

IX. MANAGEMENT BUDGET AND STAFFING: 10 YEAR SCHEDULE

A. Annual Maintenance Budget

The following tables outline a schedule for the implementation of proposed management actions and their estimated costs. Accomplishments are contingent upon sufficient staffing levels and funding. It is expected that most tasks will be done by Department Staff. To conform with program budgeting practices, estimated project costs are based on current costs for materials and wages for seasonal staff labor, excluding fringe benefits and indirect costs. The construction or maintenance projects costs do not include permanent program staff salaries. Therefore costs are significantly lower than they would be for outside contractors.

- Yearly mowing of both sides of roughly 18 miles of truck roads and 4 miles of access roads to keep brush and shrubs from encroaching on the traveled ways with DEC staff & equipment . \$ 6,000
- Mowing of an average of 15 acres per year on a 6 year rotation to maintain grassland habitat on the property with DEC staff and equipment. \$ 7,000
- Manage a minimum of 7 acres per year for shrubs (Rowes Pond area, BN6, NR48, Ridge Road north, NR21, 37, 40, 38). (5 days per year). \$ 2,000
- Invasive plant control. \$ 1,500
- Hazardous tree removal. Contracting or DEC staff removal of trees damaged by disease, insects, lightening or other weather events which pose a potential hazard to visitors along roads or major travelways. \$ 2,500
- Maintain/renovate 3.5 miles of roads per year (grade, drain, resurface). \$ 130,000
- Yearly parking lot snow removal. \$ 1,500
- Yearly parking lot maintenance. \$ 1,500
- Yearly trail maintenance. \$ 3,000
- Yearly property line maintenance. \$ 1,000
- Maintain and repair gates, install/maintain one new gate every two years on average.

	\$ 3,000
• Yearly upkeep and repair of forest headquarters building (former Cooperative Hunting Area Check Station).	\$ 1,200
• Mow and maintain six dams a year.	\$ 6,000
• Maintain Kiosks and information on a yearly basis.	\$ 1,000
• Reprint Stewart State Forest brochure for multiple users	\$ 2,000
• Install/Rent accessible Port-A-Potty at Weed Road, Ridge Road, and regular P-O-P at Barron Road and Lorraine Drive as needed from April 1 to mid-December. Totalling about 2.5 years of coverage every year.	\$ 3,750
Annual Maintenance Budget	\$197, 950

B. Construction and Projects Budget

Year 1-5

• Install parking facility at Baron Road South.	\$10,000
• Install parking facility at Rt. 207/ Armstrong Lane trailhead.	\$ 10,000
• Install parking facility at Lorraine Drive (East of Maple Ave.).	\$ 15,000
• Install parking facility at Barron Road North.	\$19,000
• Small hardened parking areas at Restoration Pond and Beaver Pond.	\$ 8,000
• Construct 7 hunter parking spaces along Drury Lane and east, and two along Maple Avenue.	\$ 7,000
• Rebuild farm lane, 10-12' road surface cut brush to 25' wide, pull-offs every 250 feet or so, grade, fill and culverts. (Forrester to Restoration Pond, suitable for one-lane car access).	

- \$12,000
- Rebuild farm lane between New and Ridge Roads past Pittman-Robertson Pond to 8 feet wide, suitable for horse carriages (fill, culverts, permit, fabric and drainage). \$14,000
- Demolish 20 by 35' shed off Forester Road. \$ 3,000
- Storage/ maintenance facility:A three bay pole barn storage/ maintenance building, with three bays enclosed. \$50,000
- Remove 2-story wood frame barn and other wood frame structures on Old Creamery Road (Old Route 208, Maybrook). \$20,000
- Install DEC signs on 12.6 miles of boundary lines. \$ 5,000
- Install five additional informational kiosks at major entry points (Barron Road South. Weed Road intersection with Ridge Road) ,Lorraine Drive South, and Rte 207-East Drury. Maintain existing three kiosks and bulletin boards. \$15,000
- Install directional and trails signs at all major trail and road intersections. \$ 1,500
- Install 3 sign standards at southerly Barron Road, northerly Ridge Road, and northerly Barron Road. \$ 2,000
- Investigate and assess maintenance of other dams on ponds throughout the property. \$ 1,000
- Removal of trash, debris, and old structures (one-time). \$ 2,000
- Upgrade and complete 21 trail segments and loops as follows:
 - Costs per mile (\$1,500) for 12 miles of foot trails \$ 18,000
 - Cost per mile (\$3,000) for 9 miles of horse and buggy, multiple use trails: \$ 27,000
 - (Costs include 2 culverts and small wooden footbridge on trail C and maintenance/ upgrade of boardwalk on trail B2)
- Upgrade existing small hunter check station, by winterizing, and adding a restroom and septic system. Expand to provide an office/contact station for the visiting public. Electric and phone service exists already. \$50,000

- Establish and maintain group camping area at Ridge Road Orchard (Mow areas, establish parking, harden access routes, provide area for horse tethering and buggies). \$ 10,000
 - Boardwalk over Great Swamp, maximum 600 feet (@ \$20 foot) \$12,000
 - Plant 5 acres of black walnuts at 12x12 spacing (300 trees per acre with protective tubes, 300 trees per day = 5 person days.) \$ 4,000
 - Plant 5 acres of white pine (300 trees per acre, 12x12 spacing, 300 trees per day = 5 person days). \$ 5,000
 - Plant app. 5 acres of tree buffer along Forrester Road and route 208 (Sugar maple, oak, poplar, white pine, walnut and hickory) \$ 2,000
 - Demolish 150' by 150' one story masonry building west of Barron Road. \$75,000
 - Disposal of 150 'by 150' masonry building at approved C&D site. \$397,000
 - Install approximately 2 miles of chain link fence along Barron Road, if needed. \$150,000
 - Add parallel parking on one shoulder of Weed Road, if needed. \$10,000
- Total construction costs for years 1-5: \$ 954,500**

C. Equipment Budget

- 4-wheel drive truck for staff \$25,000
- 6-wheel ATV \$ 8,000
- Two chain saws - one medium and one small \$ 700
- Hand tools, including hammers, shovels, pickaxes, loppers, etc for a crew of six. \$ 500
- Safety Equipment, including hard hats, with ear and face protection, chain saw chaps, gloves, etc. for a crew of three. \$ 500

- Two two-way radios or cell phones \$ 300

Equipment Budget Total: \$35,000

D. Annual Budget for Personnel

- Senior Forestry Technician 1 staff year
- 2 Assistant Forest Rangers from
October 1 to mid-December 1 staff year

Annual Budget for Personnel 2 staff years

10 YEAR TOTAL \$ 2,969,000

X. Bibliography and References

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APPENDICES

- Appendix A:** Soils of the Stewart State Forest
- Appendix B:** Wildlife
- B-1 Amphibians/Reptiles
 - B-2 Mammals
 - B-3 New York Breeding Bird Atlas for Stewart State Forest Blocks 5659 (A-D)
- Appendix C:** 2006 Transfer of Jurisdiction and Consent Decree
- Appendix D:** Report to Commissioner John P. Cahill of the NYS Department of Environmental Conservation from the Stewart Lands Citizen's Advisory Committee:
- Recommendations regarding the management and use of the Stewart State Forest, Towns of Montgomery, New Windsor and Hamptonburgh, Orange County, November 4, 1999
- Appendix E:** Features of ECL Title 20 New York State Bird Conservation Area program
- Appendix F:** State Environmental Quality Review - Negative Declaration
- Appendix G:** Forest Stand Mosaic Map
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Appendix A

APPENDIX A: SOILS WITHIN THE STEWART STATE FOREST

The following list of soil types are believed to occur within the Stewart State Forest as documented in "Soil Survey of Orange County, New York, U.S. Agriculture, Soil Conservation Services in Cooperation with Cornell University Agricultural Experiment Station", published in 1975. Abbreviations represent the following soil names as found on Soil Maps 18, 19, 29, 30.

