

APPENDIX L

**NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES) PERMIT**

&

CHAPTER 93 - WATER QUALITY STANDARDS



Pennsylvania Department of Environmental Protection

2 Public Square
Wilkes-Barre, PA 18711-0790
July 14, 2003

Northeast Regional Office

570-826-2511
Fax 570-830-3016

Mr. John W. Briggs
Vice President, Development Operations
Resorts USA, Inc.
P.O. Box 447
Bushkill, PA 18324

JUL 25 2003

Re: NPDES Permit No. PAS10S009-R2
Resorts USA Site Development
Middle Smithfield Township, Monroe County

Dear Mr. Briggs:

Enclosed is the above-referenced permit which authorizes the discharge of storm water from the construction activity described in the final erosion and sedimentation control plan and the permit application. A copy of the final erosion and sedimentation control plan is also enclosed. Please ensure that the erosion and sedimentation control plan is fully implemented and available at the construction site.

The erosion and sedimentation control plan was reviewed to determine whether it is adequate to satisfy the requirements of the Chapter 102, Erosion Control Rules and Regulations. Neither the Department nor the Conservation District assume responsibility for the implementation of the plan or the proper construction and operation of the facilities contained in the plan.

Please read carefully Parts A, B and C of the permit which detail the terms and conditions of this authorization. Conservation District staff and/or representatives of the Department of Environmental Protection may inspect this earthmoving activity to determine compliance with applicable permit requirements, Chapter 92, 101 and 102 Rules and Regulations and the Clean Streams Law.

Permit requirements and federal regulations at 40 C.F.R. §122.21(b) require "when a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit". Please be advised that once a contractor has been selected for the project, the contractor must either be added as a co-permittee or the permit responsibility must be transferred to the contractor. The enclosed form must be used to designate a co-permittee/transferee.

Enclosed is a Notice of Termination (NOT) form to be completed and filed with the District once construction activities have ceased and final stabilization has been achieved.



The Conservation District must be notified by telephone or by mail at least seven days prior to the start of construction.

This authorization does not relieve the applicant from applying for and obtaining any and all additional permits or approvals from local, state or federal agencies for the construction activity described in the permit application.

If you have any questions regarding this permit, please contact George J. Boesze at 570-629-3060.

Sincerely,



Kate Crowley
Program Manager
Water Management Program

Enclosure

cc: Monroe County Conservation District
Jeffrey J. Swartz/Herbert, Rowland & Grubic, Inc.
Middle Smithfield Township/Jacqueline R. Elliott, Secretary

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER QUALITY PROTECTION

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT (FOR DISCHARGE OF STORM WATER FROM
CONSTRUCTION ACTIVITIES) NO. PAS10S009-R2

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (the "Act"), and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq.,

Resorts USA, Inc.
P.O. Box 447
Bushkill, PA 18324

is authorized to discharge storm water from construction activities from a facility/site located at Resorts USA Site Development, 500 feet southeast of the intersection of S.R. 209 and McCole Road, on the east and west sides of S.R. 209 in Middle Smithfield Township, Monroe County to receiving waters named Bushkill and Sand Hill Creeks, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B, and C hereof.

This permit and the authorization to discharge shall commence on JUL 14 2003 and expire at midnight, JUL 13 2008.

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms or conditions of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
3. Application for renewal of this permit, or notification of intent to cease discharging by the expiration date, must be submitted to the Department at least 180 days prior to the above expiration date (unless permission has been granted by the Department for submission at a later date), using the appropriate NPDES permit application or Notice of Termination (NOT) form. In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit will be automatically continued and will remain fully effective and enforceable pending permit reissuance or denial of the application for permit renewal.

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- 4. This permit will be terminated if construction activities have been completed prior to the expiration date of this permit. For purposes of this permit, construction activities are completed when permanent stabilization of the site is attained, as defined in Part B.3 of this permit and Chapter 102 of the Department's Rules and Regulations.
- 5. No condition of this permit shall release the permittee from any responsibility or requirement under Pennsylvania, or federal environmental statutes or regulations, or local ordinances.

PERMIT ISSUED:

BY: *Kate Crowley*
Kate Crowley

TITLE: Program Manager, Water Management Program

DATE: JUL 14 2003

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PART A

EFFLUENT LIMITATIONS, SELF-MONITORING AND REPORTING
REQUIREMENTS

1. EFFLUENT LIMITATIONS

Effluent limitations are provided in the permit as Erosion and Sediment Control (E&S) plans and Preparedness Prevention and Contingency (PPC) plans, and other Best Management Practices (BMPs) which restrict the quantity and rate of sediment discharge into surface waters of the Commonwealth. Any specific numeric effluent limits necessary to assure that instream water quality criteria are attained and instream uses are protected are set forth in Appendix A, if applicable.

2. MONITORING REQUIREMENTS

In the event the permittee monitors storm water discharge outfalls regulated under this permit, all monitoring data shall be reported in accordance with Part A.3 of this permit.

The Department, and the local County Conservation District when acting as the processing entity, reserve the right to enter onto the site to conduct monitoring or require monitoring where necessary in appropriate circumstances such as where a danger of water pollution is present, or water pollution is suspected to be occurring from a construction activity subject to this permit. The permittee shall commence such monitoring upon notification from the Department, or the local County Conservation District when acting as the processing entity.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

3. REPORTING AND RECORD KEEPING

a. Reporting of Monitoring Results.

In the event monitoring of outfalls is conducted, monitoring results shall be summarized on a Discharge Monitoring Report Form (DMR) and submitted to the Department on an annual basis, postmarked no later than January 31st of each year. If the construction activity is terminated (see condition 4 in the permit cover sheet) prior to the 31st of that year, the DMR should be submitted upon the termination. (DMR forms can be obtained from the appropriate regional office of the Department.) A signed copy of the DMR Form and all other reports required herein, shall be submitted to the Department's regional office at the following address:

Department of Environmental Protection
Water Management Program
Soils and Waterways Section
2 Public Square
Wilkes-Barre, PA 18711-0790

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b. Non-Compliance Reporting.

- (1) Required reporting. The permittee shall report non-compliance to the Department and the local County Conservation District, when acting as the processing entity, in accordance with the following:
 - (a) 24-Hour Oral Reporting - the permittee shall give at least a 24-hour advanced notice to the Department and the local County Conservation District, when acting as the processing entity, of any planned changes to the permitted activity or facility that may result in non-compliance with permit requirements. The permittee shall also report non-compliance with any term or condition of this permit to the Department and the local County Conservation District, when acting as the processing entity, within 24 hours of becoming aware of the non-compliance.
 - (b) Follow-up Written Reporting - where the permittee orally reports the information in Part A.3.b within the previously mentioned 24-hour time period, a written submission outlining the reported information must be submitted to the Department and the local County Conservation District, if acting as the processing entity, upon request.
 - (c) Other Reporting - the permittee shall report all instances of non-compliance, which are not reported pursuant to (a) and (b) above, at least annually.
 - (d) Non-compliance reporting pursuant to A.3.b.(1)(a)-(c) shall not excuse a person from immediate notification to the Department of incidents causing or threatening pollution pursuant to 25 Pa. Code §101.2(a).
- (2) Required Information. The reports and notifications required in Part A.3.b.(1) above shall contain the following information:
 - (a) A description of the discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 - (c) Steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

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c. Test Procedures.

Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those contained in 40 C.F.R. Part 136, alternate test procedures approved pursuant to that part, or other alternate procedures approved by the Department .

d. Recording of Results.

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- (1) The exact place, date, and time of sampling or measurements;
- (2) The person(s) who performed the sampling or measurements;
- (3) The dates the analyses were performed;
- (4) The person(s) who performed the analyses;
- (5) The analytical techniques or methods used; and
- (6) The results of such analyses.

e. Retention of Records.

The permittee shall retain records of all monitoring activities and results (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation), copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department and the local County Conservation District, if acting as the processing entity, at any time.

f. Availability of Reports.

Except for data determined to be confidential under §607 of the Clean Streams Law, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, the Clean Streams Law, and 25 Pa. Code §92.63, permit applications, permits, and effluent data shall not be considered confidential.

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4. DISCHARGES CONSISTENT WITH TERMS AND CONDITIONS OF THE PERMIT

All discharges authorized by this NPDES permit shall be consistent with the terms and conditions of the permit.

5. NEW TOXIC EFFLUENT STANDARDS OR PROHIBITIONS

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under §307(a) of the Federal CWA for a toxic pollutant which is present in the permittee's discharge, and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the Department shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee. In the absence of a Departmental action to modify or to revoke and reissue this permit, any toxic effluent standard or prohibition established under Section 307(a) of the Act is considered to be effective and enforceable against the permittee.

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PART B**STANDARD CONDITIONS****1. MANAGEMENT REQUIREMENTS****a. Permit Modification, Termination, or Revocation and Reissuance.**

- (1) This permit may be modified, suspended, revoked and reissued, or terminated during its term for any of the causes specified in 25 Pa. Code Chapter 92 including, but not limited to, the following:
 - (a) Violation of any terms or conditions of the permit;
 - (b) Obtaining a permit by misrepresentation or failure to discuss fully all relevant facts; and
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (2) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated non-compliance, does not stay any permit condition.
- (3) Permit modification or revocation will be conducted in accordance with 25 Pa. Code Chapter 92.

b. Duty to Provide Information.

- (1) The permittee shall furnish to the Department and the local County Conservation District, if acting as the processing entity, within a reasonable time, any information that the Department or the local County Conservation District may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
- (2) The permittee shall furnish to the Department and the local County Conservation District, if acting as the processing entity, upon request, copies of records required to be kept by this permit.
- (3) When the permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in the permit application or in any other report to the Department, or the local County Conservation District if acting as the processing entity, it shall promptly submit such facts or information.

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- (4) The permittee shall give advance notice to the Department, and the local County Conservation District if acting as the processing entity, of any planned physical alterations, including facility expansions, or additions to the permitted activity. The permittee shall notify the Department and the local County Conservation District of any changes in the construction activities which will result in increased sediment loading prior to the modification.

c. **Signatory Requirements.**

All Permit Applications (including Transferee/Co-Permittee Applications), Notices of Termination (NOT), Erosion and Sediment Control plans, reports, certifications or information either submitted to the Department, a local County Conservation District, or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed.

- (1) All Permit Applications (including Transferee/Co-Permittee Applications), and Notices of Termination (NOT) shall be signed as follows:
 - (a) For a corporation: by a responsible corporate officer. For the purposes of this part, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - (b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this part, a principal executive officer of a federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (2) All reports required by the permit and other information requested by the Department or a local County Conservation District shall be signed by a person described above or by a duly authorized representative of that person.

