



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Coastal and Land Use Compliance and Enforcement
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BOB MARTIN
Commissioner

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CERTIFIED MAIL/RR
7016 0910 0000 6832 3583

IN THE MATTER OF:

Clayton Perlman
357 West Front Street LLC
357 W Front Street
Keyport, New Jersey 07735

ADMINISTRATIVE CONSENT ORDER

NEA160001 - 1322-04-0001.2

The New Jersey Department of Environmental Protection ("Department" or "DEP") is authorized to enter into this Administrative Consent Order (ACO) pursuant to the authority vested in the Commissioner of the Department by N.J.S.A. 13:1D-1 et seq., and the Freshwater Wetlands Protection Act N.J.S.A. 13:9B-1 et seq. (the "FWPA") and the rules promulgated at N.J.A.C. 7:7A-1, the Waterfront Development Statutes, N.J.S.A. 12:5-1 et seq. (the "WD Statutes") and the rules promulgated at N.J.A.C. 7:7, the Riparian Lands Statutes, N.J.S.A. 12:3-1 et seq. (the "Tidelands Statutes"). The Wetlands Act of 1970 N.J.S.A. 13:9A-1 et seq. (the "CW Act") and rules promulgated at N.J.A.C. 7:7 and duly delegated to the Assistant Commissioner, Compliance and Enforcement and his assignees pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. Clayton Perlman and 357 West Front Street LLC, hereinafter Mr. Perlman, own the property located at 357 West Front Street, Keyport, New Jersey, Block 20, Lots 5, 6, 6.01 9, 11.01, 13, 14, and 14.01 in Keyport Borough, Monmouth County, hereinafter the "site". The site currently consists of a marina with associated docks, walkways, boat storage, and marina buildings.
2. On February 24, 2004, the Department's Bureau of Coastal & Land Use Compliance & Enforcement (CLUE) issued a Notice of Violation (2004 NOV) to the prior owner, Anne Kristin Moore, for the prohibited filling of mapped coastal wetlands on the site.
3. On March 2, 2004, a meeting was held at the DEP with Mr. Perlman who was the prospective purchaser of the site at the time. A letter was issued on May 18, 2004 to Ray Walker, Mr. Perlman's consultant, advising that the Department had determined that all fill material, measuring approximately 114,000 square feet, placed within mapped coastal wetlands on the site subsequent to 1978 must be removed and the impacted areas restored to wetland conditions. The Department requested that Mr. Perlman submit a restoration plan for review by CLUE.
4. On December 20, 2004, Mr. Perlman purchased the site from Anne Kristin Moore. The Department continued discussions for the next few years with Mr. Perlman to address the extent and restoration of the unauthorized coastal wetlands fill.

