, Department Code 1-51000-974-3J, APS ID 648157, Site ID 691276. The project is located in the City of Philadelphia, Philadelphia County. This sewage facilities planning module constitutes a revision to the City of Philadelphia's Official Sewage Facilities Plan.

This revision provides for adequate sewage facilities planning to permit the development of a casino that will ultimately contain the following:

This project is located at 941-1025 North Delaware Avenue, in City of Philadelphia, Philadelphia County.

This project will be connected to the City of Philadelphia Water Department collection system and will generate 420,618 gallons of sewage per day to be treated at the City of Philadelphia Water Department's Southeast Water Pollution Control Wastewater Treatment Facility.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

Plan Location:

Borough or Township	Borough or Township Address	County
Juniata Township	719 Mowry Hill Road Buffalo Mills, PA 15534	Bedford

Plan Description: The proposed Official Plan revision consists of a 12 lot single-family residential subdivision which would be served by individual onlot sewage disposal systems and individual water supplies. The proposed development is located along Teaberry Hollow Road.

The plan was disapproved for the following reasons:

1. Planning needs to be addressed for all lots in the subdivision, the Plot Plan shows that what is being called the residue lot is not one contiguous parcel. All stand alone lots need to have individual planning requirements addressed.
2. The Plot Plan does not show the percolation holes associated with the soil pit test.
3. Lot 8 shows 3 soil pit locations, when there is only information supplied for two test pits and a conversation with the SEO (Kim Corle) confirmed that only two test pits were conducted at this site.
4. The module did not contain a checklist signed by the township representative.
5. The module did not include a Transmittal letter.
6. The module did not contain a Resolution of Adoption.
7. The module did not contain Component 4 and any additional comments sheets from the county planning commission.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101-6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation

standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

East Street Cleaners Service, Doylestown Borough, Bucks County. Gary Brown, RT Environmental Services, 215 West Church Road, King of Prussia, PA 19406 on behalf of Buck Collins, URGE Properties, 530 West Butler Avenue, Chalfont, PA 18914 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Oxford Former MGP Site, Oxford Borough, Chester County. Bryan Sladky, Silar Services, Inc., 983 Butler Pike, Blue Bell, PA 19422, Craig Shamory, PPL Service Corporation, Two North Ninth Street, GENTW-17, Allentown, PA 18101-1179, John A. Ducar, P. G., The RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 on behalf of Michael Hasel, PPL Gas Utilities Corporation, Two North Ninth Street, GENTW-17, Allentown, PA 18101 has submitted a Risk Assessment, Cleanup Plan and Final Report, concerning remediation of site groundwater and Soil contaminated with other organics an PAH. The report is intended to document remediation of the site to meet the Site-Specific Standard and Statewide Health Standard.

Verizon Ardmore Business Center, Lower Merion Township, Montgomery County. Sean Damon, Langan Engineering and Environmental Services, 2700 Kelly Road, Suite 200, Warrington, PA 18976 on behalf of Cheryl Houghton, Verizon Pennsylvania, Inc., 966 South Matlack Street, West Chester, PA 19380 has submitted a Final Report concerning remediation of site groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

CERTIFICATION OF SERVICE

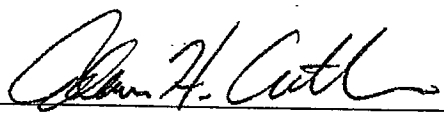
I hereby certify that on November 3, 2008, a copy of the attached Notice of Appeal was served via first class mail, postage prepaid, upon the following:

Commonwealth of Pennsylvania
Department of Environmental Protection
Office of Chief Counsel, Litigation Support Unit
Attention: Connie Luckadoo
9th Floor, Rachel Carson State Office Building
400 Market Street, P.O. Box 8464
Harrisburg, PA 17105-8464

Stefanie Yosmanovich
Sewage Planning Specialist 2
Water Management Program
DEP Southeast Regional Office
2 East Main Street
Norristown, PA 19401

City of Philadelphia Law Department
One Parkway
1515 Arch Street, 14th Floor
Philadelphia, PA 19102-1595
(Counsel for Recipient of the Action, the City of Philadelphia Water Department)

HSP Gaming, L.P.
c/o Terrence J. McKenna, Owner's Representative
Keating Consulting, LLC
1600 Arch Street, Suite 300
Philadelphia, PA 19103
(Proponent of the Decision)



Adam H. Cutler

PGCB Press Release
(fn. 9)

Home About PGCB News Gaming Revenue Licenses Regulations Board Meetings

FOR IMMEDIATE RELEASE

October 2nd, 2007

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Gaming Control Board
P.O. Box 89060
Harrisburg, PA 17108-9060

CONTACT

Doug Johnson or Richard McGarvey (717) 348-2300

SEARCH THIS SITE

Go

LATEST PRESS RELEASES

- PGCB Director of the Bureau of Investigations and Enforcement (10/1/2008)
- PGCB Director of the Bureau of Investigations and Enforcement (10/1/2008)
- PGCB Director of the Bureau of Investigations and Enforcement (10/1/2008)

GAMING CONTROL BOARD DENIES REQUESTS FROM PHILADELPHIA CASINOS FOR EXTENSION TO PAY \$50 MILLION LICENSE FEES

HARRISBURG - The Pennsylvania Gaming Control Board today denied requests from RSP Gaming, LP (Sugarhouse Casino) and Philadelphia Entertainment and Development Partners, LP (Foxwoods Casino) for an extension of time to pay their \$50 million license fee.

The unanimous ruling means that Sugarhouse and Foxwoods are required to pay the \$50 million fee within 10 business days of the meeting date.

Chairman Mary DiGiacomo Collins said the Board was unconvinced that good cause to further delay the payments was established by either licensee.

The Board believes that the delays to gain all necessary approvals required to begin construction should not have been unexpected by SugarHouse and Foxwoods," Collins said while adding that further delays in the payments would be inequitable to both other licensees who have paid the fee and to taxpayers who are promised these revenues under the Gaming Act.

The 6-0 vote came after the Board held a public hearing on September 6, 2007 to receive information from the licensees on why they should not pay the \$50 million license fee until such time that construction could begin on their respective casinos. Board member Jim Ginty abstained from today's vote because he was not yet a member when the hearings were held.

In other business, the Board approved an Independent Audit Committee Criteria Policy, which establishes the standards used to evaluate an independent audit committee when required as a condition of a slot facility's licensure, along with the internal controls and floor plans for the Category 2 Slot Machine licensee Mount Airy Lodge and Casino. PGCB staff is currently working with Mount Airy to prepare for test nights and public opening.

The Board also received reports from Mark McDermott of the Pennsylvania Horse Breeders Association and from Dr. Paul Spears, Chairman of Hanover Shoe Farms. In their presentations, they explained that there has been a dramatic increase of interest and investment in horse breeding across Pennsylvania because of the new funding from gaming revenue.

The next meeting of the Gaming Control Board will be in Harrisburg on Wednesday, October 17, 2007 in PUC Hearing Room 1 in the Keystone Building. The meeting will begin at the conclusion of the Board's 9:00 a.m. hearing on Category 3 eligibility.

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IN RE:
THE APPLICATION OF
HSP GAMING, L.P. FOR AN

: COMMONWEALTH OF PENNSYLVANIA
: BEFORE THE PENNSYLVANIA GAMING
: CONTROL BOARD
:

Docket No. 1356

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 electronic mail and Federal Express to the following:

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DATE: December 29, 2008