UPLAND SOILS

ABAlden silt loam, broadly defined

abAlden silt loam

ACAlden extremely stony soils

BmBBath-Nassau shaly loams 3 to 8 percent slopes

BmCBath-Nassau shaly loams 8 to 15 percent slopes

CaCanandagua silt loam

CmBChenango gravelly silt loam 3 to 8 percent slopes

ErAErie gravelly silt loam 0 to 3 percent slope

ErBErie gravelly silt loam 3 to 8 percent slope

ESBErie extremely stony soils, gently sloping

HoBHoosic gravelly sandy loam 3 to 8 percent slope

MaMadalin silt loam

MdBMardin gravelly silt loam 3 to 8 percent slope

MdCMardin gravelly silt loam 8 to 15 percent slope

MdDMardin gravelly silt loam 15 to 25 percent slope

MyMiddleburg silt loam

OtBOtisville gravelly sandy loam 8 to 15 percent slope

RaRaynham silt loam

RhBRiverhead sandy loam 3 to 9 percent slope

SXC Swartswood and Mardin very stony soil, very steep

UHUdorthents, smoothed

WdWayland silt loam

WETLAND SOILS

CeCarlisle muck, very deep

CfCarlisle muck, ponded

HHHistic Humaquepts, ponded

PaPalms muck

PbPalms much, ponded

GRAVEL/ROCK OUT CROP

PgGravel pits

RSDRockout Crop - Nassau Complex - hilly

Appendix B.

Appendix B-1: Stewart State Forest Vicinity
Preliminary New York State Amphibian and Reptile Atlas Project Data
April 1, 2002

Town	Species	Common Name
Hamptonburgh	Thamnophis sirtalis	Common Garter Snake
Hamptonburgh	Diadophis punctatus edwardsii	Northern Ringneck Snake
Montgomery	Elaphe o. obsoleta	Black Rat Snake
Montgomery	Rana catesbeiana	Bullfrog
Montgomery	Thamnophis sirtalis	Common Garter Snake
Montgomery	Sternotherus odoratus	Common Musk Turtle
Montgomery	Chelydra s. serpentina	Common Snapping Turtle
Montgomery	Bufo a. americanus	Eastern American Toad
Montgomery	Hyla versicolor	Gray Treefrog
Montgomery	Rana clamitans melanota	Green Frog
Montgomery	Ambystoma jeffersonianum	Jefferson Salamander
Montgomery	Ambystoma opacum	Marbled Salamander
Montgomery	Storeria d. dekayi	Northern Brown Snake
Montgomery	Plethodon cinereus	Northern Redback Salamander
Montgomery	Plethodon glutinosus	Northern Slimy Salamander
Montgomery	Pseudacris c. crucifer	Northern Spring Peeper
Montgomery	Eurycea bislineata	Northern Two-lined Salamander
Montgomery	Nerodia s. sipedon	Northern Water Snake
Montgomery	Chrysemys picta	Painted Turtle
Montgomery	Rana palustris	Pickereel Frog

Montgomery	<i>Notophthalmus v. viridescens</i>	Red-spotted Newt
Montgomery	<i>Liochlorophis vermalis</i>	Smooth Green Snake
Montgomery	<i>Ambystoma maculatum</i>	Spotted Salamander
Montgomery	<i>Clemmys guttata</i>	Spotted Turtle
Montgomery	<i>Rana sylvatica</i>	Wood Frog
New Windsor	<i>Rana catesbeiana</i>	Bullfrog
New Windsor	<i>Thamnophis sirtalis</i>	Common Garter Snake
New Windsor	<i>Chelydra s. serpentina</i>	Common Snapping Turtle
New Windsor	<i>Bufo a. americanus</i>	Eastern American Toad
New Windsor	<i>Lampropeltis t. triangulum</i>	Eastern Milk Snake
New Windsor	<i>Rana clamitans melanota</i>	Green Frog
New Windsor	<i>Ambystoma jeffersonianum x laterale</i>	Jefferson Salamander Complex
New Windsor	<i>Coluber c. constrictor</i>	Northern Black Racer
New Windsor	<i>Agkistrodon contortrix mokasen</i>	Northern Copperhead
New Windsor	<i>Plethodon cinereus</i>	Northern Redback Salamander
New Windsor	<i>Pseudacris c. crucifer</i>	Northern Spring Peeper
New Windsor	<i>Nerodia s. sipedon</i>	Northern Water Snake
New Windsor	<i>Chrysemys picta</i>	Painted Turtle
New Windsor	<i>Rana palustris</i>	Pickerel Frog
New Windsor	<i>Notophthalmus v. viridescens</i>	Red-spotted Newt
New Windsor	<i>Ambystoma maculatum</i>	Spotted Salamander
New Windsor	<i>Clemmys guttata</i>	Spotted Turtle

Appendix B-2. Status and occurrence of New York mammals in the Stewart State Forest, Orange County in the southern ecozone, Hudson Valley ecological subzone as listed in "Integrating Timber and Wildlife Management Handbook" (Robert Chambers, 1983, SUNY College of Environmental Science and Forestry & NYSDEC).

SPECIES	STATUS
Masked Shrew	
Smoky Shrew	
Longtail Shrew	
Northern Water Shrew	
Least Shrew	
Shorttail Shrew	
Starnose Mole	
Hairy-tailed Mole	
Eastern Mole	
Easter Woodrat	Threatened
Pygmy Shrew	
Little Brown Bat	
Keen's Bat	
Indiana Bat	Endangered
Small-Footed Bat	Special Concern
Silver-Haired Bat	
Eastern Pipistrelle	
Big Brown Bat	
Red Bat	
Hoary Bat	
Snowshoe Hare	Game Species
Raccoon	Game Species
White-tailed Deer	Game Species
Shorttail Weasel	Game Species
River Otter	Game Species
Striped Skunk	Game Species
Red Fox	Game Species
Bobcat	Game Species
Eastern Chipmunk	
Gray Squirrel	Game Species

Red Squirrel	
Southern Flying Squirrel	
Northern Flying Squirrel	
Beaver	Game Species
Deer Mouse	
White-Footed Mouse	
Woodland Jumping Mouse	
Yellownose Vole	
Pine Vole	
Southern Bog Lemming	
Meadow Jumping Mouse	
Southern Red-Backed Vole	
Meadow Vole	
Woodland Vole	
Muskrat	Game Species
Gray Fox	Game Species
Woodchuck	Game Species
Porcupine	
Opossum	Game Species
Eastern Cottontail	Game Species
Mink	Game Species
Longtail Weasel	Game Species
Coyote	Game Species

