

*For Immediate Release*

**MANHATTAN JUDGE REJECTS CHALLENGE  
TO MARINE WASTE TRANSFER STATION  
AT EAST 91<sup>ST</sup> STREET AND THE EAST RIVER;  
APPROVES THE FACILITY'S PLAN IN ALL ASPECTS**

***COURT RULES THAT THE DEPARTMENT OF SANITATION MAY GO FORWARD  
WITH THE TRANSFER STATION,  
AN IMPORTANT COMPONENT OF THE CITY'S  
NEW LONG-TERM SOLID WASTE MANAGEMENT PLAN***

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New York, Sept. 19, 2006 – New York County Acting Supreme Court Justice Michael Stallman ruled today that the New York City Department of Sanitation (DSNY) may go forward with its plan to reconstruct a new marine waste transfer station at an existing DSNY site at East 91st Street and the East River in Manhattan.

The proposed marine waste transfer station is a 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 barge 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 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 today's decision, Justice Stallman upheld the City's plan for the 91st Street facility in all respects. The Association for Community Reform Now, or A.C.O.R.N. (a not-for-profit organization of low and moderate-income families), along with several individual petitioners, had argued against the City's decision to reopen the transfer station. Justice Stallman rejected all their claims, noting that the plan's environmental and land-use review which was comprised of nearly 3,000 pages in two volumes, was thoroughly prepared and addressed all environmental issues of concern, such as noise, traffic and odors. Justice Stallman also held that City's decision to use the site of the existing East 91st Street MTS for the new containerization facility was rational, and that proposed facility would advance the City's important goal of reducing truck traffic and promoting equity among each of the City's boroughs in managing solid waste. Finally, Justice Stallman dismissed outright the petitioners' common law nuisance claims, in which they had argued that reopening the marine transfer station in their neighborhood would interfere with the use

and enjoyment of their homes and businesses, holding that such a claim was an impermissible collateral attack on the City's SEQRA (State Environmental Quality Review Act) analysis of the project.

John J. Doherty, Commissioner of DSNY, said: "We are very pleased with the Court's ruling today. The planned transfer station at East 91st Street is an important part of the Mayor's 20-year comprehensive solid waste management plan. It gives the City a more environmentally sound waste management plan by significantly reducing truck traffic on City streets."

Susan Kath, Chief of the NYC Law Department's Environmental Law Division added: "The Court weighed all of the evidence and recognized that the lawsuits filed by the petitioners were designed to prevent the City from moving forward with a well-considered plan to responsibly manage our solid waste."

The City's legal team included Susan Kath as well as Senior Counsels Christopher King and William Plache, and Assistant Corporation Counsel Carrie Noteboom, all of the New York City Law Department's Environmental Law Division. A related law suit, which claims that the East 91st Street marine transfer station unlawfully impinges on parkland near the site, is also pending before Justice Stallman.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world and the second-largest public law office in the United States. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its Web site is: [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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