

# **EXHIBIT M**

**MONMOUTH PARK GROUND LEASE**

**EXHIBIT M**

**[FORM OF] NOTICE OF 2012/2013/2014 EXCESS EXPENSES**

TO: The New Jersey Sports and Exposition Authority (the "Authority")

RE: Racetrack Ground Lease Agreement, dated as of [February \_\_, 2012], by and between the Authority and New Jersey Thoroughbred Horsemen's Association, Inc., as tenant ("Tenant") (as amended, restated, supplemented or otherwise modified from time to time), the "Ground Lease"; capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Ground Lease

DATE: [ ], 20[ ]

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This is a Notice of Excess Expenses referred to in Section 2.05(d) of the Ground Lease.

Pursuant to Section 2.05(d) of the Ground Lease, Tenant notifies the Authority that, as of the last day of the month most recently ended before the date hereof ("prior month"), the financial results of Tenant are as set forth below:

(A) Revenues from the Premises and Racetrack, Woodbridge OTW and Account Wagering Operations, prior month: \$

(B) Operating and Maintenance Expenses, prior month: \$

(C) 201[2/3/4] Excess Expenses, prior month (A - B): \$

(D) Revenues from the Premises and Racetrack, Woodbridge OTW and Account Wagering Operations, year to date (excluding prior month): \$

(E) Operating and Maintenance Expenses, year to date (excluding prior month): \$

(F) 201[2/3/4] Excess Expenses, year to date (excluding prior month) (D - E): \$

(G) Available 201[2/3/4] Excess Expenses that may be covered \$

by Authority (\$[9/2/2],000,000 - F)

Tenant hereby requests that the Authority cover an additional amount of 201[2/3/4] Excess Expenses (not to exceed \$[9/2/2],000,000) in the amount of

[INSERT FIGURES] (\$[ ])

by [wire transfer to [ ] [check made payable to [ ] and delivered to [ ]]. Making the total of 201[2/3/4] Excess Expenses for the year to date [INSERT FIGURES] ([INSERT]).

Tenant hereby certifies that no Tenant Event of Default has occurred and is continuing on the date hereof or after giving effect to the advance of funds requested to be made hereby. This Notice of Excess Expenses may, upon execution, be delivered by facsimile or electronic means, which shall be deemed for all purposes to be an original signature.

NEW JERSEY THOROUGHBRED  
HORSEMEN'S ASSOCIATION, INC.

By: \_\_\_\_\_  
Name:  
Title:

# **EXHIBIT N**



## **TWO RIVERS WATER RECLAMATION AUTHORITY**

### **RESOLUTION AUTHORIZATION THE EXECUTIVE DIRECTOR TO ENTER INTO A NEW SERVICE AGREEMENT WITH THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY GOVERNING SERVICE FOR THE MONMOUTH PARK RACE TRACK.**

**RESOLUTION NO.: 2009-02 19**

**WHEREAS**, the New Jersey Sports and Exposition Authority (hereinafter "NJSEA") operates the Monmouth Park Race Track located in Oceanport, New Jersey (hereinafter "Race Track"); and

**WHEREAS**, the DEP has directed the NJSEA to take such steps as are necessary to bring its operations at the Race Track in compliance with certain laws and regulations prohibiting the discharge of any process generated wastewater and first flush contaminated storm water into the receiving waters of the State; and

**WHEREAS**, the TRWRA, pursuant to the Sewerage Authorities Law is committed in the public interest to foster and promote by all reasonable means the relief of waters in or bordering the State from pollution and thus to reduce and ultimately abate the menace to public health resulting from such pollution; and

**WHEREAS**, the TRWRA wishes to cooperate with the NJSEA and DEP to resolve the issues created by the continued discharge of process generated wastewater and first flush contaminated storm water from the Race Track into the receiving waters of the State; and

**WHEREAS**, the NJSEA and the TRWRA now mutually seek to modify the terms and conditions of the existing Agreement between the parties (hereinafter "1994 Agreement") to address the significantly greater flow volumes than the parties to said 1994 Agreement had anticipated; and

**WHEREAS**, under the 1994 Agreement and its Amendments, TRWRA currently accepts 210,000 gallons per day of process generated wastewater and first flush contaminated storm water from NJSEA with no restriction on the "instantaneous flow rate" at which said flow enters the TRWRA system; and

**WHEREAS**, the NJSEA has requested, and TRWRA has offered to increase the volume of flow it accepts to 500,000 gallons per day but with a physical limitation on the "instantaneous flow rate" to no more than 1,200 gallons per minute; and

**WHEREAS**, the NJSEA has agreed to pay the following fees, in addition to service charges, in consideration for TRWRA's agreement to accept the increased volume of flow:

- a) The sum of THREE HUNDRED AND FIFTY THOUSAND (\$350,000) DOLLARS shall be due and payable to the TRWRA upon the execution of this Agreement; and
- b) The sum of TWO HUNDRED THOUSAND (\$200,000) DOLLARS shall be due and payable to the TRWRA on January 1<sup>st</sup> of each year for the next nine (9) years, beginning on January 1, 2010; and
- c) The sum of ONE HUNDRED THOUSAND (\$100,000) DOLLARS shall be due and payable to the TRWRA on January 1<sup>st</sup> of each year for the following ten (10) years, beginning on January 1, 2020; and

**WHEREAS**, the Executive Director and his staff have indicated that the TRWRA system is capable of handling the additional volume of flow and that the fees to be paid by NJSEA are reasonable; and

**WHEREAS**, the Executive Director has recommended entering into a new service agreement with NJSEA in order to memorialize the terms and conditions under which service will be provided to the NJSEA.

**NOW, THEREFORE, BE IT RESOLVED** by the Two Rivers Water Reclamation Authority that the Executive Director is hereby authorized to negotiate and execute a new service agreement with the New Jersey Sports And Exposition Authority governing service for the Monmouth Park Race Track generally in accordance with the terms outlined in the draft Agreement.

Said approval subject to review by the Authority's Attorney.

**I certify the above to be a true  
copy of the Resolution adopted  
at a public hearing held on  
February 17, 2009**

A handwritten signature in dark ink, appearing to read "Michael A. Gianforte", is written over a horizontal line.

**MICHAEL A. GIANFORTE, P.E.  
Executive Director**

## SERVICE AGREEMENT

THIS AGREEMENT made on the 12<sup>th</sup> day of March, 2009

### BY AND BETWEEN

**TWO RIVERS WATER RECLAMATION AUTHORITY**, a public body politic and corporate and existing under the provisions of N.J.S.A. 40:14A-1, et. seq., having its principal place of business at One Highland Avenue, Monmouth Beach, County of Monmouth and State of New Jersey,

hereinafter referred to as the "TRWRA,"

### AND

**N.J. SPORTS & EXPOSITION AUTHORITY**, a body public and corporate of the State of New Jersey, whose address is 50 State Route 120, E. Rutherford, New Jersey 07073,

hereinafter referred to as the "NJSEA."

### WITNESSETH:

**WHEREAS**, the NJSEA operates the Monmouth Park Race Track located in Oceanport, New Jersey (hereinafter "Race Track"); and

**WHEREAS**, certain Race Track operations are classified as Concentrated Animal Feeding Operations ("CAFO") pursuant to the Clean Water Act, 33 U.S.C. § 1251 et seq., the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and as implemented by the New Jersey Pollution Discharge Elimination System regulations, N.J.A.C. 7:14A-1.1 et seq., hereinafter referred to as "NJPDES"; and

**WHEREAS**, the NJSEA, pursuant to a NJPDES CAFO permit, is not permitted to discharge process and process-generated wastewater and stormwater from the CAFO area, except in the event of a 25-year storm; and

**WHEREAS**, on or about July 19, 1994, the parties hereto entered into an Agreement (hereinafter "1994 Agreement") whereby the TRWRA agreed to receive, transmit, treat and dispose of process and process-generated wastewater and storm water from the Race Track stable area; and

**WHEREAS**, in order to comply with its NJPDES CAFO Permit, the NJSEA seeks, among other activities, to convey process and process-generated wastewater and stormwater from the Race Track CAFO area to local wastewater treatment facilities for treatment in order to reduce the discharge of such waters into the adjoining Branchport Creek; and

**WHEREAS**, the NJSEA has undertaken a plan to capture, treat and dispose of process and process-generated wastewater and stormwater from the Race Track CAFO area in order to stem the flow of same into the adjoining creek; and

**WHEREAS**, the TRWRA, pursuant to the Sewerage Authorities Law is committed in the public interest to foster and promote by all reasonable means the relief of waters in or bordering the State from pollution and thus to reduce and ultimately abate the menace to public health resulting from such pollution; and

**WHEREAS**, the TRWRA wishes to cooperate with the NJSEA and DEP to resolve compliance issues concerning the operation of the Race Track; and

**WHEREAS**, the NJSEA and the TRWRA now mutually seek to modify the terms and conditions of the 1994 Agreement to address the significantly greater flow volumes than the parties to said 1994 Agreement had anticipated; and

**WHEREAS**, the TRWRA's facilities have adequate capacity to accept the significantly greater flows contemplated by the parties.

**NOW, THEREFORE,** in consideration of the mutual covenants, conditions and agreements set forth herein, the parties hereto mutually agree as follows:

1. **INCREASED FLOW.** Commencing on April 1, 2009, the TRWRA agrees to receive, transmit, treat and dispose of process and process-generated wastewater and storm water flow from the Race Track stable area not to exceed 500,000 gallons in any 24 hour period at an "instantaneous flow rate" not to exceed 1,200 gallons per minute. Notwithstanding the foregoing, flow from the Race Track stable area to the TRWRA shall not exceed 350,000 gallons in any 24 hour period during the months of January, February and March until such time that the detention basin described at Section 7 is constructed and put into service.

2. **CONSIDERATION.** In exchange for the TRWRA accepting the significantly increased flow of process and process-generated wastewater and storm water set forth in paragraph 1 above, the NJSEA, in addition to paying "service charges" described below, shall pay the following fees to the TRWRA to offset the cost of improvements to sanitary sewerage and treatment facilities, including but not limited to infiltration and sedimentation mitigation, owned by the TRWRA to provide and maintain the increased capacity to handle the increased flow, to be paid as follows:

- a) The sum of THREE HUNDRED AND FIFTY THOUSAND (\$350,000) DOLLARS shall be due and payable to the TRWRA upon the execution of this Agreement; and
- b) The sum of TWO HUNDRED THOUSAND (\$200,000) DOLLARS shall be due and payable to the TRWRA on January 1st of each

year for the next nine (9) years, beginning on January 1, 2010;  
and

- c) The sum of ONE HUNDRED THOUSAND (\$100,000) DOLLARS shall be due and payable to the TRWRA on January 1<sup>st</sup> of each year for the following ten (10) years, beginning on January 1, 2020.

3. **TERMINATION.** This Agreement shall terminate should horses cease to be housed at the Race Track. In that event, the NJSEA, or its successors will have no further obligation to pay the fees set forth in Paragraph 2 above, save for that portion thereof that has already been paid or has become due as of the date of termination.

4. **SERVICE CHARGES.** In addition to the consideration aforesaid, the NJSEA shall be billed for flow conveyed through the meter chamber to the TRWRA at a rate equivalent to the Member Town rate as defined in the TRWRA's Rules and Regulations for the first 500,000 gallons in a day and at a rate of 2 1/2 times the TRWRA's current Member Town rate for that flow over 500,000 gallons per day.

5. **RIGHT TO CLOSE CONTROL VALVE.** The TRWRA reserves the right to require immediate closure of the valve controlling flow from the stable area, upon providing NJSEA with reasonable notice, in the event it is apparent that flood water from the Branchport Creek is entering the TRWRA's system through the NJSEA's system, or if the flow is in excess of 500,000 gallons in a 24 hour period. The NJSEA authorizes the TRWRA to maintain a SCADA system onsite to report real time information at the meter chamber. TRWRA shall make same real time information available to NJSEA.

6. **FAIL SAFE FLOW LIMITATION.** The NJSEA shall provide, as a condition of this agreement, a fail safe, physical flow limitation to insure that the "instantaneous flow rate" shall not exceed 1,200 gallons per minute, along with improved silt and debris controls at its connection to the TRWRA's system, subject to approval of the TRWRA's Engineer.

7. **DETENTION BASIN.** The NJSEA shall construct a detention basin on the Race Track property for the purpose of collecting the process and process-generated wastewater and stormwater from the Race Track CAFO area. The detention basin shall be designed to provide storage to retain process and process-generated wastewater and stormwater from the Race Track CAFO area in the event of a 25 year storm event and to regulate the discharge of those waters to the TRWRA system. The specific design and construction schedule for the detention basin shall be determined pursuant to the terms of an Administrative Consent Order to be entered into by the NJSEA and the DEP.

8. **COSTS OF APPROVAL.** The NJSEA shall be responsible for all costs and efforts to obtain approval from the DEP for a Treatment Works Approval modification in accordance with the requirements in the NJDEP Permit #94-8990-4 to Construct and Operate Treatment Works dated 11/18/94.

9. **REPRESENTATION OF FLOW CAPACITY.** TRWRA represents that its facilities have adequate capacity, subject to improvements mentioned herein, to accept the flows contemplated by this Agreement.

10. **MAINTENANCE OF NJSEA FACILITIES.** The NJSEA shall be obligated, at its sole cost and expense, to maintain, repair and replace those facilities located on



the Race Track property and connecting the Race Track stable area with the TRWRA's system.

11. **ACCESS.** The NJSEA shall allow the TRWRA access to its property in order that the TRWRA may read the meter constructed by the NJSEA, or to observe the operation of, or conditions in, the facility connected to the TRWRA system. TRWRA shall provide advance telephone notice of such.

12. **RULE AND REGULATIONS.** The NJSEA agrees that it will comply with the Rules and Regulations of the TRWRA and the DEP as well as any service contract entered into between the TRWRA and the Borough of Oceanport.

13. **TERM.** This Agreement shall be in full force and effect continuously for so long a time as the TRWRA, or its successors provides service to the NJSEA, or its successors at the Race Track.

14. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties and there are no representations, either oral or written, warranties, covenants or promises other than those expressly set forth herein. This Agreement shall supercede and replace the 1994 Agreement and any modifications thereto and upon its execution be the only Agreement between the parties respecting the mutual covenants, conditions and agreement of the same.

15. **PARTIAL INVALIDITY.** If any of the provisions of this Agreement are held to be invalid or unenforceable, all other provisions shall, nevertheless, remain in full force and effect.

16. **BINDING EFFECT.** This Agreement shall be binding upon the parties hereto and their successors and assigns, and shall become effective upon its execution by the parties hereto.

17. **MODIFICATION.** The terms of this Agreement shall not be modified, changed or otherwise altered without the written consent of all the parties hereto.

18. **LAW.** The place or places of execution of this Agreement shall have no bearing on the law governing its interpretation, because it is understood and agreed by both parties that the Agreement shall be construed and governed in accordance with the laws of the State of New Jersey, exclusive of conflicts of law principles. Additionally, the drafting of this Agreement by the attorney for the TRWRA shall have no bearing on the interpretation of this Agreement.

19. **HEADINGS.** The headings of the several subdivisions and paragraphs of this Agreement are inserted solely for the convenience of reference and shall have no further meaning, force or effect.

20. **INDEMNIFICATION.** NJSEA agrees, to the fullest extent permitted by law, to indemnify TRWRA, its officers, directors, employees and agents from and against any liabilities, damages and costs (including reasonable attorneys fees and costs of defense) to the extent caused solely by the negligent acts, errors or omissions of the NJSEA. TRWRA agrees, to the fullest extent permitted by law, to indemnify NJSEA, its officers, directors, employees and agents from and against any liabilities, damages and costs (including reasonable attorneys fees and costs of defense) to the extent caused solely by the negligent acts, errors or omissions of the TRWRA.

**BALANCE OF PAGE INTENTIONALLY LEFT BLANK.**

IN WITNESS WHEREOF, the parties have caused these presents to be signed by their proper corporate officers and their proper corporate seals to be affixed, the day and year first above written.

WITNESS:

N.J. SPORTS & EXPOSITION AUTHORITY

By: Dennis Robinson

STATE OF NEW JERSEY }  
COUNTY OF ~~MONMOUTH~~ } SS:  
BERGEN }

BE IT REMEMBERED that on this 18<sup>th</sup> day of March, 2009, before me, the subscriber, personally appeared DENNIS ROBINSON, who being by me duly sworn according to law on his oath, says that he is the Executive Director of the New Jersey Sports Exposition Authority, named in the within Instrument, and the seal affixed to said Instrument is such corporate seal and was thereto affixed, and said Instrument signed and delivered by said Executive Director, as an for his voluntary act and deed, and for the voluntary act and deed of said Authority, in the presence of deponent, who thereupon subscribed his/her name thereto as witness.

Marie L. Schuch

MARIE L. SCHUCH  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 11/16/2011

ATTEST:

**TWO RIVERS WATER RECLAMATION  
AUTHORITY**

  
ARNO WEBER, Assistant Secretary

By:

  
MICHAEL A. GIANFORTE  
EXECUTIVE DIRECTOR

STATE OF NEW JERSEY    }  
                                      } SS:  
COUNTY OF MONMOUTH    }

BE IT REMEMBERED that on this 12<sup>th</sup> day of March, 2009, before me, the subscriber, personally appeared **MICHAEL A. GIANFORTE**, who being by me duly sworn according to law on his oath, says that he is the Executive Director named in the within Instrument, and the seal affixed to said Instrument is such corporate seal and was thereto affixed, and said Instrument signed and delivered by said Executive Director, as an for his voluntary act and deed, and for the voluntary act and deed of the Two Rivers Water Reclamation Authority, in the presence of deponent, who thereupon subscribed his/her name thereto as witness.

# **EXHIBIT O**



# State of New Jersey

JON S. CORZINE  
*Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT  
BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT  
300 HORIZON CENTER  
P.O. BOX 407  
TRENTON NJ 08625-0407  
Tel. (609) 584-4180  
Fax. (609) 588-2444

MARK N. MAURIELLO  
*Acting Commissioner*

**CERTIFIED MAIL/RRR**  
7006 0810 0002 1819 8669

March 23, 2009

Mr. John J. Duffy, P.E., C.E.M.  
Vice President  
Engineering, Construction & Regulatory Affairs  
NJSEA/Meadowlands Sports Complex  
50 State Route 120  
East Rutherford, NJ 07073

**RE: ADMINISTRATIVE CONSENT ORDER**  
NJ SPORTS & EXPO AUTH @ MEADOWLANDS COMPLEX  
EA ID #: NEA080001 - 458394

Dear Mr. Duffy:

Enclosed is the fully executed Administrative Consent Order for the above referenced matter. By copy of this letter and enclosure, I am advising the Director of the Office of Legal Affairs that the case is settled in accordance with the terms of the Order.

Should you have any questions concerning the enclosed Administrative Consent Order, please contact me at 609-584-4180.

Sincerely,

A. Raimund Belonzi, Chief  
Bureau of Solid Waste Compliance & Enforcement

Enclosures  
Cc: Office of Legal Affairs  
David Kmetz, Air Enforcement, NRO  
Bergen County Health Dept.



# State of New Jersey

JON S. CORZINE  
*Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT  
BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT  
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Tel. (609) 584-4180  
Fax. (609) 588-2444

MARK N. MAURIELLO  
*Acting Commissioner*

## IN THE MATTER OF

**NJ SPORTS & EXPOSITION  
AUTHORITY**

**PO Box 200**

**East Rutherford, NJ 07073**

**EA ID # NEA080001 - 458394**

:  
: **ADMINISTRATIVE CONSENT ORDER**

:  
:  
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This Administrative Consent Order (hereinafter "ACO") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and duly delegated to the Assistant Commissioner, Compliance & Enforcement, pursuant to N.J.S.A. 13:1B-4.

## FINDINGS

1. NJ SPORTS & EXPOSITION AUTHORITY (hereinafter "NJSEA" or "the AUTHORITY") is an instrumentality of the State of New Jersey and a solid waste generator that owns and/or operates the facility hereinafter referred to as the NJSEA Meadowlands Complex at 50 Route 120, East Rutherford Boro, Bergen County, New Jersey Block 105.01, Lots 8, 9, 13, & 4, Block 105.02, Lot 5, Block 107.01 and Lot 1 (NJEMS PI # 458394).
2. The NJSEA Meadowlands Complex consists of the following areas, but is not necessarily limited to:
  - A. Race track & horse barn
  - B. Giants Stadium
  - C. Arena
  - D. Parking areas
  - E. Pump station/Roll off storage area
  - F. Office areas

The AUTHORITY has generally identified areas throughout the complex as "Front of House" – public access areas; and "Back of House" – restricted access areas limited to employees and contractors.



3. The AUTHORITY generates solid waste (types ID# 10, 13 & 13C) and recyclable materials, such as office-grade paper, mixed paper, newspaper, plastic, glass and metal containers, cardboard, wooden pallets, wood chips, horse manure, hay and construction and demolition material from various areas within the NJSEA Meadowlands Complex as identified in paragraph 2, above.
4. As an instrumentality of the State of New Jersey and generator of recyclable materials as identified in paragraph 3 above, the Authority is subject to the requirements of Governor Florio's Executive Order No. 34, signed June 13, 1991, which directs all state agencies and instrumentalities of the State to implement a recycling program and report tonnages recycled to the Department annually.
5. On October 12, 2007, and on July 14, 2008, the Department inspected the NJSEA Meadowlands Complex areas identified in paragraph 2.
6. As the result of the compliance investigation conducted on October 12, 2007, the Department has determined that the AUTHORITY failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:26-2.8(f), no person shall begin construction or operation of a solid waste facility without obtaining a solid waste facility permit unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8. [N.J.A.C. 7:26-2.8(f)]

Description of Noncompliance: The AUTHORITY failed to obtain a solid waste facility permit prior to constructing or operating a solid waste facility. The solid waste loading/unloading and storage area was not maintained properly near the pump station to protect public health and environment. Scattered litter and overflowing waste from roll off containers full of solid waste was observed. Containers for transport offsite were not tarped, marked and maintained properly as required by the solid waste regulations. There were numerous small recycling collection receptacles that were partially full of mixed solid waste and recyclables stored in this area. In addition, the inspection revealed standing water, mud; insects were also observed.

Requirement: Pursuant to N.J.S.A. 13:1E-99.11, recycling of designated materials is mandatory by all generators. Specifically, the state Legislature declared "that it is in the public interest to mandate the source separation of marketable waste materials on a Statewide basis so that reusable materials may be returned to the economic mainstream in the form of raw materials or products rather than be disposed of at the State's overburdened landfills, and that the recycling of marketable materials by every municipality in this State, and the development of public and private sector recycling activities on an orderly and incremental basis, will further demonstrate the State's long-term commitment to an effective and coherent solid waste management strategy." [N.J.S.A. 13:1E-99.11]

Description of Noncompliance: The AUTHORITY failed to manage recyclables in accordance with the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act." P.L.1970, c.39 (C.13:1E-1 et seq.). The AUTHORITY failed to source separate and recycle designated recyclable materials (aluminum cans, glass beverage containers, construction and demolition debris, corrugated cardboard, ferrous scrap, high grade office paper, mixed paper, & white goods) included in the County plan for commercial, institutional and industrial sectors. Specifically, the Department determined the only material being source separated and recycled at the NJSEA Meadowlands Complex was cardboard. The AUTHORITY was also unable to provide records documenting recycling efforts, or exemptions granted.

7. The Air Enforcement Program issued an AONOCAPA on July 16, 2007 to the AUTHORITY, with a hearing requested and subsequently granted by the Department on February 4, 2008. The Department then issued a stay of the AONOCAPA on April 20, 2008.
8. As the result of the compliance investigation conducted on October 12, 2007, the Department has determined that the AUTHORITY failed to comply with applicable requirements as follows:

Requirement: Hours of Operation While Firing Diesel  $\leq$  10 hr/yr. [N.J.A.C. 7:27-8.13(h)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS9 of Permit/Certificate PCP010002 by operating the Standby Generator in Stadium Substation #4 for 16 hours during calendar year 2007 in excess of the maximum allowable 10 hours per year.

Requirement: Hours of Operation While Firing Diesel  $\leq$  20 hr/yr. [N.J.A.C. 7:27-8.13(h)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS10 of Permit/Certificate PCP010002 by operating the Standby Generator in Stadium Station #5 for 28.4 hours during calendar year 2007 in excess of the maximum allowable 20 hours per year.

Requirement: Hours of Operation While Firing Diesel: Monitored by hour/time monitor each month during operation, based on a consecutive 12 month period (rolling 1 month basis). The AUTHORITY shall install, calibrate and maintain the monitor(s) in accordance with the manufacturer's specifications. [N.J.A.C. 7:27-8.13(d)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS12 of Permit/Certificate PCP010002 by failing to install and operate an hour/time monitor on the Standby Generator #1 in Stormwater Pumphouse.

9. Other Departmental regulatory interests at the NJSEA Meadowlands Complex include: Air, Water, Hazardous Waste, Underground Storage Tanks and Site Remediation programs, as well as the US Army Corps of Engineers.
10. In response to the Department's actions the AUTHORITY has taken the following actions to bring the Authority into compliance:
  - a) The AUTHORITY has paved the container storage area to eliminate mud, standing water and potential insect problems. In addition, housekeeping has also been increased in this area to address litter issues.
  - b) The AUTHORITY has increased the implementation of source separation, developed metrics for recyclable materials, and purchased additional recycling containers that will be placed throughout the complex. The Authority will continue to operate in this manner in an effort to stay in compliance with the applicable NJDEP regulations
  - c) The emergency generators at the Pump house now have individual run time meters. The identified emergency generators have been transferred under General Permit GEN0800002 for Facility ID 01769, which increased run hours to 30 hours per year.
11. The Department has determined that the violations of the air permit requirements that are specified in PCP010002 and that are indicated in Paragraph 8 have been corrected and the AUTHORITY is now in compliance.
12. The AUTHORITY has implemented a recycling program entitled: "Proposed NJSEA Recycling/Trash Separation Program", which is dated February 20, 2008. for the entire complex (including all offices and venues) for all designated recyclable materials including the purchase of 160 recycling containers have been distributed accordingly throughout all Meadowlands facilities (See Appendix A).
13. Based on the facts set forth in these FINDINGS, the Department has determined that the AUTHORITY has violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-99.11 and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:26-2.8(f) and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., specifically N.J.A.C. 7:27-8.13(d)] N.J.A.C. 7:27-8.13(h).
14. In order to resolve this matter without trial or adjudication, the AUTHORITY has agreed to enter this ACO and to be bound by its terms and conditions.

**ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

**A. HEARING REQUEST**

15. By execution of this ACO, the AUTHORITY hereby withdraws, with prejudice, its request for an administrative hearing before the Office of Administrative Law regarding the Air AONOCAPA ID# 01769-PEA070001. The AUTHORITY shall complete and submit the enclosed WITHDRAWAL of HEARING REQUEST.
16. The AUTHORITY hereby waives its right to an administrative hearing with respect to the violations identified in paragraph 8, above. The AUTHORITY shall complete and submit the enclosed ADMINISTRATIVE HEARING WAIVER.

**B. COMPLIANCE SCHEDULE**

17. The AUTHORITY shall take whatever actions are necessary to achieve and maintain compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:27-8.3(e); and the Solid Waste Management Act, N.J.S.A. 13:1E-99.11, Executive Order No. 34 and N.J.A.C. 7:26-2.8(f) within 30 days of executing this ACO including but not limited to the following:
  - a). Air compliance items are as follow:
    1. The AUTHORITY shall operate all regulated equipment in accordance with its permits and certificates and with N.J.A.C. 7:27-1 et seq.
  - b). Solid waste compliance items are as follow:
    1. Comply with and N.J.A.C. 7:26-2.8(f) by continuing to ensure that solid waste is properly maintained in containers that are marked in accordance with Department regulations. In addition, litter shall be prevented by the use of tarps or some other acceptable means and measures remain in place to control insects.
    2. Comply with N.J.S.A. 13:1E-99.11
      - i. The AUTHORITY shall obtain and maintain compliance with N.J.S.A. 13:1E-99.11, Executive Order No. 34, and the Bergen County Solid Waste Management Plan.
      - ii. The AUTHORITY must provide the name of a responsible party within the AUTHORITY that will work with the Department on implementing their recycling program.
      - iii. The AUTHORITY must implement a system to report their recycling tonnage to the Department twice a year. The AUTHORITY shall maintain a paper trail from recyclable pickups at venues through to recycling market to support their reported recycling tonnage. Bi-annual tonnage reporting is in addition to the AUTHORITY's obligation to submit a Progress Report

on a bi-annual basis for a period of two years from the date of this ACO. Attached is a copy of the metrics that will be submitted on a bi-annual basis (See Appendix B).

- iv. In addition, the contract(s)/agreement(s) for transportation and final disposal facilities of the recyclable materials shall be made available for review to representatives of the Department upon request.

3. Specific corrective actions applicable to the areas detailed below:

- i. **Front of House** – as identified in paragraph 2 above (concourses, stadium clubs/restaurants, luxury boxes, general seating area)
  - (1) Clearly marked recycling receptacles shall be provided in all clubs, restaurants and luxury boxes, wherever beverages are served in plastic or glass bottles or aluminum cans in those locations.
  - (2) If beverages are served in plastic or glass bottles or aluminum cans in the general seating area, then recycling receptacles shall be provided on the concourses.
  - (3) If beverages are served in plastic or glass bottles or aluminum cans in the general seating area then provisions shall be made for the source separation of this material when the seating areas are cleaned after an event.
  - (4) If beverages are poured into plastic cups for an event, each food and beverage vendor shall be provided with a recycling container of sufficient size for emptied plastic or glass bottles and aluminum cans.
- ii. **Back of House** – as identified in paragraph 2 above (loading docks, kitchens, locker rooms, offices, any area with restricted access)
  - (1) All cardboard from shipments shall be recycled.
  - (2) Recycling receptacles shall be provided in all food preparation areas for any supplies that come in recyclable containers (cans or bottles of condiments, etc.)
  - (3) Recycling receptacles shall be provided in the locker rooms, dressing rooms, and any other areas used by athletes, musicians, etc. for plastic and glass bottles and aluminum cans and for any paper.
  - (4) Recycling receptacles for plastic and glass bottles and aluminum cans and for any paper shall be made available in the press boxes. Paper recycling is especially important in this location.
  - (5) Recycling receptacles shall be provided in all stadium offices, sports teams offices, and the AUTHORITY offices for plastic and glass bottles, aluminum cans, and paper.
  - (6) All source separated recycling material storage areas and storage containers must be marked with the type of source separated material.
  - (7) Review and provide to the Department, copies of current solid waste, recycling and janitorial contracts, as well as relevant sections of hospitality contracts.

4. In settlement of all penalties in this matter, the AUTHORITY shall perform a Supplemental Environmental Project (SEP) that provides for the following type of advertisements on their external and/or internal video board message screens to the extent practical and available during AUTHORITY controlled events at all venues managed or operated by the AUTHORITY including the Meadowlands Sports Complex (consisting of Giants Stadium, the IZOD Center, and the Meadowlands Racetrack), and Monmouth Park Racetrack in accordance with the AUTHORITY's Advertisement Plan below. The AUTHORITY shall be obligated to run the advertisements in accordance with Paragraph 23 below.
  - i. The AUTHORITY shall display the following types of advertisements on the external Route 3 and Route 120 marquees a minimum of three (3) times, each spot being ten (10) seconds in length, during each nine (9) minute advertising loop. The AUTHORITY shall display the following types of advertisements described below on the video board message screens during AUTHORITY controlled events at all venues operated by the AUTHORITY, consisting of Giants Stadium, IZOD Center, Meadowlands Racetrack, and Monmouth Park Racetrack, prior to the beginning of said events and whenever practicable during said events
    - (1) Diesel advertisements:
      - a) Idling stinks...and it's against the law. Did you know that all vehicles are prohibited from idling for more than 3 minutes?
      - b) Did you know that only 10 seconds of idling uses more fuel than turning your engine on and off? If you are idling your vehicle, you may as well be burning dollar bills.
      - c) Vehicle exhaust can shorten your life. Don't idle while tailgating.
    - (2) Recycling advertisements:
      - a) Join the winning team- recycle!
      - b) Be a green team member-recycle!
      - c) Score one for the environment- recycle!
      - d) Don't be lame...Get in the game! Recycle!
      - e) Your mother called. She said to recycle.
      - f) Recycling is mandatory and required by law in New Jersey!
  - ii. The AUTHORITY may create additional messages of their choice that support the Department's goals of reducing vehicle idling and increasing recycling.
5. The AUTHORITY shall provide clearly marked recycling and trash receptacles in the parking areas controlled by the Authority.
6. The AUTHORITY shall purchase 100 recycling containers and will be distribute the containers accordingly throughout the Monmouth Park facility.

18. If the AUTHORITY is not able to achieve compliance by taking the above actions, the AUTHORITY is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

### **C. PROGRESS REPORTS**

19. The AUTHORITY shall submit a written corrective action plan to the Bureau of Solid Waste Compliance & Enforcement and the Office of Recycling and Planning describing in detail how the AUTHORITY will achieve compliance with the items in Compliance Schedule above. The AUTHORITY shall submit bi-annual progress reports to the Department's Bureau of Solid Waste Compliance & Enforcement. The first progress report shall be submitted on or before the 30<sup>th</sup> calendar day after the effective date of this ACO. Each progress report shall detail the activities taken to comply with this ACO and shall include the following:

- a) Identification of site and reference to this ACO;
- b) Status of work at the site and progress to date;
- c) Difficulties or problems encountered during the reporting period;
- d) Actions taken or to be taken to rectify difficulties or problems;
- e) Activities planned for the next reporting period;
- f) Required and actual completion dates for each item required by this ACO;
- g) An explanation of any non-compliance with the ACO schedule; and
- h) A performance evaluation of all corrective remedial measures implemented to date.

### **D. PROJECT COORDINATION**

20. The AUTHORITY shall submit to the Department all documents required by this ACO, including correspondence relating to force majeure issues, by certified mail or hand delivery with an acknowledgement of receipt from the Department. The date that the Department receives the certified mail or executes the acknowledgement will be the date the Department uses to determine the AUTHORITY's compliance with the requirements of this ACO and the applicability of stipulated penalties and any other remedies to the Department.
21. Within seven (7) calendar days after the effective date of this ACO, the AUTHORITY shall submit to the Department the name, title, address and telephone number of the individual who shall be the AUTHORITY's technical contact for the Department for all matters concerning this ACO and the AUTHORITY shall designate an agent and mailing address for this agent for the purpose for all matters concerning this ACO.

22. Unless otherwise directed in writing by the Department, the AUTHORITY shall submit two (2) copies of all documents required by this ACO to the individual identified below, who shall be the Department's contact for the AUTHORITY for all matters concerning this ACO:

New Jersey Department of Environmental Protection  
County Environmental and Waste Enforcement  
Bureau of Solid Waste Compliance and Enforcement  
300 Horizon Center, P.O. Box 407  
Trenton, New Jersey 08625-0407  
Attention: A. Raimund Belonzi, Chief

#### **E. PENALTY**

23. In settlement of the violations cited in the above findings, the AUTHORITY, in lieu of a penalty shall run the diesel and recycling advertisements specified in Paragraph 17 b)4 of this ACO, at each of its facilities, which has the capability of running public service announcements for a period of one year, or if Giants Stadium is utilized for event(s) past the estimated one (1) year time period, until Giants Stadium ceases operations and three (3) years for the IZOD Center, the Meadowlands Racetrack, and Monmouth Park Racetrack.

#### **F. STIPULATED PENALTIES**

24. The AUTHORITY shall pay stipulated penalties to the Department, as set forth below, for failure to comply with the provisions of this ACO unless the Department has notified the AUTHORITY in writing that a stipulated penalty will not be assessed for violations of the compliance schedule pursuant to the force majeure provisions of this ACO.

<u>Calendar Days After Due Date</u>	<u>Per Calendar Day</u>
1 – 7	\$1,000.00
8 – 14	\$2,000.00
15 – over	\$5,000.00

25. Within 45 calendar days after the AUTHORITY's receipt of a written demand from the Department for stipulated penalties, the AUTHORITY shall submit a check to the Department as outlined in paragraph 13, above.
26. If the AUTHORITY fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70 or assess civil administrative penalties for violations of this ACO.



27. The payment of stipulated penalties does not alter the AUTHORITY's responsibility to complete all requirements of this ACO.

#### **G. FORCE MAJEURE**

28. If any event occurs which is beyond the control of the AUTHORITY and which the AUTHORITY believes will or may cause delay in the achievement of the compliance schedule provisions of this ACO, the AUTHORITY shall notify the Department in writing within seven (7) calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, the AUTHORITY shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. The AUTHORITY shall take all necessary action to prevent or minimize any such delay.
29. The Department may adjust the deadlines in the compliance schedule of this ACO for a period no longer than the delay if the Department finds that:
- a) The AUTHORITY has complied with the notice requirements of paragraph 28;
  - b) Any delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of the AUTHORITY ; and
  - c) The AUTHORITY has taken all necessary actions to prevent or minimize the delay.
30. If the Department denies the AUTHORITY's force majeure request, the AUTHORITY may be subject to stipulated penalties. The burden of proving that any delay is caused by circumstances beyond the control of the AUTHORITY and the length of any such delay attributable to those circumstances shall rest with the AUTHORITY. Increases in the cost or expenses incurred by the AUTHORITY in fulfilling the requirements of this ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Contractor's breach shall not automatically constitute force majeure.

#### **H. RESERVATION OF RIGHTS**

31. The Department reserves the right to unilaterally terminate this ACO in the event that the AUTHORITY violates the terms. However, before the Department terminates this ACO pursuant to this paragraph, the Department will notify the AUTHORITY in writing of their obligations, and the AUTHORITY shall have reasonable time under the circumstances, not to exceed thirty (30) calendar days, to perform said obligations.
32. The Department reserves the right to seek reimbursement for past costs to be incurred in the oversight of this ACO.

33. This ACO shall not be construed to affect or waive claims of federal or state natural resources trustees against any party for damages or injury to natural resources.
34. The Department reserves the right to require the AUTHORITY to take any and all additional measures should the Department determine that such measures are necessary to protect human health and/or the environment. Nothing in this ACO constitutes a waiver of any statutory right or enforcement powers of the Department to require the AUTHORITY to undertake such additional measures should the Department determine that they are necessary.

#### **I. GENERAL PROVISIONS**

35. Neither the entry into this ACO nor the payment of the associated penalty shall constitute an admission of liability by the AUTHORITY for any of the violations listed herein.
36. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).
37. This ACO shall be binding on the AUTHORITY, its respective agents, successors and assigns.
38. This ACO shall be fully enforceable as a final Administrative Order in the New Jersey Superior Court.
39. The AUTHORITY agrees not to contest the terms or conditions of this ACO except that the AUTHORITY may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce this ACO's provisions.
40. This ACO shall not relieve the AUTHORITY from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein.
41. No modification or waiver of this ACO shall be valid except by written amendment duly executed by the AUTHORITY and the Department or by the Department's written modification pursuant to the force majeure provisions herein.
42. Unless otherwise specifically provided herein, the AUTHORITY shall submit all documents required by this ACO, except penalty payments, to the Department by certified mail, return receipt requested or by hand delivery with an acknowledgment of receipt form for the Department's signature to:

AUTHORITY

NEA080001 - 458394

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A. Raimund Belonzi, Bureau Chief  
Bureau of Solid Waste Compliance & Enforcement  
PO Box 407  
Trenton, NJ 08625-0407

The date the Department receives the certified mail or executes the acknowledgment will be the date the Department uses to determine the AUTHORITY compliance with this ACO.

43. Unless otherwise specifically provided herein, any communication made by the Department to the AUTHORITY pursuant to this ACO shall be sent to:

New Jersey Sports & Exposition Authority  
PO Box 200  
East Rutherford, NJ 07073  
Attention Legal Department

44. The AUTHORITY shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving the AUTHORITY of its obligations under its permits, this ACO, the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and/or the Solid Waste Management N.J.S.A. 13:1E-1 et seq. and the Recycling Act N.J.S.A. 13:1E-99.11.
45. In addition to the Department's statutory and regulatory rights to enter and inspect, the AUTHORITY shall allow the Department and its authorized representatives access to the site at all times for the purpose of determining compliance with this ACO.
46. Nothing in this ACO shall preclude the Department from taking enforcement action against the AUTHORITY for matters not set forth in the findings of this ACO.
47. No obligations or penalties imposed by this ACO are intended to constitute debts, which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.
48. The Authority shall give written notice of this ACO to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or facilities that are subject to this ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of the Authority facility. This section shall not have any legal affect on any existing leases or agreements that have been executed by the Authority prior to the date of this ACO.

49. The Department reserves all statutory and common law rights to require the AUTHORITY to take additional actions if the Department determines that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this ACO shall constitute a waiver of any statutory or common law right of the Department to require such additional measures should the Department determine that such measures are necessary.
50. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
51. If any provision of this ACO is found invalid or unenforceable, the remainder of this ACO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this ACO if, after such finding, it determines that the remaining ACO does not serve the purpose for which it was intended.
52. This ACO represents the entire integrated agreement between the Department and the AUTHORITY on the matters contained herein.
53. The Department reserves the right to unilaterally terminate this ACO in the event the AUTHORITY violates its terms and to take any additional enforcement action it deems necessary.
54. This ACO shall terminate upon receipt by the AUTHORITY of written notice from the Department that all the requirements of this ACO have been satisfied.
55. This ACO shall become effective upon the execution hereof by all parties, subject to completion of any required public participation process.

New Jersey Sports & Exposition Authority

DATED:

3/13/09

BY:

AM/SL

NAME:

Mark Stefanacci

TITLE:

COO/Legal Counsel

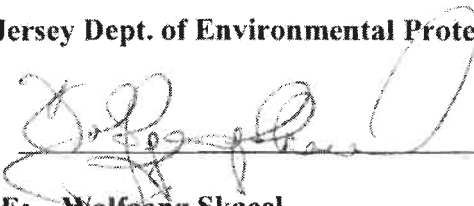
By this signature, I certify that I have full authority to execute this document on behalf of the AUTHORITY.

New Jersey Dept. of Environmental Protection

DATED:

3/18/09

BY:



NAME: Wolfgang Skacel

TITLE: Asst. Commissioner, Compliance & Enforcement

By this signature, I certify that I have full authority to execute this document on behalf of the Department.

# **EXHIBIT P**



**State of New Jersey**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**JON S. CORZINE**  
Governor

**LISA P. JACKSON**  
Commissioner

Bureau of Nonpoint Pollution Control  
Division of Water Quality  
P.O. Box 029 Trenton, NJ 08625-0029  
Phone : 609-633-7021, 292-0407  
Fax: 609-984-2147

06/12/2008

**MONMOUTH PARK RACE TRACK**  
**175 OCEANPORT AVE**  
Oceanport, NJ 07757

Re: R8 -Concentrated Animal Feeding Operation (CAFO) GP NJ0108456  
NJPDES: NJG0077224 PIID #: 47138  
MONMOUTH PARK RACETRACK  
Oceanport Boro, Monmouth

Dear Richard Van Wagner:

Enclosed is a final New Jersey Pollutant Discharge Elimination System (NJPDES) permit action identified above which has been issued in accordance with N.J.A.C. 7:14A.

No written comments were received on the draft action during the comment period, and no provisions of the draft permit have been changed in the final permit. Therefore, the right by you, or any third party, to contest the permit conditions in an adjudicatory hearing is hereby waived pursuant to N.J.A.C. 7:14A-15.13.

Questions or comments regarding the final action should be addressed to Daniel Kuti at (609) 984-8211.

Sincerely,

Barry Chalofsky, P.P., Chief,  
Bureau of Nonpoint Pollution Control  
Division of Water Quality

Enclosures

**RECEIVED**

**JUN 17 2008**

**ENGINEERING DEPT.**  
**NJSEA**



New Jersey Department of Environmental Protection

**Bureau of Nonpoint Pollution Control**  
**Division of Water Quality**  
PO Box 029  
Trenton, NJ 08625-0029  
Phone: (609) 633-7021  
Fax: (609) 984-2147

**RENEWAL OF AUTHORIZATION TO DISCHARGE**  
**R8 -Concentrated Animal Feeding Operation (CAFO) GP**

Facility Name:

PI ID #: 47138

**MONMOUTH PARK RACETRACK**

Facility Address:

175 OCEANPORT AVE  
OCEANPORT, NJ 07757-0000

NJPDES #: NJG0077224

Owner:

NJ SPORTS & EXPOSITION AUTH  
50 RT 120  
MEADOWLANDS SPORTS COMPLEX  
EAST RUTHERFORD, NJ 07073

Operating Entity:

MONMOUTH PARK RACE TRACK  
175 OCEANPORT AVE  
OCEANPORT, NJ 07757

Issuance Date:

06/12/2008

Effective Date:

06/01/2008

Expiration Date:

05/31/2013

Your Request for Authorization under NJPDES General Permit No. NJ0108456 has been approved by the New Jersey Department of Environmental Protection.

Date: 06/12/2008

Barry Chalofsky, P.P., Chief  
Bureau of Nonpoint Pollution Control  
Division of Water Quality  
New Jersey Department of Environmental Protection



## FACT SHEET

### CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) NJPDES GENERAL DISCHARGE PERMIT RENEWAL

Permit No. NJ0138631

#### INTRODUCTION

This permit authorizes new and existing discharges from concentrated animal feeding operations (CAFOs) and designated animal feeding operations (AFOs) required to obtain a permit pursuant to N.J.A.C. 7:14A-2.13. This permit is also available to any AFO who voluntarily submits a Request for Authorization (RFA).

Some CAFOs and AFOs have been identified as a source of significant pollution to the surface and ground waters of the State as a result of inadequate animal management practices. The Concentrated Animal Feeding Operations (CAFOs) NJPDES General Discharge Permit No. NJ0138631 (the permit) controls the discharge of process wastewater, process-generated wastewater, and stormwater from areas of animal confinement, feeding, and maintenance. The permit requires the preparation and implementation of a Comprehensive Waste Management Plan (CWMP) designed to manage all wastes originating from a CAFO. The CWMP includes a Comprehensive Nutrient Management Plan prepared in accordance with NRCS's Comprehensive Nutrient Management Planning Technical Guidance (Appendix 1 of the permit) in addition to other waste management measures specifically required by the permit.

The permit requires that CAFOs comply with the federal effluent limitation guideline, which allows no discharge to the waters of the state from a CAFO, except when chronic or catastrophic storm events cause an overflow from a facility designed, constructed, and operated to hold process wastewater, process-generated wastewater plus stormwater runoff from a 25-year, 24-hour storm event. The CWMP must include measures for complying with the effluent limitation and a schedule for implementing those measures. Many CAFOs may choose to construct a waste retention structure to comply with the effluent limitation though allows for other measures (storage tank) to be implemented as part of the CWMP as long as compliance with the effluent limitation is attained. The permit contains specific design standards for the construction of a lined waste retention structure to prevent the discharge of nutrients and other pollutants to ground water.

The Comprehensive Waste Management Plan is a grouping of conservation practices and management activities which, when implemented, will help ensure that production and environmental goals are achieved. Specifically, the CWMP includes best management practices for manure and wastewater handling and storage, land application practices, nutrient management, feed management and establishes record keeping requirements. The CWMP must be prepared by the permittee in accordance with United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Comprehensive Nutrient Management Planning Technical Guidance (attached to the permit as Appendix 1) and submitted to the appropriate Soil Conservation District (SCD) for review. The Department will approve or deny the CWMP based on SCD recommendations.

## **BACKGROUND**

Since 1972, Section 502(14) of the Clean Water Act (CWA) has defined concentrated animal feeding operations as point sources subject to the prohibition against discharging pollutants to waters of the United States without a NPDES permit. In 1976, USEPA promulgated National Pollutant Discharge Elimination System (NPDES) regulations to define the term "concentrated animal feeding operations". In 1987, the CWA was amended to include section 402(p), which regulates discharges composed entirely of stormwater, including stormwater discharges from CAFOs. Federal NPDES regulations, at 40 CFR 122.23(a), specifically state that concentrated animal feeding operations, and other animal feeding operations designated as concentrated feeding operations, are subject to the NPDES permitting program. In addition, the State of New Jersey Administrative Code (N.J.A.C. 7:14A-2.13) requires CAFOs and other designated AFOs to obtain a NPDES permit for their discharges.

As part of the Clean Water Action Plan, the U.S. Department of Agriculture (USDA) and the U.S. Environmental Protection Agency (USEPA) have proposed a Unified National Strategy for AFOs. This effort is in response to recent environmental concerns, such as Pfiesteria, that have been linked to CAFOs and AFOs. Inspections by the New Jersey Department of Environmental Protection's (Department) Water Compliance and Enforcement (WCE) Element has confirmed that, in some cases, significant pollutants are entering surface and ground waters, as a result of inadequate animal management practices. The USEPA has requested that the Department (and most other states) prepare a statewide strategy that outlines how AFOs and CAFOs will be managed and/or regulated.

This effort is being closely coordinated between the Division of Water Quality (DWQ), WCE and the Division of Watershed Management (DWM) within the Department. The Department is also coordinating its efforts with the New Jersey Department of Agriculture (NJDA) in recognition of the latter's statutory role and its partnership with state and federal conservation agencies. The proposed strategy is consistent with the Department Strategic Planning goal of Clean and Plentiful Water, as well as the point and nonpoint source pollution elimination objectives of both the Department's Strategic Plan and the Performance Partnership Agreement with USEPA Region 2. This draft permit is to implement this strategy and is intended to meet the directives of the Strategic Plan and the Performance Partnership Agreement.

## **TYPE OF FACILITY OR REGULATED ACTIVITY**

This permit authorizes new and existing discharges from concentrated animal feeding operations and designated animal feeding operations required to obtain a permit pursuant to N.J.A.C. 7:14A-2.13. This permit is also available to any AFO who voluntarily submits a Request for Authorization (RFA). Facilities with discharges already authorized under another general or individual NPDES-DSW (including an expired permit) are not eligible for authorization under this permit except through a revoke and reissue permit action by the Department.

This permit applies to all areas of the State of New Jersey. However, new discharges to surface waters classified as Category One (C1) waters, Pinelands Waters (PL), or FW1 designated in

the tables in N.J.A.C. 7:9B-1.15, are not eligible for authorization under this general permit. New facilities which discharge to ground water in areas classified under N.J.A.C. 7:9-6 as Class 1-A and Class 1-PL, or which discharge to ground water that contributes to surface waters classified as C1 or FW1, are also not eligible for authorization under this general permit.

### **BASIS FOR PERMIT CONDITIONS**

The permit requires that CAFOs or AFOs that seek authorization meet applicable federal technology-based effluent limitations and implement a CWMP that contains measures to comply with the effluent limitation. These measures may include the construction of a waste retention structure with adequate volume capacity to hold process-generated wastewater and runoff up to a 25-year, 24-hour storm event. This requirement is imposed pursuant to the effluent limitation guidelines at 40 CFR Part 412 for feedlots with over 1,000 animal units. Federal regulations require that all NPDES permits for animal feeding operations with over 1,000 animal units must contain an equivalent or more stringent effluent limitation. The effluent limitation prohibits the discharge to surface water, except discharges that result from storm events greater than a 25-year, 24-hour storm. Technology-based effluent limitation guidelines are not established for animal feeding operations with fewer than 1,000 animal units, instead effluent limitation guidelines are based on best professional judgement (BPJ). The Department, however will be applying the technology-based effluent limitation guidelines to all CAFOs and AFOs that seek authorization under the general permit to establish consistency and to simplify the calculation of animal units present at a CAFO/AFO. The Department has found it difficult to accurately determine the number of animal units at a CAFO/AFO due to the constantly varying number and types of animals that may be present at an animal feedlot at any given time.