Appendix B-3: Breeding Bird Atlas Data

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>	<u>CODE</u>	<u>TYPE</u>
Canada Goose	<i>Branta canadensis</i>	NE	Confirmed
Mute Swan	<i>Cygnus olor</i>	NE	Confirmed
Wood Duck	<i>Aix sponsa</i>	ON	Confirmed
American Black Duck	<i>Anas rubripes</i>	X1	Possible
Mallard	<i>Anas platyrhynchos</i>	FL	Confirmed
Mallard x Am. Black Duck Hybrid	<i>Anas platyrhynchos</i> x <i>A. rubripes</i>	X1	Possible
Hooded Merganser	<i>Lophodytes cucullatus</i>	P2	Probable
Ring-necked Pheasant	<i>Phasianus colchicus</i>	FL	Confirmed
Wild Turkey	<i>Meleagris gallopavo</i>	NE	Confirmed
Northern Bobwhite	<i>Colinus virginianus</i>	FL	Confirmed
Pied-billed Grebe	<i>Podilymbus podiceps</i>	S2	Probable
American Bittern	<i>Botaurus lentiginosus</i>	X1	Possible
Great Blue Heron	<i>Ardea herodias</i>	NY	Confirmed
Green Heron	<i>Butorides virescens</i>	FY	Confirmed
Black Vulture	<i>Coragyps atratus</i>	X1	Possible
Turkey Vulture	<i>Cathartes aura</i>	D2	Probable
Sharp-shinned Hawk	<i>Accipiter striatus</i>	T2	Probable
Cooper's Hawk	<i>Accipiter cooperii</i>	T2	Probable
Red-shouldered Hawk	<i>Buteo lineatus</i>	X1	Possible
Broad-winged Hawk	<i>Buteo platypterus</i>	T2	Probable
Red-tailed Hawk	<i>Buteo jamaicensis</i>	NY	Confirmed
American Kestrel	<i>Falco sparverius</i>	D2	Probable
Virginia Rail	<i>Rallus limicola</i>	T2	Probable
Common Moorhen	<i>Gallinula chloropus</i>	T2	Probable
Killdeer	<i>Charadrius vociferus</i>	FL	Confirmed
Spotted Sandpiper	<i>Actitis macularia</i>	P2	Probable
American Woodcock	<i>Scolopax minor</i>	S2	Probable
Rock Pigeon	<i>Columba livia</i>	NY	Confirmed
Mourning Dove	<i>Zenaida macroura</i>	NE	Confirmed
Black-billed Cuckoo	<i>Coccyzus erythrophthalmus</i>	X1	Possible
Yellow-billed Cuckoo	<i>Coccyzus americanus</i>	S2	Probable
Great Horned Owl	<i>Bubo virginianus</i>	NY	Confirmed
Barred Owl	<i>Strix varia</i>	T2	Probable
Chimney Swift	<i>Chaetura pelagica</i>	NY	Confirmed
Ruby-throated Hummingbird	<i>Archilochus colubris</i>	T2	Probable
Belted Kingfisher	<i>Ceryle alcyon</i>	FY	Confirmed
Red-bellied Woodpecker	<i>Melanerpes carolinus</i>	NY	Confirmed
Downy Woodpecker	<i>Picoides pubescens</i>	NY	Confirmed
Hairy Woodpecker	<i>Picoides villosus</i>	NY	Confirmed
Northern Flicker	<i>Colaptes auratus</i>	NY	Confirmed
Pileated Woodpecker	<i>Dryocopus pileatus</i>	NY	Confirmed
Eastern Wood-Pewee	<i>Contopus virens</i>	FY	Confirmed
Alder Flycatcher	<i>Empidonax alnorum</i>	X1	Possible
Willow Flycatcher	<i>Empidonax traillii</i>	FY	Confirmed
Least Flycatcher	<i>Empidonax minimus</i>	NY	Confirmed
Eastern Phoebe	<i>Sayornis phoebe</i>	NY	Confirmed
Great Crested Flycatcher	<i>Myiarchus crinitus</i>	NY	Confirmed
Eastern Kingbird	<i>Tyrannus tyrannus</i>	NY	Confirmed
White-eyed Vireo	<i>Vireo griseus</i>	D2	Probable

Yellow-throated Vireo	Vireo flavifrons	FY	Confirmed
Warbling Vireo	Vireo gilvus	FY	Confirmed
Red-eyed Vireo	Vireo olivaceus	FY	Confirmed
Blue Jay	Cyanocitta cristata	NE	Confirmed
American Crow	Corvus brachyrhynchos	NY	Confirmed
Horned Lark	Eremophila alpestris	X1	Possible
Tree Swallow	Tachycineta bicolor	NY	Confirmed
Northern Rough-winged Swallow	Stelgidopteryx serripennis	ON	Confirmed
Bank Swallow	Riparia riparia	FY	Confirmed
Barn Swallow	Hirundo rustica	NY	Confirmed
Black-capped Chickadee	Poecile atricapillus	FY	Confirmed
Tufted Titmouse	Baeolophus bicolor	NY	Confirmed
White-breasted Nuthatch	Sitta carolinensis	FY	Confirmed
Brown Creeper	Certhia americana	FY	Confirmed
Carolina Wren	Thryothorus ludovicianus	FL	Confirmed
House Wren	Troglodytes aedon	NY	Confirmed
Marsh Wren	Cistothorus palustris	FY	Confirmed
Blue-gray Gnatcatcher	Poliophtila caerulea	FY	Confirmed
Eastern Bluebird	Sialia sialis	NY	Confirmed
Veery	Catharus fuscescens	FY	Confirmed
Wood Thrush	Hylocichla mustelina	NE	Confirmed
American Robin	Turdus migratorius	NY	Confirmed
Gray Catbird	Dumetella carolinensis	NE	Confirmed
Northern Mockingbird	Mimus polyglottos	NY	Confirmed
Brown Thrasher	Toxostoma rufum	FY	Confirmed
European Starling	Sturnus vulgaris	NY	Confirmed
Cedar Waxwing	Bombycilla cedrorum	FY	Confirmed
Blue-winged Warbler	Vermivora pinus	FY	Confirmed
Golden-winged Warbler	Vermivora chrysoptera	X1	Possible
Brewster's Warbler	Vermivora pinus x V. chrysoptera	X1	Possible
Lawrence's Warbler	Vermivora chrysoptera x V. pinus	X1	Possible
Yellow Warbler	Dendroica petechia	NY	Confirmed
Chestnut-sided Warbler	Dendroica pensylvanica	FY	Confirmed
Prairie Warbler	Dendroica discolor	FY	Confirmed
Black-and-white Warbler	Mniotilta varia	FY	Confirmed
American Redstart	Setophaga ruticilla	NY	Confirmed
Worm-eating Warbler	Helminthos vermivorus	FY	Confirmed
Ovenbird	Seiurus aurocapilla	FY	Confirmed
Northern Waterthrush	Seiurus noveboracensis	T2	Probable
Louisiana Waterthrush	Seiurus motacilla	T2	Probable
Common Yellowthroat	Geothlypis trichas	NE	Confirmed
Scarlet Tanager	Piranga olivacea	FY	Confirmed
Eastern Towhee	Pipilo erythrophthalmus	FY	Confirmed
Chipping Sparrow	Spizella passerina	FY	Confirmed
Field Sparrow	Spizella pusilla	FY	Confirmed
Savannah Sparrow	Passerculus sandwichensis	T2	Probable
Song Sparrow	Melospiza melodia	FY	Confirmed
Swamp Sparrow	Melospiza georgiana	FL	Confirmed
Northern Cardinal	Cardinalis cardinalis	FY	Confirmed
Rose-breasted Grosbeak	Pheucticus ludovicianus	NY	Confirmed
Indigo Bunting	Passerina cyanea	FY	Confirmed
Bobolink	Dolichonyx oryzivorus	FY	Confirmed
Red-winged Blackbird	Agelaius phoeniceus	NY	Confirmed

Eastern Meadowlark	<i>Sturnella magna</i>	FY	Confirmed
Common Grackle	<i>Quiscalus quiscula</i>	NY	Confirmed
Brown-headed Cowbird	<i>Molothrus ater</i>	FY	Confirmed
Orchard Oriole	<i>Icterus spurius</i>	NY	Confirmed
Baltimore Oriole	<i>Icterus galbula</i>	NY	Confirmed
House Finch	<i>Carpodacus mexicanus</i>	NY	Confirmed
American Goldfinch	<i>Carduelis tristis</i>	NY	Confirmed
House Sparrow	<i>Passer domesticus</i>	NY	Confirmed