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A person is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described above and submitted to the Department or the local County Conservation District with the reports.
- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

(3) Changes in Authorization.

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part B.1.c must be submitted to the Department and the local County Conservation District if acting as the processing entity, prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Transfer of Ownership or Control.

- (1) This permit is not transferable to any person except after notice has been provided to the Department or the local County Conservation District, if acting as the processing entity, and upon written approval by the Department or the local County Conservation District, as appropriate.
 - (a) In the event of any pending change in control or ownership of the facilities or construction activities from which the authorized discharges emanate, the permittee shall notify the Department, and the local County Conservation District if acting as the processing entity, by submitting the form entitled "Transferee/Co-Permittee Application" at least 30 days prior to the change in ownership or control.
 - (b) The Transferee/Co-Permittee Application form shall be accompanied by a written agreement between the existing permittee and the new owner or operator (transferee or co-permittee) stating that if the permit is being transferred the existing permittee shall be liable under the permit for violations of the permit up to and until the date of coverage transfer and that the new owner or operator (transferee) shall be liable under the permit for permit violations from that date on. If a new co-permittee is being added, the

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written agreement between the existing permittee and the new co-permittee shall state that the existing permittee shall be liable under the permit up to and until the date the new co-permittee is added to the permit and that both co-permittees shall be jointly and severally liable under the permit for permit violations from that date on.

- (c) After receipt of the above required documentation, the Department, or local County Conservation District if acting as the processing entity, shall notify the existing permittee and the new owner or operator (transferee or co-permittee) of its decision concerning approval of the transfer.
 - (d) Discharge Monitoring Reports and any other report forms required under the permit shall have the names changed to reflect a transfer of ownership.
- (2) For purposes of this permit, operators shall include general contractors. If, prior to construction activities, the owner is the permittee and an operator/general contractor is later identified to become a co-permittee, the co-permittee/applicant shall submit to the Department, or the local County Conservation District if acting as the processing entity, a properly completed Transferee/Co-Permittee Application form and the written agreement described in (1)(b) above at least 30 days prior to the change in ownership or control. For purposes of this permit, this modification is considered to be a minor permit modification.

e. **Removed Substances.**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be managed or disposed of pursuant to the Solid Waste Management Act, 35 P.S. §6018.101, *et seq.*, and regulations promulgated thereto, in a manner such as to prevent any pollutant from such materials from adversely affecting the environment.

f. **Facilities Operation.**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee as efficiently as possible to achieve compliance with the conditions of this permit and with the requirements of erosion and sediment control plans. Proper operation and maintenance includes, but is not limited to, effective performance based on designed facilities capabilities, adequate staffing and training, and adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

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g. Remediation Loss or Failure of BMPs or Treatment Facilities.

Upon reduction, loss or failure of any BMP or treatment facility, in order to maintain compliance with its permit, the permittee shall control the construction activities and any associated discharges to ensure that there is no pollution discharged to surface waters of the Commonwealth until the BMP or treatment facility is rebuilt or repaired, or an alternative BMP or treatment facility is provided. This requirement is applicable in situations where the BMP or treatment facility is rendered ineffective, whether the cause or source of the reduction, loss or failure is within or beyond the control of the permittee.

h. Adverse Impact.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

2. RESPONSIBILITIES**a. Duty to Comply.**

The permittee must comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the Pennsylvania Clean Streams Law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

b. Penalties for Violations of Permit Conditions.**(1) Criminal.**

- (a) **Negligent Violations.** The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or both. In addition, Section 602 of the Clean Streams Law provides criminal penalties for violations of permit conditions.
- (b) **Knowing Violations.** The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or both. In addition, Section 602 of the Clean Streams Law provides criminal penalties for violations of permit conditions.

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- (c) **Knowing Endangerment.** The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both. In addition, Section 602 of the Clean Streams Law provides criminal penalties for violations of permit conditions.
- (d) **False Statement.** The Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See Section 309(c)(4) of the Clean Water Act). In addition, the provisions of the Pennsylvania Crimes Code relating to False Swearing and Unsworn Falsification provide criminal sanctions for such actions. See 18 Pa. C.S. §§4903-4904.
- (2) **Civil Penalties.** The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation. In addition, Section 605 of the Pennsylvania Clean Streams Law provides for penalties of up to \$10,000 a day for violations of permit conditions, for each separate offense.
- (3) **Administrative Penalties.** The Clean Water Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the Act is subject to an administrative penalty, as follows:
- (a) **Class I penalty.** Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.
- (b) **Class II penalty.** Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.
- c. **Need to Halt or Reduce Activity not a Defense.**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

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d. Property Rights.

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, Pennsylvania or local laws or regulations.

e. Severability.

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

f. Other Laws.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Pennsylvania law or regulation under authority preserved by Section 510 of the Clean Water Act, 33 U.S.C. Section 1361, or under Section 311 of the CWA, 33 U.S.C. Section 1321.

g. Right of Entry.

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law (35 P.S. §§691.5(b) and 691.305), 25 Pa. Code Chapter 92, and §1917-A of the Administrative Code, the permittee shall allow the head of the Department, the EPA Regional Administrator, and/or authorized representatives of EPA, DEP, and the local County Conservation District, or, in the case of a facility which discharges to a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents, as may be required by law, to:

- (1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit; and
- (2) At any reasonable time, have access to and copy any records that must be kept under the terms and conditions of this permit; inspect any facilities or equipment (including monitoring and control equipment) and sample any substances or discharge at any location.

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3. DEFINITIONS

- a. **"Best Management Practices (BMPs)"** means activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution to waters of the Commonwealth. BMPs include properly designed and implemented Erosion and Sediment Control plans; Preparedness, Prevention, and Contingency (PPC) plans; Storm Water Management plans; Pollution Prevention plans; and other treatment requirements, operating procedures, and practices which minimize or eliminate runoff, spillage, leaks, and other drainage from the construction activity.
- b. **"CWA"** means the Clean Water Act or the Federal Water Pollution Control Act.
- c. **"Department"** means the Department of Environmental Protection of the Commonwealth.
- d. **"Large and medium municipal separate storm sewer system"** means all municipal separate storm sewers that are either:
 - (a) Located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census; or
 - (b) Located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
 - (c) Owned or operated by a municipality other than those described in paragraph (a) or (b) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.
- e. **"Municipality"** means any county, city, borough, town, township, school district, institution or any authority created by one or more of the foregoing. For the purposes of this definition, a town shall mean an unincorporated town.
- f. **"Outfall"** means point source as defined by 25 Pa. Code Section 92.1 which is any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged.
- g. **"Person"** shall be construed to include any natural person(s), partnership, association, corporation, business organization, or any agency, instrumentality or entity of Federal or State Government. Whenever used in any clause prescribing

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and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" shall not exclude the members of an association and the directors, officers, or agents of a corporation.

- h. **"Processing entity"** - for the purpose of this permit, shall generally mean the local County Conservation District if the District is also participating as the reviewing entity for coverage under the NPDES general permit for storm water discharges from construction activities. Persons seeking an individual NPDES permit must contact the local County Conservation District in the county in which the construction activity is located to ascertain if the District is participating as the entity processing individual NPDES permit applications. The Department is the processing entity in a given county if the local County Conservation District chooses not to participate in the review of Notices of Intent (NOI) for coverage under the General Permit for Discharges of Storm Water from Construction Activities and in the processing of applications submitted for the Individual NPDES Permit.
- i. **"Runoff coefficient"** means the fraction of total rainfall that will appear at the conveyance as runoff.
- j. **"Stabilization"** means the proper placing, grading and/or covering of soil, rock or earth to insure its resistance to erosion, sliding or other movement. The standard for vegetative cover to be a uniform coverage or density is 70% across the disturbed area.
- k. **"Storm water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.
- l. **"Storm water associated with construction activity"** means the discharge into surface waters of the Commonwealth, municipal separate storm sewers, or non-municipal separate storm sewers from any conveyance which is used for collecting and conveying storm water and which is related to construction activities. Construction activities including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. The term does not include non-point source storm water discharges from silvicultural activities (Sec §92.4(a)(4) for a definition of "silvicultural point sources").
- m. **"Surface waters of the Commonwealth"** shall mean any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface water, including wetlands, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

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PART C**OTHER CONDITIONS****1. PROHIBITIONS ON NON-STORM WATER DISCHARGES**

All discharges covered by this permit shall be composed entirely of storm water associated with construction activities. Discharges other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

2. EROSION AND SEDIMENT CONTROL PLANS

An Erosion and Sediment Control (E&S) Plan must be developed and implemented for each activity covered by this permit. Each plan must be submitted to and approved by the appropriate Conservation District, or its designee, prior to the authorization to discharge under this permit. E&S Plans must be prepared in accordance with the Bureau of Water Quality Protection, Division of Waterways, Wetlands and Erosion Control "Erosion and Sediment Pollution Control Program Manual", Chapter 102 of the Department's Rules and Regulations, and additional requirements contained herein. Applicable requirements specified in submitted E&S Plans and any changes or revisions to the Plan if it is revised during the permit term are, upon authorization to discharge under this permit, incorporated by reference.

Feasibility of the E&S Plan, structural design and proper construction methods are the responsibility of the permittee. Failure of the control measures and facilities to achieve their intended purpose may require additional or modified control measures and facilities to be designed and constructed. Any changes to the approved E&S Plan, including changes to control measures and facilities or the points of discharge, must be submitted to the processing entity for review and approval prior to initiating the activity.

Prior to the start of operations at any spoil, borrow or other work area not detailed on the approved E&S Plan, whether located within or outside of the indicated construction limits, the permittee shall develop and have approved by the processing entity, a separate E&S Plan for each site.

The permittee shall contact the processing entity for clarification of any requirements contained in the E&S Plan.

E&S Plans required under this permit are considered reports that shall be available to the public under Section 607 of the Clean Streams Law, and §92.63 of the Department's regulations. The owner or operator of a facility with storm water discharges covered by this permit shall make plans available to the public upon request by the public. E&S Plans must be made available at the site of the construction activity.

NPDES PERMIT NO.: PAS10S009-R2

3. PROPER DISPOSAL OF BUILDING WASTE

All construction/demolition wastes composed of building materials must be removed from the site and disposed of in accordance with the Department's Solid Waste Management Regulations at 25 Pa. Code §260.1 et seq., §271.1 et seq., and §287.1 et seq. No construction/demolition wastes or unused building materials shall be buried, dumped, or discharged at the site.