To protect New Jersey's ground water, design standards are included in the permit for the construction of a waste retention structure. The design standards require that the waste retention structure be lined, or be a storage tank. This ensures compliance with the Department's Ground Water Quality Standards (N.J.A.C. 7:9-6) by eliminating potential discharges from the waste retention structure to the ground waters of the state. The design standards also insure the integrity of both the structure and the liner. An Operations and Maintenance Manual requires regular inspections of the liner, integrity testing of the liner, and the development of an emergency plan.

The Comprehensive Waste Management Plan (CWMP) is to be developed in accordance with NRCS' "Comprehensive Nutrient Management Planning Technical Guide". It is a mandatory permit requirement, which when implemented will minimize the potential impact of animal feedlot activities. A CWMP is a grouping of conservation practices and management activities, which incorporate methods to utilize animal manure and organic by-products as a beneficial resource while reducing threats to water quality and public health from animal feedlot operations. It requires appropriate crop selection, soil testing, and sets application rates for land application of waste for optimum nutrient uptake. When properly implemented, CWMP will prevent excessive nutrients reaching the ground waters of the state, thus protecting ground water and surface water quality. The CWMP shall at minimum address the following:

- Manure and wastewater handling and storage
- Land treatment practices

- Nutrient management
- Record keeping
- Feed Management
- Other utilization activities
- Soil erosion

The CWMP is to be prepared by the permittee, reviewed by the appropriate SCD and approved by the Department. The permit requires that CWMP be prepared and implemented upon the submittal of a Request For Authorization (RFA) to the Department.

The CWMP must ensure that there shall be no discharges from the CAFOs that is not the result of a catastrophic or chronic rain event. A catastrophic rain event is a rain event in excess of a 25-year, 24-hour storm. A chronic rain event is a series of wet weather conditions that preclude dewatering of properly maintained waste retention structures.

CAFOs and designated AFOs are currently regulated pursuant to section 402(p) of the Federal Water Pollution Control Act if they discharge to surface water. The BMPs required as part of a Comprehensive Waste Management Plan are authorized by the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) and the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.* These statutes are implemented by the National Pollutant Discharge Elimination System (NPDES, 40 CFR Part 122) and the New Jersey Pollutant Discharge Elimination System (NJPDDES, N.J.A.C. 7:14A) permit programs.

The CWMP will require the implementation of various Best Management Practices (BMPs). The Department is authorized under the federal regulations (40 CFR 122.44) and under NJPDDES rules (N.J.A.C. 7:14A-6.2(b) to impose BMPs to control or abate the discharge of pollutants in lieu of numeric effluent limitations. BMPs will be required when the Department finds them necessary to achieve effluent limitations and standards, or to carry out the purposes and intent of the State and Federal Acts.

#### **PROCEDURES FOR REACHING FINAL DECISIONS ON THE DRAFT PERMIT**

Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing, and other procedures for participation in the final agency decision, as set forth in *N.J.A.C. 7:14A-15, 16, and 17*. The comment period will begin on the date the public notice is published in DEP Bulletin and will end thirty (30) days after publication.

#### **DEPARTMENT CONTACT**

Additional information concerning the draft permit may be obtained between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday from: Daniel Kuti, Bureau of Nonpoint Pollution Control at (609) 633-7021 or (609) 292-0407.

## PART I

### NARRATIVE REQUIREMENTS

#### Concentrated Animal Feeding Operation (CAFO) GP

##### A. General Conditions

1. The following conditions are incorporated by reference. The permittee is required to comply with the rules which were in effect as of the effective date of the final permit.
  - a. General Permits (N.J.A.C. 7:14A-6.13)
  - b. Penalties for Violations - N.J.A.C. 7:14-8.1 et seq.
  - c. Consolidation of Permit Processing - N.J.A.C. 7:14A-15.5
  - d. Incorporation by Reference - N.J.A.C. 7:14A-2.3
  - e. Enforcement Action - N.J.A.C. 7:14A-2.9
  - f. General Conditions Applicable to All Permittees - N.J.A.C. 7:14A-6.2 (see also section A.4.c.)
  - g. Duty to Reapply - N.J.A.C. 7:14A-4.2(e) (see also section A.4.d.)
  - h. Administrative Continuation of Permits - N.J.A.C. 7:14A-2.8
  - i. Duty to Mitigate - N.J.A.C. 7:14A-6.2(a)5,6.2(a)1
  - j. Permit Actions - N.J.A.C. 7:14A-2.7(c)
  - k. Permit Duration and Renewal - N.J.A.C. 7:14A-2.7(a), (b)
  - l. Effect of Permit - N.J.A.C. 7:14A-2.9(c), 6.2(a)6&7 (see also section E. 1.)
  - m. Inspection and Entry - N.J.A.C. 7:14A-2.11(c)
  - n. Severability - N.J.A.C. 7:14A-2.2(b)
  - o. Toxic Pollutants - N.J.A.C. 7:14A-6.2(a)4 (see also section E. 1.)
  - p. Standard Reopener Clause - N.J.A.C. 7:14A-6.2(a)10
  - q. General Permits - N.J.A.C. 7:14A-6.13
  - r. Fee Schedule - N.J.A.C. 7:14A-3.1
2. Operation and Maintenance
  - a. Proper Operation and Maintenance - N.J.A.C. 7:14A-6.12(a)
  - b. Need to Halt or Reduce not a Defense - N.J.A.C. 7:14A-2.9(b)
  - c. Bypass - N.J.A.C. 7:14A-6.11

d. Upset - N.J.A.C. 7:14A-6.11

**3. Records and Reporting Requirements**

- a. Record Keeping - N.J.A.C. 7:14A-6.6
- b. Planned Changes - N.J.A.C. 7:14A-6.7
- c. Changes in Discharge - N.J.A.C. 7:14A-6.7
- d. Anticipated Noncompliance - N.J.A.C. 7:14A-6.7
- e. Transfer - N.J.A.C. 7:14A-6.2(a)8, 6.13(n), 16.1, 16.2
- f. Compliance Schedules - N.J.A.C. 7:14A-6.4
- g. Noncompliance Reporting - N.J.A.C. 7:14A-6.10
- h. Duty to Provide Information - N.J.A.C. 7:14A-2.11, 6.2(a)14
- i. Signatory Requirements - N.J.A.C. 7:14A-4.9
- j. Public Access to Information - N.J.A.C. 7:14A-18.1
- k. Additional Requirements for all Existing Manufacturing, Commercial Mining, Silviculture, and Research Facilities - N.J.A.C. 7:14A-11.3
- l. Missing or Incorrect Information - N.J.A.C. 7:14A-2.11(f), 6.10(e)2 & (f)3
- m. Confidentiality - N.J.A.C. 7:14A-18.2
- n. Copies of the NJPDES rules may be purchased by contacting:

West Group  
St. Paul, Minnesota  
1-800-808-West

Converting former

Office of Administrative Law subscriptions: 800-328-4880

**4. Permit Area**

- a. This permit applies to all areas of the State of New Jersey.

**5. Eligibility**

- a. This permit may authorize all new and existing discharges to surface and groundwater, including stormwater, process wastewater, and process generated wastewater discharges from Concentrated Animal Feeding Operations (CAFOs) as defined in this permit, except for the following:
  - i. Stormwater, process waste water, and process generated wastewater discharges authorized under another NJPDES Discharge to Surface Water Permit (DSW) or Discharge to Groundwater Permit (DGW) (including an expired permit).
  - ii. Discharges of domestic sewage.

- iii. New operations with discharges to surface waters classified as Category One (C1), Pinelands Waters (PL) or Fresh Water One (FW1) designated in the tables in N.J.A.C. 7:9B-1.15.
- iv. New operations with discharges to ground water in areas classified under N.J.A.C. 7:9-6 as Class 1-A and Class 1-PL, or which discharge to ground water that contributes to surface waters classified as C1 or FW1.

**6. Requiring an Individual NJPDES Permit or Another General Permit**

- a. The Department may require any permittee authorized under this permit to apply for and obtain an individual permit, or seek and obtain authorization under another general permit.
- b. Any permittee authorized under this permit may request to be excluded from authorization under this permit by applying for an individual permit or for another general permit.
  - i. Revocation of existing permits under such circumstances as above, is governed by N.J.A.C. 7:14A-6.13.
- c. If, after receiving authorization under this permit, a facility is required by the Department to obtain another NJPDES permit that would also cover the authorized discharge, then authorization under this permit shall remain in effect only until either:
  - i. The date such other permit becomes effective; or
  - ii. The date the application for such other permit (or request for authorization under another general permit) is denied.
- d. If a facility fails to submit an application or request for authorization by the date specified by the Department, then the general permit authorization remains in effect only until that date.

**7. Authorization**

- a. In order to obtain authorization under this permit (except for automatic renewal authorization under 7:14A-6.13(d)9), a complete Request for Authorization (RFA) shall be submitted in accordance with the requirements of part II of this permit. Upon review of the RFA, the Department may, in accordance with N.J.A.C. 7:14A-6.13, either:
  - i. Issue notification of authorization under this permit, in which case, authorization is deemed effective the first day of the following month of the date of the notification of authorization;
  - ii. Deny authorization under this permit and require of an application for an individual NJPDES permit; or
  - iii. Deny authorization under this permit and require submittal of an RFA for another general permit.

**8. Automatic Renewal of Authorization**

- a. Authorization under this permit will be automatically renewed when this general permit is reissued as provided by N.J.A.C. 7:14A-6.13(d)9 so long as the discharge authorized under the general permit continues to be eligible.
- b. The Department shall issue a notice of renewed authorization to the permittee.
  - i. If the permittee is aware of any information in the most recently submitted RFA that is no longer true, accurate, and/or complete, the permittee shall provide the correct information to the Department within 90 days of the effective renewal authorization notice.

- ii. A permittee whose authorization was renewed as provided above may request to be excluded from the reissued general permit in accordance with N.J.A.C. 7:14A-6.13(g), and may also request a stay of the application to that permittee of any new/additional conditions of the reissued permit in accordance with N.J.A.C. 7:14A-17.6.

**9. Other Discharges**

- a. If, at any time, it is discovered that the facility generates and discharges to surface waters or ground waters any wastewater other than process wastewater, process generated wastewater and stormwater associated with animal confinement, feeding, and maintenance operations, the permittee shall discontinue such discharges or apply for the appropriate NJPDES DSW or DGW permit in accordance with the NJPDES rules at N.J.A.C. 7:14A.

**10. Operator Certification**

- a. The operation of a waste retention structures or other waste holding or treatment structures (i.e. treatment works) authorized to discharge under this general permit do not require a licensed operator, pursuant to N.J.A.C. 7:10A-1.10.

**11. Removed Substances/Residuals**

- a. This permit does not authorize discharge of solids, sludge, filter backwash or other pollutants removed in the course of treatment or control to the waters of the State unless specifically authorized in this permit. All solids, sludges, filter backwash, or other pollutants removed from, or resulting from the treatment or control of discharges must be disposed of in accordance with all applicable Federal, State, Local and other appropriate agency requirements.
  - i. This permit does allow the land application of sludge and wastewater from the waste retention structure provided it is applied in accordance with a Comprehensive Waste Management Plan (CWMP) required by this permit.

**B. Request for Authorization**

**1. Deadline for Requesting Authorization for an Existing CAFO**

- a. For authorization under this general permit, existing CAFOs must submit an RFA to the Department within 30 days from the effective date of the master permit.
  - i. The Department may, in its discretion, accept an RFA submitted after the foregoing deadline; however, the discharger may still be held liable for any violations that occurred prior to the submission of the RFA.

**2. Deadline for Requesting Authorization for a New CAFO**

- a. An RFA for a discharge from a CAFO must be submitted at least 30 days prior to the date upon which there may be such a discharge.
  - i. The Department may, in its discretion, accept an RFA submitted after the foregoing deadline; however, the discharger may still be held liable for any violations that occurred prior to the submission of the RFA.

**3. Persons Requesting Authorization**

- a. An RFA shall be submitted by each operating entity for any part of a facility that requires a NJPDES permit for a CAFO.



- b. When a facility is owned by one person but is currently operated by another person, the operating entity shall submit the RFA.
- c. Separate RFAs shall be submitted for separate facilities.
  - i. Two or more CAFOs under common ownership are considered, for the purposes of this general permit, to be a single facility if they adjoin each other or if they use a common area or system for the disposal of process wastewater, process generated wastewater and/or stormwater from animal confinement, feeding and maintenance operations.
  - ii. If a facility has more than one operating entity for its discharge from a CAFO, all such entities should jointly submit a single RFA for the facility. Any RFA not submitted by all known operating entities shall include an explanation with the RFA.

4. Contents of the Request for Authorization (RFA)

- a. A completed RFA shall include all of the following information regarding the regulated facility, using the Department's RFA form:
  - i. The name, mailing address, location, and EPA identification number (if assigned) of the facility.
  - ii. The 4-digit Standard Industrial Classification (SIC) code or equivalent NAICS code and corresponding short title assigned to the facility by the New Jersey Department of Labor. If the facility is exempt from Department of Labor SIC/NAICS code assignment procedures, the RFA shall provide the code and short title that best represents the principal products or activities provided by the facility.
  - iii. The legal name, address, and business telephone number of all known current owners and operating entities, and, if applicable, their agents and engineers. The RFA shall also identify whether each person named is an owner, an operating entity, or both; which of these persons is submitting the RFA; and whether the owner or operating entity is a Federal, State, or other public agency, or is a private entity. Any RFA not submitted by all known operating entities shall also state that the facility has other operating entities who refused to join in submitting the RFA.
  - iv. The Federal tax identification number of the owner.
  - v. An 8.5" x 11" copy of a portion of the U.S. Geological Survey Topographic Map, 7.5 minute quadrangle series, showing the boundaries of the facility and the name of the quadrangle(s).
  - vi. The RFA shall identify all stormwater, process wastewater, and process generated wastewater discharge locations to both DSW and DGW (except land application areas), including outfalls and drainage areas not serviced by an outfall (DANS).
  - vii. The type and number of animals in open confinement and housed under roof.
  - viii. A description of current and proposed operations including activities conducted by the applicant which require a NJPDES permit. The description is to include feeding operations, waste handling practices and means of discharge.
  - ix. Proposed date upon which there may be a new discharge from CAFOs, where applicable.
  - x. A list of any individual NJPDES permits for discharges issued for the facility (including Discharge to Surface and Discharge to Ground Water permits).
  - xi. The RFA certification contained in Attachment A.

- xii. A CAFO with discharge(s) to the waters of the state are required to comply with the effluent limitation (see Section D - Effluent Limitation) prior to the onset of operations and/or submittal of a RFA. The RFA must include, in addition to the above, certifications on appropriate forms provided by the Department that the CWMP has been prepared, and that the CWMP has been fully implemented:
- xiii. Additional information may be required by the Department to be included as part of the RFA if the Department determines that such additional information is necessary to determine whether to authorize the discharge under this general permit.

**5. Where to Submit RFA**

- a. A completed and signed RFA with appropriate attachments shall be submitted to the Department at the address specified on the Department's RFA form.

**6. Additional Notification**

- a. Facilities that discharge through a municipal separate storm sewer system must also submit a copy of the RFA to the owner of and operating entity for that system.
- b. Persons requesting authorization shall also submit a copy of the RFA to each owner (if any) of the facility who did not submit the RFA.

**C. Definitions**

**1. The following definitions apply to this permit.**

- i. "25-year, 24-hour Storm" means the maximum 24-hour precipitation event with a probable recurrence of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom. [40 CFR Part 412.11(e)].
- ii. "Catastrophic Rain Event" means a storm event exceeding a 25-year, 24-hour storm.
- iii. "Chronic Rain Event" means a series of wet weather conditions that preclude dewatering of properly maintained waste retention structures. A discharge from the waste retention structure resulting from a chronic rain event is not considered a violation of the permits conditions or the Clean Water Act.
- iv. "Comprehensive Waste Management Plan (CWMP)" is a plan designed to manage all wastes originating from a CAFO. A CWMP includes a Comprehensive Nutrient Management Plan prepared in accordance with NRCS's Comprehensive Nutrient Management Planning Technical Guidance (Appendix 1 of the permit) in addition to other waste management measures specifically required by this permit.
- v. "Concentrated Animal Feeding Operation (CAFO)" means for the purposes of this permit, a concentrated animal feeding operation pursuant to N.J.A.C. 7:14A-2.13(b), a designated animal feeding operation pursuant to N.J.A.C. 7:14A-2.13(d), and any other animal feeding operation that chooses to submit a RFA.
- vi. "DANS" means drainage areas not served by stormwater outfalls and refers to areas where the discharge to surface water occurs through sheetflow or overland flow and not through a discreet conveyance like a ditch, swale or conduit.

- vii. "EDP" means Effective Date of the Permit. This is the effective date of the general permit and not the facility's individual authorization.
- viii. "Effluent Limitation" allows no discharges to the waters of the state from a CAFO, except when chronic or catastrophic storm events cause an overflow from a facility designed, constructed, and operated to hold process wastewater, process generated wastewater plus stormwater runoff from a 25-year, 24-hour storm event (see Section D - Effluent Limitation).
- ix. "Feedlot" shall mean a concentrated, confined animal or poultry growing operation for meat, milk or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.
- x. "Process Generated Wastewater" means water directly or indirectly used in the operation of a feedlot for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing of pens, barns, manure pits or other feedlot facilities; direct contact, swimming, washing or spray cooling of animals; and dust control.
- xi. "Process Wastewater" means any process generated wastewater and any precipitation (rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animal or poultry or direct products (e.g., milk, eggs).
- xii. "Stormwater" means stormwater runoff, snow melt runoff, surface runoff and drainage.
- xiii. "Waste Retention Structure" means a structure designed, constructed, and operated to hold process wastewater, process generated wastewater and stormwater runoff from areas of animal confinement, feeding, and maintenance up to and including a 25-year, 24-hour storm event. The waste retention structure must be lined basin or a storage tank.

#### **D. Effluent Limitation**

##### **1. Effluent Limitation for CAFOs**

- a. There shall be no discharge from a CAFO to the waters of the State, except when chronic or catastrophic storm events cause an overflow from a facility designed, constructed, and operated to hold process wastewater, process generated wastewater plus stormwater runoff from a 25-year, 24-hour storm event.
- b. Any CAFO authorized under this permit shall prepare and implement a Comprehensive Waste Management Plan (CWMP) designed to comply with the effluent limitation in accordance with Section H of this permit.

#### **E. Reporting**

##### **1. Annual Reports and Recertifications**

- a. The permittee shall prepare an annual report summarizing the findings of the annual inspection performed in accordance with the "Operations and Maintenance" section of this permit. This annual report shall include:
  - i. the date of inspection;
  - ii. name(s) and title(s) of the inspectors; and

- iii. an completed annual certification on an appropriate form provided by the Department that the facility is in compliance with its CWMP and this permit.
- iv. If there are any incidents of non-compliance, those incidents shall be identified in the certification and the steps taken or being taken to remedy the non-compliance, and to prevent such incidents from recurring.
- b. The annual report and recertification shall be submitted annually in accordance with the requirements contained in Section G - Submittals.

**2. Annual Inspection Certification**

- a. The permittee shall conduct annual inspections of the facility to assess all areas contributing to the discharge authorized by this permit, to evaluate whether the CWMP complies with and is implemented in accordance with this permit, and whether additional measures are needed to meet the conditions of this permit. In addition to the annual inspections, the permittee may need to conduct more frequent inspections of the facility as appropriate.
  - i. A completed annual report and recertification on an appropriate form provided by the Department Shall be submitted every February 1st.
  - ii. Inspections should be made during both dry and wet weather conditions to better assess the function of implemented best management practices (BMPs) and structural controls. Inspections conducted during dry periods allow facilities to identify and address any problems prior to a storm event, thereby minimizing the chance for stormwater contamination. This would include observing BMPs such as feed management, waste handling, land application practices, and overall site management. Inspections during significant storm events ensure that BMPs and structural controls are functioning as intended and provide an opportunity for facilities to observe what materials and/or activities are exposed to stormwater.
  - iii. If, as a result of the annual inspection, it is discovered that modifications to the CWMP are required, a summary of any modifications should be submitted to the BNPC and the appropriate Water Compliance and Enforcement Bureau.

**F. Record Keeping**

**1. Record Keeping Requirements**

- a. The permittee shall retain records of all monitoring information including annual manure tests, lab sheets, soil tests, maintenance records, fertilizer and manure application records, all records required by the CWMP, and copies of all reports required by this permit for a period of at least five years.

**2. CWMP Record Keeping Requirements**

- a. The original CWMP shall be retained at the facility for use and inspection by the Department.
- b. The CWMP must be made available, upon request, to a representative of the Department and to the owner and operator of any municipal separate storm sewer that receives runoff from the facility.

**3. Soil Erosion and Sediment Control Plan Record Keeping**

- a. If the permittee is required to implement a Soil Erosion and Sediment Control Plan as a result of construction activities or land disturbance greater than one (1) acre, then a copy of the plan shall be retained by the permittee for a period of at least 5 years after the completion of construction.

**G. Submittals****1. CWMP Preparation Certification and CWMP Implementation Certification Submittal Requirements**

- a. A Comprehensive Waste Management Plan (CWMP) shall be prepared and implemented in accordance with Section H of the permit, and certified in accordance with the CWMP Preparation Certification, and the CWMP Implementation Certification using the appropriate forms provided by the Department.
  - i. The CWMP Preparation Certification certifies to the Department that the facilities CWMP has been prepared in accordance with the terms of this permit and Comprehensive Nutrient Management Planning Technical Guidance (Appendix I).
  - ii. The CWMP Implementation Certification certifies to the Department that the CWMP has been fully implemented in accordance with the terms of this permit and the Comprehensive Nutrient Management Planning Technical Guidance. This includes the completion of the waste retention structure or other measures needed to comply with the effluent limitation contained in the permit.
  - iii. A facility is required to submit CWMP Preparation Certification, and CWMP Implementation Certification with the Request for Authorization (RFA) pursuant to the Section B - Request for Authorization.

**2. Annual Recertification Submittal Requirement**

- a. The permittee shall prepare an annual report and annual recertification to the Department as required in Section B - Reporting. The Annual Recertification certifies that the facility is in compliance with its CWMP, the effluent limitation, and the conditions of the permit. The annual report and recertification shall be submitted to the Department in accordance with the submittal schedule below:
  - i. Submit a CWMP Implementation and Inspection Recertification: by February 1 of each year... The recertification should be submitted using forms provided by the Department.

**H. Comprehensive Waste Management Plan****1. Preparation of a Comprehensive Waste Management Plan**

- i. A CAFO with discharge(s) to the waters of the state are required to comply with the effluent limitation (see Section D - Effluent Limitation) prior to the onset of operations. A CAFO must have a CWMP prepared and implemented prior to the submittal of an RFA. The RFA must include certifications that the CWMP has been prepared, and that the CWMP has been fully implemented.
- a. The CWMP is a plan designed to manage all wastes originating from CAFOs. A CWMP includes a Comprehensive Nutrient Management Plan in addition to other waste management measures specifically required by this permit.
  - i. The CWMP shall include measures for complying with the effluent limitation contained in this permit and a schedule for implementing those measures. Interim measures or milestones must be completed in accordance with permit conditions.