CODES

D2	Courtship and display, agitated behavior or anxiety calls from adults suggesting probable presence nearby of a nest or young; well-developed brood-patch or cloacal protuberance on trapped adult. Includes copulation
FL	Recently fledged young
FY	Adult(s) with food for young
NE	Identifiable nest and eggs, bird setting on next or egg, identifiable eggshells found beneath nest, or identifiable dead nestling(s)
NY	Nest with young.
ON	Adult(s) entering or leaving nest site in circumstances indicating occupied nest
P2	Pair observed in suitable habitat in breeding season
S2	Singing male present (or breeding calls heard)
T2	Bird (or pair) apparently holding territory. In addition to territorial singing, chasing of other individuals of same species often marks a territory
X1	Species observed in possible nesting habitat, but no other indication of breeding noted; singing male(s) present (or breeding calls heard) in breeding season

Appendix C.

STATE OF NEW YORK - EXECUTIVE DEPARTMENT
OFFICE OF GENERAL SERVICES

-----X

In the Matter of the Application :
of the :
DEPARTMENT OF ENVIRONMENTAL CONSERVATION : ORDER
for a transfer of jurisdiction of certain lands situate in the :
Towns of Montgomery and New Windsor in the County of Orange :

-----X

The Department of Environmental Conservation has agreed to accept a transfer of jurisdiction of certain lands located in the Towns of Montgomery and New Windsor in the County of Orange from the Department of Transportation. The parcels of land comprise approximately 1,600 acres, more or less, and are a portion of the lands acquired by the New York State Department of Transportation for the Metropolitan Transportation Authority for the purposes associated with the development of Stewart International Airport pursuant to Chapter 472 of the Laws of 1971. Transfer of the property is a condition of the December 7, 2005 Consent Decree settling Stewart Park and Reserve Coalition v. Slater, et al., Civil Action No. CV-00-1606 (N.D.N.Y). The Consent Decree is attached as Schedule A and its provisions as they relate to the subject lands are incorporated by reference.

The Department of Transportation has indicated that the land is excess to the needs of the State and Stewart International Airport, and should be transferred subject to the uses and/or exceptions set forth in Schedule B, "New York State Department of Environmental Conservation Sketch Map in Compliance with the December 7, 2005 Consent Decree and Order of Dismissal settling Stewart Park and Reserve Coalition v. Slater, et al., Civil Action No. CV-00-1606

(N.D.N.Y.) in the United States District Court for a Transfer of Jurisdiction of Certain Lands at Stewart Airport to the Department of Environmental Conservation from the Department of Transportation Situate in the Towns of Montgomery and New Windsor, County of Orange – State of New York” designated as Project: Transfer of Jurisdiction Orange 26-03 (June 14, 2006), on file in the Office of General Services in Albany, New York as OGS Map No. 2080, and in Schedule C, a general description of the land boundaries of the parcels totaling approximately 1,600 acres, which are attached and incorporated by reference. The map and description are subject to any state of facts that an accurate survey may show.

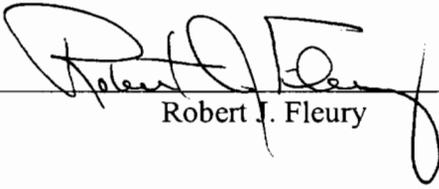
Pursuant to the Consent Decree, DEC will manage the land as a reforestation area consistent with the Environmental Conservation Law Article 9, Title 5 in order to ensure public access while protecting the forested area and other natural resources. As set forth in the Consent Decree, wetlands mitigation is prohibited on the parcels transferred by this document. The planned management will not create uses incompatible with existing and future airport operations, and will be consistent with noise buffer usage for which the land was, in part, acquired.

THEREFORE, pursuant to subdivision 4 of Section 3 of the Public Lands Law, it is

ORDERED, that the jurisdiction over the aforesaid land is transferred to the Department of Environmental Conservation, subject to the above uses and exceptions.

ACTING COMMISSIONER OF GENERAL SERVICES

Dated: JUNE 29, 2006



Robert J. Fleury

SCHEDULE A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

STEWART PARK AND RESERVE COALITION,
INCORPORATED (SPARC), ORANGE COUNTY
FEDERATION OF SPORTSMEN'S CLUBS, INC.
and SIERRA CLUB,

Plaintiffs,

v.

RODNEY E. SLATER, as United States Secretary
of Transportation; UNITED STATES DEPARTMENT
OF TRANSPORTATION; KENNETH R. WYKLE, as
Administrator of the Federal Highway
Administration; HAROLD J. BROWN, as New York
Division Administrator of the Federal
Highway Administration; FEDERAL HIGHWAY
ADMINISTRATION; LOUIS R. TOMSON, as Chairman
of the New York State Thruway Authority; NEW
YORK STATE THRUWAY AUTHORITY; JOSEPH H.
BOARDMAN, as Commissioner of the New York
State Department of Transportation; and NEW
YORK STATE DEPARTMENT OF TRANSPORTATION,

Defendants.

CIVIL ACTION

No. 00-cv-1606

(RFT)

CONSENT DECREE
AND ORDER OF
DISMISSAL

Stewart Park and Reserve Coalition, Incorporated (SPARC), Orange County Federation of Sportsmen's Clubs, Inc. and Sierra Club (hereinafter collectively "Plaintiffs"); and Louis R. Tomson, as Chairman of the New York State Thruway Authority, by his successor, John L. Buono; New York State Thruway Authority; Joseph H. Boardman, as Commissioner of the New York State Department of Transportation, by his acting successor, Thomas J. Madison, Jr.; and New York State Department of Transportation (hereinafter "NYSDOT") (hereinafter collectively "State Defendants"), and New York State Department of Environmental Conservation and its acting Commissioner, Denise M. Sheehan (hereinafter collectively "NYSDEC"), which is not a party to this action, but is a party to this agreement for the purpose of settling this action and related litigation involving the Project brought by Plaintiffs; hereby agree as follows:

WHEREAS, the State Defendants and Rodney E. Slater, as United States Secretary of Transportation, by his successor, Norman Y. Mineta; United States Department of Transportation; Kenneth R. Wykle, as Administrator of the Federal Highway Administration, by his acting successor, J. Richard Capka; Harold J. Brown, as New York Division Administrator of the Federal Highway Administration, by his successor, Robert E. Arnold; and

Federal Highway Administration; (hereinafter collectively "Federal Defendants"); (hereinafter collectively "Defendants") seek to construct a highway interchange between Interstate Highway 84 (hereinafter "I-84") and Drury Lane in Orange County, New York, to widen Drury Lane, to construct certain access roads between Drury Lane and the Stewart International Airport (hereinafter "the Airport"), and to construct a mitigation wetland for this construction, all as described in the Stewart Airport Access Improvement ... Administrative Analysis: Section 4(f) (49 U.S.C. 303) and Consultation 23 CFR 771.129(c) (hereinafter "2004 Section 4(f) Analysis"), adopted by defendant Federal Highway Administration and defendant NYSDOT, dated April 20, 2004 (hereinafter "the Project"); and

WHEREAS, the Project was found by the United States Court of Appeals for the Second Circuit in SPARC v. Slater, 352 F.3d 545 (2d Cir. 2003) to be subject to review under Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303 (hereinafter "Section 4(f)"); and

