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Michael A. Cardozo, *Corporation Counsel*

Press Release

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*For Immediate Release*

**MANHATTAN JUDGE SUPPORTS ENVIRONMENTAL REVIEW  
OF MARINE WASTE TRANSFER STATION AT EAST 91<sup>ST</sup> STREET  
AND THE EAST RIVER**

***THE PROPOSED WASTE STATION IS A CRITICAL COMPONENT THE CITY'S  
LANDMARK SOLID WASTE MANAGEMENT PLAN***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, [media@law.nyc.gov](mailto:media@law.nyc.gov)

New York, June 20, 2007 – New York County Supreme Court Justice Michael Stallman has ruled again that the New York City Department of Sanitation's (DSNY's) environmental review of a new marine waste transfer station, located at East 91st Street and the East River in Manhattan, complied with New York State law. In a prior ruling, issued on September 19, 2006, Justice Stallman rejected two separate challenges to the same facility brought by a different group of litigants.

On a separate claim involving the project's potential impacts to parkland in the vicinity of the site, Justice Stallman ruled as a procedural matter that the court cannot appropriately address the issues at this time. However, the judge noted that the City has presented compelling evidence on the parkland issue, and the City is confident that the City will eventually prevail.

The proposed marine waste transfer station is a critical component of Mayor Bloomberg's comprehensive 20-year solid waste management plan for the entire City. That plan, which largely replaces the City's existing truck-based waste export system with a system that uses barges and railways to export waste in sealed shipping containers, resulting in a vast decrease in truck traffic on City streets, was approved by the City Council by a vote of 44-5 on July 19, 2006. The plan has also been approved by the New York State Department of Environmental Conservation.

The decision to include the East 91st Street facility in the overall solid waste management plan will allow Manhattan to assume responsibility for processing some of its own residential and commercial waste, rather than having to send that waste to other boroughs or to New Jersey, as it does under the current truck-based system. The new containerization facility would replace the former East 91st Street marine transfer station, which operated on the same site for nearly 50 years until 2001, when the Fresh Kills landfill closed.

In Monday's decision, Justice Stallman rejected the challenge to the environmental review of the project brought by New York State Assemblyman Adam Clayton Powell, IV; a group of residents of the Upper East Side; and a non-profit youth athletic association. Justice Stallman found that the minimal construction-related impacts stemming from the project were thoroughly analyzed during the environmental and land-use review for the Plan.

The petitioners also argued that the construction and operation of the transfer station would impinge on nearby parkland in violation of New York State's public trust doctrine. This doctrine prohibits land that has been dedicated for public park use from being utilized for any non-park purposes. Although the

reconstructed transfer station will be located on DSNY property that currently houses a defunct transfer station, the petitioners maintained that the construction of the new facility, which will occur almost entirely in the East River, would interfere with the use of the Asphalt Green sports and recreation complex, which is operated by a private, non-profit entity and is reserved for paying customers 70 percent of the time, as well as the Bobby Wagner Walk portion of the East River Esplanade.

Ruling on procedural grounds, Justice Stallman allowed the public trust claim to go forward to give the petitioners a chance to submit additional evidence. However, he noted that the City had presented "...compelling evidence that Asphalt Green and Bobby Wagner Walk are not dedicated parkland areas," and are thus not subject to the public trust doctrine.

John Doherty, Commissioner of DSNY, said: "We are pleased with the Court's ruling today. The planned transfer station at East 91st Street is an important part of the shift to a much more environmentally friendly and responsible waste management system for the City."

Michael Cardozo, Corporation Counsel of the New York City Law Department, added: "The City is confident that the Court will dismiss the remaining public trust claim after all of the evidence is before it. The petitioners have yet to come forward with any credible evidence that this much-needed facility will impinge on the recreational facilities in the area, all of which were developed while the existing DSNY facility operated at the site, and which successfully coexisted with DSNY operations for many years."

The City's legal team included Division Chief Susan M. Kath; Senior Counsel Christopher King; Assistant Corporation Counsel Carrie Noteboom; and Assistant Corporation Counsel Amanda Goad of the New York City Law Department's Environmental Law Division.

Today's ruling was dated June 18 and just received by the New York City Law Department.

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