

U.S. ARMY CORPS OF ENGINEERS

MEADOWLANDS XANADU REDEVELOPMENT PROJECT

PUBLIC HEARING

50 East Route 120
East Rutherford, New Jersey

August 26, 2004
2:00 p.m.

U.S. ARMY CORPS OF ENGINEERS

RICHARD L. TOMER, Chief of the
Regulatory Branch of the
New York District

STEVEN SCHUMACH, Project Manager
of the District Regulatory Branch

JAMES PALMER, Assistant District
Counsel

Reported By: Holly Johnson

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MR. TOMER: Good afternoon,
Ladies and Gentlemen. I am
Richard Tomer, chief of the
regulatory branch of the New York
District Corps of Engineers, and I
will be the presiding officer on
behalf of the Corps of Engineers
at today's hearing. Seated at the
desk with me today on my right are
Mr. Steven Schumach, project
manager of the District Regulatory
Branch, and on my left is
Mr. James Palmer, assistant
District counsel.

Today's hearing is being
conducted by the U.S. Army Corps
of Engineers to assist in the
regulatory review for a permit
application for the Meadowlands
Xanadu Redevelopment Project
proposed by the Meadowlands
Mills/Mack-Cali Limited
Partnership. Any comments that
the public would like to make to

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be included in the administrative record of the application needs to be presented at this public hearing or in writing to the Corps of Engineers by September 7, 2004 at the close of the comment period.

The purpose of this public hearing is to obtain information and evidence and to receive comment on an application submitted by -- submitted to the Corps of Engineers for the Meadowlands Xanadu Redevelopment Project proposed by Meadowlands Mills/Mack-Cali Limited Partnership. The applicant requests a Federal permit to perform construction activities within waters of the United States, including wetlands. The applicant proposes to discharge fill material into approximately 7.69 acres of waters

1
2 and wetlands for the purpose of
3 creating dry lands to facilitate
4 the construction of a
5 mixed-use development. The
6 project known as the
7 Meadowlands Xanadu Redevelopment
8 Project would redevelop the
9 Continental Airline -- I'm sorry,
10 Continental Arena Airline site at
11 the Meadowlands Sports Complex,
12 which is envisioned by the New
13 Jersey Sports and Exposition
14 Authority. The redevelopment
15 consists of sports, recreational
16 and entertainment facilities,
17 which includes a 520 room hotel
18 with conference facilities, 4
19 Class A office buildings, minor
20 league baseball stadium,
21 restaurants and ancillary retail
22 facilities and improvements to the
23 transportation network at
24 the Meadowlands Sports Complex. A
25 mitigation plan has been submitted

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as part of the proposal that consists of the preservation of a 235 acre wetland area on an adjacent site known as the Empire Tract for conservation purposes.

Preservation will take the form of conveying the property with the authority of the Tract owner to an entity designated by the New Jersey Sports and Exposition Authority or the New Jersey Department of Environmental Protection.

The applicant has agreed with the New Jersey Sports and Exposition Authority to convey the remainder of the 587 Empire Tract in a similar fashion at a later time. The project site is located in waters and wetlands adjacent to Cedar Creek, a tributary of the Hackensack River in the borough of East Rutherford,

1
2 Bergen County, New Jersey.
3 Because the proposed project
4 involves filling activities within
5 waters of the United States,
6 including wetlands, a permit is
7 required from the Corps of
8 Engineers pursuant to section
9 404 of the Clean Water Act. The
10 Corps of Engineers is neither a
11 proponent for, nor an
12 opponent of the proposed project.
13 Our role is to determine whether
14 this project is within the
15 overall of the public interest,
16 and this hearing will play an
17 important part in that
18 determination.

19 This hearing will be conducted
20 according to the procedures set
21 forth in Title 33 of the code
22 of Federal Regulations, Part 327.

23 Anyone present today may
24 provide written statements or
25 provide proposed findings and

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recommendations for the hearing
file on or before September 7,
2004.

All written comments should
be directed to the mailing address
shown on our public notice and
also shown on the slide to my
left. That address is U.S. Army
Corps of Engineers, New York
District, Regulatory Branch, 26
Federal Plaza, Room 1937, New
York, New York 10278-0090.
Written comments could also be
handed to Corps of Engineers staff
present today at the
registration tables in the lobby.

At this time I would like to
explain the procedures that will
govern the conduct of this
public hearing. And that's one of
them. Anyone may make an oral or
written statement concerning the
subject matter of this hearing.

Anyone may appear on his or

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her own behalf or be represented
by counsel or other
representatives to present
recommendations or
information.

Cross examination of
witnesses will not be
permitted.

Procedurally I will call the
names of those individuals who
have registered and asked for an
opportunity to speak. I ask that
you step up to and speak into the
microphone, which is off to
my left, so that everyone,
including our stenographer, can
hear you. Please begin your
presentation by stating your name
and indicating any affiliation
that you would have with an
organization or group so that we
may have that information in our
administrative record.

It is important to everyone,

1
2 whatever your opinion on this
3 matter, that this hearing be
4 conducted in an orderly manner.
5 Because of this I must ask that
6 speakers keep their
7 presentations to five minutes or
8 less. If you have a longer
9 presentation, please submit it in
10 writing and summarize it orally.
11 Written statements that you would
12 like to submit for the record
13 today should be presented directly
14 to the dais or to the registration
15 table at the entrance to this
16 room. Time permitting we look
17 to provide an opportunity for
18 rebuttal to any person who wants
19 to do so after all speakers
20 have been heard. If there's not
21 enough time during this
22 afternoon's session, we look to
23 provide an opportunity for
24 rebuttal at this evening's
25 session. I have the registration

1
2 forms that have been completed so
3 far, and I will call for each
4 speaker by name in the order
5 listed in our public notice
6 announcing today's hearing. If
7 you wish to present testimony
8 today, you should note that you
9 may choose instead to tape record
10 your comments in the tape
11 recording room that we have set up
12 which is to the left and behind
13 dais.