WHEREAS, the State of New York acquired approximately 8,675 acres of land located in the vicinity of the Airport in and about 1971, said lands being known as both the "Stewart Buffer Lands" and the "Stewart Properties", and referred to herein as the "Stewart Lands"; and

WHEREAS, the Project will be located on or near certain parts of the Stewart Lands; and

WHEREAS, Plaintiffs commenced this action seeking, *inter alia*, to enforce Section 4(f) with regard to the Project; and

WHEREAS, the U.S. Court of Appeals for the Second Circuit has held that all or part of the Stewart Lands are parklands protected under Section 4(f); and

WHEREAS, Plaintiffs have alleged in this action that the Project as currently designed will use public parklands which are protected by Section 4(f), and Defendants have denied these allegations; and

WHEREAS, Plaintiffs, their members and other members of the general public, are frequent users of the Stewart Lands for recreational purposes and all parties hereto wish to protect those lands and enhance public access thereto and recognize the benefits of doing so; and

WHEREAS, NYSDEC currently has jurisdiction over approximately 5,264 acres of the Stewart Lands, now known as the Stewart State Forest, which were transferred to NYSDEC by NYSDOT in 1999; and

WHEREAS, defendant NYSDOT currently retains jurisdiction over more than 2,000 acres of the Stewart Lands; and

WHEREAS, in order to protect those lands and enhance public access to the Stewart State Forest and portions of the Stewart Lands remaining under the jurisdiction of NYSDOT, which have been managed for recreational use by agreement between NYSDOT and NYSDEC, the parties hereto have agreed that NYSDOT will transfer jurisdiction over certain parcels of the Stewart Lands to the jurisdiction of NYSDEC to be part of the Stewart State Forest, and NYSDEC has agreed to accept such transfer and to enter into this Consent Decree and to be bound by it, even though NYSDEC is not a party to this action; and

WHEREAS, the Plaintiffs herein have also commenced a New York CPLR Article 78 proceeding in New York State Supreme Court, Orange County, against NYSDEC and NYSDOT, entitled Stewart Park and Reserve Coalition v. NYSEC and NYSDOT, Index No. 5235-2005 (Sup. Ct. Orange Co.), regarding the modification of the New York Freshwater Wetlands Act permit for the Project issued on or about June 29, 2005; and

WHEREAS, the Plaintiffs and the Defendants have previously agreed to have Magistrate Judge Randolph F. Treece decide all substantive motions in this action pursuant to 28 U.S.C. § 636(c); and

WHEREAS the parties hereto wish to resolve this action and the CPLR Article 78 proceeding in an equitable manner, to avoid

further potentially lengthy and costly litigation, to protect as part of the Stewart State Forest portions of the Stewart Lands now remaining under the jurisdiction of NYSDOT, to enhance public access thereto, and to allow construction of the Project to go forward expeditiously; and

WHEREAS the Court has considered these matters and the issues; now,

IT IS HEREBY AGREED AMONG THE PARTIES, AND ORDERED AND DECREED BY THE COURT, AS FOLLOWS:

I. Substantive Provisions

A. General Descriptions of Stewart Lands to Be Transferred From NYSDOT to NYSDEC

1. PARCEL 1. Annexed hereto as Exhibit A and incorporated herein is a copy of a map dated June 2005 entitled "Stewart Properties". NYSDOT shall transfer to the jurisdiction and control of NYSDEC for inclusion in the Stewart State Forest all land marked in red cross-hatching on said map and labeled as "Area to Preclude Development -(1400+/- Acres)". Said lands are generally described (to be confirmed by a survey), as follows:

a. PARCEL 1A. Beginning at a point 75 feet east of the proposed centerline of the realigned Drury Lane (as shown on Sheet Number 35 from the Contract Plans for the Project, NYSDOT Contract Number D259814, a copy of which is annexed hereto as Exhibit B and incorporated herein) at its intersection with NYS

Route 207; thence easterly along the current northern boundary of NYS Route 207 to the Catskill Aqueduct; thence northerly along the Catskill Aqueduct to the southern boundary of the lands which have been leased by NYSDOT to SWF Airport Acquisition, Inc. (hereinafter "SWFAA") pursuant to a lease dated September 24, 1999; thence westerly along the southern boundary of said leased lands to a point 150 feet east of the western boundary of the current Drury Lane right-of-way; thence southerly along a line parallel to, and 150 feet east of, the western boundary of the current Drury Lane right-of-way, as it winds and turns, to a point 1,600 +/- feet north of the current northern boundary of NYS Route 207; thence southerly along a line parallel to, and 75 feet east of, the proposed centerline of the realigned Drury Lane (as shown on Exhibit B), as it winds and turns, to the point and place of beginning; excepting for the United States military housing parcel, the Little Britain School parcel and a small cemetery, as shown on Exhibits A and C (described below), and any other such cemeteries, historic houses and the like which are no longer under the jurisdiction of NYSDOT as of the date hereof; BEING all of the Stewart Lands located east of Drury Lane, and south of the lands which have been leased by NYSDOT to SWFAA, excepting a parcel of land being 150 feet wide, located on and to

the east of the current boundaries of Drury Lane, intended to be used for the realigned Drury Lane; and

b. PARCEL 1B. Beginning at a point 75 feet west of the proposed centerline of the realigned Drury Lane (as shown on Exhibit B) at its intersection with NYS Route 207; thence northerly along a line parallel to, and 75 feet west of, the proposed centerline of the realigned Drury Lane (as shown on Exhibit B), as it winds and turns, to a point 1,600 +/- feet north of the current northern boundary of NYS Route 207; thence along the current western boundary of the current Drury Lane right-of-way to the southern boundary of the Airport's Runway Protection Zone (shown in light blue on Exhibit A); thence generally southerly, westerly and northerly along the boundaries of the Runway Protection Zone to the southern edge of the area depicted as "Area to be Reserved for Development" on Exhibit A; thence westerly along said boundary to Maple Avenue; thence southerly along Maple Avenue to the current northern boundary of NYS Route 207; thence easterly along the current northern boundary of NYS Route 207 to the point and place of beginning; BEING all of the Stewart Lands located between Drury Lane and Maple Avenue south of the Runway Protection Zone and the "Area to be Reserved for Development" shown on Exhibit A; and including the current Drury Lane for a distance of approximately 1,600 feet

north from NYS Route 207 (from which the pavement shall be removed as shown on Exhibit B), and the area near NYS Route 207 between the current Drury Lane and the proposed realigned Drury Lane; and excepting a small cemetery as shown on Exhibit C (defined below), and any other such cemeteries, historic houses and the like which are no longer under the jurisdiction of NYSDOT as of the date hereof. The parties acknowledge that the realignment of the Drury Lane intersection with NYS Route 207 as part of the Project will require NYSDOT to remove the existing road and conduct grading in the vicinity of that intersection, including on lands to be transferred to NYSDEC.

2. PARCEL 2. Annexed hereto as Exhibit C and incorporated herein is a copy of a map dated March 4, 1999 and labeled "OGS Map No. 1751". NYSDOT shall transfer to the jurisdiction and control of NYSDEC for inclusion in the Stewart State Forest the southern part of the land shown on said map as "Excepted Parcel No. 1", which part consists of all lands located south and east of the lands shown on said map as "Lands now or formerly of Penn Central Transportation Company", and is on both sides of Barron Road, and is generally described as follows: Beginning at the southernmost point where the said "Lands now or formerly of Penn Central Transportation Company" intersect with Barron Road; thence westerly and southerly along the boundary of said "Lands

now or formerly of Penn Central Transportation Company"; thence southerly and westerly through the Stewart Lands, thence southerly and easterly to Barron Road and crossing Barron Road, to the boundary line between the Towns of Montgomery and New Windsor; thence northerly along said town line; thence northerly through the Stewart Lands to and along Barron Road; thence crossing Barron Road to the northernmost point where the said "Lands now or formerly of Penn Central Transportation Company" intersect with Barron Road; thence southerly along the western boundary of Barron Road, to the point and place of beginning.