5. On August 29, 2007, Mr. Perlman applied for a freshwater wetland Letter of Interpretation (LOI) to delineate the extent of freshwater wetlands and transition areas on the site.
6. On February 13, 2008, the Division of Land Use Regulation (DLUR) issued the LOI. The wetland line that was submitted was determined to be accurate as shown on the submitted plan and depicted freshwater wetlands of exceptional resource value, requiring a 150 foot buffer, as well as intermediate resource value, requiring a 50 foot buffer. Mr. Perlman requested and was granted a hearing to appeal the terms of the LOI. On June 9, 2008, based on further information submitted, portions of the exceptional resource value buffer were reclassified to intermediate resource value requiring a 50 foot buffer to the freshwater wetlands.
7. On March 20, 2009, a restoration plan entitled, "Wetland Restoration Plan for Brown's Point Marina", dated October 6, 2008 and last revised March 12, 2009, was received by CLUB for review and approval and was determined to be acceptable for implementation at the time.
8. On June 16, 2009, the Department and Mr. Perlman signed an Administrative Consent Order (ACO) which required Mr. Perlman to complete the approved wetland restoration shown on the plan entitled "Wetland Restoration Plan for Brown's Point Marina" within one year from the issuance of a CAFRA permit for the site. If a CAFRA permit was not issued within 5 years or was denied, the ACO would become null and void. In addition, Mr. Perlman agreed to provide funding for a waterfront public access improvements in Keyport.
9. On October 8, 2009, DLUR issued a conditioned Waterfront Development Permit, WFD080001- 1322-04-0001.2, hereinafter the "2009 WFD Permit" to Mr. Perlman. This permit authorized the replacement of 488 linear feet of vinyl bulkhead, replacement of two existing docks with a 6 foot by 147 foot floating dock and a 6 foot by 68 foot floating dock, removal and reconstruction of an existing boat ramp, and dredging at the site subject to certain conditions.
10. On January 29, 2010, a Notice of Violation (NOV) was issued to Mr. Perlman for noncompliance with condition #s 3, 4, 10c, and 12 of the 2009 WFD Permit which included: failure to record the 2009 WFD Permit with the Monmouth County Clerk's office, failure to notify the Department in writing at least 7 days prior to commencement of the project, failure to obtain a Tidelands conveyance, and performing dredging operations during a timing restriction, respectively. The 2009 WFD Permit was later recorded with the County Clerk on March 19, 2010.
11. On May 27, 2010, CLUB issued a second NOV to Mr. Perlman for additional violations which included the excavation of coastal wetlands during the installation of the new vinyl bulkhead, placement of fill in coastal wetlands, construction of docks not in compliance with the 2009 WFD Permit, failure to obtain the required Tidelands conveyance, and continued dredging within a timing restriction.
12. On June 16, 2014, the June 16, 2009 ACO became null and void, as Mr. Perlman had not applied for or received a CAFRA permit as specified in the ACO.
13. On March 17, 2015, DLUR issued to Mr. Perlman a Waterfront Development and Freshwater Wetlands Permit # 1332-04-0001.2 WFD140001, FWW140001, hereinafter the "FWWWD Permit". The FWWWD permit authorized the legalization of a 6 foot by 85 foot dock, reconfiguration of six existing slips, construction of an 8 foot by 880 linear foot floating dock with eighteen 3 foot by 25 foot finger piers, ten 3 foot by 30 foot finger piers, a 48 foot breakwater, and a 32 foot dock/gangway to access a 103 foot linear fixed pier with a 199 foot gravel path to access 10 temporary parking spaces, as shown on the plans approved therein.
14. As a result of compliance evaluations conducted on July 7 and 22, 2015, the Department determined that Mr. Perlman failed to comply with applicable requirements at the site as listed below:

Violations of the FWWWD permit conditions:

Requirement: Pursuant to N.J.A.C. 7: 7- 8.3(b), failure to comply with the conditions of a Waterfront Development Permit shall constitute a violation. In addition, pursuant to N.J.A.C. 7: 7A-13.1(a), the permittee shall comply with all conditions of a permit issued pursuant to the Freshwater Wetlands Protection Act.

Description of Noncompliance: failure to comply with Special Conditions (SPC) #s 2, 3, 4, 5, and 13 of the FWWWD Permit and Standard Conditions (SC) #s 1 and 2.

- a. SPC#2 -- failure to obtain a permit from the US ARMY Corps of Engineers prior to construction. The FWWWD Permit states that the permit approval is not valid until a permit from the US ARMY Corps of Engineers (USACE) is obtained. A USACE permit was later obtained on July 13, 2015.
- b. SPC#3 - requires that "prior to ANY construction activities, the permittee must receive approval of Tidelands license file # 1322-04-0001.2 TDL14001". Construction had commenced on site and no Tidelands license approval had been issued.
- c. SPC#4 - requires that, "Within 90 days, and prior to construction, the applicant shall remove the 8 foot x 28 foot dock and the two 9 foot x 20 foot docks adjacent to the boat ramp." Construction commenced and the docks had not been removed.
- d. SPC#5 - requires that "prior to construction, the applicant shall restore the area of filled coastal wetlands associated with the newly constructed vinyl bulkhead. Upon completion of the restoration work, the applicant shall coordinate with CLUE to confirm that the violation has been resolved." A site inspection conducted on July 7, 2015, found that construction had commenced on site, including construction of docks, yet the area of filled coastal wetlands had not been restored.
- e. SPC#13 - requires that the disturbance to wetlands and buffers for the construction of the trail/boardwalk shall not exceed a total of 1,621 square feet. The boardwalk was approved to be a 103 linear foot elevated fixed pier 4' high over wetlands with a 199 foot gravel path. The boardwalk/trail was not constructed in compliance with the approved permit/plans. An approximately 125 foot x 6 foot boardwalk with gravel path had been constructed approximately 240 feet west of the approved location resulting in greater impacts to freshwater wetlands and buffers, measuring over 2,000 square feet. Impacts to coastal wetlands from this fixed pier are outlined below.
- f. SC#1 - requires "The permittee and its contractors and subcontractors shall comply with all conditions of this permit, authorizing and/or supporting documents and approved plans and drawings."
- g. SC#2 - requires that "No change in plans or specifications upon which the permit is issued shall be made except with the prior written permission of the Department." Clearing, filling and construction activities have occurred on the site that are not authorized via any Land Use permit.