14 Instead of speaking at the
15 podium, this may be an attractive
16 option for you if it becomes a
17 burden to wait your turn to speak.
18 This option was described in a
19 hand-out that was distributed
20 at the entrance to this room. If
21 you did not receive that hand-out,
22 please ask at the registration
23 table for help in that regard.

24 A verbatim written record of
25 this public hearing is being made

1
2 and a written transcript will be
3 made of the statements taken in
4 the tape recording room. The
5 hearing transcripts will be made
6 available for purchase from the
7 Corps of Engineers at the cost of
8 reproduction. The cost of copy
9 will correspond directly to the
10 number of pages enclosed within
11 the transcripts.

12 Everyone who has completed
13 one of the registration forms at
14 the entrance to this room will be
15 contacted by the Corps of
16 Engineers in writing when the
17 transcripts are available.

18 Again, if you wish to speak
19 this afternoon, you should fill
20 out a registration form
21 available at the table outside the
22 entrance to this room.

23 Comments made here, plus all
24 written information provided on or
25 before the September 7, 2004

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2 public comment deadline will be
3 used to evaluate the probable
4 impacts, including the
5 cumulative impacts, of the
6 proposed activity on the public
7 interest. The ultimate decision
8 on the submitted application will
9 reflect the national concern for
10 both the protection and
11 utilization of important
12 resources.

13 As a last bit of
14 administrative information, I
15 remind everyone that smoking,
16 eating or drinking is not allowed
17 within the hearing room. Also,
18 and a special note, please turn
19 off or mute all cell phones and
20 pagers.

21 Now before we begin taking
22 your public comment, I would like
23 to introduce Mr. Dan Haggarty of
24 the Mills Corporation,
25 representing the applicant, who

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will provide an overview of the project. Mr. Haggarty.

MR. HAGGARTY: Good afternoon. My name is Dan Haggarty, H-A-G-G-A-R-T-Y, and I am senior vice president of the Development of the Mills Corporation. The U.S. Army Corps of Engineers has requested the applicant to provide a short presentation of the Meadowlands and Xanadu Redevelopment Project as part of this public hearing. My presentation will provide first an introduction of the Development Team for the Meadowlands Redevelopment Project followed by a brief overview of project location, project description, wetland impacts, and wetland mitigation. I would highlight to everyone that this presentation is only an overview of the project. The permit application materials

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submitted to the U.S. Army Corps
of Engineers provide far greater
detail. I would also like to note
that the permit proceeding, which
involves discharges into wetlands
and other waters is one of several
proceedings addressing the
Project. At the state level, the
New Jersey Sports and Exposition
Authority has prepared an
environmental impact statement
which comprehensively considers
the entire Project and its
potential environmental impact.
The applicant has also filed for a
land use multi-permit application
from the New Jersey Department of
Environmental Protection that is
currently under review. Both
state proceedings -- in both state
proceedings there is a sense of
public involvement through public
hearings and submission of written
comments.

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The Development Team for the Meadowlands Xanadu Redevelopment Project is a joint venture between the Mills Corporation and Mack-Cali Realty Corporation called Meadowlands Mills Mack-Cali Limited Partnership.

The Mills Corporation recently celebrated ten years of being a publically traded company on the New York Stock Exchange. The Mills has a national reputation as an imaginative incubator of leisure activities. We have many developments across the United States as well as in Canada and Europe. Our partner, Mack-Cali Realty Corporation, is the largest Class A office and hotel owner in New Jersey. Mack-Cali is well known and respected locally, regionally and nationally, and they too have a proven track record of providing

1
2 high quality office and hotel
3 space.
4 Project location, the
5 Meadowlands Xanadu
6 Redevelopment Project will be
7 located on the Continental
8 Airlines Arena site within the
9 Meadowlands Sports Complex and
10 will surround the Arena building
11 while allowing it to continue to
12 operate. The Project will occupy
13 approximately 90 acres of the 104
14 acre Continental Airlines
15 Arena Site. Approximately 70
16 acres of the Arena site are
17 already developed with buildings
18 and or paved roadway and parking
19 areas. Some proposed off-site
20 roadway and infrastructure
21 improvements go beyond the Arena
22 site boundaries. Activity
23 outside the Meadowlands Sports
24 Complex include roadway
25 improvements on portions of

1
2 Patterson Plank Road, the New
3 Jersey Turnpike Sports Complex
4 ramps, New Jersey Route 120,
5 New Jersey Route 3, and a new ramp
6 from Route 3 to Route 20 along the
7 western edge of the radio tower
8 site located south of the Arena.
9 As shown as the screen, the
10 Continental Airlines Arena site is
11 located on the eastern portion of
12 the Meadowlands Sports Complex,
13 and it is bounded to the east by
14 the New Jersey Turnpike by the
15 west -- to the west by Route 120
16 and to the north by Paterson Plank
17 Road.

18 Project description, the
19 Meadowlands Xanadu
20 Redevelopment Project was selected
21 by the New Jersey Sports and
22 Exposition Authority to
23 redevelop the Continental Arena
24 Airlines site after extensive
25 review and evaluation process.

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The project is a unique and visually compelling multi-use development proposed for the Arena site that would provide a year-round venue of new and complimentary uses at the Meadowlands Sports Complex. The Meadowlands Xanadu concept combines imaginative uses with an -- imaginative new uses with the existing Sports Complex and to provide a sense of place in a regional family entertainment destination.