3. PARCEL 3. The entire right-of-way of Maple Avenue located within the Stewart Lands, as shown on Exhibits A and C, shall be transferred from NYSDOT to the jurisdiction and control of NYSDEC for inclusion in the Stewart State Forest.

4. PARCEL 4. The entire right-of-way of Barron Road located within the Stewart State Forest shall be transferred from NYSDOT to the jurisdiction and control of NYSDEC for inclusion in the Stewart State Forest, excepting and reserving:

a. Annexed hereto as Exhibit D and incorporated herein is a copy of an Order of transfer by the New York State Office of General Services dated March 4, 1999, which transferred jurisdiction over the current Stewart State Forest to NYSDEC. Said Order reserved to NYSDOT a right-of-way along a portion of

Barron Road for ingress and egress to the parcel reserved for the use of the Division of State Police, as shown on Exhibit C. Said rights shall continue to be reserved by NYSDOT.

b. That portion of Barron Road located within the lands along Barron Road to be retained by NYSDOT, ending at the northernmost point where the boundary of the said "Lands now or formerly of Penn Central Transportation Company", as shown on Exhibit C, intersects with Barron Road.

5. PARCEL 5. NYSDOT shall expressly convey and surrender to NYSDEC for inclusion in the Stewart State Forest the right-of-way on Barron Road reserved by it in Exhibit D for ingress and egress from NYS Route 208 to said Excepted Parcel No. 1.

6. All of the parcels of land and rights-of-way described above shall be transferred by NYSDOT to NYSDEC no later than June 30, 2006. On or before said date, NYSDEC shall add all such parcels of land to the Stewart State Forest, as a Reforestation Area, pursuant to New York Environmental Conservation Law Article 9, Title 5.

7. Plaintiffs shall be provided, with 30 days prior notice, a copy of the proposed order of transfer of said lands so that they may review it, in advance, for compliance with this Consent Decree.

B. Access to and Management of Lands Retained by NYSDOT

8. On the lands labeled as "Area to be Reserved for Development" on Exhibit A, there shall be no construction of buildings or other action taken by NYSDOT, its successors and assigns, within 500 feet of the Stewart State Forest, which would cause a limitation on hunting on the Stewart State Forest pursuant to New York Environmental Conservation Law § 11-0931. In the event that NYSDOT leases, sells, or otherwise conveys ownership or other jurisdiction or control over such lands, this limitation shall be made a permanent condition of and limitation upon such transfer and the title to the lands conveyed by NYSDOT.

9. The area of land labeled as "Area to be Reserved for Development" on Exhibit A contains a pond known as "Tenney's Pond", which pond is currently used for fishing and other purposes by the public, including Plaintiffs' members, under the management of NYSDEC. In the event that NYSDOT leases, sells, or otherwise conveys ownership or other jurisdiction or control over such lands containing Tenney's Pond, NYSDOT shall reserve to the State of New York public access to Tenney's Pond, including at a minimum: access from Drury Lane to the Pond, an area for launching boats, a 25 foot wide reserved access around the entire shoreline of the Pond, and the use of the entire waters of the

Pond. Prior to any sale or other transfer of such lands, NYSDOT shall continue to allow such public access to Tenney's Pond.

10. NYSDOT has leased certain parts of the Stewart Lands to SWFAA, pursuant to a certain lease effective September 24, 1999. NYSDOT shall continue to encourage SWFAA to continue to allow public access for fishing and other purposes to Maroney's Pond, which pond is located on said leased lands. NYSDOT shall also continue to encourage SWFAA to continue to lease for public park purposes the Crestview Lake Recreation Area, as such lands are described in a certain lease (now expired) between the Stewart Airport Land Authority and the Town of New Windsor and dated April 30, 1982.

11. As depicted in Exhibit C and pursuant to Exhibit D, in 1999 NYSDOT reserved a parcel of land 150 feet wide along the southerly boundary of I-84. I-84 and said 150 foot parcel are currently crossed by an overpass at Ridge Road and access roads leading from said overpass into the Stewart State Forest and there is a related NYSDEC parking area at the end of said overpass. In the event that NYSDOT develops or conveys said 150 foot wide parcel, NYSDOT shall preserve access across I-84 and any new or modified transportation facility via said overpass and NYSDOT and NYSDEC shall also relocate an equivalent parking area and equivalent road and trail access into the Stewart State

Forest from said overpass, with determining what facilities are "equivalent" to be determined by NYSDOT in its reasonable discretion.

12. I-84 and said 150 foot parcel are also currently crossed by an underpass at Barron Road, providing access into the Stewart State Forest and there is a NYSDEC parking area at that location. In the event that NYSDOT develops or conveys said 150 foot wide parcel, or if the lands to be retained by NYSDOT along Barron Road are ever developed, NYSDOT shall adopt feasible and prudent measures to maintain access to and parking for the Stewart State Forest in that vicinity. Until such time as such 150 foot wide parcel and such lands retained by NYSDOT along Barron Road are developed or transferred, access and parking in that vicinity shall be maintained at their existing levels.

C. Access to and Management of Stewart State Forest

13. Pursuant to Exhibit D hereto, NYSDOT reserved the right to use the lands in the Stewart State Forest which were transferred to NYSDEC in 1999 for purposes of "wetland creation and/or enhancement as mitigation for wetland impacts of Department of Transportation and Airport projects". With respect to such lands, NYSDOT shall use them for construction of mitigation wetlands only for Airport projects and for NYSDOT

projects located within Orange County, and only when it has exhausted all feasible and prudent alternatives at the site of the project in question, and only with the approval of NYSDEC and/or the U.S. Army Corps of Engineers (hereinafter "USACOE"), as required by law.

14. When transferring jurisdiction over the lands to be transferred pursuant hereto to NYSDEC, NYSDOT shall not reserve the right to use such lands for such wetlands mitigation construction purposes, and NYSDEC shall not grant such right to NYSDOT or any other person or entity.

15. When preparing the Unit Management Plan for the Stewart State Forest, NYSDEC shall provide the Plaintiffs with reasonable advance notice of the commencement of the Unit Management Plan process. If NYSDEC forms any advisory committee or other such body for the Stewart State Forest or its Unit Management Plan, then each of the three Plaintiffs shall be invited to be a member thereof.

16. NYSDEC shall recommend suitable bowhunting access to the lands east of Drury Lane in the Draft Unit Management Plan for the Stewart State Forest.

17. NYSDEC shall provide suitable parking and access points/trailheads, to be located on Drury Lane and Route 207, for the lands east of Drury Lane, to be designated in NYSDEC's Unit

Management Plan for the Stewart State Forest, and NYSDOT shall permit same from such roads as are under its jurisdiction.

18. NYSDEC shall complete the preparation and adoption of a final Unit Management Plan for the Stewart State Forest, including the lands to be added thereto pursuant to this Consent Decree, no later than December 31, 2006.

II. General Provisions

19. Army Corps Permit. Plaintiffs agree that they will not file or financially support in any way any future court claims or court complaints, or commence or financially support litigation, under the United States Constitution or other statute or common law relating to the currently pending application to modify the USACOE Clean Water Act permit for the Project for the placement of fill in wetlands or other waters of the United States.