Coastal Wetlands

- h. Requirement: Pursuant to N.J.A.C. 7: 7- 2.3(a), a coastal wetland permit is required for all activities in coastal wetlands delineated and mapped pursuant to the Wetlands Act of 1970.

Description of Noncompliance: the performance of unauthorized regulated activities within a coastal wetland. More specifically, the regulated activities involve the clearing, disturbance, and removal of approximately 2,400

square feet of coastal wetlands vegetation associated with the unauthorized construction of the 6 foot x 125 foot fixed pier/walkway.

Freshwater Wetlands

- i. Requirement: Pursuant to N.J.A.C. 7: 7A- 2.6(a), the removal, excavation or disturbance of the soil; dumping or filling with any material; erection of structures; placement of pavements; destruction of plant life which would alter the existing pattern of vegetation; and placement of any portion of a residential development project as defined at N.J.A.C. 7:7A-1.4 within a freshwater wetland transition area are regulated activities which require prior permit approval from the Department.

Description of Noncompliance: the performance of unauthorized regulated activities within a freshwater wetland buffer. More specifically, the regulated activities involve the cutting and clearing of an area approximately 30 foot x 40 foot (1,200 sq. ft.) of exceptional resource value freshwater wetlands transition area as well as an area approximately 100 foot x 10 foot (1,000 sq. ft.) of intermediate resource value freshwater wetlands transition area to expand parking/boat storage areas on the site without Department approval. This area of more recent disturbance is located within/adjacent to the area of historic coastal wetland fill referenced in paragraph 2.

Waterfront Development

- i. Requirement: Pursuant to N.J.A.C. 7: 7- 2.4, any development activity as described in N.J.A.C. 7:7-2.4 undertaken within the waterfront area at or below the mean high waterline will require a waterfront development permit.

Description of Noncompliance: the performance of unauthorized development activities within a regulated waterfront area. More specifically, the activities involve the installation of unauthorized structures including: a 6 foot x 20 foot floating dock perpendicular to the approved floating dock system, a jet ski dock measuring approximately 6 foot x 12 foot and a second floating dock measuring approximately 8 foot x 20 foot attached to the approved floating docks to the west of this location on the south side.

15. On September 15, 2015, CLUE issued a Notice of Violation (2015 NOV) to Mr. Perlman for the above violations. The 2015 NOV was received on September 24, 2015.
16. On December 3, 2015, CLUE staff met on site with Mr. Perlman's consultant, Michael Weseloski of MidAtlantic Engineering, to review the violations and discuss a resolution. A restoration plan entitled, "Coastal Wetlands Restoration Plan Block 20; Lots 5, 6, 6.01, 9, 11.01, 13, 14, & 14.01, Brown's Point Marina Bulkhead Area situated in Borough of Keyport, Monmouth County, New Jersey" dated 9/8/15 by MidAtlantic Engineering was approved at that time for the restoration of the coastal wetlands adjacent to the bulkhead cited in paragraph 14d and an area containing historic debris placed behind a boat rack as described in the approved plan. This restoration is to be completed by September 30, 2016.
17. On January 12, 2016, CLUE staff met with Mr. Perlman and his consultants, Louis Zuegner and Michael Weselowski of MidAtlantic Engineering, to discuss the resolution of all violations via an ACO. It was agreed that a restoration plan would be submitted to restore the area of coastal wetlands disturbance adjacent to the unauthorized 6 foot x 125 foot boardwalk, referenced in paragraph 14h. Mr. Perlman agreed to submit the appropriate permit applications to legalize additional structures constructed without the required NJDEP Land Use permits. In addition, a new restoration plan would be submitted to CLUE for review and approval to restore the remaining wetlands and transition areas on site which were filled by the prior owner and cited in the 2004 NOV, see paragraphs 2 thru 4, and 7 above.
18. On January 22, 2016, MidAtlantic Engineering submitted a restoration plan for the disturbed area adjacent to the 6 foot x 125 foot boardwalk area for review and approval. A restoration plan entitled, "Coastal Wetlands Restoration Plan