Meadowlands Xanadu consists primarily of entertainment retail office and hotel uses with an emphasis on participatory sports and recreation venues. Project components total approximately 4.96 million square feet. The entertainment and retail component of the Project totals approximately 2.7 million square

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2 feet of which 1.5 million square
3 feet are to participatory sports,
4 entertainment, children's
5 education and home and life
6 activities. 700,000 square feet
7 are related to fashion activities
8 and the remaining 500,000 square
9 feet are related to common space
10 areas. Also, a 6,000 to 8,000
11 seat ballpark is proposed to serve
12 outdoor sports venues such as the
13 Bergen Cliff Hawks minor league
14 baseball team, the Bergen River
15 Dogs professional lacrosse team,
16 as well as various little league
17 tournaments and Special Olympic
18 events.

19 The office component of the
20 Project will consist of four
21 office buildings, each
22 containing approximately 440,000
23 square feet, providing high rise
24 Class A space totaling 1.76
25 million square feet. The office

1
2 buildings have been paired
3 together, with each separate
4 building sharing a common parking
5 base. The hotel component will
6 consist of a first class
7 hotel with approximately 520 rooms
8 and conference facilities with a
9 total of approximately 500,000
10 square feet.

11 On the screen is the current
12 development plan for the
13 Meadowlands Xanadu Redevelopment
14 Project. It shows the approximate
15 location and orientation of each
16 of the project components.
17 The south here you have the
18 entertainment retail center. In
19 red you have the hotel. In yellow
20 you have the parking in between
21 them. You have the offices, and
22 on the west side of the site
23 you have the ballpark. The
24 majority of the parking plan for
25 Meadowlands Xanadu

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Redevelopment Project will be provided by ground level parking areas located under the elevated buildings and also within a series of parking decks surrounding the entertainment complex.

The Project incorporates a "shared parking" concept that is based upon the different peak parking periods for the different uses within the mixed-use development. Under this concept one parking space can be used for different uses since the need for a space comes at different times during the day or week. For example, the office building uses parking space during the weekday and the entertainment retail complex will use the same space at nights or weekends. At full build-out of the Project, a total of 12,000 -- approximately 12,500 parking spaces will be

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2 provided, primarily in parking
3 decks, but also underneath the
4 entire entertainment retail
5 complex building. Approximately
6 8,000 parking spaces are provided
7 for the use of the
8 entertainment retail component and
9 approximately 400,000 -- 4,500
10 parking spaces are attached to
11 the office and hotel components.
12 This slide shows a series of
13 roadways and related
14 transportation improvements to the
15 Arena site and to the overall
16 Meadowlands Sports Complex
17 roadway network and nearby
18 regional roadways that are
19 proposed as part of the
20 Meadowlands Xanadu Re-development
21 Project. The improvements
22 are proposed along Route 3 and
23 Route 120 as well as the Sports
24 Complex ramps from the New Jersey
25 Turnpike.

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The Meadowlands Xanadu
Re-development Project represents
an investment of over 1.3
billion dollars in New Jersey's
economy. The Project will create
over 20,000 jobs during
construction and the operation of
the project facilities. The
Project will also provide major
investment upgrades in the
existing roadway infrastructure
both at the Meadowlands Sports
Complex and on adjacent roadways.
Wetland impacts. The applicant
has requested the United States
Army Corps of Engineers for permit
to discharge clean fill into
approximately 7.69 acres of the
waters of the United States,
consisting of 6.24 acres of
wetlands and 1.45 acres of open
waters, to construct portions of
the Project on the Continental
Airlines Arena site and to

1
2 construct Project related
3 transportation and infrastructure
4 improvements on adjacent
5 rights-of-way and other lands. Of
6 7.69 acres of wetlands and water
7 impacts, approximately 7.05
8 acres of impacts would occur to
9 tidal emergent wetlands and water
10 and 0.64 acres to non-tidal
11 emergent wetlands. The tidal and
12 non-tidal wetlands are dominated
13 by common reed and contain
14 contaminated sediments. This
15 slide is the wetland impact area
16 plan from the permit application
17 which shows the proposed wetland
18 and water areas on and around the
19 project site, and it identifies
20 which wetlands and waters would be
21 impacted from the Project.

22 As you can see, through the
23 use of vertical stacking of
24 components and decked and under
25 building parking, the Project has

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been able to avoid impacts to wetlands between the existing peripheral road and the New Jersey Turnpike.

However, given the limited available space on the site and other significant site constraints, impacts to certain on-site and off-site wetlands are unavoidable. On the Arena site, several isolated wetlands adjacent to the Arena building will be filled. A series of ditches that carry the realigned Cedar Creed headwaters will also be filled to allow for certain roadway relocations and development.

Off-site the Route 3 eastbound fly over to the south of the Arena will necessitate the filling of less than three quarters of an acre of wetlands. No other off-site roadway improvements will

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impact wetlands.

Wetland mitigation. A conceptual wetland mitigation plan has been submitted to the U.S. Army Corps of Engineers as part of this permit application. The mitigation plan proposes the preservation of 235 acres of the wetlands on an adjacent site known as the Empire Tract to compensate for adverse impacts to the proposed filling of wetland waters. The acreage preservation proposed under this mitigation plan represents a compensation ratio of approximately 30 to 1 of mitigation to impact acreage.

This slide shows those portions of the Empire Tract that are proposed to be preserved as mitigation for the estimated 7.69 acres of the wetlands and water impacts associated with the Meadowlands Xanadu

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Redevelopment Project.

The wetlands on the Empire Tract to be preserved have been demonstrated to provide water quality and wildlife benefits to the Hackensack Meadowlands region and are an important component in achieving the overall ecological objectives for the region. This concludes my overview presentation of the Meadowlands Xanadu Redevelopment Project. Thank you.