4. APPROVED STATE OR LOCAL PLANS

Facilities which discharge storm water associated with construction activities must include in their E&S Plan procedures and requirements specified in approved watershed storm water management plans, including local storm water management ordinances developed pursuant to the Pennsylvania Storm Water Management Act (P.L. 864; No. 167, Oct. 4, 1978). Applicable requirements specified in watershed storm water management plans approved by State or local officials are, upon authorization to discharge under this general permit, incorporated by reference.

5. ADDITIONAL NOTIFICATION

Facilities with at least one storm water discharge associated with construction activity to a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) in addition to maintaining copies of discharge monitoring reports in accordance with Part A.3, must submit, when directed to do so, signed copies of monitoring results on Discharge Monitoring Report Forms to the operator of the municipal separate storm sewer system.

6. PREPAREDNESS, PREVENTION AND CONTINGENCY PLANS

If the potential exists for causing accidental pollution of air, land, or water, or for causing endangerment of public health and safety through accidental release of toxic, hazardous, or other polluting materials, the permittee must develop a Preparedness, Prevention and Contingency (PPC) Plan. The PPC Plan shall be developed in accordance with 25 Pa. Code §101.3. The PPC Plan shall identify areas which may include but are not limited to waste management areas; raw material storage areas; temporary and permanent spoils storage areas; maintenance areas; and any other areas that may have the potential to cause noncompliance with the terms and conditions of this permit due to the storage, handling, or disposal of any toxic or hazardous substances such as oil, gasoline, pesticides, herbicides and solvents, etc. Best management practices shall be developed and implemented for each identified area. The PPC Plan shall be maintained on-site at all times and shall be made available for review at the request of the Department or the local County Conservation District.

NPDES PERMIT NO.: PAS10S009-R2

7. ADDITIONAL OPERATIONAL, MAINTENANCE, INSPECTION, ETC. REQUIREMENTS

- a. If the earthmoving activities authorized by this permit at any time create conditions that cause or threaten to cause pollution to waters of the Commonwealth, the permittee shall immediately implement remedial measures to correct the conditions.
- b. The permittee shall notify the County Conservation District and the Regional Office, Soils and Waterways Section, by telephone or certified mail, at least seven days before construction is to begin. Both parties shall be invited to a pre-construction conference with the person(s) undertaking the earthmoving activity.
- c. The erosion control measures and facilities shall be constructed and maintained under the supervision of a competent individual trained and experienced in erosion control.
- d. The staging of earthmoving activities and maintenance directions contained in the plan must be closely followed. Frequent inspections shall be conducted by the permittee to detect impairment of the controls. Repairs to impaired erosion control measures and facilities must be made immediately.
- e. Sediment shall at no time accumulate in control measures or facilities to a depth sufficient to limit storage capacity or interfere with the settling efficiency or functioning of the device. Sediment shall be removed and stabilized in a manner that will not create pollution.
- f. Discharges of sewage or industrial waste to erosion control measures and facilities are not permitted.
- g. The permittee shall notify the processing entity when all areas of earthmoving are stabilized so that a final inspection of the site may occur.
- h. Issuance of this permit does not authorize earthmoving activities in delineated wetlands as depicted in the approved E&S Plan. Any changes to the approved plan resulting from other permits from the Department that authorize activity in wetlands must be submitted to the processing entity for review and approval prior to initiating the activity.

NPDES PERMIT NO.: PAS10S009-R2

8. SPECIAL CONDITION

The permittee and co-permittee(s) must ensure that visual site inspections are conducted as part of a maintenance program by qualified personnel, trained and experienced in erosion and sediment control, to ascertain that the BMPs are operational and effective in preventing pollution to waters of the Commonwealth. The maintenance program shall provide for inspection of BMPs on at least a weekly basis and after each measurable rainfall event, including the repair of the BMPs to ensure effective and efficient operation. A written report of each inspection shall be kept on file at the site, and include:

- (1) a summary of site conditions, BMPs, and compliance; and
- (2) the date, time, and the name of the person conducting the inspection.

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania – *Delaware River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River	Main Stem, Lackawaxen River to Tocks Island	Pike	WWF, MF	See DRBC regulations— Water Quality Zone 1B/1C
2—Unnamed Tributaries to Delaware River	Basins, Lackawaxen River to Tocks Island	Pike	HQ-CWF	None
2—Panther Creek	Basin	Pike	HQ-CWF	None
2—Shohola Creek	Basin	Pike	HQ-CWF	None
2—Twin Lakes Creek	Basin	Pike	HQ-CWF	None
2—Pond Eddy Creek	Basin	Pike	HQ-CWF	None
2—Bush Kill	Basin	Pike	EV	None
3—Deep Brook	Basin	Pike	EV	None
2—Vandermark Creek	Basin, Deep Brook to Mouth	Pike	HQ-CWF	None
2—Saw Kill Creek	Basin, Source to Vantine Brook	Pike	EV	None
3—Vantine Brook	Basin	Pike	HQ-CWF	None
2—Saw Kill Creek	Basin, Vantine Brook to Mouth	Pike	EV	None
2—Raymond Kill	Basin	Pike	HQ-CWF	None
2—Conashaugh Creek	Basin	Pike	HQ-CWF	None
2—Dry Brook	Basin	Pike	HQ-CWF	None
2—Adams Creek	Basin	Pike	EV	None
2—Dingman’s Creek	Basin	Pike	HQ-CWF	None
2—Hornbecks Creek	Basin	Pike	HQ-CWF	None
2—Toms Creek	Basin	Pike	EV	None
2—Bush Kill	Basin, Source to Saw Creek	Pike	HQ-CWF	None
3—Saw Creek	Basin	Pike	HQ-CWF	None
2—Bush Kill	Main Stem, Saw Creek to Mouth	Monroe	HQ-TSF	None
4—Sand Hill Creek	Basin	Monroe	HQ-CWF	None

Gaming Resort Market Assessment:
Fernwood Resort,
Bushkill, Pennsylvania

Prepared for:
Resorts Group

June 12, 2007

Prepared by:
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400 North Peters Street, Suite 206
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Fernwood Resort Gaming Market Assessment Bushkill, Pennsylvania

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Fernwood Resort Gaming Market Assessment

Bushkill, Pennsylvania

Introduction

The Innovation Group was retained by Resorts Group Inc. to perform a gaming market assessment for a resort-scale casino at the Fernwood Hotel & Resort located in Bushkill, Pennsylvania. The Pocono region is already a popular resort destination for residents of the tri-state area. Fernwood is an established year-round resort with a well-established amenity base, offering significant timeshare development with ample space and infrastructure to develop a resort-scale gaming facility on existing resort property. The addition of gaming to the resort would add to the potential draw of the facility for new visitors in the region, and could support additional future capital investment into the property. This in turn would keep the property competitive, not only in the Pocono region but for broad regional resort destination demand (i.e. including the Catskill region). It is expected that as part of such a development, in addition to the gaming facility, there will be a broad expansion of the food and beverage supply as the volume of demand for the resort should increase significantly if the casino is added.

Fernwood currently offers 212 hotel rooms, 576 villas for timeshare and rental use, four food and beverage outlets, numerous meeting, conference, and event facilities, and a host of amenities for indoor and outdoor recreation set on 440 acres. Total room inventory under common ownership exceeds the statutory requirement. The resort also offers amenities and attractions for visitors in all seasons. In the summer, resort offerings include an 18-hole, par 71 golf course, horseback riding, canoeing, rafting, paddle boats, tennis, swimming, and miniature golf. Winter attractions include snowtubing and sleigh rides. The resort is located in close proximity to two of the Poconos' major ski areas, the Mountain Laurel Center for the Performing Arts, the Delaware Water Gap National Recreation Area, several other established Pocono-area resorts and several additional golf courses. There are also numerous campgrounds within close proximity to the resort, as Route 209 offers scenic hiking trails and wooded areas.

Access to the property is relatively good via Route 209, with a junction from Interstate 80 located approximately 7 miles to the south. Due to the area's rapid growth and the proximity to the greater New York/New Jersey population centers, Route 209 has experienced traffic congestion, however the Pennsylvania Department of Transportation has begun construction of a traffic relief project that will add a by-pass for Route 209 and upgrade several intersections to improve traffic flow between I-80 and Fernwood. Fernwood is located minutes from the New Jersey state line, approximately 90 minutes west of metropolitan New York City and northern New Jersey, two hours north of both Philadelphia and Trenton (central New Jersey), and an hour's drive east of Scranton. These market areas already contribute heavily to the resort patronage of Fernwood.

This analysis presents gaming patronage and revenue projections for a resort-scale gaming venue at Fernwood Resort, with the expectation that Resorts Group will bring in an experienced casino manager or gaming partner for the slot operations. The gaming facility would compete against several other gaming facilities planned or currently operating elsewhere in eastern Pennsylvania, as well as with proposed casino resorts in the Catskills region. To a lesser extent, competition from Atlantic City, Connecticut, and racetrack slot facilities in the New York City area and the Catskills may be viewed as competition as well. The slot facility will differ from all of these facilities in the fact that the state's intention is for the slots to be an amenity for the resort, rather than a regional slot hall. As such, the attractiveness of the other properties is important, but the resort already attracts a high volume of demand, such that slot demand should already be present on site. The following is a description of the relevant details of the Pennsylvania gaming legislation, differentiating the types of licenses being awarded.

Pennsylvania House Bill 2330, as amended on July 1, 2004, settled almost a decade of debate and officially approved gaming legislation when Governor Ed Rendell signed it on July 4. The bill provided for twelve large-scale gaming licenses to be split between racetracks and other locations and two additional small-scale licenses for resorts. Licenses were awarded in late-2006, however at that time there were no bidders for the resort-scale licenses after two western Pennsylvania resorts dropped out for various reasons. The existing racetracks were assured of gaming licenses, and for the most part have already opened temporary slot facilities in existing structures, and plan larger scaled developments over the next several years. While two resort-scale licenses are still available, it is assumed in this analysis that Fernwood would be the only property in eastern Pennsylvania vying for or obtaining a resort-scale license. It is further expected that resort-scale license applications will be submitted in Summer 2006, with licenses awarded by year-end.