Block 20; Lots 5,6,6.01,9,11.01,13,14, & 14.01 Brown's Point Elevated Pier Area situated in Borough of Keyport, Monmouth County, New Jersey" dated 1/22/16 by MidAtlantic Engineering was subsequently approved for implementation and completion not later than September 30, 2016.

19. The Signatories wish to resolve this matter without further adjudication and therefore have entered into this ACO to settle the violations referenced in the above Findings without admission of fault or liability according to the terms set forth herein.

COMPLIANCE REQUIREMENTS AND SCHEDULE
NOW THEREFORE IT IS HEREBY ORDERED AND AGREED THAT MR. PERLMAN SHALL:

20. Within 45 days of this document becoming final pursuant to the Public Participation Process described below, submit the appropriate completed Waterfront Development, Coastal Wetlands, and Freshwater Wetlands permit applications and Tidelands license permit application, hereinafter "applications" to the Department's Division of Land Use Regulation (DLUR), with a copy sent to CLUE, to attempt to legalize the violations cited in paragraph 14 b, c, f, g, and j above.
21. By September 30, 2016, implement and complete the restoration of the coastal wetlands in compliance with the 2 approved restoration plans noted in paragraphs 16 and 18 above.
22. Within 45 days of this document becoming final, submit to CLUE for approval a revised version of the restoration plan entitled "Wetland Restoration Plan for Brown's Marina", referenced in paragraph 7. Revisions must address the restoration of wetland and transition area impacts cited in paragraph 14i and include the following:
- a. Removal of all unauthorized fill material and structures, and restoration of all disturbed areas to pre-disturbance grades; as well as removal and restoration of the 10 temporary parking spots authorized by Permit # 1322-04-0001.2 WFD140001.
 - b. A description of how the disturbed area will be re-graded to re-establish pre-disturbance topography and hydrology;
 - c. A stabilization plan prepared in accordance with the "Standards for Soil Erosion and Sediment Control (SESC) in New Jersey", and such plan submitted, upon CLUE approval, to the Freehold Soil Conservation District for review and approval.
 - d. A planting plan that includes a list of all indigenous plant species (use of non-native species is prohibited) intended to recreate the pre-existing vegetation type including the pattern and spacing of these plantings;
 - e. A time schedule for implementation and completion of the restoration work, to be completed in 2 phases to be shown on the plan with the 15,000 square foot area adjacent to the exceptional resource value wetlands to be restored no later than April 30, 2017 and the remaining area to be restored by September 30, 2017; these dates contingent upon SESC approval;
 - f. Note that the restoration plan must insure 85% survival and 85% vegetative coverage of the plantings after 3 complete growing seasons. Should the restoration plan, as implemented, fail to achieve this, the Bureau may require corrective actions.
23. Should the CLUE determine that any portion of the applications and/or the restoration proposal submitted is inadequate or incomplete, CLUE shall provide Mr. Perlman with written comments as to the deficiencies.