MR. TOMER: Thank you, Mr. Haggarty.

Our first speaker this afternoon will be, and I apologize if I get the names a little off, correct me where I'm wrong, is Tina, let's see, Schvejda.

I remind all the speakers when you do come up to the podium, to state your name and any affiliation.

MS. TINA SCHVEJDA: Good

1
2 afternoon. My name is
3 Tina Schvejda, S-C-H-V-E-J-D-A.
4 I'm the executive director for the
5 Meadowlands Conservation Trust.
6 This is an official state
7 conservancy. This mission is to
8 protect and preserve sensitive
9 land in the Meadowlands and
10 within the Hackensack River
11 watershed. I would like to voice
12 my support to the Meadowlands
13 Xanadu Redevelopment Project.
14 This project will preserve 587
15 contiguous acres of valuable
16 wetlands here in the Meadowlands
17 and Metropolitan region. These
18 wetlands, also known as the Empire
19 Tract, are being preserved as part
20 of the project, which will insure
21 that the wildlife that live and
22 migrate through this region have a
23 natural place of their own and
24 perpetuity. The Meadowlands
25 Conservation Trust stands ready to

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act as a steward for this
preserved land in the future.
Thank you.

MR. TOMER: Thank you. Our
next speaker will be Jeff Tittel.

MR. JEFF TITTEL:
Jeff Tittel, director New Jersey
Sierra Club, T-I-T-T-E-L. The
Sierra Club is here today because,
you know, quite frankly, we have
seen progress over the years in
the handling of the wetlands by
the Army Corps in the State of New
Jersey, especially in the
Meadowlands, when at one time the
Meadowlands was considered a place
to go dump garbage and toxic
wastes and so many other things,
and the wetlands were just a
hindrance to the construction and
development, and we know that
the State of New Jersey and
Federal Government have come a
long way from those days when

1
2 wetlands were just considered
3 something to get rid of. We are
4 glad that the Empire Tract will
5 not get developed, and especially
6 since its own conservation would
7 have a hard time getting permits.
8 Though we are concerned for what
9 may happen at the Continental
10 Arena site. There is a small
11 amount of wetlands in comparison
12 to the rest of the Meadowlands
13 district, approximately 7 and a
14 half acres of wetlands, two basic
15 sites.

16 We believe that those
17 wetlands which have survived
18 different attempts to fill in for
19 the Sports Authority back in '72
20 and '78 are actually fairly decent
21 quality wetlands.

22 They're considered priority
23 wetlands, as all the wetlands are
24 within the Meadowlands area. They
25 are tidal in influence. They have

1
2 an estuary type of benefit to
3 them, and they act as a
4 filter for an area that adds
5 tremendous amount of impervious
6 concrete, cement. We believe
7 given the size on this Sports
8 Authority's land, over 684 acres,
9 the Continental Arena site of
10 over 104 acres, given the fact
11 that there is no zoning for this
12 site, that the developer can
13 redesign the site to fit in his
14 development, at the same time not
15 have to fill in these wetlands,
16 which quite frankly, given the
17 magnitude and scope of development
18 of the area, should be an
19 important part of the water
20 quality for the water leaving the
21 site, especially the storm water
22 as far as a national way to help
23 clean up what is going to hit the
24 Hackensack River. So we believe
25 that there hasn't been a

1
2 proper alternative analysis done,
3 and I think that given the size
4 and the scope of this project,
5 moving an office building here or
6 a parking deck there will actually
7 show that you would not have to
8 fill this in without reducing
9 the size of the building. In fact
10 you could reduce the size of the
11 building. There is no zoning that
12 says or that this has to be as
13 large as it is, so it's a
14 self-inflicted hardship, and
15 therefore, the Army Corps should
16 make sure that an alternative
17 analysis is done that shows that
18 they can meet their requirements
19 for their development, at the same
20 time and not have to fill in these
21 wetlands. I mean, after all,
22 these were wetlands that the
23 Meadowlands Commission and the
24 Sports Authority back in the
25 '70's did not want to see filled

1
2 in, and I don't think there's any
3 reason at this time, you know,
4 given the fact that this is an
5 important part of the aquatic
6 resources for the region, we
7 believe that the Corps should not
8 grant this permit. We believe
9 that an alternative would show
10 that there's no need to fill them
11 in. Thank you.

12 MR. TOMER: Thank you. Our
13 next speaker, I'm not sure if it's
14 speaker or speakers, John and
15 Elsie Palsi.

16 MR. JOHN PALSI: No, we're
17 not speaking. Thank you.

18 MR. TOMER: Okay. The next
19 speaker would be Keith Lynott.

20 MR. KEITH LYNOTT: Good
21 afternoon. My name is
22 Keith Lynott, L-Y-N-O-T-T. I'm
23 with the law firm of Mc Carter and
24 English, Newark, New Jersey, and
25 I'm appearing today on behalf of

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Hartz Mountain Industries, which
is located at 400 Plaza Drive,
Secaucus, New Jersey.