20. Article 78 to be Discontinued. Within 10 days of the entry of this Consent Decree by the Court, the Plaintiffs herein, NYSDEC and NYSDOT shall enter into a stipulation discontinuing the current Article 78 proceeding, Stewart Park and Reserve Coalition v. NYSEC and NYSDOT, Index No. 5235-2005 (Sup. Ct. Orange Co.), regarding the New York Freshwater Wetlands Act and other issues, with prejudice. A fully executed copy of this

Consent Decree will be attached thereto and incorporated therein, as the terms of settlement of that case.

21. Effect of Consent Decree. By entering into this Consent Decree, Defendants make no admission of any liability with respect to any of the claims asserted by Plaintiffs, nor of any fact asserted by Plaintiffs, nor of the validity of any of the claims asserted by the Plaintiffs. By entering into this Consent Decree, and contingent upon the Court making an order dismissing the action pursuant to FRCP 41(a)(2), which order shall be subject to the terms and conditions of this Consent Decree, Plaintiffs agree to, and hereby do, discontinue this action with prejudice, agree to discontinue the pending Article 78 proceeding, and agree that they will not file or financially support in any way any future court claims or court complaints, or commence or financially support litigation under Section 4(f), the United States Constitution, any federal or state statute, or common law relating to the construction of the Project, as "Project" is defined above.

22. Force Majeure.

a. Defendants and NYSDEC shall not be in default regarding the provisions of this Consent Decree if they are unable to comply with any provision because of an act of nature, war, terrorism, insurrection, strike, judicial injunction or other

court order, contract default, budget delay, catastrophic condition, or other circumstance beyond their control. Defendants and/or NYSDEC, as the case may be, shall notify Plaintiffs in writing, within 30 days, of any occurrence of any of the above events that lead to delays in compliance, or the prospective inability to comply with this Consent Decree, and shall request modification of this Consent Decree, where appropriate. Failure to timely satisfy any requirement of this Consent Decree shall be excused, and/or extensions of milestones provided, under the terms of this section if Defendants and/or NYSDEC, as the case may be, show that they took steps reasonably necessary to avoid or mitigate the delay or other noncompliance, and complied with the notice requirements of this section.

b. Plaintiffs' remedy for any failure or default by Defendants with respect to performance under one or more provisions of this Consent Decree, where such failure is not otherwise excused pursuant to paragraph 22(a) of this Consent Decree, shall include specific performance of such provision, as ordered by the Court, or rescission, in whole or in part, of other provisions of this Consent Decree.

23. Continuing Jurisdiction. For the purpose of enabling the parties hereto to apply to the Court for any further order that may be needed to carry out or enforce compliance with the

specific commitments made by the parties to this Consent Decree, the Court shall retain jurisdiction over this matter until three years after the construction of the Project (as defined above) is complete, or five (5) years from the date of entry of this Consent Decree by the Court, whichever comes later, and until any motion to enforce this Consent Decree filed before the date of termination is finally determined.

24. Continuing Effect/Termination. After the Court's jurisdiction terminates pursuant to paragraph 23 above, this Consent Decree shall continue to be binding on the parties hereto as a settlement agreement, unless and until it is terminated by Order of the Court or further agreement of the parties hereto, and the parties hereto may commence a new action in this Court or any other court with jurisdiction to enforce this Consent Decree/settlement agreement.

25. Notice. Notice of the actions to be taken or exchange of information pursuant to this Consent Decree shall be provided to the following:

Counsel for Plaintiffs:

John W. Caffry
Caffry & Flower
100 Bay Street
Glens Falls, New York 12801
jcaffry@caffrylawoffice.com

Counsel for Federal Defendants:

Kenneth Dymond, Esq.
Federal Highway Administration
Leo O'Brien Federal Building
Albany, NY 12207
Ken.Dymond@fhwa.dot.gov

Counsel for State Defendants and NYSDEC:

Lisa M. Burianek
Assistant Attorney General
Environmental Protection Bureau
State of New York
Department of Law
The Capitol
Albany, NY 12224-0341
Lisa.Burianek@oag.state.ny.us

The parties hereto may, from time to time as necessary, modify the address or designee for purposes of notice and exchange of information. Notice of such a modification shall be provided in writing to the then-existing designees under this provision.

26. Severability. If any provision of this Consent Decree is determined, by court ruling, order, decision, memorandum and/or opinion, to be invalid, unenforceable, or otherwise contrary to law, such ruling, order, decision, memorandum and/or opinion shall not affect the continuing validity of the remaining provisions of this Consent Decree.

27. Entire Agreement. This Consent Decree, with Exhibits A, B, C and D incorporated by reference and attached hereto,

constitutes the entire agreement entered into by the parties to settle this matter. By signing this Consent Decree, each party, or its counsel, as the case may be, acknowledges that, except as set forth in paragraphs 23 and 24 hereof concerning the continuing jurisdiction of the Court, entry of this Consent Decree will result in complete termination of this action including extinguishing all claims asserted in this action and any pending and potential appeals, with prejudice.

28. Binding Effect. The terms and conditions of this Consent Decree shall be binding on the parties hereto, their agents, successors and assigns, and shall run with the land and be binding upon any future owners of all or part of the lands affected by this Consent Decree.

29. Status of Federal Defendants. The parties hereto acknowledge that the Federal Defendants have consented to the dismissal of the Plaintiffs' appeal herein, but because this Consent Decree imposes no obligations on them, they have not signed it, and the parties hereto have no objection to that.

30. Amendment. This Consent Order may not be amended except in writing signed by the parties, or in the case of persons named in their official capacities, by their successors. The consent of the Federal Defendants shall not be required to

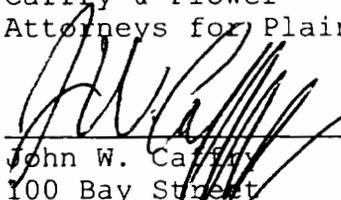
amend this Consent Decree, except if any provision thereof affects them.

31. Execution. This Consent Order may be executed in multiple counterpart originals, each of which (if one or more copies bear original signature by all of the parties hereto, or copies of such signatures) shall be deemed an original and fully effective, and all of which together shall be considered one in the same document.

31. Authority. The undersigned representatives for each party each certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms and conditions of this Consent Decree and to bind them to it.

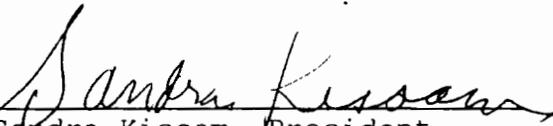
Caffry & Flower
Attorneys for Plaintiffs

Dated: 11/11/05

By: 
John W. Caffry
100 Bay Street
Glens Falls, New York 12801
(518) 792-1582

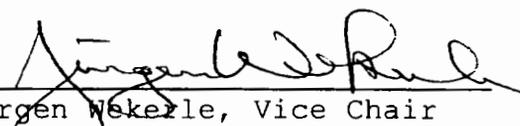
Stewart Park and Reserve
Coalition, Incorporated

Dated: 11/9/05

By: 
Sandra Kissam, President
P.O. Box 90
Blooming Grove, NY 10914

Sierra Club

Dated: 11/9/05

By: 
Jürgen Wekerle, Vice Chair
Atlantic Chapter
353 Hamilton Street
Albany, New York, 12210

Orange County Federation of
Sportsmen's Clubs, Inc.