24. Within 30 days of receipt of CLUE's comments, if any, on the applications and/or proposal, Mr. Perlman shall conform to the CLUE's comments and submit the revised applications and /or proposal to CLUE. The determination as to whether or not the revised applications and/or proposal, as resubmitted, conform to CLUE's comments shall be made solely by the CLUE.
25. The results of an application review may be approval, partial approval or denial. Mr. Perlman shall comply with all issued permits and/or approvals and all conditions therein. If the application process results in partial approval or denial, within 30 days of a partial approval and/or denial, Mr. Perlman shall submit a restoration proposal to CLUE in accordance with the procedure outlined in the preceding paragraphs for the full restoration of all regulated activities not approved under a permit.
26. Upon CLUE approval, Mr. Perlman shall implement the approved restoration plans in accordance with the approved time schedules.
27. Within 45 calendar days of this document becoming final pursuant to the Public Participation Process described below, Mr. Perlman shall submit a draft conservation restriction, using the Department's template (Exhibit A), to CLUE for review and approval. The conservation restriction shall preserve in perpetuity the entire restoration area required pursuant to paragraph 22 above.
28. Should revisions or corrections to the draft conservation restriction be required, CLUE will provide Mr. Perlman with comments. Within 30 calendar days of receipt of CLUE's comments, Mr. Perlman shall submit a revised conservation restriction that incorporates CLUE's comments.
29. Within 20 calendar days of receipt of CLUE's approval of the draft conservation restriction, Mr. Perlman shall file the conservation restriction with the County Clerk's Office for recording onto the property deed.
30. Mr. Perlman shall submit to CLUE proof of the recording by the County Clerk within 20 calendars days of the County Clerk's filing.

PENALTY SETTLEMENT

31. In settlement of the violations identified in the Findings of this ACO, Mr. Perlman, his successors and/or assigns, shall pay the sum of \$35,500.00 to the Department in accordance with the payment schedule set forth in the Installment Plan attached hereto as Exhibit B. Payments shall be made by certified check payable to the Treasurer, State of New Jersey, and shall be sent with the appropriate invoice to the Department of Treasury, at the address indicated on the invoice.
32. If Mr. Perlman fails to pay the above penalty in accordance with the terms and conditions of this ACO, then the Department may take additional enforcement action as appropriate.

STIPULATED PENALTIES

33. Stipulated penalties shall be paid to the Department as set forth below for the failure to comply with any requirement of this ACO, unless the Department has notified Mr. Perlman in writing that a stipulated penalty will not be assessed for the violations pursuant to the force majeure provisions of this ACO. Each deadline or schedule not complied with shall be considered a separate violation. Payment of stipulated penalties shall be made according to the following schedule.

<u>Calendar Days After Due Date</u>
1 - 7
8 - 14

<u>Stipulated Penalties</u>
\$100.00 per calendar day
\$200.00 per calendar day

15 - over

\$500.00 per calendar day

34. Any such penalty for failure to comply with this ACO shall be due and payable thirty (30) calendar days following receipt of a written demand from the Department. Payment of stipulated penalties shall be made by a cashier's or certified check payable to the "Treasurer, State of New Jersey" and shall be submitted to the address on the enclosed payment invoice provided in the demand letter.
35. For the failure to timely 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.
36. The payment of stipulated penalties does not alter the responsibility to complete all the requirements of this ACO.

FORCE MAJEURE

37. If any event occurs which is believed will or may cause delay in the achievement of any provision of this ACO, the Department shall be notified in writing to the contact address below within seven (7) calendar days of the delay or anticipated delay, as appropriate, referencing this paragraph and describing the anticipated length of the delay, the precise cause or causes of the delay, any measures taken or to be taken to minimize or prevent the delay, and the time required to take any such measure to prevent or minimize any such delay. All necessary actions shall be taken to prevent or minimize any such delay.
38. If the Department finds (a) that the notice requirements of the preceding paragraph have been fully complied with and (b) that any delay or anticipated delay has been or will be caused by fire, flood, riot, strike or other circumstances beyond the control of Mr. Perlman; and (c) that all necessary actions to prevent or minimize the delay have been taken, the Department shall extend the time for performance hereunder for a period no longer than the delay resulting from such circumstances. If the Department determines that the above notice requirements of the preceding paragraph have not been complied with, the event causing the delay is not beyond the control of Mr. Perlman, or that all necessary actions to prevent or minimize the delay have not been taken, failure to comply with the provisions of this ACO shall constitute a violation of the requirements of the ACO. The burden of proving that any delay is caused by circumstances beyond the control of Mr. Perlman, that all necessary actions were taken to prevent or minimize the delay, and the length of any such delay attributed to those circumstances, shall rest with Mr. Perlman. Increase in the cost or expenses incurred 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. Force majeure shall not automatically include contractor's breach.