I would note at the outset
that Hartz will be submitting
written comments concerning the
Xanadu permit application, and I
wish today briefly to highlight a
few points within the given time.
Let me first say a few words about
Hartz. No one has made a greater
private investment in the
Meadowlands than Hartz. Hartz
is the largest property taxpayer
within the Meadowlands. We're
over -- Hartz's own offices
are located in the Meadowlands.
Its employees come to the
Meadowlands every day. The
stakeholders in Hartz have both a
personal and financial stake in
the Meadowlands. For all of these
reasons Hartz and its employees
share with other members of the

1
2 public, a deep interest in
3 assuring that the Meadowlands
4 remain a human environment, that
5 is a good place in which to work,
6 to live and to visit. Hartz has
7 deep concerns regarding the
8 Xanadu Project and how it would
9 impact the Meadowlands. Xanadu is
10 a massive project that will
11 undeniably bring a great number of
12 additional automobiles into the
13 area's already congested highway
14 system, especially because of
15 the multi-deck nature of the
16 proposed parking facilities, the
17 frequency of loadings and
18 unloadings from short term
19 visitors to the multiple
20 entertainment and retail venues in
21 the proposed project and the
22 possibility of multiple events
23 occurring in the complex. At the
24 same time, Hartz is concerned that
25 this large volume of cars will

1
2 introduce substantial additional
3 emissions from vehicles, including
4 idling vehicles into the
5 Meadowlands environment. In
6 this regard Hartz notes that the
7 USCPA has questioned the Xanadu
8 proponents traffic modeling
9 analysis and has stated that the
10 preliminary EIS performed to date
11 is not sufficient to meet the
12 requirements of the National
13 Environmental Policy Act. Hartz
14 believes that when properly
15 analyzed, and fairly analyzed,
16 that the projected impact on air
17 quality of the increased traffic
18 loads from the Project as
19 currently configured will be
20 significant. In addition, Hartz
21 believes that the foreseeable
22 traffic disruptions from the
23 Project will result in adverse
24 social and economic impact. In
25 light of the severity of the

1
2 potential air quality impact on
3 this Project on the Meadowlands,
4 we believe the Army Corps
5 should conclude that the Project
6 will have a significant effect on
7 the quality of the human
8 environment, and therefore that it
9 cannot approve the Xanadu permit
10 application without preparing an
11 environmental impact statement
12 that examines these impacts in
13 depth. Moreover, Hartz believes
14 that the results of this EIS will
15 confirm that it is not in the
16 public interest to approve the
17 application. As you know under
18 the National Environmental Policy
19 Act, an EIS is required for any
20 federal action significantly
21 affecting the human environment.
22 The obligation of the Corps to
23 prepare an EIS is not altered
24 here because of the severe impact
25 that I have outlined would result

1
2 in a substantial part on the
3 construction and operation of the
4 project itself, rather than
5 directly from the disturbance of
6 the wetlands that would occur
7 during the construction of the
8 Project. Under the regulations of
9 the counsel on environmental
10 quality, the effects and impacts
11 of an action of the Corps is
12 required to consider in
13 determining whether an EIS must be
14 performed, include direct
15 effects and indirect effects which
16 are caused by the action and are
17 later in time or far removed
18 in distance, but are still
19 reasonably foreseeable. This is
20 echoed in the Corps's own
21 regulations which require an
22 analysis of direct, indirect
23 cumulative impact. As far as the
24 scope of the analysis is
25 concerned, the Corps's own

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2 regulations provide that this
3 extend to the portions of the
4 Project to be located on the
5 permitted fill. Under the
6 proposal presented by the
7 proponents of the Project, the
8 Project is to be located on the
9 permitted field, includes
10 portions of several of the
11 proposed facilities comprising the
12 entire project. The fill in
13 wetland Area C would lie between
14 two of three large interconnected
15 wings of the entertainment retail
16 complex shown on the Xanadu plan.
17 The fill in wetland Area A would
18 lie beneath the proposed office
19 tours and associated parking
20 decks. Only the hotel and
21 ballpark would not be constructed
22 in their entirety on filled -- on
23 any of the filled wetlands.
24 Moreover, in their own
25 alternatives analysis, the

1
2 applicants have stated that a
3 substantial reduction in the
4 venues at the entertainment retail
5 center or a severe compression of
6 the office buildings would
7 cause the project to become
8 economically unviable. The
9 portions of the Xanadu Project
10 not proposed to be filled above
11 filled wetlands are links of a
12 single chain and the independent
13 facility could not and would not
14 exist without each other, and
15 these circumstances, we believe,
16 the entire project must be
17 considered in your analysis. To
18 place the facts within the context
19 of the examples that the Corps
20 sets out in its regulations, the
21 portions of the project to be
22 filled on filled wetlands are not
23 lay pipelines or roadways that are
24 isolated from an auxiliary or
25 pertinent to a major upland

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facility.

Instead here the requested filled permit relates to a major portion of the upland facility. In other words, the Project as proposed is an integrated whole and must be evaluated as an integrated whole, and quickly to summarize, in determining whether an EIS must be performed regarding this application, the Corps should evaluate the massive project as a whole and determine whether the Project will have direct, indirect or cumulative adverse effects that are reasonably foreseeable. Significant traffic disruptions from this project are a reasonably foreseeable consequence. Such disruptions and the unique circumstances of the Meadowlands can have significant adverse air quality impact, social impact and

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2 economic impact. The Corps
3 cannot and should not approve the
4 application unless it prepares an
5 EIS. As I said earlier, Hartz
6 will submit additional comments in
7 writing. I would offer that I
8 would respectfully request on
9 behalf of Hartz a brief
10 extension of perhaps two weeks
11 time of the deadline for
12 submission of the comments because
13 of the importance and complexity
14 of the application and the fact
15 that the deadline falls just
16 following the Labor Day holiday,
17 we submit that a short extension
18 will be helpful and appropriate in
19 addressing this very important
20 public issue. Thank you for your
21 time.

22 MR. TOMER: Thank you. At
23 this point the next speaker is Ed
24 Lloyd.

25 MR. ED LLOYD: Good

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2 afternoon. My name is Ed Lloyd.
3 I am director of the Columbia
4 Environmental Law Clinic, and I'm
5 here today to testify on behalf of
6 the Sierra Club, New Jersey
7 Chapter Environmental Defense
8 Tri-State Transportation Campaign
9 and New Jersey Public Interest
10 Group. I'd like to thank you for
11 the opportunity to comment today,
12 and we'll submit written comments
13 for the record as well, but
14 I'll briefly summarize our
15 concerns today.