- ii. The Natural Resource Conservation Service (NRCS) requires that the Comprehensive Nutrient Management Plan (CNMP) meet NRCS technical standards and shall be prepared in accordance with the NRCS's Comprehensive Nutrient Management Planning Technical Guidance which is attached to the permit as Appendix 1. The NRCS's Comprehensive Nutrient Management Planning Technical Guidance is not intended as a sole-source reference for developing CNMPs. It is to be used as a tool in the conservation planning process along with other NRCS publications including NRCS's National Planning Procedures Handbook, NRCS's Field Office Technical Guide, NRCS technical references, handbooks and policy directives.
  - b. The CWMP must address, among other things, manure and wastewater handling and storage, land treatment practices, nutrient management, record keeping, feed management, and utilization activities and address their potential impacts on water quality.
    - i. The CWMP shall include a site map with facility boundaries, drainage patterns, discharge locations, buildings, runoff diversion and control systems, basins, storage tanks, feeding areas, pasture areas, fields where manure is applied, crops grown, manure handling systems, a bar scale and other relevant information.
    - ii. The CWMP must be prepared by the permittee or others authorized by the permittee and submitted to the appropriate Soil Conservation District (SCD). The SCD shall review the CWMP and make recommendations to the permittee and the Department. Based on SCD recommendations, the Department may approve or deny the CWMP. A list of Soil Conservation Districts in New Jersey is attached to the permit as Appendix 2.
2. **Implementation of a Comprehensive Waste Management Plan**
  - a. The Comprehensive Waste Management Plan must include an implementation schedule with specific timeframes and milestones for implementing all elements of the CWMP. At minimum, the implementation schedule shall include the following milestones:
    - i. The CWMP shall include, but are not limited to measures such as good housekeeping, proper disposal of dead animals, conservation crop rotation, feed management, vector control, filter strips, soil stabilization, and calculation of proper land application rates.
    - ii. The permittee shall divert clean stormwater away from areas of animal confinement, feeding, and maintenance. This includes the possible installation of structural diversion controls such as ditches, swales, and berms and the installation of roofs and downspouts over feeding and housing areas. Downspouts should direct the clean stormwater away from animal confinement, feeding, and maintenance areas reducing the design capacity of the waste retention structure or other facilities designed to comply with the effluent limitation contained in the permit.
    - iii. The CWMP shall be fully implemented and the permittee shall have completed construction and begun operation of the waste retention structure or other measures specified in the CWMP designed to comply with the effluent limitation upon the submittal of a Request for Authorization (RFA).
3. **Engineering Practices**
  - a. The CWMP shall be prepared and implemented in accordance with good engineering practices and shall be consistent with the applicable conditions identified in NRCS' Comprehensive Nutrient Management Planning Technical Guidance (Appendix 1), National Planning Procedures Handbook, and Technical References, Handbooks, and Policy Directives.
4. **Waste Retention Structure**

- a. The permittee's CWMP may contain provisions for the construction of a waste retention structure (options for compliance with the effluent limitation are not solely limited to the construction of a waste retention structure) to comply with the permits effluent limitation. If a waste retention structure is to be constructed, then the following conditions are applicable and must be met.
  - i. The timeframes for beginning and completing construction of the waste retention structure and interim milestones, must be incorporated into a CWMP implementation schedule referenced above.
  - ii. The waste retention structure must be completed and operational upon submittal of RFA.
- b. The waste retention structure shall be designed and built in accordance with the NRCS Conservation Practice Standard for a Waste Storage Facility (CODE No. 313) which may be found in the attached "Comprehensive Nutrient Management Planning technical Guidance" (Appendix 1).
- c. No Discharge is permitted from the waste retention structure except for catastrophic and chronic rain events. A catastrophic event exceeds a 25-year, 24-hour storm event. Catastrophic events would cause an overflow from the required waste retention structure. Chronic rainfall is a series of wet weather conditions that preclude dewatering from a properly maintained waste retention structure. Discharges from the waste retention structure do not violate the permits conditions if they result from catastrophic or chronic rain events.
- d. The capacity of the waste retention structure shall be designed and calculated in accordance with the NRCS Conservation Practice Standard for a Waste Storage Facility (Code 313) which may be found in the attached "Comprehensive Nutrient Management Planning Technical Guidance" (Appendix 1). Specifically, design criteria are contained in sections entitled "Storage Period" and "Design Storage Volume". The capacity of the waste retention structure shall be based on the storage period required for environmentally safe waste utilization, disposal, or treatment as prescribed in the CWMP.
  - i. The permittee shall minimize the amount of process wastewater, process generated wastewater and clean stormwater runoff that drains to the waste retention structure. The permittee shall divert clean stormwater away from areas of animal confinement, feeding, and maintenance. This includes the possible installation of structural diversion controls such as ditches, swales, and berms and the installation of roofs and downspouts over feeding and housing areas. Downspouts should direct the clean stormwater away from animal confinement, feeding, and maintenance areas reducing the design capacity of the waste retention structure. Process generated wastewater may be reduced or eliminating spillage or overflow from watering systems, using dry cleaning methods for cleaning of feeding and housing areas including pens, stables and housing, and minimizing spray cooling and washing of animals (as appropriate).
- e. The waste retention structure shall be either be a lined basin or a storage tank. The liner may be either synthetic or soil. Synthetic liners must be at least 30 mils thick and constructed to prevent the flow of liquids through the liner. Soil liners must be at least 1 foot thick with a maximum saturated hydraulic conductivity of  $3.28 \times 10^{-9}$  ft/sec ( $1 \times 10^{-7}$  cm/sec) under maximum anticipated hydrostatic head. Facilities with areas unsuitable for lined basins due to bedrock, topography, deep weathering or outcrops of fractured bedrock, must install a storage tank or demonstrate that the structural integrity of the lined basin foundation will not be affected.
  - i. During construction and installation, synthetic liners are to be inspected for uniformity, damage, and imperfections and to ensure tight seams and joints, and the absence of tears and blisters.

- ii. Existing waste retention structures (those constructed prior to the effective date of the general permit), must be certified that they meet or upgraded to meet the standard contained in NRCS - Conservation Practice Standard for Waste Storage Facility (No. CODE 313).
  - f. Erosion protection shall be provided on all slopes.
  - g. Adequate storage capacity must be maintained in the waste retention structure by dewatering and land application of the waste in accordance with the facility's Comprehensive Waste Management Plan.
    - i. If waste from the waste retention structure cannot be land applied due to weather conditions (flooding, frozen ground, snow cover) and adequate storage volume does not exist (minimum of 1 ft. freeboard) then the waste must be hauled for proper disposal and records/manifests of such disposal must be kept onsite.
5. Requirements for all Basins (Waste Retention Structure)
- a. For the purpose of this permit, the waste retention structure is considered a basin (unless it is a storage tank), and is considered a regulated unit pursuant to N.J.A.C. 7:14A-7.3(b). The common feature of these basins is that they are topographic depressions or bermed areas designed to hold, treat and/or transmit pollutants.
  - b. The following items are additional specific requirements for basins and shall be addressed in the facility's O & M Manual required by Section J of the permit:
    - i. A schedule of physical inspections of all visible portions and areas surrounding the basin unit(s) to:
      - Ensure that the liner material and berms have remained structurally sound;
      - Detect evidence of any deterioration, breakout, malfunctions or improper operation of the over-topping control system;
      - Detect sudden drops in the level of the basin contents not associated with normal operation of the regulated unit;
      - Detect erosion or other signs of deterioration in berms or other containment devices;
      - Detect the presence of liquids in the leak detection system, if employed.
    - ii. Embankments shall be stable, non-eroding, and free of woody vegetation.
    - iii. Contingency procedures that will be implemented in the event the basin must be removed from service for an extended period of time for reasons other than routine maintenance and/or scheduled rotation of permitted discharge areas. This course of action must address how the discharge will be handled which can include diversion of the discharge to a previously approved reserved disposal area.
    - iv. The liner shall be maintained at its design permeability. The integrity of all surface impoundments must be periodically evaluated. Additionally, the Department may, at any time, require the certification of structural integrity based on visual observations made during facility Compliance Evaluation Inspections or other Department site visits.
    - v. Repaired or replaced liners must be tested for integrity prior to resuming discharge.
    - vi. A minimum of one integrity test shall be performed during the year prior to the date of permit expiration unless otherwise approved by the Department.
  - c. If a basin has been removed from service due to structural collapse, overtopping or non-use it may not be restored to service unless that portion of the basin which failed has been subsequently repaired.



- i. If the basin was removed from service due to actual or imminent bank or side wall failure, a New Jersey Licensed Professional Engineer shall certify by signature and seal the structural integrity of the bank and side wall prior to the redirection of flow to the basin. Said certification shall be received by the Department prior to the resumption of discharge to the basin.
- ii. If a basin was inactive for more than six months due to structural collapse or overtopping, the permittee shall obtain all applicable approvals and submit a certification from a New Jersey Licensed Professional Engineer that it is structurally sound. The certification shall be signed and sealed by the New Jersey Licensed Professional Engineer and shall establish that the banks, dikes, and foundation of the basin will withstand the physical and chemical stresses of resumed operation. If the basin is lined, the certification shall also state that the lined basin will not discharge to ground water.
- iii. If the original basin system or portions thereof are insufficient or inadequate, the permittee shall propose a new upgraded system. The new basin system will be installed upon issuance of a TWA from the appropriate bureau within the Division of Water Quality. A new site plan shall be submitted along with any necessary revisions to the O & M Manual.
- iv. The basin may not become operational unless all inspections and necessary repairs have been completed.

## **I. Special Conditions for Swine/Hog Livestock Operations**

### **1. Swine/Hog Feedstock**

- a. Facilities that raise swine on a diet of food wastes from residential, commercial, and/or institutional sources shall include, as part of their CWMP, a best management practice for the proper handling and disposal of all food waste, inedible material and solid waste.
- b. The facility shall provide covered structures for the storage and cooling of "cooked" feedstock and commercial bulk materials such as bakery waste, food processing by-products, or outdated foods.
- c. Incoming food wastes used as swine/hog feed must be processed by screening or other appropriate means to separate solid waste and inedible material from edible food material. Screened materials shall be handled and disposed of as specified below.
- d. All feed stations shall be covered with a roof and shall have a concrete pad with curbing or sidewalks to contain all waste on the pad surface.
  - i. Feed stations shall be scraped to remove waste (remaining inedible food waste; solid waste material, manure, and urine) on a regular basis and hauled to a stockpile location.
  - ii. Inedible solid waste is prohibited on feed platforms or in feeding areas and shall be removed on a regular basis.
  - iii. Newly separated solid waste and inedible materials from screening and any solid waste removed from feed stations shall be temporarily stored on a covered concrete pad or in other covered leakproof containers (separate from solid waste accumulated from past material handling practices) until transferred for proper disposal. Hauling records/manifests must be kept on site.
  - iv. No stockpiles of newly separated solid waste may be kept on site longer than sixty (60) calendar days. Newly separated solid waste materials must be removed more frequently if the waste exceeds the capacity of the storage area.
  - v. The waste stockpile must be on a concrete pad that drains either directly or by overland flow to the waste retention structure.

**2. Waste Stockpiles**

- a. The permittee is prohibited from stockpiling waste materials within the permitted facility (except temporary storage of newly separated solid waste as allowed by the permit in conditions above).
- b. Solid waste removed from the site must be properly disposed and hauling records with destinations of the material must be maintained and kept on site for Department inspection.

**J. Operation and Maintenance****1. Operation and Maintenance**

- a. The permittee shall be responsible for supervising and managing the operation and maintenance of the facility and any Best Management Practices that are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements identified in the CWMP. Proper operation and maintenance also requires the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit.

**2. Operations & Maintenance Manual for Treatment Works**

- a. The permittee shall prepare an O & M Manual for the operation and maintenance of any treatment works, including the waste retention structure or other measures installed to comply with the effluent limitation requirement. The O & M Manual shall be made part of the CWMP. The submittal of the certification for the preparation of the CWMP, shall also certify the completion of an O & M Manual.
- b. If the items required in the O & M Manual are addressed in another document which has been approved by the department, the permittee may submit a letter to the BNPC referencing which document contains the applicable information.
- c. The most recent version of the O & M Manual as well as all records of maintenance and inspections must be kept on-site at all times and be available for inspection upon request by the Department.
- d. The permittee must ensure that all appropriate personnel including the licensed operators (as applicable), are educated about the contents and procedures contained in the O & M Manual to ensure proper implementation.
- e. The O & M Manual shall include, at a minimum, the following provisions, as applicable:
  - i. A list of all pollutants generated and/or discharged to the waste retention structure.
  - ii. A schedule of maintenance and inspections of the processes including the pollutant generation, conveyance and the discharge unit(s).
  - iii. The requirements established in this permit for unit-specific maintenance and inspection (see "Implementation of a Comprehensive Nutrient Management Plan").
  - iv. Assessment of emergency situations which affect the discharge activities as outlined in N.J.A.C. 7:14A-6.12(d)3. Emergency procedures prescribed in the O & M Manual, if implemented, shall not cause an unpermitted discharge or contravene any rules or regulations. If the discharge flows to the regulated units without the aid of pumps, the emergency plan only needs to address equipment and emergency procedures.
  - v. Procedures for correcting emergency situations.

- vi. Procedures for notifying the appropriate agencies.
  - vii. Location of any onsite temporary or permanent pollutant storage areas.
  - viii. Provisions for utilizing previously approved and constructed diversion structures or mechanisms (ditches, swales, berming, sumps, etc.) if applicable. These provisions shall include the ability to monitor for permit compliance.
  - f. If an emergency situation occurs the permittee shall review the emergency procedures contained in the O & M Manual and assess whether the procedures could be improved, or require updating. If changes in the O & M Manual are required, a copy of the updated O & M Manual shall be submitted to the BNPC.
  - g. Closure Requirements
    - i. If the permittee plans or expects closure of a regulated unit, they shall contact the appropriate Bureau of Water Compliance and Enforcement for closure requirements. A closure plan shall be submitted to the BNPC for review and approval at least 180 days prior to the planned closure of a regulated unit.
3. Soil Erosion and Sediment Control Plan
- a. For construction activities disturbing one (1) acre or more of total land area or less than one (1) acre which are part of a greater than one (1) acre plan of development or sale, authorization must be obtained under either a modification to this permit or under NJPDES Permit No. NJ0088323 (General Stormwater Permit Construction Activity), for stormwater from such construction activities that would be discharged to surface waters.
  - b. Land disturbances that may result in a stormwater discharge authorized by this permit, shall be executed only in accordance with a soil erosion and sediment control plan certified pursuant to N.J.S.A. 4:24-43, or requirements for soil erosion and sediment control established in or pursuant to a municipal ordinance in accordance with N.J.S.A. 4:24-48, whichever is applicable.
  - c. A copy of this plan shall be retained by the permittee for a period of at least 5 years after the completion of construction.



New Jersey Department of Environmental Protection  
Division of Water Quality  
Bureau of Nonpoint Pollution Control  
P.O. Box 029  
Trenton, NJ 08625-0029  
Tel: 609-633-7021 / Fax: 609-984-2147  
[www.state.nj.us/dep/dwq/nonpoint.htm](http://www.state.nj.us/dep/dwq/nonpoint.htm)



## **CERTIFICATION FORM**

### **STORMWATER POLLUTION PREVENTION PLAN (SPPP) PREPARATION, IMPLEMENTATION AND ANNUAL CERTIFICATION FOR INDUSTRIAL STORMWATER PERMITS**

#### **A. NJPDES Permit and Facility Information**

1. This form may be used to satisfy the certification requirements for the following permits:

- ☐ Basic Industrial Stormwater General Permit (NJ0088315)
- ☐ Concrete Products Manufacturing General Permit (NJ0108456)
- ☐ Scrap Metal Processing/Auto Recycling General Permit (NJ0107671)
- ☐ Hot Mix Asphalt Producers General Permit (NJ0132721)
- ☐ Newark Airport Complex General Permit (NJ0134791)
- ☐ Concentrated Animal Feeding Operations General Permit (CAFO) (NJ0138631)
- ☐ Mining & Quarrying General Permit (NJ0141950)
- ☐ Individual Industrial Stormwater Permit

2. NAME OF FACILITY:	
3. NJPDES No.:	4. PI ID No.:
5. EFFECTIVE DATE OF PERMIT:	6. CERTIFICATION DUE DATE:

#### **B. Applicable Certifications**

1. Please check which certification you are submitting.

☐ **SPPP\* Preparation Certification**

(Certifies that the SPPP was prepared in accordance with permit conditions)

☐ **SPPP\* Implementation Certification**

(Certifies that the SPPP was implemented in accordance with permit conditions)

☐ **Annual Certification**

(Certifies that an annual inspection was conducted and SPPP evaluated in accordance with permit conditions)

\* For CAFO Permits, Comprehensive Waste Management Plan (CWMP)

## CERTIFICATION FORM INSTRUCTIONS

This Certification Form replaces the certification forms required by the following NJPDES stormwater permits:

Basic Industrial Stormwater General Permit (NJ0088315)  
 Concrete Products Manufacturing General Permit (NJ0108456)  
 Scrap Metal Processing/Auto Recycling General Permit (NJ0107671)  
 Hot Mix Asphalt Producers General Permit (NJ0132721)  
 Newark Airport Complex General Permit (NJ0134791)  
 Concentrated Animal Feeding Operations (CAFO) General Permit (NJ0138631)  
 Mining & Quarrying General Permit (NJ0141950)  
 Individual Industrial Stormwater Permits

Additional copies of the Certification Form and Instructions can be downloaded from [www.state.nj.us/dep/dwg/nonpoint.htm](http://www.state.nj.us/dep/dwg/nonpoint.htm) or obtained by contacting the Bureau of Nonpoint Pollution Control (BNPC) at (609) 633-7021.

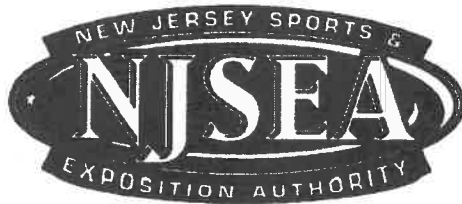
### SECTION A - NJPDES Permit and Facility Information

1. Place a checkmark in the box corresponding to the appropriate stormwater permit that your facility is authorized under. The name of the permit can be found on the permit authorization page. If you cannot locate your facility's permit authorization page, you may obtain a copy by contacting the BNPC at (609) 633-7021.
2. Provide the name of the facility. If the name of the facility has changed submit an Administrative Update Form along with the Certification Form.
3. Provide the facility's NJPDES Permit Number as it appears on the permit authorization page. All NJPDES permit numbers for facilities authorized under a general permit will begin with NJG and is different from the NJPDES Permit Number assigned to the master general permit.
4. Provide the PI ID No. as it appears on the permit authorization page.
5. Provide the effective date of permit, as it appears on the permit authorization page.
6. Provide the certification due date. The certification due date is the date or calendar quarter and year, that the certification is due. The due date is based on either the Effective Date of Permit Authorization (EDPA), the Effective Date of Permit (EDP), or may be a specific date specified in the permit.

**TABLE 1 -- Certification Due Dates**

	SPPP Preparation Certification Due Date	SPPP Implementation Certification Due Date	Annual Certification Due Date
Basic Industrial Stormwater General Permit (NJ0088315)	Within six 6 months from EDPA	Within 18 months from EDPA	Due by the end of the calendar quarter assigned in the authorization page and annually thereafter
Concrete Products General Permit (NJ0108456)	Within 6 months from EDPA	Within 24 months from EDPA	Due 36 months from EDPA and annually thereafter
Scrap Metal Processing General Permit (NJ0107671)	Within six 6 months from EDPA	Within 18 months from the EDPA	Within 30 months from the EDPA, and annually thereafter
Hot Mix Asphalt Producers General Permit (NJ0132721)	Within six 6 months from the EDPA	Within 24 months from EDPA	Due 36 months from EDPA and annually thereafter
Newark Airport Complex General Permit (NJ0134791)	New Operators - Within 6 months from EDPA	New Operators - Within 18 months from EDPA Otherwise, 12 months from the effective date of renewal authorization	New Operators - Within 12 months from EDPA and annually thereafter, Otherwise 24 months from the effective date of renewal authorization and annually thereafter
CAFO General Permit (NJ0138631)	March 1, 2004	March 1, 2006	February 1st of each year, beginning 48 months from EDP
Mining & Quarrying General Permit (NJ0141950)	Within 6 months from EDPA	Within 18 months from EDPA	Due 30 months from the EDPA
Individual Industrial Stormwater Permit	Permit specific -- see permit for details	Permit specific -- see permit for details	Permit specific -- see permit for details

# **EXHIBIT Q**



## COMPREHENSIVE WASTE MANAGEMENT (CWMP) PLAN

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**CAFO FACILITY LOCATION**  
MONMOUTH PARK RACETRACK  
175 OCEANPORT AVENUE  
OCEANPORT, MONMOUTH COUNTY

**FACILITY OWNER/OPERATOR**  
NJ SPORTS EXPOSITION AUTHORITY  
50 STATE ROUTE 120  
EAST RUTHERFORD, NJ 07757

**ENGINEERING DEPARTMENT**  
JOHN J. DUFFY, PE  
V. PRESIDENT- REGULATORY

**ENGINEERING CONSULTANT**  
STEVEN BALDISSEROTTO, PE  
CONSULTING ENGINEER  
ISSUE DATE: SEPTEMBER 12, 2011

**R8- Concentrated Animal Feeding Operation (CAFO) Permit  
New Jersey Pollution Discharge Elimination System  
Permit No. NJ0138631  
NJPDES NJG0077224  
PI ID No. 47138**

**RETURN THIS PLAN TO THE ENGINEERING DEPT.**

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**CONTENTS**

- Section #1: Facility Information
- Section #2: CAFO Definitions
- Section #3: Background
- Section #4: Production Area
- Section #5: Manure & Bedding Management
- Section #6: Process Wastewater Management
- Section #7: Site Mapping Requirements
- Figure #7A: Location Plan- Hagstrom Map- Monmouth County
- Figure #7B: Location Plan- U.S.G.S. Long Branch Quadrangle
- Figure #7C: Manure Waste Flow Site Map (reduced)
- Figure #7D: Process Wastewater Site Map (reduced)
- Figure #7E: Process Wastewater Flow Line Drawing
- Section #8: CAFO Operations Photographs
- Section #9: Comprehensive Nutrient Management Plan
- Appendix A: Stormwater Pollution Prevention Plan
- Appendix B: NJDEP/TRWRA Treatment Approval
- Appendix C: NJDEP CAFRA Permit Approval
- Appendix D: Army Corps and MCSCS Permits
- Appendix E: Wastewater Collection System Report
- Appendix F: CWMP Annual inspection Reports



**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #1: Facility Information**

- a) Name & address: Monmouth Park Racetrack  
175 Oceanport Avenue  
Oceanport, NJ 07757
- b) Facility owner: NJ Sports & Exposition Authority  
50 State Route 120  
East Rutherford, NJ 07757
- c) Location of facility: Tax Block: 121 Lots: 6, 7, 8, 9  
Oceanport Borough, Monmouth County, NJ  
Latitude: 40°19'06" N  
Longitude: 74°00'24" W
- d) Site Description: A premier thoroughbred horse racing facility in Monmouth County, NJ. The site consists of the racetrack, back stretch, parking lots and facilities.
- d) Site Layout/Maps See Section 7 for site maps and waste flows.
- e) CAFO applicability: The facility maintains 38 barns for approximately 1,600 transient race horses. The facility houses more that 500 horses for more than 45 days/year.
- f) Owner Contact: John Duffy, Vice President – Regulatory  
NJ Sports & Exposition Authority  
Tel: (201) 842-5115
- g) Facility Contact: Tom Newman, Director of Facilities  
Monmouth Park Racetrack  
Tel: (732) 571-5486

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #2: CAFO Definitions**

**Animal feeding operation** means a lot or facility where the following conditions are met: (i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (ii) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

**Concentrated animal feeding operation (CAFO)** means an AFO which is defined as a Large CAFO or Medium CAFO by 40 CFR 122.23 (4) and (6).

**Fecal coliform** means the bacterial count (Parameter 1) at 40 CFR 136.3 in Table 1A, which also cites the approved methods of analysis.

**Land application** means the application of manure, litter, or process wastewater onto or incorporated into the soil.

**Manure** is defined to include manure, litter, bedding, compost and raw materials or other materials commingled with manure for land application or other use.

**Process wastewater** means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing stalls, barns, aisles, or other AFO facilities; direct contact washing or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with or is a constituent of raw materials, products, or byproducts including manure, litter, feed or bedding.

**Production area** means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment, transportation and storage areas.

**The Act** means Federal Water Pollution Control Act as amended, also known as the Clean Water Act as amended, found at 33 USC 1251 et seq.

**Vegetated buffer** means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk pollutants from leaving the field and reaching state waters.

**Waters of the United States** means: (1) all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; (2) all interstate waters, including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, and streams and wetlands, (4) the territorial sea; and (5) wetlands adjacent to waters identified in items (1) through (4) of this definition.

## **COMPREHENSIVE WASTE MANAGEMENT PLAN**

### **MONMOUTH PARK RACETRACK**

#### **Section #3: Background**

The Monmouth Park Racetrack (MPRT) located in Oceanport, New Jersey is owned and operated by New Jersey Sports and Exposition Authority (NJSEA). The facility maintains 38 barns for approximately 1,600 transient thoroughbred race horses. Since the facility has more than 500 horses stationed for more than 45 days per year, the MPRT facility is classified as a concentrated animal feeding operation (CAFO), per NJAC 7:14A-3.4. The production areas of MPRT are therefore subject to the Federal Effluent Guidelines and Standards for Feedlots (40CFR Part 412). The NJDEP has considered the waste production area of MPRT to be the entire backstretch area, including feedlots, covered stables and barns, the manure storage building and the horse washing stations. Remaining portions of MPRT consisting of the tracks, clubhouse, parking lots, grandstand, etc. are considered non-feedlot area because horses are not fed, confined or stabled in these areas, in accordance with the Federal definition of a feedlot.

Until 1995, stormwater from the MPRT facility discharged through sheet-flow and catch basins throughout the park. The stormwater flowed uncontrolled into Turtle Mill Brook and Branchport Creek (navigable tidal waters). Issues arose because dry day runoff (horse wash down) and first flush stormwater had become contaminated by contact with horse manure (process waste) in the production area. Since Federal and State laws prohibit the discharge of wastewater pollutants from animal feedlots into navigable waters, on July 19, 1994 the NJSEA entered into an Administrative Consent Order (ACO) with the NJDEP to implement infrastructure improvements and management practices to remediate the problem.