Large-scale licenses permit up to 3,000 slot machines initially, with the potential installation of up to 5,000 devices. An up-front license fee of \$50 million was required to obtain a large-scale license. A small-scale resort license requires a \$5 million up-front license fee, and permits up to 500 slots, but can be accessible only by resort guests. There are some restrictions on the minimum number of hotel rooms or property-owned condo units that a resort slot facility must offer, which is exceeded at Fernwood but not by many other resorts in the state. As a result, there were and are relatively few other possible bidders for the resort-scale license.

Fernwood would face competition from four large-scale stand-alone facilities in eastern Pennsylvania, including one in the Pocono region at Mount Airy Lodge, one in Bethlehem (operated by Las Vegas Sands at BethWorks), and two in Philadelphia. Additionally, large-scale slot facilities are already operational in Wilkes-Barre (Pocono Downs), northern Philadelphia (Philadelphia Park) and south of Philadelphia at Chester Downs, though currently these facilities are in temporary structures.

In developing revenue estimates for the local market area, The Innovation Group found that the best methodology to determine the revenue and patronage potential was to utilize

a gravity model. Gravity models are commonly used in location studies for commercial developments, public facilities, and residential developments. The gravity model is an analytical tool that defines the behavior of a population based on travel distance and the availability of goods or services at various locations. The underlying driver, based on empirical evidence, is that attraction is directly related to a measure of availability such as square feet (or for casinos, gaming positions) and inversely related to the square of the travel distance. Thus the gravity model quantifies the effect of distance on the behavior of a potential patron and considers the impact of competing venues. Tourism in the Pocono region is also viewed as a major source of potential patronage, particularly considering the existing patronage of Fernwood and the demand for other hotels, lodges and resorts in the region. Tourism trends and hotel demand are considered to further analyze the gaming market potential.

In the evaluation of potential patronage and revenues for a resort-scale facility, it was recognized that the slot facility could not be a stand-alone attraction for local gamers, but that patronage of accommodations and resort facilities with a minimum expenditure of \$10 will be a requisite for gaming patronage. This could be as simple as purchasing lunch at the resort or apparel at a retail venue. As a result, while a slight impediment to entry, local market gamers may still consider patronizing a facility with this scale of ancillary entertainment offerings when choosing a place to game – patronage of the resort may not require overnight stays at the facility, and therefore golfers, snow-tubers, and concert attendees residing in the local market could potentially be patrons of the casino, and transient visitation may also be reasonably accommodated.

Assumptions

The following assumptions were used in evaluating prospective gaming revenues:

- The license would be awarded in 4Q2007;
- Fernwood would open in a permanent facility in mid-2008, with 2009 as the first full year of operations;¹
- Experienced casino management will operate the facility;
- Active marketing programs will be employed against the target markets;
- The facility will contain all of the planned amenities as described in this report and by the developer;
- All of the existing competition in Connecticut, New Jersey and Delaware maintain their current facilities, with the exception of facilities that have already announced expansion plans;
- Alcohol will be served in the restaurants and on the casino floor;
- A statewide smoking ban will be in effect (one is already in effect in Philadelphia and a partial ban is in effect in Atlantic City, however by 2009 it is expected that such bans will be more universal);
- Competitive properties in Pennsylvania and New York will be as assumed, offering roughly the number of gaming positions as input in our model.

¹ The opening could potentially be in 2Q2008, though for the purpose of this analysis, it is conservatively assumed that a mid-year opening would transpire, such that 2008 would be a six-month operating period.

Legislative Background of Gaming in Pennsylvania

The enabling legislation in Pennsylvania provided for slot machines at up to 14 sites statewide, distributed as follows.

- Four slot licenses to the state's current thoroughbred and harness racetracks:
 - The Meadows, Washington;
 - Philadelphia Park, Bensalem (approx. 15 mi. northeast of Philadelphia);
 - Pocono Downs, Wilkes-Barre;
 - Penn National Race Course, Grantville.
- Two for new racetracks already approved by the state racing commission:
 - Presque Isle Downs, Erie;
 - Chester Downs, Chester (approx. 15 mi. southwest of Philadelphia).

These six licenses mentioned above were awarded in mid-2006, with slot operations already started at all three of the eastern Pennsylvania tracks, as well as Presque Isle and the Meadows. Penn National is likely to commence gaming by early 2008.

- One license is still available and being sought after by various consortiums, at locations still to be determined by state racing authorities. Most discussions have centered around proposed tracks near the PA/northern WV border in the Pittsburgh market, thus not in the competitive market area for the Pocono region. There appears no possibility that this license would be awarded in the eastern Pennsylvania region in the future, and as such the awarding or lack thereof is not considered as relevant for this analysis.
- Five slot franchises were awarded for non-racing locations. Two of the licenses were guaranteed and awarded for downtown Philadelphia and one for downtown Pittsburgh. The remaining two licenses were initially not city-specific, with the winning bidders providing for a casino in Bethlehem, to be operated by Las Vegas Sands (Sands BethWorks), and a casino at Mount Airy Lodge in the Pocono region, approximately 16 miles from Fernwood. Both of these facilities will have significant overlap with the Fernwood market, and will compete heavily for gamers against the subject property.
- Two resort-scale licenses remain available for resort properties, presumably one being Fernwood. There were initially two resorts in western Pennsylvania that had expressed interest in a resort-scale license, however one owner had to drop out due to conflicts resulting from ownership of a professional sports franchise, and the other because of undisclosed reasons regarding desire to change their business model.

License Fee and Tax Structure

The bill calls for each of the 12 pari-mutuel and non-racing locations to pay a \$50 million fee to have up to 3,000 slot machines, with the ability to apply for 2,000 more after six months of operations. Each of the resort facilities will be required to pay a \$5 million license fee for up to 500 slots apiece.

License holders will retain 48% of gross terminal revenue, while the remaining 52% will be allocated to state and local governments, economic development, and the horsemen. The specific breakdown is as follows.

- 34% will go towards local property tax relief;
- 4% will go towards local governments;
- 5% will be used for statewide economic development, including infrastructure improvements; and
- 9% will go to horsemen. Racetracks will initially need to contribute 18% towards horsemen, but this amount will be lowered once non-racetrack facilities contribute to the pool.

As noted in the legislative discussion above, large-scale facilities will initially be permitted to install a minimum of 1,500 devices and a maximum of 3,000 devices, but may be permitted to operate 5,000 devices after a six-month probationary period. Given the level of saturation and competition in the market, it is not anticipated that many of the facilities would have demand that warrants the maximum despite the fact that most of these operators have suggested a movement towards the maximum in their license bid submissions – 5,000 devices would approach the size of the largest casinos in the country, and given the proximity of competition in Delaware, Connecticut, New York and New Jersey, there is not a large enough population base to support extra-large-scale casino developments. In our gravity modeling we therefore consider Philadelphia area casinos as having between 3,500 and 4,000 devices apiece. Sands BethWorks is also expected to be among the largest properties in the state due to its accessibility and lack of immediate competition, while Pocono Downs and Mount Airy Lodge are expected to offer approximately 3,500 slots apiece once fully developed.

In total, not including Penn National, it is estimated that approximately 21,500 gaming devices will initially be installed in the Eastern Pennsylvania market, increasing to 26,500 after all of the properties have passed their six-month probationary periods. It should be noted that several of the facilities will or have commenced operations in temporary facilities with less than 1,500 devices, though permanent facilities will likely be erected by the end of 2008. As a result, by the time Fernwood would be operational, it is likely that the majority of the other properties would be well past their probationary stages and in permanent structures.

Projected Eastern Pennsylvania Slot Supply

Eastern Pennsylvania Slot Allotment	# of Machines
Fernwood	500
Mohegan at Pocono Downs – Wilkes-Barre	3,500
Mount Airy Lodge – Mount Pocono	3,500
Sands BethWorks - Bethlehem	4,000
Philadelphia Park - Bensalem	3,500
Foxwoods - Philadelphia Stand-alone	4,000
Sugarhouse - Philadelphia Stand-alone	4,000
Chester Downs - Chester	3,500
Approximate Total	26,500

Fernwood Resort

Fernwood Resort is situated in Bushkill, Pennsylvania, near several popular ski areas and tourist attractions including Bushkill Falls and the Mountain Laurel Center for the Performing Arts. The proximity of the resort to tourists attractions as well as the New Jersey border could make this site especially attractive to the licensee selection committee, as this site could capture a large segment of its gaming patronage from outside of the local area, such that gaming revenues would be brought into the state, providing significant economic benefits without generating social costs. Resort gaming in the Pocono region, either large-scale or small-scale, is viewed as critically important to the region, as resorts in the Catskills may soon offer casino gaming, as well as the large-scale ancillary amenities and headline entertainment that should be expected to accompany it. As a result, in order to keep the Pocono region's resort industry on par with the Catskills, gaming entertainment needs to be offered. In this regard, the Pocono region gaming facilities may keep some Pennsylvania gamers from leaving the state for the purpose of gaming vacations.

Ancillary amenities at Fernwood are already attractive, though additions and modifications are planned when a gaming facility is added. Food and beverage facilities are adequate for the level of clientele that currently visits the property, however additional venues may be expected to accommodate the additional hotel and timeshare demand, as well as to provide venues with proximate casino access.

The attractiveness of the hotel relative to other resorts in the Pocono and Catskills region needs to be a key consideration when evaluating the market share of gaming revenues that Fernwood could expect to attain with a resort gaming license. The resort will be in competition with several large-scale casinos within a short or comparable driving distance of Fernwood's feeder markets, and therefore the perception of Fernwood and Pocono resort visitation will be important when evaluating how gamer visits may be distributed in the regional market. A survey of adults in the broad Fernwood market area was conducted in order to help determine this market share, with the summary responses provided below.

Visitor Survey

The Innovation Group engaged a marketing firm to complete a telephone survey in the Tri-State area to determine leisure and casino visitation preferences for residents in five different regions surrounding the Fernwood property, with the goal of determining the perceived attractiveness of the Fernwood Resort and vacationing in the Pocono region in general. A total of 763 respondents completed the survey, with the initial stratification being those that admitted a propensity to visit casinos. These 763 respondents were divided into 5 geographic areas, each of which provided for at least 150 full survey responses. The geographic areas were defined as Center, being within a range of approximately 30 miles from Fernwood, South being within the ring ranging from 30 to 75 miles to the south, NW being approximately 30 to 75 miles to the north and west, NE

being approximately 30 to 60 miles to the northeast, and East extending outwards towards the New York City market area. The average respondent had taken 3.9 overnight pleasure trips in the past year at a distance of 50 miles or more, of which gaming was conducted on an average of 2.7 trips, or approximately two-thirds of these leisure getaways.