16 We believe that no permit
17 should be issued for this project.
18 There's simply no need for a fill
19 permit here. The wetland fill for
20 this Project can easily be
21 avoided. For the record, I should
22 note that we have met with the New
23 Jersey Sports and Exposition
24 Authority before they sent out the
25 RFP for this project. We asked

1
2 them at that time to make part of
3 the application process
4 preservation of these wetlands.
5 Obviously they did not do so. We
6 also met with every applicant,
7 every respondent to the RFP,
8 including Mack-Cali and asked if
9 they too would present proposed
10 projects that would not fill the
11 wetlands. I make this point
12 because I want the Corps to know
13 that all applicants were on notice
14 that these wetlands should be
15 preserved, that they could be
16 preserved and they had plenty of
17 opportunities to submit proposals
18 that would have avoided the
19 fill of the wetlands.

20 It's also important that the
21 Corps know that one of the
22 finalists, Westfield, proposed a
23 project that would have avoided
24 the fill, so had the Sports and
25 Exposition Authority chose that,

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we wouldn't be here and we shouldn't be here.

There's no reason why development, economically viable development can't take place at the Continental Arena site without filling these wetlands. I should also note that in 1978 when the hearing officers for the Meadowlands Commission reviewed the proposal for Continental Arena, they called for the preservation of these very wetlands. They determined that to preserve these wetlands -- to preserve the delicate environmental balance of the Meadowlands, these wetlands should be preserved, so there's a record already dating back to 1978 to the value of these wetlands. As you may well know, the hearing officers have now issued a report on this project for 2004, and

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2 they've also noted that these
3 wetlands will cause the loss of
4 foraging grounds, and that's an
5 additional reason why these
6 wetlands should be protected.
7 Let me read briefly from the 1978
8 hearing officer's report, which
9 said that no construction activity
10 will be permitted in the
11 small coastal wetlands that occupy
12 the southeast portion of the area.
13 Those are the wetlands that we're
14 talking about today, so all the
15 applicants in this process,
16 including Mills, has been on
17 notice since at least 1978 that
18 these wetlands should be
19 preserved.

20 In addition, it seems obvious
21 that on-site alternatives are
22 easily found to avoid these
23 wetlands. Simply because an
24 applicant has presented a proposal
25 where they intend to fill the

1
2 wetland certainly does not mean
3 they cannot meet every one of
4 their economic goals by
5 reconfiguring the project in a way
6 not to affect these wetlands. As
7 you gentlemen certainly know, my
8 clients and I have been involved
9 in the Empire Tract. We presented
10 extensive evidence as to how that
11 project could have been
12 reconfigured as well. We can
13 reconfigure this project entirely.
14 We think that that's what the
15 Corps should determine, that in
16 fact that's been done and
17 therefore there is no need to fill
18 the wetland. Because of that
19 fact, we think there's no need to
20 reach the mitigation issue at all.
21 We certainly support the
22 reservation of the Empire Tract.
23 We've been on record for over a
24 decade to do that. As you well
25 know, that the Empire has been

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2 zoned for operation purposes.
3 We expect that it will be
4 preserved each -- and it should be
5 preserved. We intend to make sure
6 that it will be preserved, but in
7 this instance there's no need to
8 reach that issue because the
9 small innovators who feel -- let's
10 see, the small innovators of
11 wetlands need not be filled,
12 therefore we don't need to reach
13 the mitigation question. I thank
14 you for your time and we'll
15 submit written comments. I would
16 join with the previous speaker and
17 ask for a two week extension of
18 time. As you know, August is a
19 rough time to get things done with
20 vacation schedules, etc. Two
21 weeks extension of time would be
22 very helpful. Thank you.

23 MR. TOMER: Thank you.

24 At this point we've exhausted
25 the current list of speakers that

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have signed up, so I would ask that if anyone out there that hasn't registered would like to speak -- I see one hand up. Would you please come up? These lights are very blinding. I apologize.

MS. ELSIE PALSI: Good afternoon. I'm from Greg's Restaurant, 317 Washington Avenue. My name is Elsie Palsi, part owner. This sounds like a wonderful project, Xanadu. I'm sure the jobs will be plentiful and it will help a lot.

My one concern is in '79 when they built our stadium and Arena, they said we would have no problems with water. Well, you should come when it pours, like last Saturday on Washington Avenue, and see the water flowing into our parking lot blocking the side road on Paterson Plank Road. We have called the county, the

1
2 town, many times. They come.
3 "We'll see what we can do".
4 Floods all over. So now my
5 concern is how is this going to
6 affect the water, the wetlands?
7 We'll have more floods. It's the
8 only thing I am concerned about.
9 The project itself sounds great,
10 but something has to be done with
11 the drainage. Thank you.

12 MR. TOMER: Thank you.

13 Is there anyone else in the
14 room at the moment that would care
15 to speak?

16 Seeing no hands, at this
17 point we are going to adjourn the
18 hearing for approximately twenty
19 minutes and come back at 3:15.

20 Thank you.

21 (Whereupon, a recess was
22 taken from 2:55 p.m. to 3:15 p.m.)

23 MR. TOMER: Excuse me. At
24 this point I'll just ask if anyone
25 else -- we didn't get any other

1
2 people that did register at this
3 point, so we ask that if anybody
4 else did desire to speak at this
5 point. Seeing no one at this
6 point, what we are going to do is
7 we're going to adjourn until
8 approximately 4:00. If there are
9 no other speakers at that point,
10 we'll adjourn for the afternoon
11 and then resume in the evening.

