

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
STATE OF NEW YORK, NEW YORK STATE  
RACING AND WAGERING BOARD, NEW YORK  
STATE DEPT. OF ENVIRONMENTAL  
CONSERVATION, and TOWN OF SOUTHAMPTON

Plaintiffs,

- against -

THE SHINNECOCK INDIAN NATION, PHILLIP D.  
BROWN, V, JAMES W. ELEAZER, JR., LANCE A.  
GUMBS and FREDERICK C. BESS,  
Defendants.  
----- X

03 CIV. 3243 (TCP)(ARL)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CONSOLIDATED

----- X  
TOWN OF SOUTHAMPTON,

Plaintiffs,

- against -

THE SHINNECOCK TRIBE A/K/A THE  
SHINNECOCK INDIAN NATION, JAMES W.  
ELEAZER, JR., LANCE A. GUMBS, and  
FREDERICK C. BESS

Defendants.  
----- X

03 Civ. 3466 (TCP)(ARL)

**[PROPOSED] JOINT PRETRIAL ORDER**

Pursuant to Federal Rule of Civil Procedure 16(e) and the individual practices of this Court with respect to pretrial procedures (the “Individual Practices”), the parties to the above-captioned consolidated actions (the “Actions”) submit this proposed joint pretrial order (the “JPTO”). All parties jointly move that the Court “so order” the JPTO, subject to any exceptions, objections or reservations of rights by any party, as noted below. Any such exceptions, objections or reservations of rights not resolved prior to entry of this JPTO shall be briefed, argued and ruled upon as directed by the Court. The JPTO shall govern the conduct of the trial of this case, and amendments to the JPTO will be allowed only in exceptional circumstances to prevent manifest injustice.

To the extent that the Court may modify this JPTO *sua sponte*, or rule on any exceptions or objections noted herein, all parties request that they be notified of such modification, and that they be permitted to object in writing within five business days or such other period of time as the Court shall direct. This JPTO is proposed without prejudice to any pending motions or requests for relief.

**Mandatory Disclosures Pursuant To Individual Practice 3(A)**

- i) The full caption of the Actions is above.
- ii) For the State of New York, the New York State Racing and Wagering Board, and the New York State Dept. Of Environmental Conservation (collectively, the “State” or “State Plaintiffs”), trial counsel shall be:

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For the Town of Southampton (the "Town"), trial counsel shall be:

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Mr. Lunding shall be assisted from time to time by attorneys associated with the firm of Cleary Gottlieb Steen & Hamilton LLP.

iii) State Plaintiffs state that their complaint asserts only state law causes of actions based on violations of State gaming and environmental laws. In denying the State plaintiffs' motion to remand the case to state court and as set forth in this Court's order of July 29, 2003, the Court found original subject matter jurisdiction for the State's claims exists on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1331. State Plaintiffs preserve their objections to the Court's determination of jurisdiction.

The Town states that this Court has previously determined, in its order of July 29, 2003, that original subject matter jurisdiction over these consolidated actions exists on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1331.

Defendants state that this Court has jurisdiction over these consolidated actions by virtue of the federal questions presented, pursuant to 28 U.S.C. § 1331.

iv) State Plaintiffs' Statement of Claims Asserted Or Abandoned

State Plaintiffs state that, in support of their request for a permanent injunction and declaratory judgment, the defendant Shinnecock Indian Nation ("Nation") and the Nation's trustees violated and threaten to violate State environmental and gaming laws with the imminent construction of a casino at the Westwoods property in

the Town of Southampton, New York, and subsequent operation of a high stakes gambling enterprise at the casino.

State Plaintiffs further assert that Westwoods is owned only in fee by the Nation since any aboriginal title it may have had was extinguished during the colonial period. The Nation is not federally recognized and the land on which it proposes to conduct gaming is neither Indian land nor Indian Country. As a result, the federal Indian Gaming Regulatory Act ("IGRA") which allows federally-recognized Tribes to conduct gaming on Indian land, does not apply. See 25 U.S.C. §§ 2701 *et. seq.* Hence, all activities on the property are governed by state law.