The 1994 ACO required NJSEA to implement the facility improvements as remedial measures, and develop long term manure management practices as part of its Best Management Practice (BMP), to minimize the pollution emanating from the facility. The improvements included modifying the MPRT stormwater system to collect all dry day flow and the "first flush" stormwater flow up to 200,000 gallons, through a gravity collection system in the production area. Collected wastewater is discharged through a 30" interceptor sewer, to Two Rivers Water Reclamation Authority (TRWRA) in Monmouth Beach. In April 2009 the allotment to TRWRA was increased to 500,000 GPD. In addition, tide gate valves are maintained along stormwater outfalls located along Turtle Mill Brook and Branchport Creek, to prevent tidewater from entering and inundating the wastewater system. The facility operated under this NJPDES permit authorization thru June 2008. Upon renewal of the NJPDES permit, NJSEA was required to update the facility to current CAFO regulations, including a lined waste retention structure sized to ensure no CAFO waste discharge to State Waters, except under catastrophic (25-year) storm events.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #3: Background (cont)**

On May 10, 2010 the NJSEA entered into a second Administrative Consent Order (OAL Docket No. ECEWE 08430-2007S) with NJDEP to ensure the design and installation the new CAFO wastewater collection system. The improvements included improving the MPRT stormwater system to collect all the CAFO wastewater from a 25-year storm event, and store it on site, awaiting metered discharge to Two Rivers Water Reclamation Authority (TRWRA) in Monmouth Beach. The new CAFO improvements are being constructed in two phases between 2010 and 2012. Phase 1 (CN-214) was completed June 2011. This project included de-silting the infield pond, and installing a 30" bypass around the pond for parking lot runoff. The pond outfall line was improved with a new outfall weir and a two-chamber solids separator (swirler). On the Elkwood site, a new 72" sewer main was driven underneath the NJ Transit railway, and a 7.8 million gallon CAFO wastewater retention structure and a pump/meter station were constructed to deliver the wastewater to TRWRA. Phase 2 (CN-215) of the CAFO improvements is currently under construction and will complete in the summer 2012. This project includes extending the 72" main throughout the backstretch area and tying in thirty new and existing stormwater basins into the system. Components of the existing stormwater collection system will be demolished, abandoned and/or reused to collect pond water, lot drainage and roof leader runoff, and discharge clean stormwater thru tide gate valves to outfalls located along Turtle Mill Brook and Branchport Creek.

As part of BMP requirements in Section H of the NJPDES Permit, MPRT has developed and implemented a long-term manure management plan. The objective of this plan, known as the Comprehensive Waste Management Plan (CWMP) is the elimination of the discharge of any manure contaminated surface water runoff and any other process wastewaters to the receiving Waters of the State.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #4: Production Area**

A production area is the portion of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. At MPRT, the animal confinement area includes the covered stables and barns, the feedlots and horse washing stations. The manure storage area is a 60' x 40' covered manure storage building with a concrete loading pad. The waste containment areas are the water-tight manure storage containers on concrete pads. The production area is commonly referred to as the "backstretch".

**Barns and Stables:**

Most tenant racehorses spend a majority of their day within the protected and covered enclosure of a freestall in the stable barns, and not in the open air/open ground environment of a typical animal feedlot operation. Horses typically feed and defecate within the confines of the stall while standing on dry organic bedding. Horse owners have soiled bedding changed at least once per day. All manure and hay waste is collected from the barn for proper disposal.

**Stall/Barn Cleaning:**

Horse trainers collect the manure and soiled bedding on a daily basis from stalls and aisles. The waste is securely placed in a muck sack, wheelbarrow or other suitable container for disposal. The waste is transported immediately from the stable area to the watertight manure storage containers in the service areas between the barns.

**Waste Containment:**

Horse trainers dump the waste into 12 cu yd watertight manure storage containers on concrete pads in between the barns. Special bedding wastes, consisting of wood chips are placed in separate 4 cu yd containers for recycling. Any incidental manure or bedding wastes from the production area are collected and placed in the manure storage containers. Similarly any container overfill or spillage is promptly cleaned up.

**Waste Transport & Storage:**

As the watertight manure storage containers become full, a rolloff tractor removes the container and transports it to a covered manure storage building. The manure wastes are stockpiled and consolidated in the storage building, awaiting disposal.

**Waste Disposal:**

Several times per week a waste vendor loads out 100 cu yd dump trailers full of manure waste. A mobile grapple hook loads from the storage building to the trailers. All manure is currently purchased for mushroom farming operations in Pennsylvania.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #5: Manure & Bedding Management**

For the purposes of this plan, manure is defined to include manure, litter, soiled bedding, compost and raw materials or other materials commingled with manure. Manure does not include paper, rags, bandages or incidental trash, as these wastes are managed separately outside the manure waste stream. The manure at MPRT is managed as a waste, until the material is purchased and trucked away by vendor.

**Duty of Care:**

Anyone who keeps horses and ponies has a "Duty of Care" to ensure that their horse manure is stored and disposed of correctly. The Federal regulations state:-

"The Duty of Care requires that you ensure all waste is stored and disposed of responsibly, that it is only handled or dealt with by individuals or companies that are authorized to deal with it.

**Stall Maintenance:**

One of the top priorities is keeping the horse's stall clean and dry. Stalls should be cleaned once a day and stripped or fully cleaned out at least once a week. After the stall has been cleaned out or stripped it is necessary to add fresh bedding like straw or wood shavings. This prevents a common foot disease called thrush.

**Waste Generation:**

Horses typically feed and defecate within the confines of the stall. An average horse will produce 45 pounds or 2 cu yd of manure each day or 7.5 tons annually. Specialty bedding, such as wood shavings are not accounted in this volume. During race season, over 1,000 horses boarded at MPRT generate over 20 tons of manure daily.



Horse trainers shall collect soiled bedding and manure on a daily basis from stalls and aisles. The waste shall be transported immediately from the stable area to the manure storage containers in the service areas between the barns. Trainers shall not load waste above the walls of the containers.

MPRT shall ensure that trainers securely place all manure in a muck sack, wheelbarrow basket or other suitable container and transport it immediately to a manure storage container. Unsoiled wood shavings shall be transported via wheelbarrow directly to the wood chip recycling bins.

MPRT shall ensure that only dry horse waste including manure, bedding material and surplus hay is stored in the manure storage containers.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #5: Manure Management (cont)**

**Manure Storage Containers:**

Horse trainers dump the manure from muck sacks and baskets, and pitchfork from wheelbarrows into the 12 cu yd watertight manure storage containers on concrete pads in between the barns. Special bedding wastes, consisting of wood chips are collected in separate 4 cu yd containers for recycling. Any incidental manure or bedding wastes from the production area are collected and placed in the manure storage containers. Similarly any container overfill or spillage is promptly cleaned up.



MPRT personnel shall prohibit manure storage containers from overflowing with hay and manure and shall prohibit the dumping of hay and manure on the ground around the manure storage containers. The waste materials shall not be filled above the wall of the containers.

MPRT shall police both the trainer's area in front and the service areas behind the barns and collect any incidental manure. This waste shall be added to the manure storage containers.

MPRT shall prohibit the sweeping or hosing down of incidental manure, bandages, hay, etc., into catch basins or the grassy areas located between the barns. MPRT shall ensure that all sweepings are placed in the manure containers, and bandages are placed in the solid waste receptacles.

MPRT shall clean all catch basins at a minimum frequency of monthly.

**Manure Transportation:**

As the watertight manure storage containers become full, a rolloff tractor removes the container and transports it to the covered manure storage building. The manure wastes are stockpiled and consolidated in the storage building, awaiting disposal.



MPRT shall restrict vehicle parking or equipment storage near the manure storage containers, which may prevent convenient manure unloading.

MPRT personnel shall immediately collect and properly dispose of incidental hay and manure located on the roadways within the backstretch area.

NJSEA shall prioritize the waste removal from manure storage containers that tend to be filled more rapidly, so as to eliminate overfilling, and the dropping of incidental manure on the grounds adjacent to the vaults.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #5: Manure Management (cont)**

**Bedding Materials and Wood Chips:**

Once the 4 cu yd special bedding waste container is full, it is transported via forklift to a 30 cu yd covered rolloff container adjacent to barn 31. Waste is dumped from the forklift into the rolloff, awaiting disposal and recycling at a permitted compost facility.



MPRT personnel shall prohibit bedding storage containers from overflowing with soiled wood chips and shall prohibit the dumping of bedding material and manure on the ground around the bedding material storage containers. The waste materials shall not be filled above the wall of the containers.

MPRT shall ensure that the 4 cu yd containers are emptied into the 30 cu yd covered rolloff daily. Any incidental bedding or manure that drops outside the rolloff shall be promptly added. The form-fitted cover shall be securely tied to the top of the rolloff at the end of the shift, and/or prior to a rain event.

MPRT shall ensure that enough 30 cu yd rolloff containers are present to handle the bedding waste load, without over filling.

**Manure Storage Building:**

Once the 12 cu yd manure container is full, the container is transported on a rolloff tractor to the covered manure storage building at the northeast corner of the back stretch, adjacent to barn 38. The manure wastes are emptied from the container onto the concrete unloading pad. The manure is pushed up with a 4 cu yd wheel loader into the storage building, awaiting disposal.



MPRT shall ensure that the 12 cu yd storage containers are emptied onto the concrete unloading pad beneath the roof of the storage building. Any incidental manure that drops outside the shed roof shall be promptly added.

MPRT shall ensure that the manure is properly consolidated and piled inside the storage building, until removed for disposal.



**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #5: Manure Management (cont)**

**Waste Disposal:**

Several times per week a waste vendor loads out 100 cu yd dump trailers full of manure waste. A mobile grapple hook loads from the storage building to the trailers. All manure is currently purchased for mushroom farming operations in Pennsylvania.



The manure waste vendor shall not load the dump trailers above the sideboards. All trailers shall be tarped before leaving the MPRT facility.

MPRT shall ensure the disposal contractor has uninhibited access to the manure storage building, to ensure convenient manure loading.

MPRT shall maintain receipts and bills of lading for manure disposal.

**Inspection and Maintenance:**

On days horses are present, MPRT shall conduct daily inspections to monitor compliance with the items listed above. MPRT shall maintain a log which shall include the date and time of the inspection, the name and initials of the inspector, and the findings of the inspection.



When horses are present, MPRT personnel shall advise all owners, trainers, and stable area workers of the Best Management Practices for manure, hay, bedding, wastewater and stormwater management, and good housekeeping.

MPRT shall ensure compliance with these Best Management Practices, and document any non compliance and actions taken.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #6: Wastewater Management**

For the purposes of this plan, process wastewater means water directly or indirectly used in the feeding and maintenance of horses in the production area, including any or all of the following: spillage or overflow from drinking watering systems; washing, cleaning, or flushing freestalls, barns, aisles, walkways or other AFO facilities. Any water from direct-contact washing or spray cooling of animals is also included. Roof leader drains that are collected separately, without contacting the ground surface are not considered process waste. Process wastewater is any fresh or stormwater which comes into contact with raw materials, manure waste or the horse washing areas.

The 1994 ACO required NJSEA to implement facility improvements as remedial measures, to minimize water pollution emanating from the facility. The system improvements were designed to collect all dry day flow and the "first flush" stormwater flow up to 200,000 gallons. Site improvements included installing a 16" gravity collection sewer around the eastern perimeter of the production area. Process wastewater from all barns, horse wash pads and service areas was directed into the new collection system. The collected wastewater was discharged through a meter chamber, into a 30" interceptor sewer, which discharged to the Two Rivers Water Reclamation Authority (TRWRA) POTW. In 2009 the TRWRA approved an application from NJSEA to increase the daily allotment (flow) to the POTW to 500,000 gallons per day. The TRWRA connection was capped in 2011.

The 2010 ACO required NJSEA to implement facility improvements as remedial measures, to eliminate water pollution emanating from the facility. NJSEA was required to design and implement a new CAFO wastewater collection system. The improvements included constructing a stormwater system capable of collecting all the CAFO wastewater from a 25-year storm event, and storing it on site. The design criterion for the 25-year storm event equals 6.5 inches in a 24 hour period. The area of waste production includes the barn and backstretch area consisting of 60.2 acres, which includes 41.7 acres of impervious and 18.5 acres of pervious area. The impervious area is comprised of 13.0 acres of barns, 0.9 acres of miscellaneous structures and 27.8 acres of pavement and miscellaneous impervious surfaces. The barn roof drains are collected separately and discharged outside the CAFO process waste system. All process wastewater flows under the NJ Transit right of way in a new 72" main. The design waste flow capacity thru the 72" main and into the pump station is 172 cfs (77,200 gpm). The total retention capacity of the new Elkwood basin is 1,042,847 cubic feet (7.8 mmgal).

The process wastewater is discharged via pump to Two Rivers Water Reclamation Authority at a maximum rate of 1200 gpm. The permitted limit is 0.5 mmgd. Any process water exceeding these rates is directed into the new Elkwood basin.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #6: Wastewater Management (cont)**

The existing stormwater collection system will be demolished, abandoned and/or reused to collect pond water, lot drainage and roof leader runoff that discharges thru tide gate valves to outfalls located along Turtle Mill Brook and Branchport Creek.

The site improvements and wastewater flow are shown on attached Site Plan in Figure 7D. To ensure water pollution from the facility is eliminated, MPRT has established numerous Best Management Practices for process wastewater:



MPRT shall prohibit the sweeping or hosing down of incidental manure, bandages, hay, etc., into the grassy areas located between the barns. MPRT shall ensure that all sweepings are placed in the manure containers.

Stables should be designed and maintained to ensure all drainage runs into the gravity sewer system and not out of the facility into the service areas.

MPRT shall ensure all interior and exterior wash hoses have nozzles for stopping water flow when not in use. MPRT shall police trainers and stall keepers to ensure the nozzles remain intact and are used correctly.

MPRT shall inspect the physical condition of all horse-wash hoses and spigots daily. MPRT shall repair or replace any leaking hose within 24 hours.

MPRT shall prohibit the dumping of buckets of washwater onto the ground. MPRT shall ensure that all buckets of washwater are dumped into the shower stalls located in the stables.

MPRT shall clean all catch basins weekly and jet the wastewater sewers at minimum monthly. Frequency shall increase as needed during race season.

MPRT shall ensure the two-chamber solids separator (swirler) located between barns 17&18 is Jet-Vac cleaned bi-weekly by Oswald.

MPRT shall bi-monthly inspect the physical condition of the rubber tide check valves at DSN-04, 05, 06, 08, 10, and DV7 during high tide elevations.

After every rain event, MPRT shall inspect, empty and reinstall the silt traps and/or hay bales at the catch basins along Main Road near the horse ramps.

MPRT shall ensure the Reliant Aeration unit in the infield basin is properly maintained and filled with enzyme powder per manufacturer's specifications.

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #7: Site Mapping Requirements**

Facility location plans and maps, which indicate the locations of the facility along Oceanport Avenue, is shown on figures #7A and 7B. A facility site plan, revised to show manure waste collection, transportation and storage is shown on figure #7C. A facility site plan, revised to show process waste water runoff, collection and disposal is shown on figure #7D.

The following site maps have been prepared:

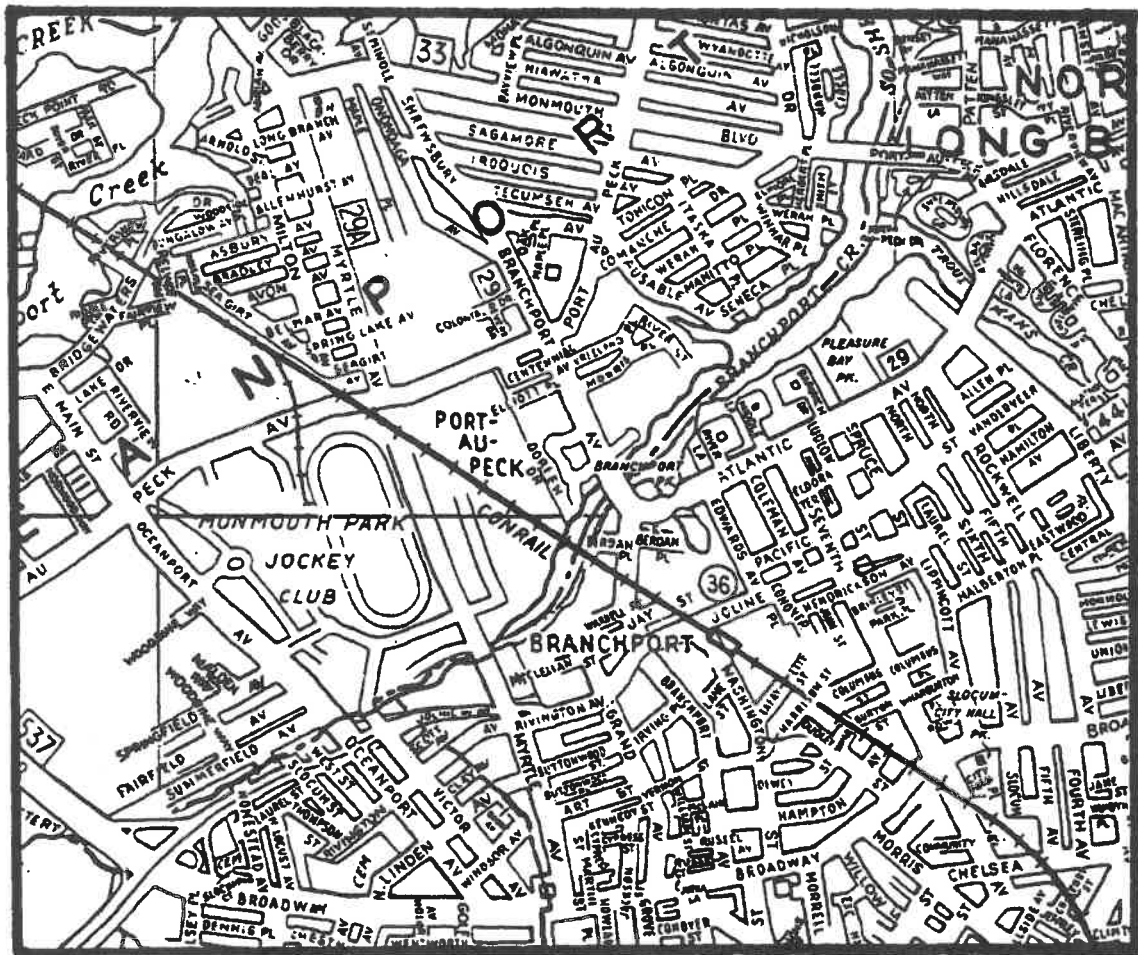
- Figure #7A: Location Plan- Hagstrom Map- Monmouth County
- Figure #7B: Location Plan- U.S.G.S. Long Branch Quadrangle
- Figure #7C: Manure Waste Flow Site Map (reduced)
- Figure #7D: Process Wastewater Site Map (reduced)
- Figure #7E: Process Wastewater Flow Line Drawing

The Site Maps include the following items:

- Existing buildings and other permanent structures;
- All paved areas, including roads, lots and driveways;
- Surface water bodies located on or near the site
- Existing structural control measures used to control stormwater
- Locations of all stormwater discharges leaving the site
- Locations of all process water sewers leaving the site
- Exposed source material, including storage and loading areas
- Manure waste flow transportation and disposal patterns
- Access routes: including public roads and rail lines

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**FIGURE 7A: FACILITY LOCATION PLAN**

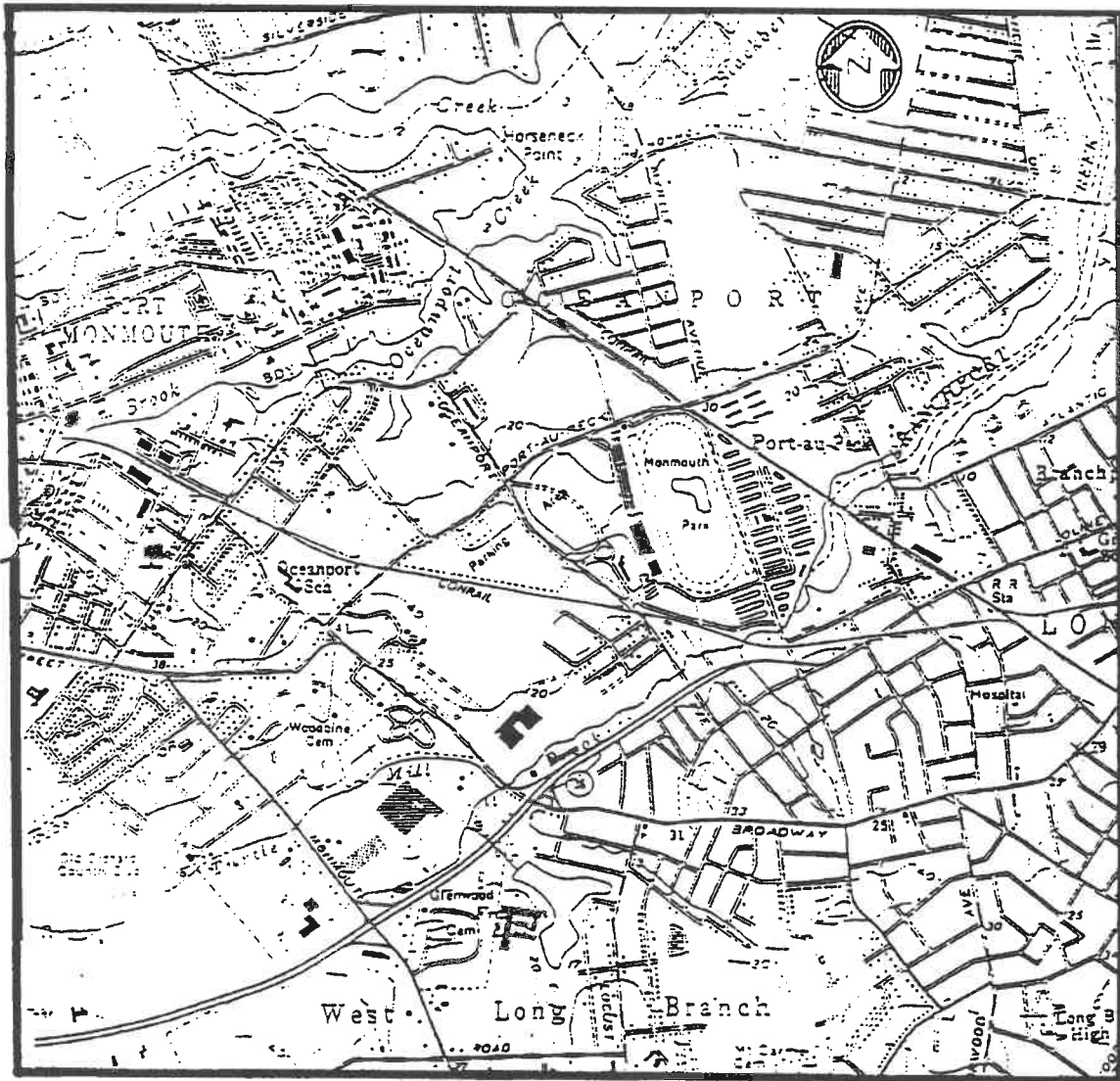


Map Reference: Hagstrom Map of Monmouth County, NJ

Figure 7A

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**FIGURE 7B: USGS TOPOGRAPHIC QUADRANGLE**