12 Thank you.

13 (Whereupon, a recess was taken
14 from 3:15 p.m. to 4:15 p.m.)

15 MR. TOMER: We're going to go
16 back into session momentarily
17 here, if you could take a seat. I
18 understand we have another
19 speaker, so we're going to go back
20 into session.

21 Did you want to go right from
22 there or up at the podium?

23 MR. CEBERIO: No, right here
24 is fine.

25 MR. TOMER: I don't know if

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everybody can hear you at this point.

THE CEBERIO: Okay, I'll go up.

MR. TOMER: Please state your name and affiliation.

MR. CEBERIO: My name is Robert Ceberio.

I'm the executive director of the New Jersey Meadowlands Commission. Good afternoon. It's a pleasure for me to be here this morning under these circumstances, a circumstance which is much different than our previous discussions on the Empire Tract. This morning the Hackensack Meadowlands, the New Jersey Meadowlands Commission accepted the recommendations of the hearing officers, the hearing officers being the executive director of the New Jersey Meadowlands Commission, myself,

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2 and Gary Sondermeyer, the
3 chief of staff of the NJ DEP.
4 While our report reviews the whole
5 gamut of the EIS that has been
6 submitted to us as part of the
7 consultation process under the
8 Sports Authority legislation,
9 I wanted to bring to this group --
10 group's attention, specifically,
11 the area of the hearing officer's
12 document which is pertinent to
13 your discussion today.
14 Specifically what we'd like
15 to address and to include in the
16 hearing officer's document into
17 the record is a series of
18 recommendations that are provided
19 by the hearing officers to the
20 Army Corps of Engineers and to
21 your advisory group, the
22 mitigation advisory counsel, the
23 Meadowlands admissible
24 advisory counsel, also known as
25 MIMAC. The one thing that I'd

1
2 like to stress and more
3 importantly than anything else is
4 that the Mills/Mack-Cali Sports
5 Authority Team has been able to
6 find an upland solution using the
7 Continental Airlines Arena site as
8 an upland solution to the
9 potential of the destruction of
10 150 acres of wetlands on the
11 Empire Tract, and that is very
12 important, very important to us as
13 an agency and very important to
14 DEP in as much as our master plan
15 which we adopted early part of
16 this year, minimized the potential
17 of wetlands fill for development,
18 especially the magnitude that was
19 discussed for the Empire Tract
20 during previous discussions under
21 the special area management plan
22 and other individual permit
23 applications. So here we have
24 a situation of an upland
25 alternative which is very

1
2 significant. The upland
3 alternative here will prevent the
4 applicant from returning back
5 to a previous application, which I
6 think is still active, to seek
7 fill for 150 acres of wetland on
8 the Empire Tract. That's the
9 first and foremost concern for the
10 commission. So we indeed support
11 the Mills/Mack-Cali Sport
12 Authority's movement to this
13 upland alternative.

14 In addition to that, we
15 believe that we have worked with
16 several of the local environmental
17 groups, with Mills/Mack-Cali and
18 the Sports Authority, to come up
19 with a mitigation proposal that
20 will satisfy not only the spirit,
21 the intent and the letter of the
22 law as it relates to the Clean
23 Water Act, but also it also
24 addresses many of the
25 environmental issues of the

1
2 Meadowlands region. As a result,
3 the hearing officers agree with
4 the Mills/Mack-Cali proposal for
5 mitigation of preservation of the
6 Empire Tract at a ratio of 30 to 1
7 in preservation and to allow the
8 balance of the tract that is not
9 used for this preservation of 30
10 to 1 to be allowed to be used
11 in the future for the potential of
12 a transportation mitigation bank
13 to satisfy DOT and transit
14 requirements in the future,
15 specifically Phase 1 and Phase 2
16 of mass transit access to the
17 Sports Complex as an area for
18 mitigation in the future. The
19 other significant element to this
20 which I think the Mills/Mack-Cali
21 Sports Authority Team has made
22 clear to the hearing officers is
23 that they in fact will be turning
24 over the entire 587 acres of the
25 Empire Tract to the Meadowlands

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2 Conservation Trust. The Trust in,
3 but not of the New Jersey
4 Meadowlands Commission, its
5 responsibility by statute is not
6 only the conservation, but also
7 the enhancement and restoration of
8 wetlands, not only in the New
9 Jersey Meadowlands district, but
10 way beyond the boundaries of the
11 district up to the end of the
12 Hackensack River watershed. So
13 what is being discussed here as
14 Part 2 in addition to the 30
15 to 1 ratio, is the fact that the
16 Meadowlands Conservation Trust
17 upon the closing of this
18 transaction, finalization of the
19 lease agreement between the Sports
20 Authority and the Mills/Mack-Cali
21 team will be that title in fact
22 is transferred over to the
23 Meadowlands Conservation Trust and
24 preserved in perpetuity.
25 Having attended some of the MIMAC

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2 meetings that have occurred
3 regarding the mitigation on this
4 project, I know that some of the
5 resource agencies, fish and
6 wildlife service, national
7 marine fisheries had expressed a
8 concern of not being able to see
9 in-ground type of either
10 restoration or mitigation. The
11 hearing officers, in consultation
12 with Mills/Mack-Cali, have
13 indicated that of the 7.69 acres
14 that will be in fact impacted,
15 that they would be able to
16 and they would be willing to make
17 a cash contribution to the New
18 Jersey Meadowlands commission for
19 a restoration project that is due
20 to occur by next spring.