State Plaintiffs also assert that defendants are violating the environmental laws because of defendants' initiation of construction of a casino at Westwoods without first applying for and receiving relevant environmental permits and authorizations. In order to build a casino, the defendants must first obtain certain permits pursuant to the New York State Environmental Conservation Law ("NYECL" or "ECL") and other New York statutes to ensure that the casino's construction and operation are in compliance with state environmental laws. Such permits include, but are not limited to, permits from the New York State Department of Conservation ("DEC") for the construction and operation of a waste water treatment facility that will discharge to ground or surface waters pursuant to ECL Article 17, for stormwater discharges from construction activities pursuant to ECL Article 17, and for the construction of an air emissions source pursuant to ECL Article 19. Before DEC or another agency can issue any of these permits, an analysis of the casino's environmental impacts must be conducted under the State Environmental Quality Review Act ("SEQRA"). N.Y. ECL §8-0105(4)(i). To

commence SEQRA review, the defendants must submit a completed environmental assessment form with their permit applications to DEC to enable DEC to determine whether the construction and/or operation of the casino may cause significant adverse environmental impacts. If DEC, or the “lead” agency under SEQRA that is reviewing the proposed casino project, determines that adverse environmental impacts may be significant, then the defendants’ project is subject to the further environmental review process contained in SEQRA, which includes the preparation of draft and final environmental impact statements and consideration and inclusion of measures to mitigate the adverse impacts to the maximum extent practicable. A project’s impact on the local ecology, community character, water supply, energy use, traffic, and air pollution are among the impacts examined in a SEQRA environmental review.

The defendants have not applied for any of the permits that would be required under the NYECL and other State laws to construct and operate a casino at Westwoods, and the SEQRA environmental review, which requires the mitigation of significant adverse environmental impacts to the maximum extent practicable before any permit could issue, has not been initiated. The defendants have admitted that they have not applied for any of these permits. Defs. St. Ans. ¶¶ 58-59.

Furthermore, State Plaintiffs assert that the planned use of Westwoods for gaming and related activities, all of which would arguably not be subject to state and local environmental, zoning, transportation and gaming regulations, is inherently and actually disruptive within the meaning and scope of the Supreme Court’s Decision in City Of Sherrill v. Oneida Indian Nation of New York, 544 U.S. 197 (2005) (“Sherrill”) and Cayuga Indian Nation of New York v. Pataki, 413 F.3d 266 (2d Cir. 2005), cert.

denied, 126 S. Ct. 2021, 2022 (2006) (“Cayuga”). In addition, State Plaintiffs assert that even if the Shinnecock Tribe were federally recognized and the land on which the Tribe intends to build the casino complex is Indian Country, the Tribe nevertheless would be subject to state environmental laws because of the impact a casino will have on non-Indians as compared with the limited impact such regulation may have on tribal self-government.

It is also State Plaintiffs’ contention that they have the overall burden of proving their request for a declaratory judgment and a permanent injunction. However, Defendants, not Plaintiffs, bear the burden of proof of establishing that the Nation has aboriginal title to the land and that the planned gaming use of the Westwoods parcel is not disruptive and, therefore, not barred by the decisions in Sherrill and Cayuga. Defendants’ assertion of aboriginal title, and that their planned gaming facility is not disruptive, are properly considered either affirmative defenses or “any other matter constituting an avoidance” within the meaning of Rule 8(c) of the Federal Rules of Civil Procedure. The case law is clear that defendants, not plaintiffs, have the burden of proof with respect to affirmative defenses or matters that are interposed in avoidance of plaintiffs’ claims. Alternatively, if the burden of proof lies with the plaintiffs, plaintiffs’ burden is to prove by a preponderance of evidence that the Nation does not have aboriginal title to the land and that gaming at Westwoods would be disruptive.

State Plaintiffs further assert that defendants are not entitled to tribal sovereign immunity for the reasons previously advanced by them in opposition to defendants’ motion for summary judgment. State Plaintiffs preserve each of their arguments with respect to establishing that there is no basis for any assertion of tribal

immunity in this case. In addition, State Plaintiffs further assert, and preserve, their argument presented in their motion for partial summary judgment, that because defendants' planned gaming operation lies outside the provisions of the Indian Gaming Regulatory Act, and because such Act is preemptive of tribal gaming as a matter of federal law, their planned gaming operation cannot be sustained under federal common law, and is violative of state law. State Plaintiffs understand that these are not issues to be tried before the Court at this time, but do not waive, and expressly continue to assert, the preemptive nature and scope of IGRA and their responses to defendants' assertion of immunity.