Map Reference: Long Branch U.S.G.S. Quadrangle Map

Figure 7B

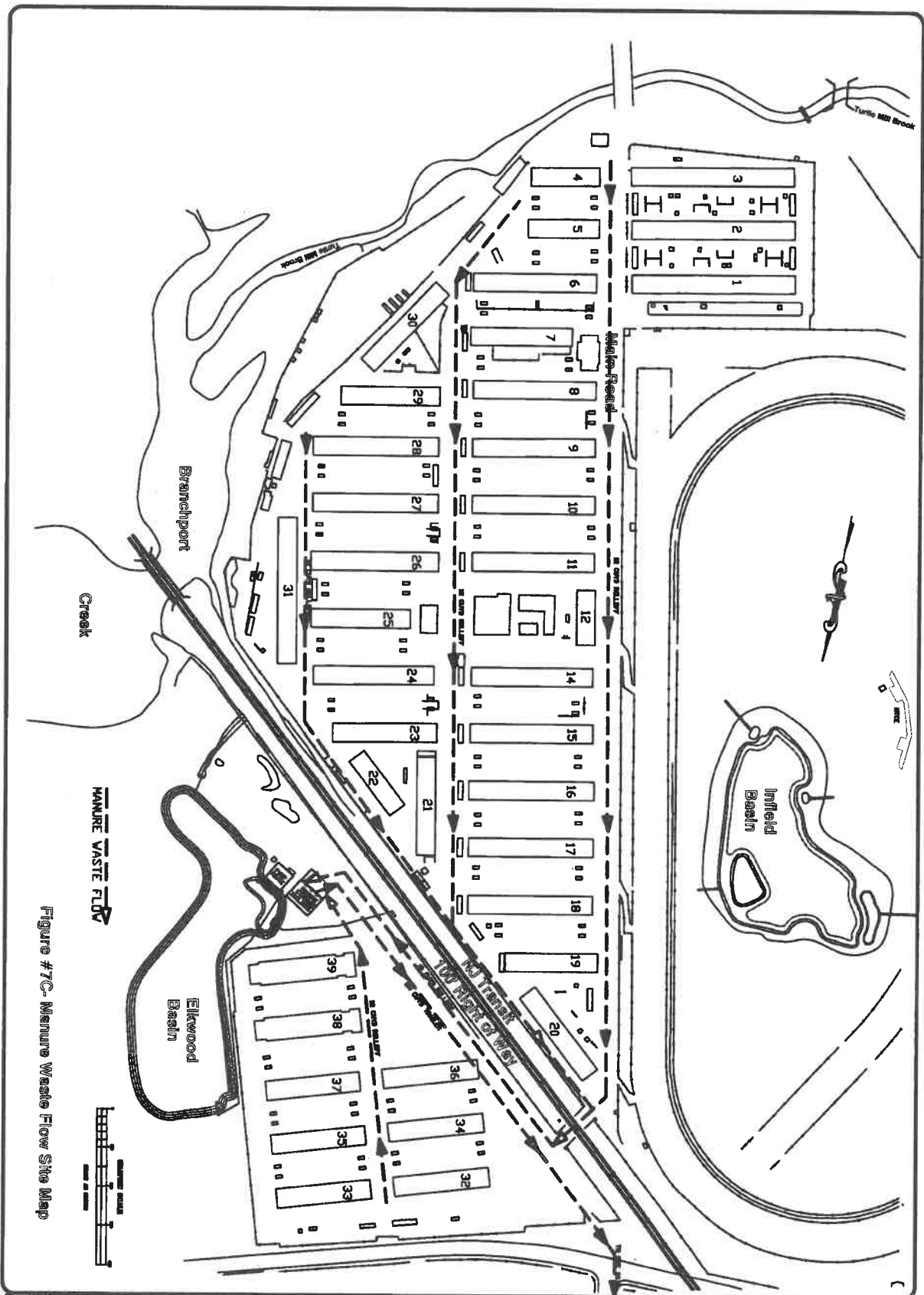
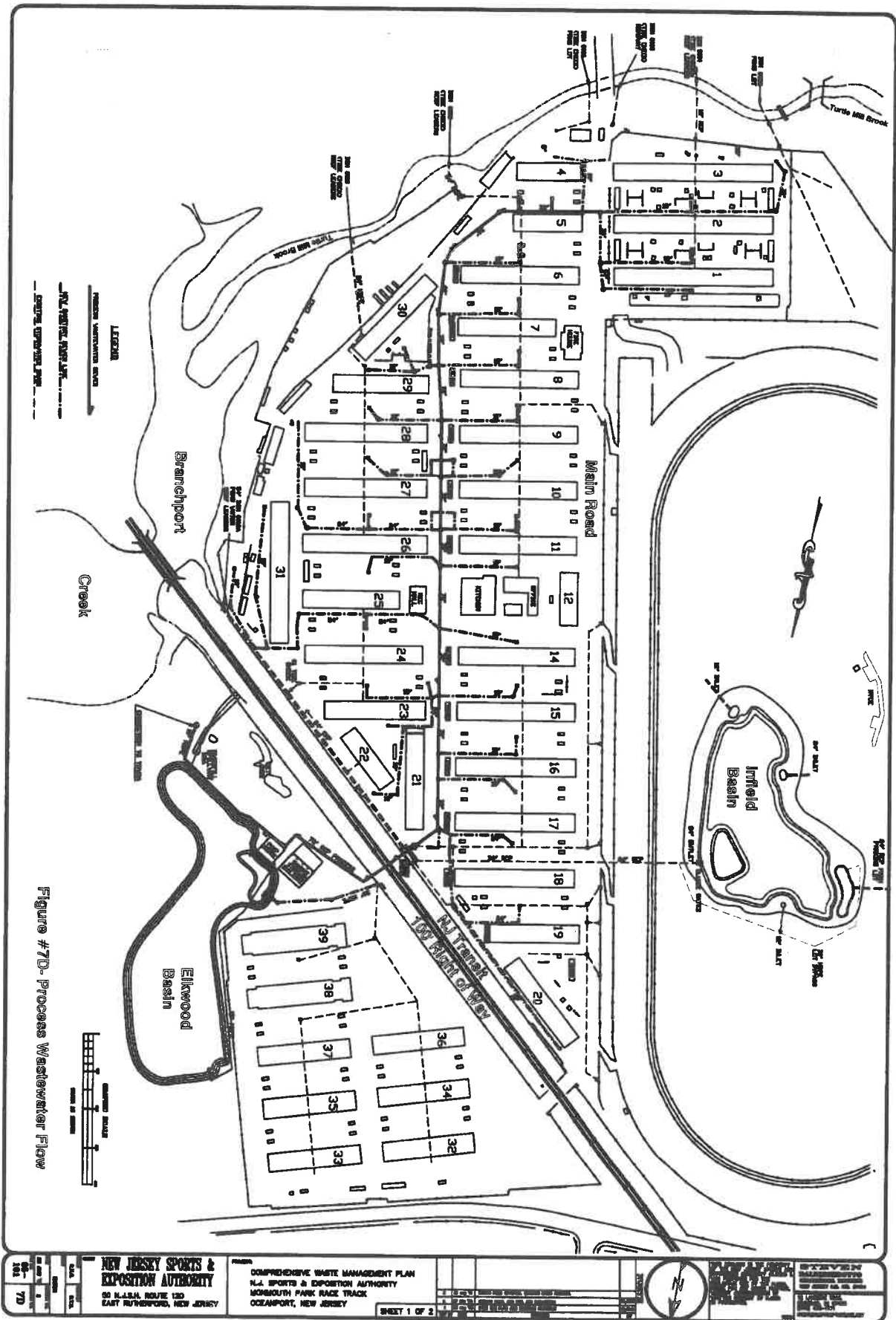


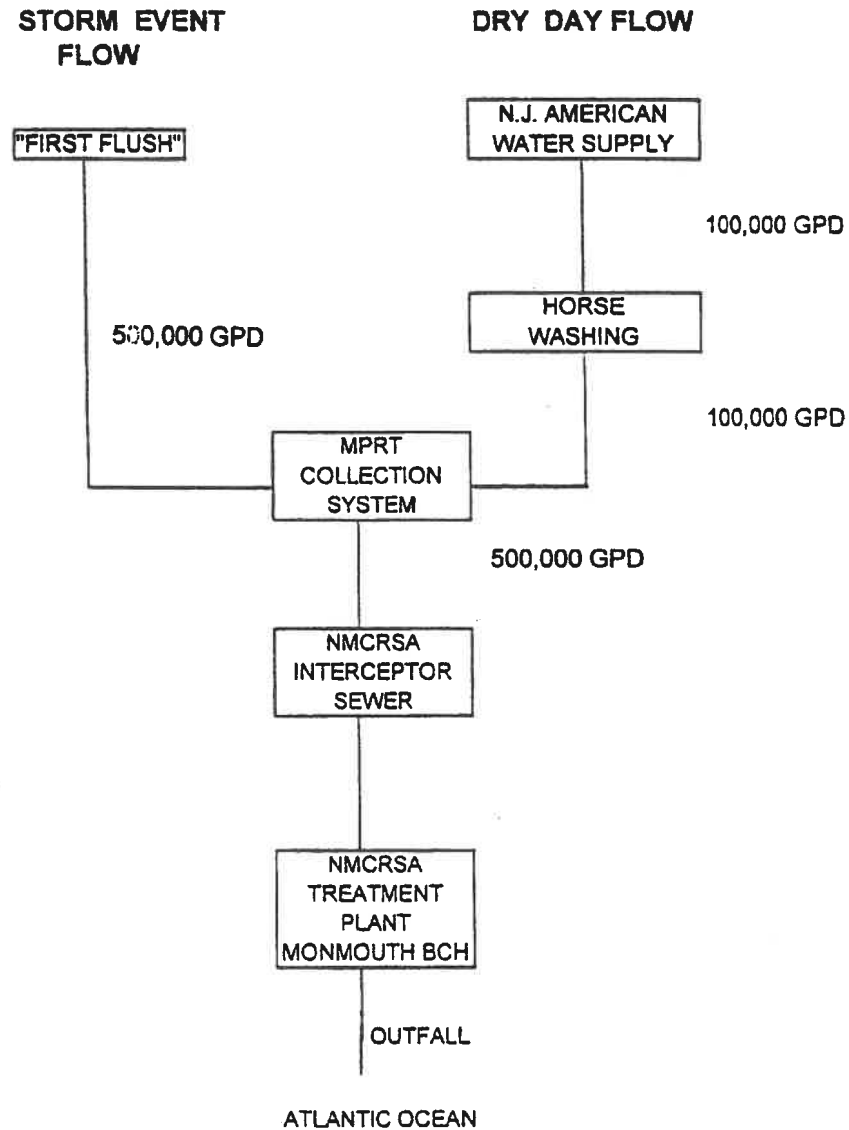
Figure #7C- Manure Waste Flow Site Map





**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**FIGURE 7E: WASTEWATER CONVEYANCE LINE DRAWING**



Reference: NJDEP Treatment Works Approval

Figure 7E

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**SECTION 8: SITE PHOTOGRAPHS: WASTE MANAGEMENT**

**COMPREHENSIVE WASTE MANAGEMENT PLAN**  
**MONMOUTH PARK RACETRACK**

**Section #9: Comprehensive Nutrient Management Plan**

For the purposes of this plan, manure waste and process wastewater are transported off-site, for disposal. No land application or on-site disposal occurs.

**THIS SECTION IS RESERVED**

# **EXHIBIT R**

## PARTICIPATION AGREEMENT ASSUMPTION AND JOINDER AGREEMENT

ASSUMPTION AND JOINDER AGREEMENT (this "Agreement"), dated as of May 3, 2012, made by NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, INC. (the "Successor") in favor of the Authority and each Participant and other party from time to time party to the Participation Agreement referred to below. All capitalized terms not defined herein shall have the meaning ascribed to them in the Participation Agreement.

### RECITALS

WHEREAS, the New Jersey Sports and Exposition Authority (the "Authority"), Freehold Raceway Off Track, LLC ("Freehold") and ACRA Turf Club, LLC ("ACRA") and, together with Freehold, each a "Participant" and collectively, the "Participants") are each party to that certain Master Off Track Wagering Participation Agreement, dated as of September 8, 2003, as amended by an Amendment to Off Track Wagering Participation Agreement dated as of February 6, 2004 (as the same may be further amended in accordance with the terms thereof, the "Participation Agreement");

WHEREAS, pursuant to the Participation Agreement Assumption and Joinder Agreement dated as of December 19, 2011, made by New Meadowlands Racetrack, LLC ("Meadowlands Operator"), in favor of the Authority and each Participant, the Meadowlands Operator became a party to the Participation Agreement;

WHEREAS, pursuant to the Participation Agreement, the Authority, the Participants and the Meadowlands Operator have agreed, as among themselves, as to certain matters relating to the licensure and operation of off track wagering systems;

WHEREAS, as of February 29, 2012 the Authority has entered into that certain Racetrack Ground Lease (the "Ground Lease"), pursuant to which the Authority has agreed to lease to Successor the Monmouth Park Racetrack, and granted Successor the right to operate such racetrack, in accordance with the terms of the Ground Lease;

WHEREAS, pursuant to the Ground Lease, the Authority has also agreed to assign to Successor the right to develop and operate four (4) of the nine (9) OTW Facilities and OTW Licenses allocated to the Authority pursuant to the Participation Agreement;

WHEREAS, Section 3.2 of the Participation Agreement permits the Authority to transfer its ownership, operation and economic interests in any one or more Authority Facility and the associated OTW Licenses and its rights and obligations under the Participation Agreement to any third party which meets any applicable requirements under the OTAW Act or the Regulations and which becomes a party to the Participation Agreement and assumed the Authority's obligations thereunder and any addendum thereto;

WHEREAS, Successor has agreed to execute and deliver this Agreement in order to become a party to the Participation Agreement in accordance with the terms thereof;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound hereby, the parties agree as follows:

1. General Assumption and Joinder. Subject to (a) the "Closing", as defined in the Ground Lease, occurring, (b) the receipt of any and all necessary legal or regulatory approvals, whether from the New Jersey Racing Commission, Attorney General of New Jersey, or otherwise, and (c) the effectiveness of the Ground Lease, in accordance with the terms thereof, by executing and delivering this Agreement, the Successor, as provided in Section 3.2 of the Participation Agreement shall hereby become a party thereto, with the same force and effect as if originally named therein, and without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of the Authority thereunder, inasmuch as such obligations and liabilities relate to the OTW Facilities and OTW Licenses assigned by the Authority to Successor. For the avoidance of doubt, Successor is not required to comply with any provision of the Master Off Track Wagering Participation Agreement to the extent that such provision violates any Legal Requirement (as defined in the Ground Lease), including federal or state statute or regulation.

2. Specific Provisions Assumption. Without limiting the generality of paragraph 1 above, for the avoidance of doubt, Successor expressly acknowledges, agrees and assumes the following obligations in the Participation Agreement:

(a) The rights regarding ownership, economic benefits, use and operation of OTW Facilities and licenses as set forth in Section 1.3(a);

(b) The allocation of expenses to the holders of OTW Licenses pursuant to N.J.A.C. 13:74-10.1(c)4(ii) referred to in Section 1.5 (Allocation of Commission Racing Costs);

(c) The geographic allocations set forth in Section 2.1(a) and the geographic restrictions set forth in Section 2.1(b);

(d) The rights to receive and the obligation to send the racing signal from all New Jersey horse racing tracks referred to in Section 2.2;

(e) The common marketing and branding provisions set forth in Section 4.2;

(f) The requirement to comply with the requirements of N.J.S.A. 5:5-156(a) and (b) referred to in Section 4.3;

(g) The rights to the additional OTW Facilities set forth in Section 4.4; and

(h) The obligation to cooperate in good faith to ensure that the requirements of N.J.S.A. 5:5-155 are complied with referred to in Section 4.6.

3. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW JERSEY.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

NEW JERSEY THOROUGHBRED  
HORSEMEN'S ASSOCIATION, INC.

By: John H. Forbes  
Name: JOHN H. FORBES  
Title: PRESIDENT

Joinder and Assumption Agreement re: Master Participation Agreement



**TRANSFER OF RIGHTS AND ASSUMPTION OF  
OBLIGATIONS UNDER PARTICIPATION AGREEMENT**

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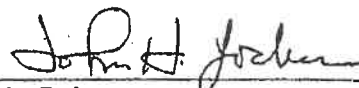
WHEREAS, the New Jersey Sports and Exposition Authority (the "Authority") and the New Jersey Thoroughbred Horsemen's Association ("NJTHA") have agreed that the Authority's ownership, operation and economic interests in five (5) of the Authority's Facilities and the associated OTW Licenses allocated to the Authority pursuant to Section 1.1 of the Master Off-Track Wagering Participation Agreement, dated as of September 8, 2003, as amended by an Amendment to Off-Track Wagering and Participation Agreement dated as of February, 2004, (the "Participation Agreement") will be transferred to the NJTHA pursuant to Section 3.2 of the Participation Agreement.

The Parties, by their signatures below, agree that the NJTHA, as of May 3, 2012, becomes a party to the Participation Agreement, and assumes all of the Authority's rights and obligations under the Participation Agreement as they relate to the five (5) OTW Licenses transferred thereby, to the full extent those rights and obligations conform to applicable State and federal law.

The Parties further contemplate that this document will be appended to the Participation Agreement and serve as NJTHA's execution thereof.


**New Jersey Thoroughbred Horsemen's Association**

Dated: 3/27/12

By:   
John Forbes  
President

**New Jersey Sports and Exposition Authority**

Dated: 3/26/12

By:   
Ralph J. Marra, Jr.  
Senior Vice President  
Legal and Governmental Affairs

# **EXHIBIT S**



## State of New Jersey

JON S. CORZINE  
*Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT  
BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT  
300 HORIZON CENTER  
P.O. BOX 407  
TRENTON NJ 08625-0407  
Tel. (609) 584-4180  
Fax. (609) 588-2444

MARK N. MAURIELLO  
*Acting Commissioner*

**CERTIFIED MAIL/RRR**  
7006 0810 0002 1819 8669

March 23, 2009

Mr. John J. Duffy, P.E., C.E.M.  
Vice President  
Engineering, Construction & Regulatory Affairs  
NJSEA/Meadowlands Sports Complex  
50 State Route 120  
East Rutherford, NJ 07073

**RE: ADMINISTRATIVE CONSENT ORDER**  
NJ SPORTS & EXPO AUTH @ MEADOWLANDS COMPLEX  
EA ID #: NEA080001 - 458394

Dear Mr. Duffy:

Enclosed is the fully executed Administrative Consent Order for the above referenced matter. By copy of this letter and enclosure, I am advising the Director of the Office of Legal Affairs that the case is settled in accordance with the terms of the Order.

Should you have any questions concerning the enclosed Administrative Consent Order, please contact me at 609-584-4180.

Sincerely,

  
A. Raimund Belonzi, Chief  
Bureau of Solid Waste Compliance & Enforcement

Enclosures  
Cc: Office of Legal Affairs  
David Kmetz, Air Enforcement, NRO  
Bergen County Health Dept.



# State of New Jersey

JON S. CORZINE  
*Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT  
BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT  
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TRENTON NJ 08625-0407  
Tel. (609) 584-4180  
Fax. (609) 588-2444

MARK N. MAURIELLO  
*Acting Commissioner*

## IN THE MATTER OF

**NJ SPORTS & EXPOSITION  
AUTHORITY**

**PO Box 200**

**East Rutherford, NJ 07073**

**EA ID # NEA080001 - 458394**

:  
: **ADMINISTRATIVE CONSENT ORDER**  
:  
:  
:

This Administrative Consent Order (hereinafter "ACO") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq., and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and duly delegated to the Assistant Commissioner, Compliance & Enforcement, pursuant to N.J.S.A. 13:1B-4.

## FINDINGS

1. NJ SPORTS & EXPOSITION AUTHORITY (hereinafter "NJSEA" or "the AUTHORITY") is an instrumentality of the State of New Jersey and a solid waste generator that owns and/or operates the facility hereinafter referred to as the NJSEA Meadowlands Complex at 50 Route 120, East Rutherford Boro, Bergen County, New Jersey Block 105.01, Lots 8, 9, 13, & 4, Block 105.02, Lot 5, Block 107.01 and Lot 1 (NJEMS P1 # 458394).
2. The NJSEA Meadowlands Complex consists of the following areas, but is not necessarily limited to:
  - A. Race track & horse barn
  - B. Giants Stadium
  - C. Arena
  - D. Parking areas
  - E. Pump station/Roll off storage area
  - F. Office areas

The AUTHORITY has generally identified areas throughout the complex as "Front of House" – public access areas; and "Back of House" – restricted access areas limited to employees and contractors.

3. The AUTHORITY generates solid waste (types ID# 10, 13 & 13C) and recyclable materials, such as office-grade paper, mixed paper, newspaper, plastic, glass and metal containers, cardboard, wooden pallets, wood chips, horse manure, hay and construction and demolition material from various areas within the NJSEA Meadowlands Complex as identified in paragraph 2, above.
4. As an instrumentality of the State of New Jersey and generator of recyclable materials as identified in paragraph 3 above, the Authority is subject to the requirements of Governor Florio's Executive Order No. 34, signed June 13, 1991, which directs all state agencies and instrumentalities of the State to implement a recycling program and report tonnages recycled to the Department annually.
5. On October 12, 2007, and on July 14, 2008, the Department inspected the NJSEA Meadowlands Complex areas identified in paragraph 2.
6. As the result of the compliance investigation conducted on October 12, 2007, the Department has determined that the AUTHORITY failed to comply with applicable requirements as follows:

Requirement: Pursuant to N.J.A.C. 7:26-2.8(f), no person shall begin construction or operation of a solid waste facility without obtaining a solid waste facility permit unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8. [N.J.A.C. 7:26-2.8(f)]

Description of Noncompliance: The AUTHORITY failed to obtain a solid waste facility permit prior to constructing or operating a solid waste facility. The solid waste loading/unloading and storage area was not maintained properly near the pump station to protect public health and environment. Scattered litter and overflowing waste from roll off containers full of solid waste was observed. Containers for transport offsite were not tarped, marked and maintained properly as required by the solid waste regulations. There were numerous small recycling collection receptacles that were partially full of mixed solid waste and recyclables stored in this area. In addition, the inspection revealed standing water, mud; insects were also observed.

Requirement: Pursuant to N.J.S.A. 13:1E-99.11, recycling of designated materials is mandatory by all generators. Specifically, the state Legislature declared "that it is in the public interest to mandate the source separation of marketable waste materials on a Statewide basis so that reusable materials may be returned to the economic mainstream in the form of raw materials or products rather than be disposed of at the State's overburdened landfills, and that the recycling of marketable materials by every municipality in this State, and the development of public and private sector recycling activities on an orderly and incremental basis, will further demonstrate the State's long-term commitment to an effective and coherent solid waste management strategy." [N.J.S.A. 13:1E-99.11]

Description of Noncompliance: The AUTHORITY failed to manage recyclables in accordance with the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act." P.L.1970, c.39 (C.13:1E-1 et seq.). The AUTHORITY failed to source separate and recycle designated recyclable materials (aluminum cans, glass beverage containers, construction and demolition debris, corrugated cardboard, ferrous scrap, high grade office paper, mixed paper, & white goods) included in the County plan for commercial, institutional and industrial sectors. Specifically, the Department determined the only material being source separated and recycled at the NJSEA Meadowlands Complex was cardboard. The AUTHORITY was also unable to provide records documenting recycling efforts, or exemptions granted.

7. The Air Enforcement Program issued an AONOCAPA on July 16, 2007 to the AUTHORITY, with a hearing requested and subsequently granted by the Department on February 4, 2008. The Department then issued a stay of the AONOCAPA on April 20, 2008.
8. As the result of the compliance investigation conducted on October 12, 2007, the Department has determined that the AUTHORITY failed to comply with applicable requirements as follows:

Requirement: Hours of Operation While Firing Diesel  $\leq$  10 hr/yr. [N.J.A.C. 7:27-8.13(h)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS9 of Permit/Certificate PCP010002 by operating the Standby Generator in Stadium Substation #4 for 16 hours during calendar year 2007 in excess of the maximum allowable 10 hours per year.

Requirement: Hours of Operation While Firing Diesel  $\leq$  20 hr/yr. [N.J.A.C. 7:27-8.13(h)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS10 of Permit/Certificate PCP010002 by operating the Standby Generator in Stadium Station #5 for 28.4 hours during calendar year 2007 in excess of the maximum allowable 20 hours per year.

Requirement: Hours of Operation While Firing Diesel: Monitored by hour/time monitor each month during operation, based on a consecutive 12 month period (rolling 1 month basis). The AUTHORITY shall install, calibrate and maintain the monitor(s) in accordance with the manufacturer's specifications. [N.J.A.C. 7:27-8.13(d)]

Description of Noncompliance: The AUTHORITY failed to fulfill requirement Reference #7, Emission Unit U64, Operating Scenario OS12 of Permit/Certificate PCP010002 by failing to install and operate an hour/time monitor on the Standby Generator #1 in Stormwater Pumphouse.

9. Other Departmental regulatory interests at the NJSEA Meadowlands Complex include: Air, Water, Hazardous Waste, Underground Storage Tanks and Site Remediation programs, as well as the US Army Corps of Engineers.
10. In response to the Department's actions the AUTHORITY has taken the following actions to bring the Authority into compliance:
  - a) The AUTHORITY has paved the container storage area to eliminate mud, standing water and potential insect problems. In addition, housekeeping has also been increased in this area to address litter issues.
  - b) The AUTHORITY has increased the implementation of source separation, developed metrics for recyclable materials, and purchased additional recycling containers that will be placed throughout the complex. The Authority will continue to operate in this manner in an effort to stay in compliance with the applicable NJDEP regulations
  - c) The emergency generators at the Pump house now have individual run time meters. The identified emergency generators have been transferred under General Permit GEN0800002 for Facility ID 01769, which increased run hours to 30 hours per year.
11. The Department has determined that the violations of the air permit requirements that are specified in PCP010002 and that are indicated in Paragraph 8 have been corrected and the AUTHORITY is now in compliance.
12. The AUTHORITY has implemented a recycling program entitled: "Proposed NJSEA Recycling/Trash Separation Program", which is dated February 20, 2008. for the entire complex (including all offices and venues) for all designated recyclable materials including the purchase of 160 recycling containers have been distributed accordingly throughout all Meadowlands facilities (See Appendix A).
13. Based on the facts set forth in these FINDINGS, the Department has determined that the AUTHORITY has violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-99,11 and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:26-2.8(f) and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., specifically N.J.A.C. 7:27-8.13(d)] N.J.A.C. 7:27-8.13(h).
14. In order to resolve this matter without trial or adjudication, the AUTHORITY has agreed to enter this ACO and to be bound by its terms and conditions.

**ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

**A. HEARING REQUEST**

15. By execution of this ACO, the AUTHORITY hereby withdraws, with prejudice, its request for an administrative hearing before the Office of Administrative Law regarding the Air AONOCAPA ID# 01769-PEA070001. The AUTHORITY shall complete and submit the enclosed WITHDRAWAL of HEARING REQUEST.
16. The AUTHORITY hereby waives its right to an administrative hearing with respect to the violations identified in paragraph 8, above. The AUTHORITY shall complete and submit the enclosed ADMINISTRATIVE HEARING WAIVER.

**B. COMPLIANCE SCHEDULE**

17. The AUTHORITY shall take whatever actions are necessary to achieve and maintain compliance with the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:27-8.3(e); and the Solid Waste Management Act, N.J.S.A. 13:1E-99.11, Executive Order No. 34 and N.J.A.C. 7:26-2.8(f) within 30 days of executing this ACO including but not limited to the following:
  - a). Air compliance items are as follow:
    1. The AUTHORITY shall operate all regulated equipment in accordance with its permits and certificates and with N.J.A.C. 7:27-1 et seq.
  - b). Solid waste compliance items are as follow:
    1. Comply with and N.J.A.C. 7:26-2.8(f) by continuing to ensure that solid waste is properly maintained in containers that are marked in accordance with Department regulations. In addition, litter shall be prevented by the use of tarps or some other acceptable means and measures remain in place to control insects.
    2. Comply with N.J.S.A. 13:1E-99.11
      - i. The AUTHORITY shall obtain and maintain compliance with N.J.S.A. 13:1E-99.11, Executive Order No. 34, and the Bergen County Solid Waste Management Plan.
      - ii. The AUTHORITY must provide the name of a responsible party within the AUTHORITY that will work with the Department on implementing their recycling program.
      - iii. The AUTHORITY must implement a system to report their recycling tonnage to the Department twice a year. The AUTHORITY shall maintain a paper trail from recyclable pickups at venues through to recycling market to support their reported recycling tonnage. Bi-annual tonnage reporting is in addition to the AUTHORITY's obligation to submit a Progress Report



on a bi-annual basis for a period of two years from the date of this ACO. Attached is a copy of the metrics that will be submitted on a bi-annual basis (See Appendix B).

- iv. In addition, the contract(s)/agreement(s) for transportation and final disposal facilities of the recyclable materials shall be made available for review to representatives of the Department upon request.