21 Specifically the --
22 what is known, the 45 acre site
23 specifically known as the Secaucus
24 High School site. The Secaucus
25 High School site being a 45 acre

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2 wetland area that is adjacent to
3 the restoration site of Mill Creek
4 and the old restoration sites
5 of Hartz Mountain. Taking that
6 all into consideration, what
7 you're then looking at is a
8 contiguous ecological landscape of
9 almost a thousand acres with the
10 restoration of the Empire Tract,
11 with the restoration sites of the
12 commission, former Hartz
13 restoration and wetland sites and
14 contiguous pieces which the
15 Meadowlands commission is
16 continuing to purchase. This is a
17 significant factor that we're
18 moving towards the Meadowlands
19 environmental preserve and this
20 thousand acres of this contiguous
21 landscape ecology is the
22 cornerstone of that environmental
23 preserve.

24 I need to stress one other
25 element. That is I've heard many

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different reports that I just want to clarify, and that is in fact the Meadowlands Conservation Trust will once again have total control over the site and have control over the transportation mitigation bank.

I have seen some reports and some concerns by some folks that indicated that in fact Mills/Mack-Cali will still own half of the tract or the Sports Authority will own half of the tract. That is not the case. It would be the Meadowlands Conservation Trust that would be coming before the Army Corps of Engineers and MIMAC to execute all the necessary mitigation banking instruments that it would be required for that mitigation project.

In addition to that, the Mills -- one of the

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2 recommendations that we have in
3 this document is that the
4 Meadowlands Conservation Trust be
5 provided \$100,000 a year to
6 oversee the site, to provide
7 maintenance and anything else
8 that is required on the Empire
9 Tract. I think this is a very
10 comprehensive approach. I think
11 it takes into consideration not
12 only what the Meadowlands
13 Commission is trying to do, and
14 that is the recovery of the 8,400
15 acres of wetlands, but also it
16 also looks upon issues of even
17 threatening endangered species.
18 The fact that using the NJ DEP
19 landscape overlays regarding
20 where the T&E potentials are, we
21 found that the Yellow Crown Night
22 Herring do some foraging on
23 some of this acreage, but in fact
24 if you allow the Mills/Mack-Cali
25 proposal to move forward and

1
2 with the preservation and the
3 restoration of the Empire Tract,
4 you will not see a significant or
5 a problem at all dealing with that
6 species of birds, and in addition
7 to that, the Secaucus site is no
8 more than a couple of hundred
9 yards away from a rookery that we
10 found several weeks ago for that
11 particular species. So overall we
12 are pleased to present this to the
13 hearing officers here today from
14 the Army Corps of Engineers.
15 There is some question what this
16 document actually is as hearing
17 officers. It is in fact a series
18 of recommendations that we are
19 providing to the Sports Complex.
20 It is a comprehensive review of
21 our recommendations which we will
22 be submitting to the Sports
23 Complex and we are submitting
24 especially Pages 17 and 18 for
25 your consideration. Their overall

1
2 report does include issues dealing
3 with water, water reuse, buffers
4 and so forth, which I am
5 confident that the Mills/Mack-Cali
6 team will in fact take all the
7 elements into consideration.
8 There is nothing in this report
9 that anyone from any side, both
10 from an environmental perspective,
11 from the Sports Authority's side
12 or from the Mills/Mack-Cali team
13 should be concerned about. This
14 in no way puts any impediments in
15 the way. It just asks for
16 additional information and
17 provides a series of
18 recommendations. So we're very
19 pleased to support the provisions
20 provided by the Mills/Mack-Cali
21 team in their application, and
22 we endorse their approach, and
23 hopefully we've also added some
24 information for your
25 consideration. Thank you very

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much.

MR. TOMER: Thank you,
Mr. Ceberio.

Is there anyone else at this
point that would like to speak at
this afternoon's session of
hearing?

Seeing no one, at this point
I would like to remind everyone
that the hearing record will
be open again until September 7,
2004. Today's hearing will be
adjourned at the end of this
evening's session which will start
at 7 p.m.

Any comments the public would
like to make as part of the
administrative record of the
application need to be presented
either at today's hearing or in
writing to the Corps of
Engineers by the close of comment
period which is September 7, 2004.
If after you leave this hearing

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today, you find there are certain things that you forgot and wish to present, please feel free to do so in writing so that we may have them before the end of our comment period.

In addition, if there is a need to clarify statements already made, again, feel free to do so. Those comments should be, as I have indicated earlier, presented to the New York District. The address again is U.S. Army Corps of Engineers, New York District, attention Regulatory Branch, 26 Federal Plaza, Room 1937, New York, New York, 10278-0090, and I appreciate you having turned out today to present your views. We respect your comments and you can be assured that they will be given the appropriate consideration in our public interest decision on

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this proposal. Thank you very much, and at this time, which is approximately 4:30, I will adjourn this hearing until 7 p.m.

Thank you.

(Whereupon, a recess was taken from 4:30 to 7:30 p.m.)

MR. TOMER: I'd just like to go on record at this point. At the start of the evening session of today's hearing, right now it is approximately 7:30, and we do not have any speakers signed up at this point. What we will do is wait another twenty minutes, approximately, to see if any speakers do show up. If they don't, we will adjourn the hearing for today at that point in time.

Thank you.

(Whereupon, a recess was taken from 7:30 p.m. to 7:50 p.m.)

MR. TOMER: It is now a little after 7:50 p.m., and I note

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that about fifteen to twenty
people have been present in the
room since 7 p.m. They are Corps
of Engineers staff and
representatives of the applicant,
but no members of the public have
shown up for this evening's
session of the public hearing;
therefore, I am going to close the
public hearing at this time.

Thank you very much.

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(Whereupon, the public hearing
was concluded at 8:00 p.m.)

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C E R T I F I C A T E

I, HOLLY JOHNSON, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is hereinbefore set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

HOLLY JOHNSON