Slot machines were favored to table games by more than 55% of respondents, with 13% of respondents being indifferent. When asked whether a casino with only slots would be as attractive as a full-scale (including tables) casino, 57% said that a slots-only would be equally attractive, 15% somewhat less attractive, and 26% far less attractive. Clearly, those that have a preference for table games deemed a slots-only facility to be far less attractive. At the regional level, those residing to the north and west of Fernwood had the highest propensity to enjoy slots, while those to the south and east, for whom Atlantic City is a popular destination, had significantly higher preferences for table gaming, and found slots-only facilities considerably more unattractive than the northern counterparts.

Game Preferences

	Center	South	NW	NE	East
Slots	56.2%	51.0%	59.0%	62.7%	49.0%
Tables	32.7%	37.7%	25.6%	22.9%	37.1%
Equal	11.1%	11.3%	15.4%	14.4%	13.9%

Perceived Attractiveness of Slots-Only Casinos Relative to Full-Scale Casinos

	Center	South	NW	NE	East
Far less attractive	24.8%	29.8%	20.1%	27.6%	31.1%
Somewhat less attractive	17.4%	17.9%	15.6%	12.5%	14.9%
Equally attractive	57.7%	52.3%	64.3%	59.9%	54.1%

More than one-third of respondents had stayed in at least one Pocono resort, with approximately 26% having previously patronized Fernwood. In contrast, 41% had stayed at Mt. Airy Lodge prior to its closure, 27% at one of the several Caesars resorts, 12% at Tamiment, and 11% at Pocono Manor.² Of the 69 respondents that described their impression of Fernwood, approximately 87% stated that it was either positive or neutral (59.4% and 27.5%, respectively). The 13% unfavorable responses and the breakdown of positive/neutral responses were comparable to the impressions of most other Pocono properties, with the exception of Caesars properties, for which there was negligible negative feedback.

² For each of these properties, respondents had relatively poor recollection of whether they had stayed there in the past, with "do not recall" being a response for between 4% and 8% of respondents for most of the property inquiries.

The Poconos in general also fared well relative to the Catskills and New York City racinos when asked where gamers would most and least prefer to game, and which venues would be most proximate. The following tables demonstrate these responses.

Pocono/Catskills Casino Proximity and Preference

Closer:	Will Prefer:	Center	South	NW	NE	East
Poconos	Poconos	64.4%	73.6%	86.1%	15.1%	39.1%
Catskills	Catskills	6.8%	5.8%	2.1%	46.0%	20.9%
Same	Poconos	12.1%	9.1%	3.5%	9.5%	17.4%
Same	Catskills	3.0%	5.0%	1.4%	7.9%	10.4%
Catskills	Poconos	3.0%	0.0%	0.0%	19.0%	8.7%
Poconos	Catskills	10.6%	6.6%	6.9%	2.4%	3.5%

Casino Markets MOST Likely to Patronize

	Center	South	NW	NE	East
Atlantic City	47.7%	66.0%	31.2%	37.1%	58.7%
CT Tribal Casino	5.9%	4.0%	3.2%	18.5%	9.3%
PA slots	37.3%	20.7%	62.3%	10.6%	11.3%
Catskills Casinos	3.3%	2.0%	0.6%	27.8%	7.3%
NYC Racinos	5.9%	7.3%	2.6%	6.0%	13.3%

Casino Markets LEAST Likely to Patronize

	Center	South	NW	NE	East
Atlantic City	4.0%	1.3%	7.3%	14.7%	2.7%
CT Tribal Casino	27.3%	32.2%	30.5%	12.7%	18.4%
PA slots	8.0%	5.4%	2.0%	14.7%	15.6%
Catskills Casinos	18.0%	15.4%	12.6%	7.3%	16.3%
NYC Racinos	42.7%	45.6%	47.7%	50.7%	46.9%

This survey suggests that Pennsylvania slot facilities will capture the vast majority of gamer visits from the Eastern Pennsylvania region, though competition from Mount Airy Lodge and Mohegan at Pocono Downs will be strong for the northeastern population. Residents of northern New Jersey may also be expected to patronize gaming facilities in the Pocono region, and this population may be expected to have the highest percentage that could be intercepted by Fernwood.

Regional Description

Demographic Analysis

An area's economic health and growth potential is indicative of its ability to support the local lodging and gaming markets. In this section, some of the specific economic and demographic characteristics of the market area that will affect future demand for expanded gaming in the area are analyzed. The purpose of such an analysis is to evaluate the area's ability to:

- Support existing and proposed gaming facilities in the area; and
- Attract new leisure demand.

Some of the factors we analyzed, including population trends and average household income trends, are included in tables and text on the next several pages.

Total Population

For the purposes of the economic/demographic analysis, the population within a 90 minute drive time of Fernwood was assessed in four rings, 0-15 minutes, 15-30 minutes, 30-60 minutes, and 60-90 minutes. Drive time boundaries are more appropriate for use in analyzing this market than mileage in concentric rings, as there are some notable natural boundaries in the region and interstate highway systems make some areas considerably easier to reach than others of comparable distance.

The total population residing within a 15 minute drive of the Fernwood resort totaled 14,786 in 2006, and is projected to increase to 18,263 by 2011, for an average annual growth rate of 4.34%. This estimate did not include several new planned developments around the sites of the former Tamiment resort and the Mountain Laurel Center for the Performing Arts, for which there will be at least 4,100 new housing units.

Moving away from the market center, population growth rates decline, but population density increases. The 15-30 minute drive time ring around Fernwood has 67,334 residents, and is projected to increase to 75,495 by 2011, for an average annual increase of 2.31%. In the total 90-minute drive time around Fernwood, there are approximately 5 million residents. The population growth rate for this region since 2000 has been approximately 0.70% per year, and is expected to continue to increase at slightly greater than that rate through the end of the decade. Approximately 82.6% of this total resides in the outer band of 60-90 minutes, primarily in the northern New Jersey area.

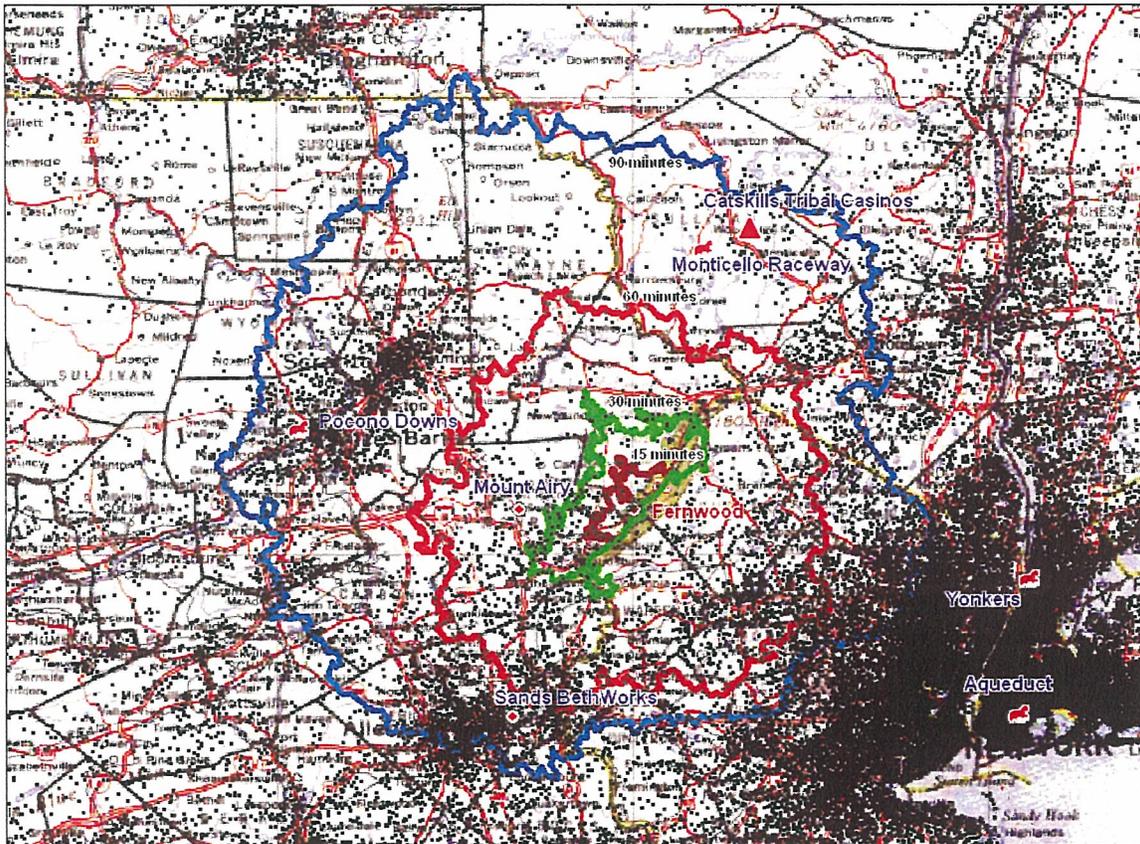
Fernwood Area Total Population

Ring	2006	2011	A.A.G. 2006-2011
0-15 minutes	14,786	18,283	4.34%
15-30 minutes	67,334	75,495	2.31%
30-60 minutes	786,859	854,124	1.65%
60-90 minutes	4,132,666	4,253,851	0.58%
Area Total/A.A.G.	5,001,645	5,201,752	0.79%
Pennsylvania	12,460,633	12,625,357	0.26%
United States	298,021,266	312,383,955	0.95%

Source: Claritas MapInfo iXPRESS; The Innovation Group.

Note: Assuming full absorption of new nearby developments, the inner ring population could be understated by 10,000 or more residents.

The following map demonstrates the population density and competitive gaming sites in the drive time rings around Fernwood.



Adult Population

The adult population 21 years of age and older within 90 minutes drive time of Fernwood totaled 3.6 million in 2006, and is expected to approach 3.8 million by 2011. Again, this total most likely does not include planned developments nearby Fernwood, which were unlikely to have been considered in Census estimates given the size of the developments and the magnitudes of the projected population change in the inner ring. The vast majority of the population within the 90-minute drive time ring resides in the outer bands, as only slightly greater than 600 thousand adults are estimated to currently reside within a one-hour drive time.

In the inner rings, adults comprise a comparatively small percentage of the total population, at less than 69% of the total population within 15 minutes of Fernwood, and less than 71% of the total population within the 15-30 minute drive time ring. As the distance from the market center increases, so too does the percentage of residents that are adults. Considering the entire 90-minute drive time ring, the adult composition of the total population is slightly lower than the Pennsylvania statewide average, but slightly greater than the national average. As with the national trend, the percentage of the total population that are adults is expected to increase over the next five years. The following chart provides details of the estimated population age 21 and over.