RESERVATION OF RIGHTS

39. The Department reserves the right to require that 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 such additional measures, should the Department determine that they are necessary, nor a waiver of any defenses thereto.
40. The Department reserves the right to unilaterally terminate this ACO in the event its terms are violated. However, before the Department terminates this ACO pursuant to this paragraph, the Department will provide notice in writing of its obligations, and shall provide reasonable time under the circumstances as determined by the Department, but not to exceed thirty (30) calendar days, to perform said obligations.

DEPARTMENT CONTACT

41. All submissions of information required by this ACO (except payment of penalty) shall be mailed to:

Bureau of Coastal and Land Use Compliance and Enforcement
Toms River Office
1510 Hooper Avenue, Suite 140
Toms River, New Jersey 08753
Telephone: (732) 255-0787 Fax: (732) 255-0877

PUBLIC PARTICIPATION PROCESS

42. Pursuant to N.J.S.A. 13:9B-21 and N.J.A.C. 7:7A-16.19(a)3, notice of this ACO shall be published in the DEP Bulletin and will be subject to a thirty (30) day public comment period. Notice of this settlement will be published following signature by all parties.

- a. If there are no changes to the settlement pursuant to this public participation process, then the ACO shall become final the day upon written receipt of Final ACO;
- b. If DEP proposes to make changes pursuant to this public participation process and changes are agreed to, then this ACO, as modified in writing shall become final upon signature by the parties;
- c. If DEP proposes to make material changes to this ACO pursuant to the public participation process and such changes are not agreed to within a reasonable period of time, not to exceed thirty (30) days thereafter, this ACO shall become null and void.

GENERAL PROVISIONS

43. This ACO and compliance therewith represents the full and final settlement and resolution of the matters identified in the underlying above NOV(s).
44. This ACO represents the complete and integrated agreement of, and shall be binding upon, and/or inure to the benefit of, the State of New Jersey, the Department, and their divisions, agencies and respective successors, and the Signatory (ies) and its respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.
45. This ACO shall not relieve Mr. Perlman 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.
46. The Signatories agree not to contest the terms or conditions of this ACO in any action to enforce its provisions.
47. No obligations of this ACO or penalties imposed by this ACO are intended to constitute a debt or debts that 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. Nothing in this ACO shall preclude the Department from taking immediate action or seeking injunctive relief to protect the public health safety or welfare or from taking enforcement action for matters not set forth in the Findings referenced in this ACO.

49. This ACO shall be binding, jointly and severally, on the Signatories, their respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or in equity.
50. The Signatories hereby agree to comply with this ACO, which shall be fully enforceable as a final agency order in the Superior Court of New Jersey.
51. In addition to the Department's statutory and regulatory rights to enter and inspect, the Department and its authorized representatives shall be allowed unannounced access to all areas of the site at all reasonable times for the purpose of monitoring compliance with this ACO or other access as permitted by law.
52. If any provision of this ACO is found to be invalid or unenforceable, the remainder of this Administrative Consent Order shall not be affected thereby and each provision of this Administrative Consent Order 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.
53. No modification or waiver of this ACO shall be valid except as authorized by the Department or by the Department's modification in writing pursuant to the force majeure provisions herein above.
54. Nothing contained in this ACO restricts the ability of the Department to raise the above Findings in any other proceeding.
55. This ACO shall be governed and interpreted under the laws of the State of New Jersey.
56. This ACO shall become final upon signature of both parties and completion of the Public Participation Process identified herein.
57. The undersigned warrant that they are authorized to sign this ACO and bind themselves, their successors, assignees, and/or trustees to comply with the terms and provisions of this ACO.
58. Written notice of this ACO shall be given to any successor in interest thirty (30) calendar days prior to transfer of ownership or control of the facility or site which is /are the subject of 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 site, property or facility identified herein. In addition, the parties agree that any contract, lease, deed or any other agreement that enters into to convey the property/facility that is the subject of this ACO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume all the obligations imposed by this ACO.