Dated: 11/9/05

By: 
Carmen Heitzman, President
P.O. Box 784
Monroe, New York 10950

Eliot Spitzer
Attorney General

Dated:

11/16/05

By:

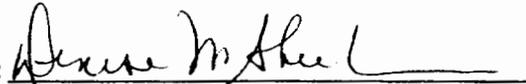


Lisa M. Burianek
Environmental
Protection Bureau
Department of Law
The Capitol
Albany, NY 12224-0341
(518) 486-7398

New York State Department
Of Environmental Conservation
and its Commissioner

Dated:

By:



Denise M. Sheehan
Acting Commissioner
625 Broadway
Albany, New York 12233

New York State
Department of Transportation
and its Commissioner

Dated:

By:

Thomas J. Madison, Jr.
Acting Commissioner
50 Wolf Road
Albany, New York 12232

New York State
Thruway Authority
and its Chairman

Dated:

By:

Michael Fleischer
Executive Director
200 Southern Boulevard
Albany, New York 12209

Eliot Spitzer
Attorney General

Dated: _____

By: _____

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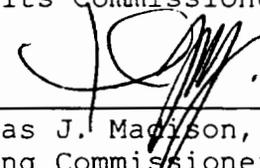
Dated: _____

By: _____

Denise M. Sheehan
Acting Commissioner
625 Broadway
Albany, New York 12233

New York State
Department of Transportation
and its Commissioner

Dated: 11/16/05

By: 

Thomas J. Madison, Jr.
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50 Wolf Road
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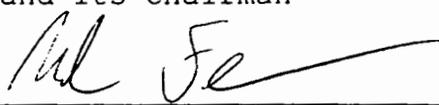
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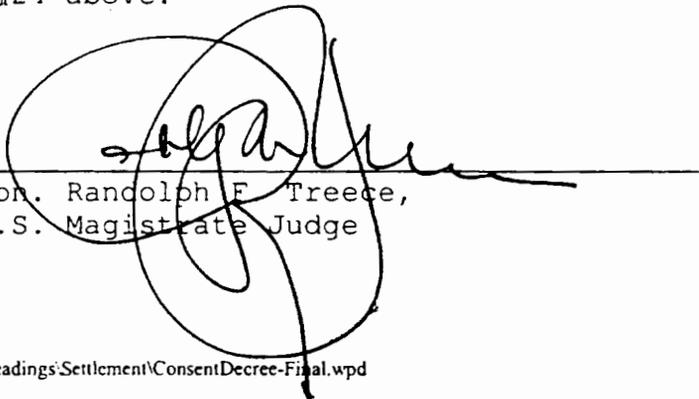
Dated: 11/15/05

By: 

Michael Fleischer
Executive Director
200 Southern Boulevard
Albany, New York 12209

IT IS SO ORDERED that the action is hereby dismissed pursuant to FRCP 41(a)(2), subject to the terms and conditions set forth above, which terms and conditions are incorporated into this order, and subject to the continuing jurisdiction of this Court pursuant to ¶23 and ¶24 above.

DATE: December 7, 2005



Hon. Randolph E. Treece,
U.S. Magistrate Judge

\\Server\Public\WPWin7\Client.Files\StewartPark.1143\Pleadings\Settlement\ConsentDecree-Final.wpd

EXHIBIT

A

EXHIBIT
B

ATM. ELEV. 128

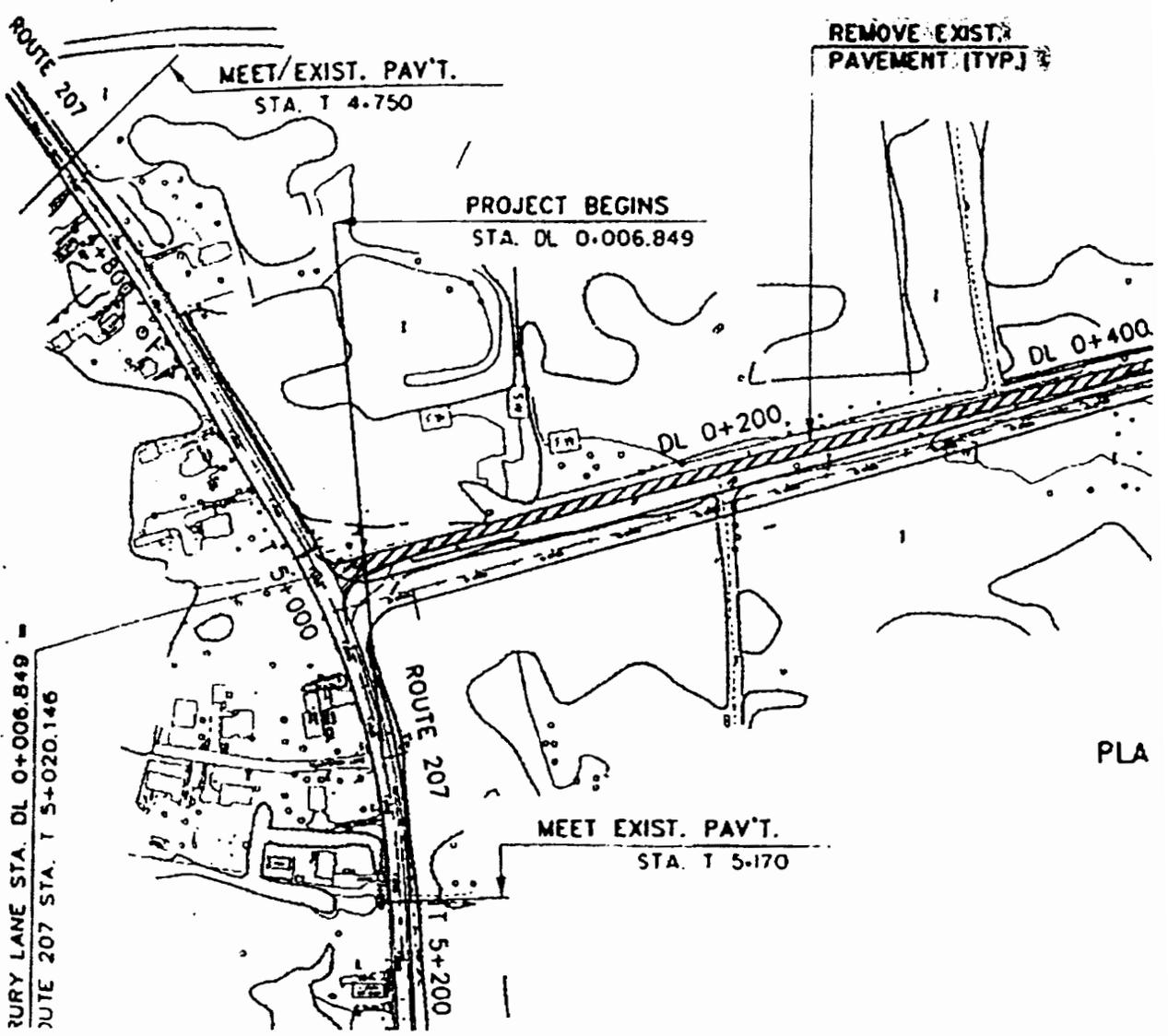
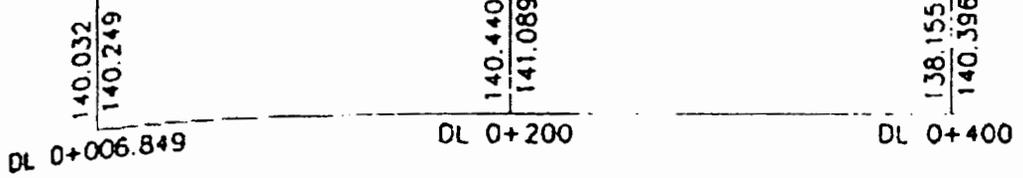


EXHIBIT
C

Exhibit C
Oversized document
available for viewing in the
Clerk's Office