3. Specific corrective actions applicable to the areas detailed below:

- i. **Front of House** – as identified in paragraph 2 above (concourses, stadium clubs/restaurants, luxury boxes, general seating area)

- (1) Clearly marked recycling receptacles shall be provided in all clubs, restaurants and luxury boxes, wherever beverages are served in plastic or glass bottles or aluminum cans in those locations.
- (2) If beverages are served in plastic or glass bottles or aluminum cans in the general seating area, then recycling receptacles shall be provided on the concourses.
- (3) If beverages are served in plastic or glass bottles or aluminum cans in the general seating area then provisions shall be made for the source separation of this material when the seating areas are cleaned after an event.
- (4) If beverages are poured into plastic cups for an event, each food and beverage vendor shall be provided with a recycling container of sufficient size for emptied plastic or glass bottles and aluminum cans.

- ii. **Back of House** – as identified in paragraph 2 above (loading docks, kitchens, locker rooms, offices, any area with restricted access)

- (1) All cardboard from shipments shall be recycled.
- (2) Recycling receptacles shall be provided in all food preparation areas for any supplies that come in recyclable containers (cans or bottles of condiments, etc.)
- (3) Recycling receptacles shall be provided in the locker rooms, dressing rooms, and any other areas used by athletes, musicians, etc. for plastic and glass bottles and aluminum cans and for any paper.
- (4) Recycling receptacles for plastic and glass bottles and aluminum cans and for any paper shall be made available in the press boxes. Paper recycling is especially important in this location.
- (5) Recycling receptacles shall be provided in all stadium offices, sports teams offices, and the AUTHORITY offices for plastic and glass bottles, aluminum cans, and paper.
- (6) All source separated recycling material storage areas and storage containers must be marked with the type of source separated material.
- (7) Review and provide to the Department, copies of current solid waste, recycling and janitorial contracts, as well as relevant sections of hospitality contracts.

4. In settlement of all penalties in this matter, the AUTHORITY shall perform a Supplemental Environmental Project (SEP) that provides for the following type of advertisements on their external and/or internal video board message screens to the extent practical and available during AUTHORITY controlled events at all venues managed or operated by the AUTHORITY including the Meadowlands Sports Complex (consisting of Giants Stadium, the IZOD Center, and the Meadowlands Racetrack), and Monmouth Park Racetrack in accordance with the AUTHORITY's Advertisement Plan below. The AUTHORITY shall be obligated to run the advertisements in accordance with Paragraph 23 below.
  - i. The AUTHORITY shall display the following types of advertisements on the external Route 3 and Route 120 marquees a minimum of three (3) times, each spot being ten (10) seconds in length, during each nine (9) minute advertising loop. The AUTHORITY shall display the following types of advertisements described below on the video board message screens during AUTHORITY controlled events at all venues operated by the AUTHORITY, consisting of Giants Stadium, IZOD Center, Meadowlands Racetrack, and Monmouth Park Racetrack, prior to the beginning of said events and whenever practicable during said events
    - (1) Diesel advertisements:
      - a) Idling stinks...and it's against the law. Did you know that all vehicles are prohibited from idling for more than 3 minutes?
      - b) Did you know that only 10 seconds of idling uses more fuel than turning your engine on and off? If you are idling your vehicle, you may as well be burning dollar bills.
      - c) Vehicle exhaust can shorten your life. Don't idle while tailgating.
    - (2) Recycling advertisements:
      - a) Join the winning team- recycle!
      - b) Be a green team member-recycle!
      - c) Score one for the environment- recycle!
      - d) Don't be lame...Get in the game! Recycle!
      - e) Your mother called. She said to recycle.
      - f) Recycling is mandatory and required by law in New Jersey!
  - ii. The AUTHORITY may create additional messages of their choice that support the Department's goals of reducing vehicle idling and increasing recycling.
5. The AUTHORITY shall provide clearly marked recycling and trash receptacles in the parking areas controlled by the Authority.
6. The AUTHORITY shall purchase 100 recycling containers and will be distribute the containers accordingly throughout the Monmouth Park facility.

18. If the AUTHORITY is not able to achieve compliance by taking the above actions, the AUTHORITY is responsible for taking whatever additional actions are necessary in order to comply with all applicable federal, state and local permits as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited herein.

### **C. PROGRESS REPORTS**

19. The AUTHORITY shall submit a written corrective action plan to the Bureau of Solid Waste Compliance & Enforcement and the Office of Recycling and Planning describing in detail how the AUTHORITY will achieve compliance with the items in Compliance Schedule above. The AUTHORITY shall submit bi-annual progress reports to the Department's Bureau of Solid Waste Compliance & Enforcement. The first progress report shall be submitted on or before the 30<sup>th</sup> calendar day after the effective date of this ACO. Each progress report shall detail the activities taken to comply with this ACO and shall include the following:

- a) Identification of site and reference to this ACO;
- b) Status of work at the site and progress to date;
- c) Difficulties or problems encountered during the reporting period;
- d) Actions taken or to be taken to rectify difficulties or problems;
- e) Activities planned for the next reporting period;
- f) Required and actual completion dates for each item required by this ACO;
- g) An explanation of any non-compliance with the ACO schedule; and
- h) A performance evaluation of all corrective remedial measures implemented to date.

### **D. PROJECT COORDINATION**

20. The AUTHORITY shall submit to the Department all documents required by this ACO, including correspondence relating to force majeure issues, by certified mail or hand delivery with an acknowledgement of receipt from the Department. The date that the Department receives the certified mail or executes the acknowledgement will be the date the Department uses to determine the AUTHORITY's compliance with the requirements of this ACO and the applicability of stipulated penalties and any other remedies to the Department.
21. Within seven (7) calendar days after the effective date of this ACO, the AUTHORITY shall submit to the Department the name, title, address and telephone number of the individual who shall be the AUTHORITY's technical contact for the Department for all matters concerning this ACO and the AUTHORITY shall designate an agent and mailing address for this agent for the purpose for all matters concerning this ACO.

22. Unless otherwise directed in writing by the Department, the AUTHORITY shall submit two (2) copies of all documents required by this ACO to the individual identified below, who shall be the Department's contact for the AUTHORITY for all matters concerning this ACO:

New Jersey Department of Environmental Protection  
County Environmental and Waste Enforcement  
Bureau of Solid Waste Compliance and Enforcement  
300 Horizon Center, P.O. Box 407  
Trenton, New Jersey 08625-0407  
Attention: A. Raimund Belonzi, Chief

#### **E. PENALTY**

23. In settlement of the violations cited in the above findings, the AUTHORITY, in lieu of a penalty shall run the diesel and recycling advertisements specified in Paragraph 17 b)4 of this ACO, at each of its facilities, which has the capability of running public service announcements for a period of one year, or if Giants Stadium is utilized for event(s) past the estimated one (1) year time period, until Giants Stadium ceases operations and three (3) years for the IZOD Center, the Meadowlands Racetrack, and Monmouth Park Racetrack.

#### **F. STIPULATED PENALTIES**

24. The AUTHORITY shall pay stipulated penalties to the Department, as set forth below, for failure to comply with the provisions of this ACO unless the Department has notified the AUTHORITY in writing that a stipulated penalty will not be assessed for violations of the compliance schedule pursuant to the force majeure provisions of this ACO.

<u>Calendar Days After Due Date</u>	<u>Per Calendar Day</u>
1 – 7	\$1,000.00
8 – 14	\$2,000.00
15 – over	\$5,000.00

25. Within 45 calendar days after the AUTHORITY's receipt of a written demand from the Department for stipulated penalties, the AUTHORITY shall submit a check to the Department as outlined in paragraph 13, above.
26. If the AUTHORITY fails to pay stipulated penalties pursuant to the preceding paragraphs, the Department may take action to collect same, including, but not limited to, instituting civil proceedings to collect such penalties pursuant to R. 4:67 and R. 4:70 or assess civil administrative penalties for violations of this ACO.

27. The payment of stipulated penalties does not alter the AUTHORITY's responsibility to complete all requirements of this ACO.

#### **G. FORCE MAJEURE**

28. If any event occurs which is beyond the control of the AUTHORITY and which the AUTHORITY believes will or may cause delay in the achievement of the compliance schedule provisions of this ACO, the AUTHORITY shall notify the Department in writing within seven (7) calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, the AUTHORITY shall reference this paragraph, describe the anticipated length of the delay, the precise cause or causes of the delay, and any measures taken or to be taken to minimize the delay. The AUTHORITY shall take all necessary action to prevent or minimize any such delay.
29. The Department may adjust the deadlines in the compliance schedule of this ACO for a period no longer than the delay if the Department finds that:
- a) The AUTHORITY has complied with the notice requirements of paragraph 28;
  - b) Any delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of the AUTHORITY ; and
  - c) The AUTHORITY has taken all necessary actions to prevent or minimize the delay.
30. If the Department denies the AUTHORITY's force majeure request, the AUTHORITY may be subject to stipulated penalties. The burden of proving that any delay is caused by circumstances beyond the control of the AUTHORITY and the length of any such delay attributable to those circumstances shall rest with the AUTHORITY. Increases in the cost or expenses incurred by the AUTHORITY in fulfilling the requirements of this ACO shall not be a basis for an extension of time. Delay in an interim requirement shall not automatically justify or excuse delay in the attainment of subsequent requirements. Contractor's breach shall not automatically constitute force majeure.

#### **H. RESERVATION OF RIGHTS**

31. The Department reserves the right to unilaterally terminate this ACO in the event that the AUTHORITY violates the terms. However, before the Department terminates this ACO pursuant to this paragraph, the Department will notify the AUTHORITY in writing of their obligations, and the AUTHORITY shall have reasonable time under the circumstances, not to exceed thirty (30) calendar days, to perform said obligations.
32. The Department reserves the right to seek reimbursement for past costs to be incurred in the oversight of this ACO.

33. This ACO shall not be construed to affect or waive claims of federal or state natural resources trustees against any party for damages or injury to natural resources.
34. The Department reserves the right to require the AUTHORITY to take any and all additional measures should the Department determine that such measures are necessary to protect human health and/or the environment. Nothing in this ACO constitutes a waiver of any statutory right or enforcement powers of the Department to require the AUTHORITY to undertake such additional measures should the Department determine that they are necessary.

#### **I. GENERAL PROVISIONS**

35. Neither the entry into this ACO nor the payment of the associated penalty shall constitute an admission of liability by the AUTHORITY for any of the violations listed herein.
36. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding, specifically including, but not limited to, proceedings pursuant to N.J.S.A. 13:1E-126 et seq., (commonly referred to as A-901).
37. This ACO shall be binding on the AUTHORITY, it's respective agents, successors and assigns.
38. This ACO shall be fully enforceable as a final Administrative Order in the New Jersey Superior Court.
39. The AUTHORITY agrees not to contest the terms or conditions of this ACO except that the AUTHORITY may contest the Department's interpretation or application of such terms or conditions in any action brought by the Department to enforce this ACO's provisions.
40. This ACO shall not relieve the AUTHORITY from obtaining and complying with all applicable federal, state and local permits as well as all applicable statutes, codes, rule, regulations and orders, including but not limited to the statutes and regulations cited herein.
41. No modification or waiver of this ACO shall be valid except by written amendment duly executed by the AUTHORITY and the Department or by the Department's written modification pursuant to the force majeure provisions herein.
42. Unless otherwise specifically provided herein, the AUTHORITY shall submit all documents required by this ACO, except penalty payments, to the Department by certified mail, return receipt requested or by hand delivery with an acknowledgment of receipt form for the Department's signature to:

A. Raimund Belonzi, Bureau Chief  
Bureau of Solid Waste Compliance & Enforcement  
PO Box 407  
Trenton, NJ 08625-0407

The date the Department receives the certified mail or executes the acknowledgment will be the date the Department uses to determine the AUTHORITY compliance with this ACO.

43. Unless otherwise specifically provided herein, any communication made by the Department to the AUTHORITY pursuant to this ACO shall be sent to:

New Jersey Sports & Exposition Authority  
PO Box 200  
East Rutherford, NJ 07073  
Attention Legal Department

44. The AUTHORITY shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving the AUTHORITY of its obligations under its permits, this ACO, the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and/or the Solid Waste Management N.J.S.A. 13:1E-1 et seq. and the Recycling Act N.J.S.A. 13:1E-99.11.
45. In addition to the Department's statutory and regulatory rights to enter and inspect, the AUTHORITY shall allow the Department and its authorized representatives access to the site at all times for the purpose of determining compliance with this ACO.
46. Nothing in this ACO shall preclude the Department from taking enforcement action against the AUTHORITY for matters not set forth in the findings of this ACO.
47. No obligations or penalties imposed by this ACO are intended to constitute debts, which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare and the environment.
48. The Authority shall give written notice of this ACO to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or facilities that are subject to this ACO and shall simultaneously notify the Department that such notice has been given. This requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of the Authority facility. This section shall not have any legal affect on any existing leases or agreements that have been executed by the Authority prior to the date of this ACO.

49. The Department reserves all statutory and common law rights to require the AUTHORITY to take additional actions if the Department determines that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this ACO shall constitute a waiver of any statutory or common law right of the Department to require such additional measures should the Department determine that such measures are necessary.
50. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
51. If any provision of this ACO is found invalid or unenforceable, the remainder of this ACO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. The Department does, however, retain the right to terminate the remainder of this ACO if, after such finding, it determines that the remaining ACO does not serve the purpose for which it was intended.
52. This ACO represents the entire integrated agreement between the Department and the AUTHORITY on the matters contained herein.
53. The Department reserves the right to unilaterally terminate this ACO in the event the AUTHORITY violates its terms and to take any additional enforcement action it deems necessary.
54. This ACO shall terminate upon receipt by the AUTHORITY of written notice from the Department that all the requirements of this ACO have been satisfied.
55. This ACO shall become effective upon the execution hereof by all parties, subject to completion of any required public participation process.

**New Jersey Sports & Exposition Authority**

**DATED:** 3/13/09

**BY:** AM/SL

**NAME:** Mark Stefanacci

**TITLE:** COO/Legal Counsel

**By this signature, I certify that I have full authority to execute this document on behalf of the AUTHORITY.**

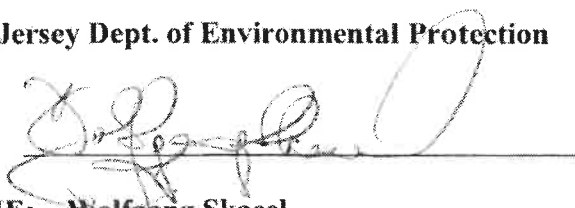


New Jersey Dept. of Environmental Protection

DATED:

3/18/09

BY:

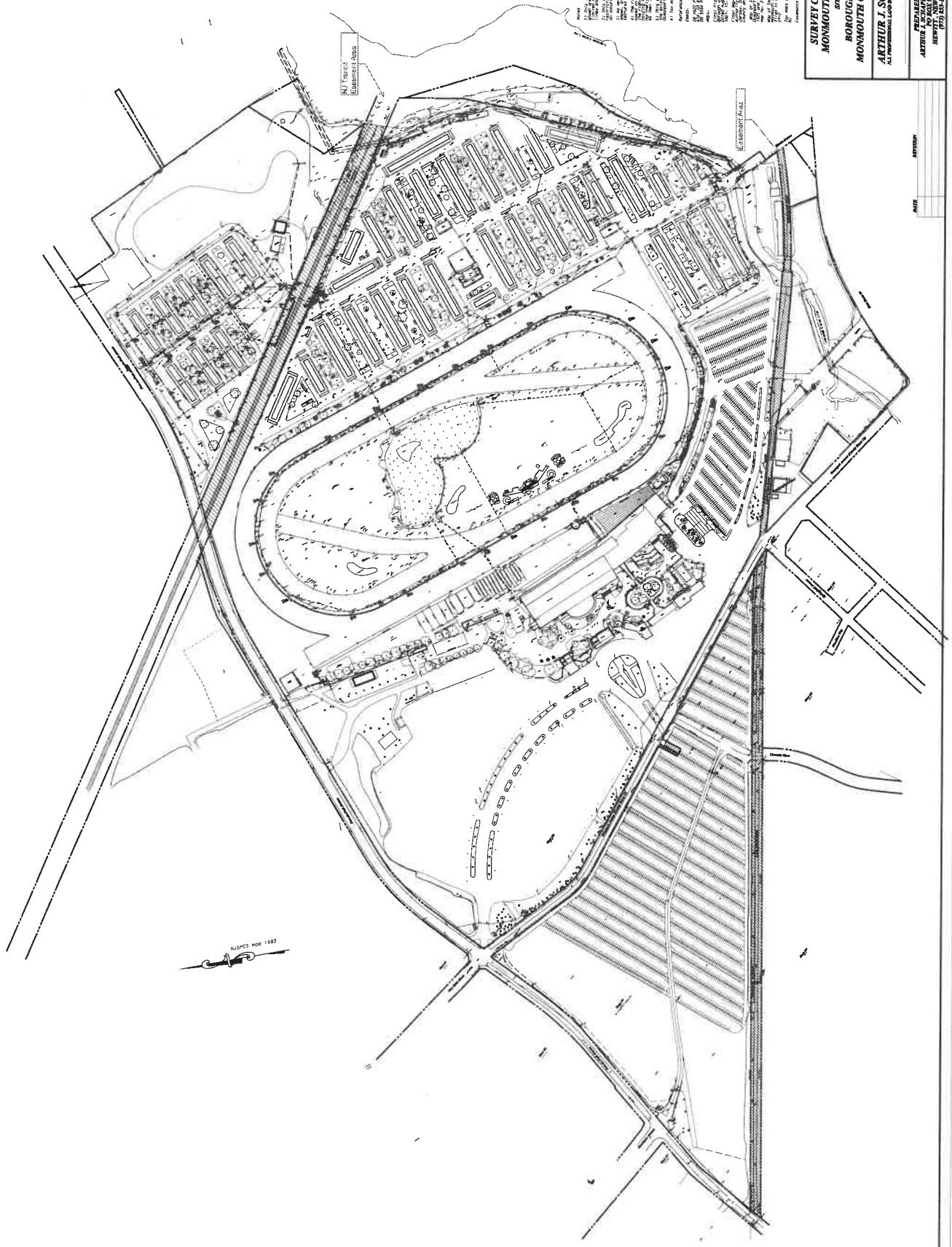


NAME: Wolfgang Skacel

TITLE: Asst. Commissioner, Compliance & Enforcement

By this signature, I certify that I have full authority to execute this document on behalf of the Department.

# **EXHIBIT T**



<b>SURVEY COMPILATION MAP</b> <b>MONMOUTH PARK RACETRACK</b> SITUATED IN THE <b>BOROUGH OF OCEANPORT</b> <b>MONMOUTH COUNTY, NEW JERSEY</b> <b>ARTHUR J. SCHAPPELL, JR., PLS PP</b> ALL PROCEEDINGS AND RETURNS ARE THE PROPERTY OF THE SURVEYOR	
PREPARED BY <b>ARTHUR J. SCHAPPELL, JR., PLS</b> NEW JERSEY (P.L.S. NO. 11172)	DATE <b>1/20/2011</b> SCALE <b>1" = 200'</b> JOB NO. <b>11172</b>

# **EXHIBIT U**

Current logo



PMS 343



PMS 376

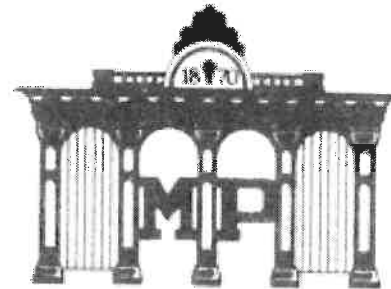
Old logos



PMS 343



PMS 506



PMS 347



PMS 287



c0 m100 y90 k0



C 0  
M 100  
Y 100  
K 60



C 0  
M 0  
Y 0  
K 70



c 15  
m 100  
y 90  
k 10



c 50  
m 70  
y 80  
k 70



c 0  
m 50  
y 100  
k 0



c 30  
m 100  
y 100  
k 0



c 1  
m 31  
y 76  
k 0

# **EXHIBIT U**

## **Meadowlands Racetrack**

### **Domain Name**

meadowlandsracetrack.mobi
themeadowlands.com
bigmrewards.com
wintersurvivalchallenge.com
bigmclub.com
thebigmclub.com
meadowlandspace.com
hambletonian.mobi
thehambletonian.com
thehambo.com
thebigm.com
survival-challenge.com
themeadowlands.net
themeadowlands.org
meadowlandsracetrack.com

## **Monmouth Park**

### **Domain Name**

monmouthparkstore.com
thehaskell.com
monmouthpark.org
monmouthpark.tv
thehaskell.net
thehaskell.org
monmouthpark.net
monmouthpark.com
haskellgame.com
survivalattheshore.com
monmouthpark.mobi
monmouthparkracetrack.com
monmouthpk.com
favoritesnj.com

## **New Jersey Account Wagering**

### **Domain Name**

njaw.mobi
njaw.net
njotw.com
fornjbets.com
fournjbets.com
4njbets.com
njawmobile.com

# **EXHIBIT V**



## PURSE ACCOUNT PLEDGE AGREEMENT

**THIS PURSE ACCOUNT PLEDGE AGREEMENT**, dated as of May 3, 2012 among NEW JERSEY THOROUGHbred HORSEMEN'S ASSOCIATION, INC., a not for profit corporation organized and existing under the laws of the State of New Jersey, having an address at 232A Norwood Avenue, West Long Branch, New Jersey 07764 ("**NJTHA**"), DARBY DEVELOPMENT, L.L.C., a New Jersey limited liability company ("**Darby**") and NEW JERSEY SPORTS & EXPOSITION AUTHORITY, a public body corporate and politic with corporate succession, having an address at Meadowlands Sports Complex, 50 State Route 120, East Rutherford, New Jersey 07073 (hereinafter, the "**Authority**"). All capitalized terms used herein without definitions shall have the respective meanings provided therefor in the Lease Agreement.

WHEREAS, NJTHA and the Authority have entered into a certain Racetrack Ground Lease Agreement dated as of February 29, 2012 (together with any amendments, modifications and/or restatements thereof or thereto from time to time, the "**Lease Agreement**"), pursuant to which the Authority, subject to the terms and conditions contained therein, is advancing funds to NJTHA to cover certain 2012 Excess Expenses, 2013 Excess Expenses and 2014 Excess Expenses, which advances are to be repaid by NJTHA in the form of the Minimum Lease Payments; and

WHEREAS, in connection with the Lease Agreement, NJTHA, Darby, and Elite Equine Consultants, L.L.C., a New Jersey limited liability company have entered into a certain Management and Development Agreement, dated on or about May 2, 2012 (together with any amendments, modifications and/or restatements thereof from time to time, the "**Management Agreement**") pursuant to which NJTHA has engaged Darby to, inter alia, manage and oversee all operations at the Racetrack; and

WHEREAS, pursuant to the Management Agreement, Darby shall be responsible for, inter alia, the payment of purses, and Darby shall therefore maintain a purse account for such purposes; and

WHEREAS, it is a condition precedent to the Authority making such advances that NJTHA execute and deliver to the Authority a pledge of NJTHA's purse account in substantially the form hereof; and

WHEREAS, NJTHA wishes to cause Darby to pledge its purse account in favor of the Authority as herein provided; and

WHEREAS, in furtherance of the foregoing Darby has agreed to pledge its purse account in favor of the Authority as herein provided and to become a party to this Purse Account Pledge Agreement;

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Pledge.** In order to induce the Authority to extend the Obligations (as defined below), Darby hereby grants a security interest in and pledges to the Authority, all of Darby's right, title and interest in and to the bank account described on Exhibit A attached hereto (the "**Purse Account**") and made a part hereof, including, but not limited to, all deposits, deposit accounts, and certificates of deposit, whether negotiable or nonnegotiable, and all security entitlements of Darby with respect thereto, whether now owned or hereafter acquired, including those entries on the records of the financial institution, and any and all renewals, substitutions, replacements and proceeds thereof and all income, interest and other distributions thereon maintained in the name of Darby by the financial institution (collectively, the "**Collateral**"). Prior to an Event of Default (as defined in Section 4.1 below), Darby and/or any entity acting on its behalf (including the NJTHA and Elite Equine Consultants, LLC) shall be entitled to utilize the funds in the Purse Account in the ordinary course of business in accordance with the terms of the Lease.

2. **Obligations Secured.** The Collateral secures payment of all Minimum Lease Payments owing from NJTHA to the Authority under the Lease Agreement (including any interest accruing thereon before or after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to NJTHA, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), and all costs and expenses of the Authority incurred in the modification, enforcement and collection of the same, including reasonable attorneys' fees and expenses (hereinafter referred to collectively as the "**Obligations**").

3. **Representations and Warranties.** NJTHA and Darby represent and warrant to the Authority that (a) no prior lien or encumbrance exists on the Collateral, and neither NJTHA nor Darby will grant or suffer to exist any such lien or encumbrance in the future, other than in favor of the Authority, and (b) Darby is the legal owner of the Collateral and has the right to pledge and grant a security interest in the Collateral without the consent of any other party other than the issuing institution, which Darby has caused or will cause to execute the Control Agreement (as defined below).