Fernwood Area Total Population 21+

Ring	2006	% Of Total Population	2011	% Of Total Population	A.A.G. (Pop>21)
0-15 minutes	10,142	68.6%	13,154	71.9%	5.34%
15-30 minutes	47,595	70.7%	55,132	73.0%	2.98%
30-60 minutes	559,231	71.1%	622,929	72.9%	2.18%
60-90 minutes	2,976,899	72.0%	3,099,536	72.9%	0.81%
Area Total/A.A.G.	3,593,867	71.9%	3,790,751	72.9%	1.07%
<i>Pennsylvania</i>	<i>9,107,550</i>	<i>73.1%</i>	<i>9,364,665</i>	<i>74.2%</i>	<i>0.56%</i>
<i>United States</i>	<i>211,265,313</i>	<i>70.9%</i>	<i>224,318,082</i>	<i>71.8%</i>	<i>1.21%</i>

Source: Claritas MapInfo iXPRESS; The Innovation Group

Income and Employment

Income

The average annual household income (“AAHI”) for the 90-minute drive time ring around the Fernwood resort was \$84,964 in 2006. This income level was 29.0% above the U.S. average of \$65,849 and 37.7% greater than the state of Pennsylvania average of \$61,701. There is some disparity in income levels among the rings. The two outer rings, with a population focused in and around northern New Jersey, had the highest estimated AAHI’s in 2006, with incomes comparable between the two rings at approximately the

market average, given that the two rings comprise over 98% of the population in the region. The 30-60 minute drive-time ring had the highest household incomes of the four defined drive-time rings, with income levels approximately 30% greater than that of the 15-30 minute drive-time ring, in which the lowest average incomes were found. Income levels for the two inner rings were more comparable to the national average, but still well above the Pennsylvania statewide average.

Income growth rates for the market region are comparable across the outer two drive-time boundaries, in the range of 1.9% to 2.0% per year through 2011, and slightly higher in the inner two rings, in the range of 2.2% to 2.3%. The state and national growth rate projections fall within these ranges, at approximately 2.1% per year at both levels. These figures are illustrated in the table below.

Fernwood Area Average Household Income

Ring	2006	2011	A.A.G. 2006-2011
0-15 minutes	\$73,726	\$82,490	2.27%
15-30 minutes	\$66,552	\$74,338	2.24%
30-60 minutes	\$86,907	\$96,025	2.02%
60-90 minutes	\$85,199	\$93,746	1.93%
<i>Pennsylvania</i>	<i>\$61,701</i>	<i>\$68,486</i>	<i>2.11%</i>
<i>United States</i>	<i>\$65,849</i>	<i>\$72,923</i>	<i>2.06%</i>

Source: Claritas MapInfo iXPRESS; The Innovation Group

Employment

Fernwood Resort is located in Monroe County on the Pike County line, with the two counties comprising the vast majority of the Pocono region. Pike County is sparsely populated near Fernwood, as most of the area is comprised of the Delaware State Forest. Most of the immediate population base comes from the greater Stroudsburg area.

Unemployment rates in Monroe County have generally been in line with those of Pike County, with unemployment rates in both areas spiking during the first quarter of the year. The size of the labor force in Monroe County has increased significantly over the past five years, and increased slightly in Pike County, and combined, the two-county area has a labor force of approximately 105,000 persons. Between 4,800 and 6,500 persons in the labor force were reported to be unemployed each month during 2006, for an annual average of approximately 5,700, consistent with the previous three years. The labor supply in these counties could easily support the development of a resort-scale casino operation, though with the Mount Airy large-scale casino also being developed in the region, the combined operations will likely require labor from surrounding counties.

Area Labor Force Data

	Monroe County			Pike County		
	Labor Force	Unemp. Rate	Unemployed	Labor Force	Unemp. Rate	Unemployed
2002	73,909	5.7%	4,207	23,138	5.5%	1,270
2003	74,407	5.8%	4,318	24,179	5.6%	1,358
2004	76,590	5.8%	4,437	24,993	6.0%	1,492
2005	78,358	5.6%	4,363	25,955	5.9%	1,530
2006	80,003	5.2%	4,153	26,269	6.0%	1,566
2006 by month						
Jan-06	79,186	5.7%	4,477	26,194	7.0%	1,836
Feb-06	79,561	5.9%	4,656	26,077	6.9%	1,812
Mar-06	79,453	5.6%	4,424	26,086	6.3%	1,632
Apr-06	78,350	5.1%	3,987	26,023	6.1%	1,597
May-06	79,250	5.3%	4,236	26,085	6.0%	1,568
Jun-06	81,420	5.4%	4,400	26,492	5.8%	1,543
Jul-06	82,360	5.4%	4,472	26,936	6.6%	1,768
Aug-06	81,582	5.1%	4,146	26,555	5.9%	1,566
Sep-06	80,208	4.8%	3,828	26,171	5.6%	1,467
Oct-06	79,668	4.6%	3,649	26,078	4.9%	1,283
Nov-06	79,675	5.0%	3,982	26,322	5.5%	1,459
Dec-06	79,318	4.5%	3,576	26,209	4.8%	1,261

Source: U.S. Bureau of Labor Statistics

Regional Tourism

According to the Pennsylvania Tourism Office's 2005 Annual Report, the state was ranked 5th in the nation in terms of the market for leisure trips in the United States. Pennsylvania generated 106 million leisure trips in 2005, up from 86.3 million in 2000, reflecting a 4.2% compound average annual growth rate. Overnight trips accounted for 48.4 million of these leisure trips, or nearly 46%, reflecting an increase in overnight visitation of nearly 20% since 2000. The state was also ranked 3rd in the U.S. in terms of day-trip leisure visitation. Day trip tourists accounted for more than 57 million visits to Pennsylvania in 2005, up more than 25% since 2000. Including non-tourists as visitors, Pennsylvania attracted approximately 138 million visitors in 2005, generating total expenditures of over \$25 billion. Leisure tourists accounted for \$17.75 billion of this total for lodging, transportation, food, shopping, entertainment and other items.

In the Pocono region, overnight leisure travel accounts for approximately 60% of the region's total leisure market. In 2003, the Poconos generated 3.4 million overnight leisure visits comprising 7% of the statewide total. This represented an 8% increase over 2002. These visitors stay an average of 3.8 days.

The mix of visitation to the Poconos stems predominantly from the tri-state area – for the years 1999-2001 New Jersey accounted for 31% of all visitors, 29% were from New York, and 26% were from Pennsylvania. These percentages were higher than the averages for 1999 and 2000 alone, reflecting the influence that September 11 tragedies had on extended regional travel. For the overnight share of regional travelers, the percentage from Pennsylvania was naturally lower – 22% of the total, with New Jersey

also lower at 27% of the total. New Yorkers comprised a larger percentage of overnight guests than they were as a percentage of the total, at 31%. Ohio was the most represented state outside the top three, accounting for 4% of the overnight total. Conversely, New Jersey accounted for 36% of day-trippers to the Poconos between 1999 and 2001, with New York accounting for 32% of visitors and Pennsylvania accounting for 26%. No other state accounted for more than 2% of day trip visitors.

While resorts and hotels are popular forms of accommodations for visitors to the Poconos, private homes are the most common choice, accounting for 50% of visitor stays in 2003. Other popular accommodations included high-end hotels, accounting for 16% of visits, with mid-level and economy hotels being the accommodation choice for 19% of the region's overnight visitors. An additional 7% stayed in timeshare units. Fernwood fits into several of these categories, as the resort offers timeshare units and hotel rooms.

Total Visitor Impact

D.K. Shifflet and Associates, Ltd. published a market research report regarding the economic impact of travel in Pennsylvania in 2002 and 2003, and concluded that traveler expenditures in the Northeast Region has remained steady at approximately \$2.4 billion per year, with expenditures in the Poconos averaging nearly \$900 million per year of this total. Monroe County attained approximately 20% of the Northeast region total and 55% of the Poconos total, or \$491 million each year, while Pike County generated \$81 million each year, or 3.3% and 9.1% of the Northeast regional and Poconos totals, respectively.³ Nearly 60 thousand jobs in the Northeast region, including over 21 thousand jobs in the Poconos, are supported by the tourism industry, including 11,911 jobs in Monroe County and 1,957 jobs in Pike County. The following table demonstrates this data for 2003.

Economic Impacts of Northeast PA and Pocono Region Tourism, 2003

	Total Spending 2003 (in \$ millions)	% of Northeast Total	% of Pocono Total	Jobs Attributable to Tourism	% of Northeast Total	% of Pocono Total
Monroe	\$491.6	20.1%	55.6%	11,911	20.1%	55.6%
Wayne	\$164.8	6.7%	18.7%	3,994	6.7%	18.7%
Carbon	\$146.2	6.0%	16.5%	3,543	6.0%	16.6%
Pike	\$80.8	3.3%	9.1%	1,957	3.3%	9.1%
<i>Pocono Subtotal</i>	<i>\$883.4</i>	<i>36.1%</i>		<i>21,405</i>	<i>36.1%</i>	
Luzerne	\$958.8	39.2%		23,233	39.2%	
Lackawanna	\$422.3	17.3%		10,233	17.3%	
Bradford	\$109.8	4.5%		2,661	4.5%	
Wyoming	\$38.0	1.6%		922	1.6%	
Susquehanna	\$28.6	1.2%		694	1.2%	
Sullivan	\$4.6	0.2%		111	0.2%	
Total Northeast	\$2,445.5			59,259		

Source: DK Shifflet and Associates

³ The Northeast Region is comprised of (in order of tourism spending) Luzerne, Monroe, Lackawanna, Wayne, Carbon, Bradford, Pike, Wyoming, Susquehanna and Sullivan Counties. Carbon, Monroe, Pike and Wayne Counties together comprise the Pocono region.

Local Climate

Average yearly temperatures in the Pocono region vary widely with the seasons, providing for a broad range of seasonal outdoor activities. The Fernwood site is below some of the nearby ski mountain peaks, where temperatures can be considerably different, allowing for even more varied shoulder-seasonal activities. High temperatures in the summer months average in the low 80's, with mean daily summer temperatures in the low 70's, allowing for golfing, hiking, and all types of water sports. In the winter months average temperatures tend to be just below freezing, reaching daily highs of 35-40 degrees, and daily lows of 16-22 degrees, such that skiing and other winter sports can be enjoyed in the area.