59. Each and every reference to Clayton Perlman or Mr. Perlman means solely in his role on behalf of Perlman Properties, LLC which is the managing member of 357 West Front Street, LLC.

FOR NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

WITNESS: _____

BY: Elizabeth Dragon
Lawrence J. Baier, Bureau Chief
Coastal and Land Use Compliance and Enforcement

DATE: 12/16/16

STATE OF NEW JERSEY)
COUNTY OF MONMOUTH)

SS.

I CERTIFY that on OCTOBER 28th, 2016 CLAYTON PERLMAN personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) Is named in and personally signed the attached document;
And
(b) Signed, sealed and delivered this document as his or her act and deed for the uses and purposes therein expressed.

Samuel H. Snyder Jr.
Notary Public

SAMUEL H. SNYDER JR.
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 6/18/2020

FOR 357 West Front Street LLC:

WITNESS: Clayton Perlman

BY: Clayton Perlman
Clayton Perlman, on behalf of managing member
357 West Front Street LLC Perlman Properties, LLC
DATE: _____

STATE OF NEW JERSEY)
COUNTY OF Mercer)

SS.

I CERTIFY that on December 6, 2016 Elizabeth Dragon personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (c) Is named in and personally signed the attached document;
And
(d) Signed, sealed and delivered this document as his or her act and deed for the uses and purposes therein expressed.

BEVERLY J. SCALAMERE
Commission # 2201138
Notary Public, State of New Jersey
My Commission Expires
May 24, 2017

Beverly J. Scalamere
Notary Public

EXHIBIT B - PAYMENT PLAN

Installment (Payment)	Payment Due Date	Base Payment (\$)	Interest Accrued (\$)	Total Payment Due	Balance Due on Payment Date
1	January 2, 2017	\$2,500.00	0.00	\$2,500.00	\$33,000.00
2	April 2, 2017	\$4,125.00	\$185.63	\$4,310.63	\$28,875.00
3	July 2, 2017	\$4,125.00	\$162.42	\$4,287.42	\$24,750.00
4	October 2, 2017	\$4,125.00	\$139.22	\$4,264.22	\$20,625.00
5	January 2, 2018	\$4,125.00	\$116.02	\$4,241.02	\$16,500.00
6	April 2, 2018	\$4,125.00	\$92.81	\$4,217.81	\$12,375.00
7	July 2, 2018	\$4,125.00	\$69.61	\$4,194.61	\$8,250.00
8	October 2, 2018	\$4,125.00	\$46.41	\$4,171.41	\$4,125.00
9	January 2, 2019	\$4,125.00	\$23.20	\$4,148.20	
			Total \$835.31	\$36,335.31	

Anticipating an initial payment due day will be (30-Days after the final date of the ACO and Completion of DEP Bulletin), interest shall begin to accrue on the remainder of the \$35,500.00 penalty settlement on that date. As you can see, the base payment is \$2,500.00, without the addition of accrued interest until 90 days after first payment. All base payments thereafter shall be \$4,125.00 paid quarterly, for 8 additional payments. The total accrual of interest is \$835.31 at 2.25%. This Installment Plan has been calculated with the assumption of 2 years (24 months) or 9 payments on the above agreed dates. Please note that interest start to accrue after 90 days or 1st installment.

FOR NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

WITNESS: Alavi

BY: Elizabeth Dragon
Elizabeth Dragon, Bureau Chief
Coastal and Land Use Compliance and Enforcement
DATE: 12/6/16

STATE OF NEW JERSEY)

COUNTY OF Monmouth)

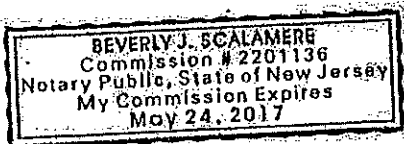
SS.

I CERTIFY that on December 6, 2016, Elizabeth Dragon personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

(e) Is named in and personally signed the attached document;

And

(f) Signed, sealed and delivered this document as his or her act and deed for the uses and purposes therein expressed.



Beverly J. Scalamera
Notary Public