4. **Default.**

4.1. If any of the following occur (each an "**Event of Default**"): (i) any Tenant Event of Default (as defined in the Lease Agreement) has occurred and is continuing, (ii) the failure by NJTHA or Darby to perform any of its obligations hereunder, (iii) the falsity, inaccuracy or material breach by NJTHA of any written warranty, representation or statement made or furnished to the Authority by or on behalf of NJTHA, (iv) the failure of the Authority to have a perfected first priority security interest in the Collateral, (v) any restriction is imposed on the pledge or transfer of any of the Collateral after the date of this Agreement without the Authority's prior written consent, or (vi) the breach of the Control Agreement (referred to in Section 6 below), or receipt of notice of termination of the Control Agreement if no successor

custodian acceptable to the Authority has executed a Control Agreement in form and substance acceptable to the Authority on or before 10 days prior to the effective date of the termination, then the Authority is authorized in its discretion to declare any or all of the Obligations to be immediately due and payable without demand or notice, which are expressly waived, and may exercise any one or more of the rights and remedies granted pursuant to this Pledge Agreement or given to a secured party under the Uniform Commercial Code of the applicable state, as it may be amended from time to time, or otherwise at law or in equity.

4.2. The Authority is authorized from time to time to draw the funds represented by the Collateral, in whole or in part, and to do all acts necessary to draw such funds, to apply to all Obligations secured hereby, whether declared immediately due and payable or otherwise, and the officers of the financial institution are authorized and directed to pay the same to the Authority on demand, provided, however, that funds represented by the Collateral to the extent such funds are required by statute to be used to pay overnight purses may not be drawn upon by the Authority if such funds are used to pay overnight purses.

4.3. The Collateral after deducting expenses incurred by the Authority will be applied to the Obligations in the order determined by the Authority. If any excess remains after the discharge of all of the Obligations, the same will be paid to NJTHA. If after exhausting all of the Collateral there is a deficiency, NJTHA will be liable therefor to the Authority; provided, however, that nothing contained herein will obligate the Authority to proceed against NJTHA or Darby or against any other collateral for the Obligations prior to proceeding against the Collateral.

4.4. If any demand is made at any time upon the Authority for the repayment or recovery of any amount received by it in payment or on account of any of the Obligations and if the Authority repays all or any part of such amount by reason of any judgment, decree or order of any court or administrative body or by reason of any settlement or compromise of any such demand, NJTHA will be and remain liable for the amounts so repaid or recovered to the same extent as if such amount had never been originally received by the Authority. The provisions of this section will be and remain effective notwithstanding the release of any of the Collateral by the Authority in reliance upon such payment and any such release will be without prejudice to the Authority's rights hereunder and will be deemed to have been conditioned upon such payment having become final and irrevocable. This Section shall survive the termination of this Pledge Agreement.

5. **Interest and Premiums.** All interest declared or paid on the Collateral shall be the property of Darby but shall remain as Collateral, subject to the restrictions contained in this Agreement, unless released by the Authority, in its discretion, following a request from Darby. At any time after the occurrence of a Tenant Event of Default, the Authority shall be entitled to apply all interest declared or paid on the Collateral in accordance with the provisions of Section 4 above.

6. **Securities Account.** Darby agrees to cause the financial institution or securities intermediary on whose books and records the ownership interest of Darby in the Collateral appears (the "Custodian") to execute and deliver, contemporaneously herewith, a control

agreement or other agreement satisfactory to the Authority (the "**Control Agreement**") in order to perfect and protect the Authority's security interest in the Collateral.

7. **Further Assurances.** By its signature hereon, NJTHA and Darby each hereby irrevocably authorize the Authority, at any time and from time to time, to execute (on behalf of NJTHA and/or Darby), file and record against NJTHA and/or Darby any notice, financing statement, continuation statement, amendment statement, instrument, document or agreement under the Uniform Commercial Code that the Authority may consider necessary or desirable to create, preserve, continue, perfect or validate any security interest granted hereunder or to enable the Authority to exercise or enforce its rights hereunder with respect to such security interest. Without limiting the generality of the foregoing, NJTHA and Darby hereby irrevocably appoint the Authority as their attorney-in-fact to do all acts and things in their name that the Authority may deem necessary or desirable. This power of attorney is coupled with an interest with full power of substitution and is irrevocable. NJTHA and Darby each hereby ratify all that said attorney shall lawfully do or cause to be done by virtue hereof.

8. **Preservation of Rights.** The Authority shall not be deemed to have waived any of its rights upon or under the Obligations or the Collateral unless such waiver shall be in writing and signed by the Authority. No delay or omission on the part of the Authority in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of the Authority with respect to the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly, alternatively, successively or concurrently at such time or at such times as the Authority deems expedient.

9. **Miscellaneous.** The headings of each section of this Pledge Agreement are for convenience only and shall not define or limit the provisions thereof. This Pledge Agreement and all rights and obligations hereunder shall be binding upon NJTHA and Darby and each of their respective successors and assigns, and shall inure to the benefit of the Authority and its successors and assigns. If any term of this Pledge Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Pledge Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. NJTHA and Darby each acknowledge receipt of a copy of this Agreement. The provisions of Article 22 (Notices) of the Lease Agreement are incorporated herein as if set out in full.

10. **Governing Law; Consent to Jurisdiction.** THIS PLEDGE AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE. NJTHA and Darby each agree that any suit for the enforcement of this Pledge Agreement may be brought in the courts of the State or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon NJTHA and/or Darby, as the case may be, by mail at the address specified in Article 22 of the Lease Agreement. NJTHA and Darby each hereby waive any objection that it

may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

**11. Waiver of Jury Trial.** EACH OF NJTHA AND DARBY WAIVE ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS PLEDGE AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, each of NJTHA and Darby waive any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. NJTHA and Darby each (i) certifies that neither the Authority nor any representative, agent or attorney of the Authority has represented, expressly or otherwise, that the Authority would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Lease Agreement, the Authority is relying upon, among other things, the waivers and certifications contained in this Section 11.

IN WITNESS WHEREOF, intending to be legally bound, each of the parties hereto has caused this Agreement to be duly executed as of the date first above written.

**DARBY DEVELOPMENT, L.L.C., a**  
New Jersey Limited Liability Company

By: 

Name: Ronald S. D'Amico

Title: Authorized Signatory

MANAGING MEMBER  
DARBY DEVELOPMENT  
LLC.

**NEW JERSEY THOROUGHBRED  
HORSEMEN'S ASSOCIATION, INC.**

By: John H. Forber  
Name: JOHN H. FORBER  
Title : PRESIDENT

**NEW JERSEY SPORTS & EXPOSITION  
AUTHORITY**

By:   
Name: Ralph J. Morra  
Title : Sr VP Legal



**EXHIBIT A  
TO PURSE PLEDGE AGREEMENT**

Issuer

Wells Fargo Bank

Account Title/Account No.

Darby Development Purse Account; A/C 9453914096

# **EXHIBIT W**

## SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of May 3, 2012 between NEW JERSEY THOROUGHbred HORSEMEN'S ASSOCIATION, INC., a not for profit corporation organized and existing under the laws of the State of New Jersey, having an address at 232A Norwood Avenue, West Long Branch, New Jersey 07764 ("NJTHA"), and NEW JERSEY SPORTS & EXPOSITION AUTHORITY, a public body corporate and politic with corporate succession, having an address at Meadowlands Sports Complex, 50 State Route 120, East Rutherford, New Jersey 07073 (hereinafter, the "Authority").

WHEREAS, NJTHA and the Authority have entered into a certain Racetrack Ground Lease Agreement dated as of February 29, 2012 (together with any amendments, modifications and/or restatements thereof or thereto from time to time, the "Lease Agreement"), pursuant to which the Authority, subject to the terms and conditions contained therein, is advancing funds to NJTHA to cover certain 2012 Excess Expenses, 2013 Excess Expenses and 2014 Excess Expenses, which advances are to be repaid by NJTHA in the form of the Minimum Lease Payments; and

WHEREAS, it is a condition precedent to the Authority making such advances that NJTHA execute and deliver to the Authority a security agreement in substantially the form hereof; and

WHEREAS, NJTHA wishes to grant security interests in favor of the Authority as herein provided;

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions.** All capitalized terms used herein without definitions shall have the respective meanings provided therefor in the Lease Agreement. The term "State", as used herein, means the State of New Jersey. All terms defined in the Uniform Commercial Code of the State and used herein shall have the same definitions herein as specified therein. However, if a term is defined in Article 9 of the Uniform Commercial Code of the State differently than in another Article of the Uniform Commercial Code of the State, the term has the meaning specified in Article 9. The term "Obligations", as used herein, means all of the indebtedness, obligations and liabilities of NJTHA to the Authority to repay in full the Minimum Lease Payments pursuant to and in accordance with the Lease Agreement.

2. **Grant of Security Interest.** NJTHA hereby grants to the Authority, to secure the payment and performance in full of all of the Obligations, a security interest in and so pledges and assigns to the Authority the following properties, assets and rights of NJTHA, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (all of the same being hereinafter called the "Collateral"): all cash on hand (including money held in the money room), all personal and fixture property of every kind and nature including without limitation all goods (including inventory, equipment and any accessions

thereto), instruments (including promissory notes), documents, accounts (including health-care-insurance receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, tort claims, and all general intangibles (including all payment intangibles).

3. **Authorization to File Financing Statements.** NJTHA hereby irrevocably authorizes the Authority at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral as all assets of NJTHA or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the State or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code of the State for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether NJTHA is an organization, the type of organization and any organization identification number issued to NJTHA and, (ii) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. NJTHA agrees to furnish any such information to the Authority promptly upon request.

4. **Other Actions.** Further to insure the attachment, perfection and first priority of, and the ability of the Authority to enforce, the Authority's security interest in the Collateral, NJTHA agrees, in each case at NJTHA's own expense, to take the following actions with respect to the following Collateral:

4.1. **Promissory Notes and Tangible Chattel Paper.** If NJTHA shall at any time hold or acquire any promissory notes or tangible chattel paper, NJTHA shall forthwith endorse, assign and deliver the same to the Authority, accompanied by such instruments of transfer or assignment duly executed in blank as the Authority may from time to time specify.

4.2. **Deposit Accounts.** For each deposit account that NJTHA at any time opens or maintains, NJTHA shall, at the Authority's request and option, pursuant to an agreement in form and substance satisfactory to the Authority, either (a) cause the depository bank to agree to comply at any time with instructions from the Authority to such depository bank directing the disposition of funds from time to time credited to such deposit account, without further consent of NJTHA, or (b) arrange for the Authority to become the customer of the depository bank with respect to the deposit account, with NJTHA being permitted, only with the consent of the Authority, to exercise rights to withdraw funds from such deposit account. The Authority agrees with NJTHA that the Authority shall not give any such instructions or withhold any withdrawal rights from NJTHA, unless a Tenant Event of Default has occurred and is continuing. The provisions of this paragraph shall not apply to (i) any deposit account for which NJTHA, the depository bank and the Authority have entered into a cash collateral agreement specially negotiated among NJTHA, the depository bank and the Authority for the specific purpose set forth therein, and (ii) deposit accounts specially and exclusively used for payroll,

payroll taxes and other employee wage and benefit payments to or for the benefit of NJTHA's salaried employees.

**4.3. Investment Property.** If NJTHA shall at any time hold or acquire any certificate securities, NJTHA shall forthwith endorse, assign and deliver the same to the Authority, accompanied by such instruments of transfer or assignment duly executed in blank as the Authority may from time to time specify. If any securities now or hereafter acquired by NJTHA are uncertificated and are issued to NJTHA or its nominee directly by the issuer thereof, NJTHA shall immediately notify the Authority thereof and, at the Authority's request and option, pursuant to an agreement in form and substance satisfactory to the Authority, either (a) cause the issuer to agree to comply with instructions from the Authority as to such securities, without further consent of NJTHA or such nominee, or (b) arrange for the Authority to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment property now or hereafter acquired by NJTHA are held by NJTHA or its nominee through a securities intermediary or commodity intermediary, NJTHA shall immediately notify the Authority thereof and, at the Authority's request and option, pursuant to an agreement in form and substance satisfactory to the Authority, either (i) cause such securities intermediary or (as the case may be) commodity intermediary to agree to comply with entitlement orders or other instructions from the Authority to such securities intermediary as to such securities or other investment property, or (as the case may be) to apply any value distributed on account of any commodity contract as directed by the Authority to such commodity intermediary, in each case without further consent of NJTHA or such nominee, or (ii) in the case of financial assets or other investment property held through a securities intermediary, arrange for the Authority to become the entitlement holder with respect to such investment property, with NJTHA being permitted, only with the consent of the Authority, to exercise rights to withdraw or otherwise deal with such investment property. The Authority agrees with NJTHA that the Authority shall not give any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by NJTHA, unless a Tenant Event of Default has occurred and is continuing.

**4.4. Collateral in the Possession of a Bailee.** If any goods are at any time in the possession of a bailee, NJTHA shall promptly notify the Authority thereof and, if requested by the Authority, shall promptly obtain an acknowledgment from the bailee, in form and substance satisfactory to the Authority, that the bailee holds such Collateral for the benefit of the Authority and shall act upon the instructions of the Authority, without the further consent of NJTHA.

**4.5. Electronic Chattel Paper and Transferable Records.** If NJTHA at any time holds or acquires an interest in any electronic chattel paper or any "transferable record," as that term is defined in Section 201 of the federal Electronic Signatures in Global and National Commerce Act, or in §16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction, NJTHA shall promptly notify the Authority thereof and, at the request of the Authority, shall take such action as the Authority may reasonably request to vest in the Authority control, under §9-105 of the Uniform Commercial Code, of such electronic chattel paper or control under Section 201 of the federal Electronic Signatures in Global and National Commerce

Act or, as the case may be, §16 of the Uniform Electronic Transactions Act, as so in effect in such jurisdiction, of such transferable record. The Authority agrees with NJTHA that the Authority will arrange, pursuant to procedures satisfactory to the Authority and so long as such procedures will not result in the Authority's loss of control, for NJTHA to make alterations to the electronic chattel paper or transferable record permitted under UCC §9-105 or, as the case may be, Section 201 of the federal Electronic Signatures in Global and National Commerce Act or §16 of the Uniform Electronic Transactions Act for a party in control to make without loss of control, unless a Tenant Event of Default has occurred and is continuing.

**4.6. Commercial Tort Claims.** If NJTHA shall at any time hold or acquire a commercial tort claim, NJTHA shall immediately notify the Authority in a writing signed by NJTHA of the brief details thereof and grant to the Authority in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to the Authority.

**4.7. Other Actions as to any and all Collateral.** NJTHA further agrees to take any other action reasonably requested by the Authority to insure the attachment, perfection and first priority of, and the ability of the Authority to enforce, the Authority's security interest in any and all of the Collateral including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the Uniform Commercial Code, to the extent, if any, that NJTHA's signature thereon is required therefor, (b) causing the Authority's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of the Authority to enforce, the Authority's security interest in such Collateral, (c) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the Authority to enforce, the Authority's security interest in such Collateral, (d) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Collateral, (e) obtaining waivers from mortgagees and landlords in form and substance satisfactory to the Authority and taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

**5. Relation to Other Security Documents.** The provisions of this Agreement supplement the provisions of any other security or collateral granted by NJTHA to the Authority and securing the payment or performance of the Obligations. Nothing contained in any such other security or collateral shall derogate from any of the rights or remedies of the Authority hereunder.

**6. Representations and Warranties Concerning NJTHA's Legal Status.** NJTHA represents and warrants to the Authority as follows: (a) NJTHA's exact legal name is that indicated on the signature page hereof, (b) NJTHA is a non-profit corporation and is organized in the jurisdiction of the State, and (c) NJTHA's chief executive office as well as its mailing address is located at 232A Norwood Avenue, West Long Branch, New Jersey 07764.

7. **Covenants Concerning NJTHA's Legal Status.** NJTHA covenants with the Authority as follows: (a) without providing at least 30 days prior written notice to the Authority, NJTHA will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, (b) if NJTHA does not have an organizational identification number and later obtains one, NJTHA shall forthwith notify the Authority of such organizational identification number, and (c) NJTHA will not change its type of organization, jurisdiction of organization or other legal structure.

8. **Representations and Warranties Concerning Collateral, Etc.** NJTHA further represents and warrants to the Authority as follows: (a) NJTHA is the owner of the Collateral, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Agreement, (b) none of the Collateral constitutes, or is the proceeds of, "farm products" as defined in §9-102(a)(34) of the Uniform Commercial Code of the State, (c) none of the account debtors or other persons obligated on any of the Collateral is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral, (d) NJTHA holds no commercial tort claim, and (e) NJTHA has at all times operated its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances.

9. **Covenants Concerning Collateral, Etc.** NJTHA further covenants with the Authority as follows: (a) the Collateral, to the extent not delivered to the Authority pursuant to §4, will be kept at the Racetrack or at the location listed in Section 6 and NJTHA will not remove the Collateral from such location, without providing at least 30 days prior written notice to the Authority, (b) except for the security interest herein granted, NJTHA shall be the owner of the Collateral free from any lien, security interest or other encumbrance, and NJTHA shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to the Authority, (c) NJTHA shall not pledge, mortgage or create, or suffer to exist a security interest in the Collateral in favor of any person other than the Authority, (d) NJTHA will keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon, (e) NJTHA will permit the Authority, or its designee, to inspect the Collateral at any reasonable time, wherever located, (f) NJTHA will pay promptly when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of such Collateral or incurred in connection with this Agreement, (g) NJTHA will continue to operate, its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and in compliance with all applicable provisions of federal, state and local statutes and ordinances, and (h) NJTHA will not sell or otherwise dispose, or offer to sell or otherwise dispose, of the Collateral or any interest therein except for (i) sales of inventory the ordinary course of business and (ii) so long as no Tenant Event of Default has occurred and is continuing, sales or other dispositions of obsolescent items of equipment in the ordinary course of business consistent with past practices.

10. **Collateral Protection Expenses; Preservation of Collateral.**

10.1. **Expenses incurred by the Authority.** In its discretion, the Authority may discharge taxes and other encumbrances at any time levied or placed on any of the

Collateral, make repairs thereto and pay any necessary filing fees. NJTHA agrees to reimburse the Authority on demand for any and all expenditures so made. The Authority shall have no obligation to NJTHA to make any such expenditures, nor shall the making thereof relieve NJTHA of any default.

**10.2. No Authority Obligations or Duties.** Anything herein to the contrary notwithstanding, NJTHA shall remain liable under each contract or agreement comprised in the Collateral to be observed or performed by NJTHA thereunder. The Authority shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Agreement or the receipt by the Authority of any payment relating to any of the Collateral, nor shall the Authority be obligated in any manner to perform any of the obligations of NJTHA under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by the Authority in respect of the Collateral or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to the Authority or to which the Authority may be entitled at any time or times.

**11. Notification to Account Debtors and Other Persons Obligated on Collateral.** If a Tenant Event of Default shall have occurred and be continuing, NJTHA shall, at the request of the Authority, notify account debtors and other persons obligated on any of the Collateral of the security interest of the Authority in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Authority or to any financial institution designated by the Authority as the Authority's agent therefor, and the Authority may itself, if a Tenant Event of Default shall have occurred and be continuing without notice to or demand upon NJTHA, so notify account debtors and other persons obligated on Collateral. After the making of such a request or the giving of any such notification, NJTHA shall hold any proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by NJTHA as trustee for the Authority without commingling the same with other funds of NJTHA and shall turn the same over to the Authority in the identical form received, together with any necessary endorsements or assignments. The Authority shall apply the proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by the Authority to the Obligations, such proceeds to be immediately entered after final payment in cash or other immediately available funds of the items giving rise to them.

**12. Power of Attorney.**

**12.1. Appointment and Powers of the Authority.** NJTHA hereby irrevocably constitutes and appoints the Authority and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of NJTHA's or in the Authority's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives said attorneys the power and right, on behalf of NJTHA, without notice to or assent by NJTHA, to do the following:



(a) upon the occurrence and during the continuance of a Tenant Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the Uniform Commercial Code of the State and as fully and completely as though the Authority were the absolute owner thereof for all purposes, and to do at NJTHA's expense, at any time, or from time to time, all acts and things which the Authority deems necessary to protect, preserve or realize upon the Collateral and the Authority's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as NJTHA might do, including, without limitation, (i) the filing and prosecuting of registration and transfer applications with the appropriate federal or local agencies or authorities with respect to trademarks, copyrights and patentable inventions and processes, (ii) upon written notice to NJTHA, the exercise of voting rights with respect to voting securities, which rights may be exercised, if the Authority so elects, with a view to causing the liquidation in a commercially reasonable manner of assets of the issuer of any such securities and (iii) the execution, delivery and recording, in connection with any sale or other disposition of any Collateral, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Collateral; and

(b) to the extent that NJTHA's authorization given in §3 is not sufficient to file such financing statements with respect hereto, with or without NJTHA's signature, or a photocopy of this Agreement in substitution for a financing statement, as the Authority may deem appropriate and to execute in NJTHA's name such financing statements and amendments thereto and continuation statements which may require NJTHA's signature.

**12.2. Ratification by NJTHA.** To the extent permitted by law, NJTHA hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

**12.3. No Duty on the Authority.** The powers conferred on the Authority hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. The Authority shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible NJTHA for any act or failure to act, except for the Authority's own gross negligence or willful misconduct.

**13. Remedies.** If a Tenant Event of Default (as defined in the Lease Agreement) shall have occurred and be continuing, the Authority may, without notice to or demand upon NJTHA, declare this Agreement to be in default, and the Authority shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of the State or of any jurisdiction in which Collateral is located, including, without limitation, the right to take possession of the Collateral, and for that purpose the Authority may, so far as NJTHA can give authority therefor, enter upon any premises on which the Collateral may be situated and remove the same therefrom. The Authority may in its discretion require NJTHA to assemble all or any part of the Collateral at the Racetrack or such other location or locations within the jurisdiction(s) of NJTHA's principal office(s) or at such other locations as the Authority may

reasonably designate. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Authority shall give to NJTHA at least five Business Days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. NJTHA hereby acknowledges that five Business Days prior written notice of such sale or sales shall be reasonable notice. In addition, NJTHA waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of the Authority's rights hereunder, including, without limitation, its right following a Tenant Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto.

**14. Standards for Exercising Remedies.** To the extent that applicable law imposes duties on the Authority to exercise remedies in a commercially reasonable manner, NJTHA acknowledges and agrees that it is not commercially unreasonable for the Authority (a) to fail to incur expenses reasonably deemed significant by the Authority to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (d) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as NJTHA, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure the Authority against risks of loss, collection or disposition of Collateral or to provide to the Authority a guaranteed return from the collection or disposition of Collateral, or (l) to the extent deemed appropriate by the Authority, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Authority in the collection or disposition of any of the Collateral. NJSEA acknowledges that the purpose of this §14 is to provide non-exhaustive indications of what actions or omissions by the Authority would not be commercially unreasonable in the Authority's exercise of remedies against the Collateral and that other actions or omissions by the Authority shall not be deemed commercially unreasonable solely on account of not being indicated in this §14. Without limitation upon the foregoing, nothing contained in this §14 shall be construed to grant any rights to NJTHA or to impose any duties on the Authority that would not have been granted or imposed by this Agreement or by applicable law in the absence of this §14.

**15. No Waiver by the Authority, etc.** The Authority shall not be deemed to have waived any of its rights upon or under the Obligations or the Collateral unless such waiver shall

be in writing and signed by the Authority. No delay or omission on the part of the Authority in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of the Authority with respect to the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly, alternatively, successively or concurrently at such time or at such times as the Authority deems expedient.

16. **Suretyship Waivers by NJTHA.** NJTHA waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect to both the Obligations and the Collateral, NJTHA assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Authority may deem advisable. The Authority shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto. NJTHA further waives any and all other suretyship defenses.

17. **Marshalling.** The Authority shall not be required to marshal any present or future collateral security (including but not limited to this Agreement and the Collateral) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, NJTHA hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Authority's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, NJTHA hereby irrevocably waives the benefits of all such laws.

18. **Proceeds of Dispositions; Expenses.** NJTHA shall pay to the Authority on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by the Authority in protecting, preserving or enforcing the Authority's rights under or in respect of any of the Obligations or any of the Collateral. After deducting all of said expenses, the residue of any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as the Authority may determine, proper allowance and provision being made for any Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations and after making any payments required by Sections 9-608(a)(1)(C) or 9-615(a)(3) of the Uniform Commercial Code of the State, any excess shall be returned to NJTHA, and NJTHA shall remain liable for any deficiency in the payment of the Obligations.

19. **Overdue Amounts.** Until paid, all amounts due and payable by NJTHA hereunder shall be a debt secured by the Collateral and shall bear, whether before or after judgment, interest at the Overdue Rate (as defined in the Lease Agreement).

20. **Governing Law; Consent to Jurisdiction.** THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE. NJTHA agrees that any suit for the enforcement of this Agreement may be brought in the courts of the State or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon NJTHA by mail at the address specified in Section 6. NJTHA hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

21. **Waiver of Jury Trial.** NJTHA WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, NJTHA waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. NJTHA (i) certifies that neither the Authority nor any representative, agent or attorney of the Authority has represented, expressly or otherwise, that the Authority would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Lease Agreement, the Authority is relying upon, among other things, the waivers and certifications contained in this §21.

22. **Miscellaneous.** The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon NJTHA and its respective successors and assigns, and shall inure to the benefit of the Authority and its successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. NJTHA acknowledges receipt of a copy of this Agreement. The provisions of Article 22 (Notices) of the Lease Agreement are incorporated herein as if set out in full.

*[Remainder of Page Intentionally Blank; Signature Page Follows]*

IN WITNESS WHEREOF, intending to be legally bound, NJTHA has caused this Agreement to be duly executed as of the date first above written.

NEW JERSEY THOROUGHBRED  
HORSEMEN'S ASSOCIATION, INC., a  
New Jersey non-profit corporation

By: John H. Forbess  
Name: JOHN H. FORBESS  
Title: PRESIDENT

Accepted:

NEW JERSEY SPORTS & EXPOSITION AUTHORITY

By: Ralph J. Marra  
Name: Ralph J. Marra Jr.  
Title: SAUP legal

Security Agreement