Annual Weather Data, Bushkill, PA

Month	Avg. High	Avg. Low	Mean	Avg. Precip.
January	35°F	16°F	26°F	4.0 in.
February	39°F	17°F	28°F	3.0 in.
March	49°F	26°F	38°F	3.8 in.
April	61°F	36°F	48°F	4.0 in.
May	72°F	46°F	59°F	5.0 in.
June	80°F	55°F	67°F	4.6 in.
July	85°F	59°F	72°F	4.4 in.
August	83°F	58°F	70°F	4.3 in.
September	75°F	50°F	62°F	4.9 in.
October	64°F	38°F	51°F	3.8 in.
November	51°F	30°F	40°F	4.3 in.
December	40°F	22°F	31°F	3.9 in.

Source: Weather.com

Competitive Factors

The resort is seeking a “resort-scale” license, meaning that it would be limited to 500 slot machines and will not compete directly against the seven other eastern Pennsylvania slot facilities due to their magnitudes and comparative lack of operating restrictions. Fernwood will be required to cater almost exclusively to tourists, though it should be noted that it would likely have an advantage over other resorts in the region with the exception of Mount Airy Lodge, by having gaming as an amenity to offer. It is therefore expected that the addition of gaming to the list of other amenities the resort features would attract incremental business and attract a greater percentage of the region’s leisure travelers.

Eastern Pennsylvania

Large-scale gaming licenses were awarded in 2006 to 11 operators in the state, of which seven will be located in eastern Pennsylvania. Four of the seven eastern Pennsylvania facilities are stand-alone slot venues, with the remaining three being affiliated with racetracks. Two of the stand-alone facilities will be located in the central Philadelphia market, with one each in Bethlehem and the Pocono region. With the exception of the Pocono facility and Philadelphia Park, the eastern Pennsylvanian slot facilities will all be operated by experienced gaming companies. The operator of Mount Airy Lodge has significant experience as an individual in the industry, but does not bring affiliation with any gaming company currently.

Four of the seven facilities in eastern Pennsylvania will primarily serve the Philadelphia market. Las Vegas Sands will be developing a large-scale facility in Bethlehem, serving the Allentown and Lehigh Valley market area, with very good access from New Jersey as well. Northeast Pennsylvania will have two large-scale casinos, one each in the Wilkes-Barre and Pocono regions, located more proximate to the northeast Pennsylvania population densities than Fernwood. As such, the local market draw for Fernwood may be limited in terms of comparative proximity for the regional population, with the possible exception of northern New Jersey residents and some Pocono region residents in immediately surrounding towns. Fernwood’s popularity as a resort, however, should allow it to attract visitors primarily from a resort standpoint, with the slots adding to the attractiveness of the facility for vacationers.

New York

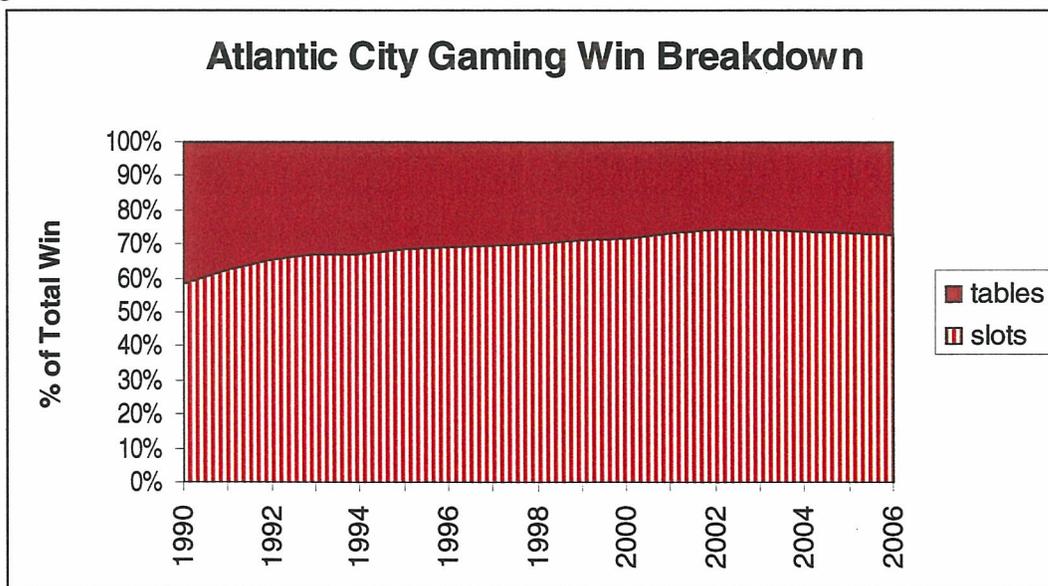
The only gaming facility to open thus far in the Catskills is a racino at Monticello Raceway. In the first year of operation with between 1,718 and 1,744 gaming devices, ending July 2005, the facility generated an average of approximately \$100 per device per day, for a total of \$63.7 million in gaming revenues. There was a ramp-up of the win per device for the property as marketing efforts improved and the number of devices was brought down to 1,500, however since the opening of slots at Yonkers in October 2006, Monticello’s revenue totals have declined. Calendar year revenues for the Monticello property were \$67.6 million in 2005 and \$76.2 million in 2006, for a win per position of

approximately \$140 in 2006, but have declined to an average of \$114 per day thus far in 2007 (through mid-May). For the past 12 months, the facility has averaged a win per device of \$132 per day. The facility, as with other racinos in New York, has numerous limitations on its operations that constrain its ability to be competitive with full-scale casinos. Smoking bans, limits on machine game types, limited operating hours, and a high tax rate that makes marketing, advertising, and most forms of customer service either limited or non-existent (no players clubs, no free soft drinks) all constrain the competitiveness of the facility.

This will become even more notable once Native American casinos are developed in the Catskills with Class III gaming. The Innovation Group projects that 2010 could be a first operating year for two large-scale casino resorts in the Catskills area, and in addition to the racino, that the gaming revenue potential for those facilities could reach or exceed \$1.0 billion. Depending on the ultimate location of these facilities, it could be expected that between 60% and 65% of the gaming revenues generated by these facilities would emanate from market areas that would be shared with a Fernwood casino. These facilities would face a significantly lower tax rate than Fernwood – 25% of slot revenues, and therefore competition for these markets would be tough due to the potentially high marketing budgets these facilities could afford to advertise their resorts, with proximity potentially being the only major factor in Fernwood’s favor.

Atlantic City

The Atlantic City market is the largest and most mature gaming market on the east coast. Revenues for the market in 2006 totaled a record \$5.2 billion, up from the previous record of \$4.99 billion in 2005. Slots accounted for \$3.8 billion of the \$5.2 billion in gaming win, or 72.9%. Slot win as a percentage of total win increased annually from 1990 to 2002, but has fallen annually since. Nevertheless, slot revenues for the market have increased every year since the market’s inception. Table win was relatively flat for the market from 1990 to 2003, and has only recently started to spur market revenue growth.



Atlantic City currently offers approximately 38,200 slots and 1,700 gaming tables. Atlantic City casinos run substantial busing programs from the Philadelphia, northern New Jersey and New York markets, and offer full-scale gaming, but drive times from these markets are all one hour or more. While the Philadelphia market will face further competition from slot facilities as mentioned above, the proximity of Fernwood to northern New Jersey and Long Island should make the slot facility a viable alternative to Atlantic City.

Connecticut

The Connecticut gaming market consists of the two largest casinos in the world, in close proximity to each other in eastern Connecticut. Foxwoods and Mohegan Sun, two Native American Class III gaming facilities, offer over 13,000 slots combined, and generate over \$1.7 billion each year on their slots. The casinos also offer approximately 600 gaming tables combined, not including their poker rooms. Foxwoods has the larger of the two properties in terms of slot supply, but Mohegan attains greater slot revenues. Table games are estimated to comprise 30% of total gaming revenues for these properties, such that annual gaming revenues are estimated to total nearly \$2.5 billion.

Both Foxwoods and Mohegan Sun have continuously expanded their properties, and made them far more attractive and amenity-filled than any other east-coast casino. Both are planning major expansions to their resorts, which should further increase their attractiveness to the New England and New York market, as New England is the primary source of patronage for these casinos, and metro New York gamers are attracted to the casinos as reasonably proximate alternatives to Atlantic City. Fernwood would be closer than either of these two casinos, but could not offer the comparable level of service or gaming mix.

Neither Foxwoods nor Mohegan Sun were put into our gravity model due to the fact that most gamers from the Fernwood market that would patronize either of these facilities would likely do so as a resort visit rather than a day-trip with other resort amenities involved. We therefore carefully considered the potential market area to the east, limited its breadth due to the relative proximity of the Connecticut gaming alternatives.

Gaming Market Assessment

The following section provides an assessment of the market area for the Fernwood market region. This assessment projects the number of annual gamers and revenues that Fernwood can expect to capture from a variety of market segments, ranging from the local population base to regional tourists staying at nearby properties and on site. In developing revenue estimates from the local population base, The Innovation Group utilized gravity models, as defined earlier. Resort patronage, as well as patrons of nearby resorts, will also be major contributors to the potential demand for the casino, and will be addressed separately, as discussed below. The projections made in the following section consider 2009 as the first full year of operation of the Fernwood slot facility, with commencement of gaming in mid-2008. The calendar year 2009 is most appropriate to consider in terms of evaluating the potential for a more stabilized operation, and to disregard any considerations of soft opening impacts.

A model has also been prepared for calendar year 2010, as it is possible that the start date of slot operations at Fernwood will precede that of the two stand-alone facilities in Philadelphia, as well as the Catskills resorts, whereas by 2010 it is expected that all should be operational. The remaining slot facilities in eastern Pennsylvania are expected to be operational in permanent facilities by the end of 2008, though it is possible that they will not be at maximum slot counts until the end of 2009. As a result, the revenue potential for Fernwood in 2009 may exceed that of subsequent years when the level of competition increases.

Local Market Revenue

Methodology

A constrained gravity model was used in projecting gaming activity for the Tri-State area, particularly focusing on the Poconos and a surrounding radius of 100 miles. This included the identification of eleven discrete market areas, as shown on the accompanying map, with particular attention paid to drive times to the market center and the location of competitive alternatives in the market.

Each of these market areas is assigned a unique set of propensity and frequency factors. These factors are generally derived based upon primary research in the region and other gaming markets as well as information obtained by The Innovation Group from a number of sources. Gamer visits are then generated from zip codes within each one of the eleven areas based on these factors. The gamer visits thus generated are then distributed among the competitors in the market based upon the size of each facility, its attractiveness and the relative distance from the zip code in question. In this model, the region included in the analysis extended approximately 100 miles from Fernwood, with primary consideration given to visitors from within a 90-minute drive time boundary. The gravity model then calculates the probabilistic distribution of gamer visits from each market area to each of the gaming locations in the market. Other competitors located outside the

defined market regions are treated as external competitors siphoning off a portion of gaming trips from zip codes within the region.

Each travel distance/time is evaluated to determine the likely alternative gaming choices for residents of the region. The model is constructed to include only those alternative venues that are considered to be within a reasonable travel time. These include competing casinos that have the potential to attract patrons, or siphon off visits from the market. Travel distances and time have been developed through use of The Innovation Group's GIS system and adjusted from there based upon the nature of the roadways, travel patterns, and convenience.

The following section provides a description and definition of the various components of the models.

Gamer Visits

This measure is used to specify the number of local patron trips to a gaming market, where an individual can make any number of separate visits in the course of a year. In order to estimate the gamer visits, market penetration rates, made up of the separate measures of propensity and frequency, are applied to the adult population in each zip code.

Propensity

Propensity measures the percentage of adults who will participate in casino gaming within the zip code during the course of a given year. This figure varies based upon a number of factors, which includes the number of gaming venues, their type (i.e. land-based versus cruising riverboat versus dockside riverboat), games permitted, availability of other entertainment and leisure options, and most importantly, distance from a gaming venue.⁴ Propensity in inner market areas from 0-30 minutes can vary between the high 30% range in a single venue market to the 50% range, or more, for multiple land-based casinos with a well developed array of amenities.

Frequency

This measures the average number of visits that an adult with a propensity to game will make annually to casinos in the subject market. Frequency is a function of annual gaming budget as indicated by income variations, the number of venues in the market, and the type of gaming facility. The frequency of visitation is inversely related to distance from a gaming venue, as fewer trips are made when convenience declines. However, the length of the average gaming trip increases with distance, such that an annual gaming budget for those living relatively far from a casino may approach that of those living close by, for whom short gaming trips are typical.

⁴ As evidences from racinos in New York, several additional factors may influence gaming participation rates, including smoking bans and the level of customer service and advertising that can be afforded.

Attraction Factors

Attraction factors measure the relative attraction of one gaming venue in relation to others in the market. Attraction factors are applied to the size of the gaming venue as measured by the number of positions it has in the market. Positions are defined as the number of gaming machines plus the number of seats at gaming tables (we use an industry average calculation of six seats per gaming table). A normative attraction factor would be one. When this is applied to the number of positions in a gaming venue there is no change in the size of the gaming venue as calculated by the model and hence its attraction to potential patrons. A value of less than one adjusts the size of the gaming venue downwards and conversely a value greater than one indicates that the gaming venue has characteristics that make it more attractive. Attraction factors can be based on a number of components including branding, the level and effectiveness of marketing efforts, and the level of quality and amenities of a facility. Attraction factors are also adjusted to model the presence of natural and man-made boundaries which impact ease of access and convenience of travel in the market area. In the case of resort-style gaming properties relative to other gaming venues in the market, the concept of accessibility is a major constraint for the local market, since by legislation the property can only offer gaming to resort patrons. If a resort offers a broad array of amenities, the resort may be able to accommodate a significant amount of day-trip gamers who would willingly opt to partake in other resort amenity offerings in order to be able to partake in gaming. The \$10 resort expenditure should be a minor barrier, but is one that does not exist at any of the Class I or Class II licenses, or at gaming venues in any other state.

The sensitivity of the model to changes in these factors is not in the nature of a direct multiplication. For example, a doubling of the attraction factor will not lead to a doubling of the gamer visits attracted to the site. It will however cause a doubling of the attractive power of the gaming venue, which is then translated via non-linear functions into an increase in the number of gamer visits attracted to the gaming venue. This is based upon the location, size, and number of competing gaming venues and their relationship to the market area to which the equation is applied. The variation of these factors is based upon The Innovation Group's experience in developing and applying these models, and consideration of the existing visitation and revenues. Responses from the primary market survey are also considered in this distribution, as the population sampling considered residents in all regions surrounding the Poconos that may provide gamer visits to the region.

Market Evaluation

As mentioned above, the market has been divided into eleven distinct market areas, from which it could be expected that different participation rates may be expected depending on the level and location of competition that is present in the market currently and in the future. Most notably, market areas have been carved taking into consideration the potential developments in both New York and Pennsylvania.

Three primary market areas are defined. The Primary Middle reflects an area predominantly within a 15-minute drive time of Fernwood, mainly north-south along Route 209. The Primary West market includes Stroudsburg and the mountainous region to the north in the Poconos. The Primary East region is mainly located on the east bank

of the Delaware River, in the Kittatinny Mountains region and the Delaware Water Gap Recreation Area. Travel distances for these gamers may be long due to the need to find river crossings. These three Primary market areas are relatively sparsely populated, but would be proximate to Fernwood. However, they would also be proximate to the slot facility at Mount Airy Lodge, located in the Primary West market, where no resort patronage rules will be in effect. The outer concentric rings surrounding Fernwood are also split in a mostly east/west manner, considering both the location of gaming alternatives and the proximity of other entertainment alternatives. Also notably, income levels to the east and south are considerably higher than income levels to the west, and this will likely have an impact on the gaming budgets of gamers by market area.

The Secondary West market includes the area between the Wilkes-Barre/Scranton area and the 60-minute drive time ring surrounding Fernwood, as well as the 30-60 minute drive-time ring southwest of Fernwood, for which competition will likely be low. The Secondary East market lies mainly on the eastern half of the 30 to 60 minute drive time rings surrounding Fernwood, including parts of Pennsylvania, New York and New Jersey. Easton, Pennsylvania and Phillipsburg and Hackettstown, New Jersey are the major population centers in this market area.

The Tertiary markets comprise much of the region within the 60 to 90 minute drive time rings. The Tertiary West market is broad in the market area covered, including the Lehigh Valley market areas of Allentown and Bethlehem, as well as the northern towns of Wilkes Barre and Scranton. Competition from Sands BethWorks and Mohegan at Pocono Downs will create high participation rates for residents of the Tertiary West market, but would also contribute to a very low capture rate for Fernwood. In terms of total adult population, the Tertiary West market is the third largest of the eleven defined market areas, but the second lowest in terms of average household income. In contrast, the Tertiary East market has the largest population base outside of the New York City market and by far the highest average household incomes, at over \$108,000 per year projected by 2009. This region includes much of the affluent northern New Jersey market, as well as towns along the New York/Pennsylvania border south of the Catskills.

Four outer markets have been defined, representing the limit of what could be described as local or regional potential gamers. The Outer West market is mainly located beyond the 90-minute drive time ring west and northwest of Fernwood. Mohegan at Pocono Downs and Mount Airy Lodge will both have an advantage over Fernwood in terms of accessibility from this market area, however some incremental patronage from this region should still be expected to bypass the alternatives for the amenities that the Fernwood facility and surrounding areas offer. The market includes some of the more rural Pennsylvania regions, and has the lowest average household income of the eleven defined markets. The Outer South market is mainly south and southwest of Bethlehem, and north of Philadelphia, and will be a difficult market for a small Pocono resort facility to capture, particularly given the scale of gaming venue alternatives that will be present both proximately and at Mount Airy Lodge. Nevertheless, given the amenities offered on site at Fernwood and the fact that many residents of this area go to the Poconos for day-trips, some gaming visitation to Fernwood from this market should accrue. The Outer East

market is located mainly in the southern Catskills market, in the heart of the Monticello racino market and the likely Catskills competition. The market also extends southwards into the Bergen County, New Jersey area. Finally, the metro New York market is considered, as the large population base in the area will contribute some casino demand, since Fernwood already attracts visitors from the New York City area.

The following table presents the demography of the Fernwood region by market area, including the most recent estimates and a five-year projection to 2011. As noted above, the first full year of gaming operations at Fernwood are expected to commence near the middle of this range, or 2009. In total, there is expected to be 11.2 million adults in the local market area by 2009, of which 8.14 million, or 72.7%, reside in the New York City market. Average Annual Household Incomes are generally projected to be in the \$52-\$64,000 range for market areas west of Fernwood by 2009, with levels generally in the \$80-\$100,000 range to the east and south.

Fernwood Market Area Demographics

	2006 Adult Pop.	2011 Adult Pop.	2006 AAHI	2011 AAHI	Gaming MPI Score
Primary Middle	43,570	52,648	\$69,215	\$76,991	93.4
Primary East	47,635	53,149	\$74,855	\$83,015	101.0
Primary West	58,277	67,210	\$60,224	\$66,446	88.6
Secondary East	397,261	429,434	\$92,126	\$102,007	107.8
Secondary West	88,102	96,807	\$58,260	\$64,743	90.2
Tertiary East	817,019	854,053	\$102,898	\$112,297	111.3
Tertiary West	647,995	669,623	\$55,569	\$61,545	95.2
Outer South	503,157	540,394	\$85,279	\$94,284	104.6
Outer West	174,967	177,806	\$49,530	\$54,463	86.3
Outer North	178,240	193,723	\$84,158	\$92,332	98.6
NYC	8,078,777	8,178,290	\$77,162	\$83,995	109.1

Source: Claritas; Market areas defined by The Innovation Group

The above table does not include the master planned community at the former site of the Tamiment Resort, located approximately 5 miles (10 minutes) north of Fernwood. Greystone Capital Partners bought the resort with the intention of razing it and replacing it with 5,000 residential units (4,100 have been approved), including a senior housing community and a mixed residential community. These residents would fit into the defined Primary Middle market area. A relatively low household size could be assumed based on the presence of senior residential living, and some absorption time will be needed to fill the units, however the addition of 5,000 adult residents to the market should be reasonably expected. This would reflect approximately a 10% increase in population for that market, or approximately 53,809 residents by 2009. These residents are included in the gravity model calculations on the following pages. The table above also presents the Gaming Market Potential Index (MPI) scores as classified by the mix of PRIZM lifestyle clusters in each market area. An MPI score of 100 would reflect the national average. Market areas to the west of Fernwood in general have relatively low market potential, whereas markets to the east and south are more comparable to, or more favorable to gaming than the norm nationwide.

Fernwood Gaming Market Area Carveout