#### Town's Statement of Claims Asserted Or Abandoned

The Town of Southampton claims that defendant The Shinnecock Tribe of Indians ("Shinnecock Tribe") has violated, and threatens to continue to violate, the Town's Zoning Law, as contained at Chapter 330 of the Southampton Town Code. Such violation and threatened violation has been facilitated, authorized, aided, and abetted by the individual defendants, who are the trustees of the Shinnecock Tribe. The Town contends also that the Shinnecock Tribe's development of Westwoods potentially implicates Chapter 325 of the Town Code, the purpose of which is to protect and conserve Town wetlands, because Westwoods is in the immediate vicinity of tidal wetlands associated with the Peconic Bay.

Specifically, in or about June 2003, the Shinnecock Tribe publicly announced its intention to construct and operate a casino gaming facility on an approximately 80-acre parcel of property commonly known as "Westwoods," which is situated west of the Shinnecock Canal, within the Town. The Shinnecock Tribe claims



to be the fee owner of Westwoods. At all times since 1957, Westwoods has been zoned as “residential” property by the Town, and more specifically, at all times since May 1986, Westwoods has been classified as an “R-60” Residence District of the Town.

Subsequently, and on or about July 12, 2003, the Shinnecock Tribe took steps in furtherance of its announced intention, and commenced activities to construct a gaming casino, by clearing land, removing trees, bulldozing, grading, and excavating a portion of Westwoods. Such activities were undertaken without any permit, approval, or permission of the Town, or of any of its departments or agencies, including but limited to its Planning Board and Department of Land Management, and without any application or request for same by, or on behalf of, the Shinnecock Tribe.

In 2003, and at all times since, Section 330-184 (subdiv. I) of the Town Code has provided that “No regrading, clearing, tree removal or any other work in preparation of future use of a site may take place until site plan approval or written permission has been received from the Planning Board.” The Shinnecock Tribe’s aforementioned activities were undertaken in violation of Section 330-184 (subdiv. I) of the Town Code, and any future development activities at Westwoods, in the absence of site plan approval or written permission of the Planning Board will also violate Section 330-184 (subdiv. I).

In addition, in 2003, and at all times since, Section 330-6 of the Town Code, and its related “Residence Districts Table of Use Regulations,” appearing at Section 330-10, have set forth and identified the permitted uses of property situated within a Residential District, such as Westwoods. The construction and operation of a

gaming casino, retail stores, hotel, and/or restaurant are not permitted uses within the Westwoods property.

The tribe's announced intention to develop Westwoods may also implicate Chapter 325 of the Town Code, insofar as it requires the application for, and issuance of, a wetlands permit with regard to certain development activities and projects.

Defendants contend, in their "Third Affirmative Defense," that Westwoods is immune from application of state and local law, including the Southampton Town Code and its zoning provisions, because Westwoods is "tribal land." Furthermore, the Shinnecock Tribe has contended, in this action, that it retains "unextinguished aboriginal title" to Westwoods. The Town contends, however, that the relevant inquiry as to the applicability of local and state law at Westwoods is whether Westwoods qualifies as "Indian Country" under 18 U.S.C. § 1151, and the Town contends that at all relevant times Westwoods has not qualified as Indian Country. Moreover, the Town is prepared to establish that any aboriginal title that the Shinnecock Tribe held to Westwoods has been lawfully and effectively extinguished.

Furthermore, even if the Shinnecock Tribe established that it continues to retain "unextinguished aboriginal title" to Westwoods today, and that such title renders Westwoods immune from application of local law, the construction and operation of a gaming casino, retail stores, hotel, restaurant, and related commercial activities at Westwoods will be inherently and actually disruptive within the meaning and scope of the Supreme Court's decision in City of Sherrill v. Oneida Indian Nation of New York, 544 U.S. 197 (2005), and Cayuga Indian Nation of New York v. Pataki, 413 F.3d 266 (2d Cir. 2005), cert. denied, 126 S.Ct. 2021, 2022 (2006), and should be prohibited on

that basis. In this regard, the Town will rely on the witnesses which it will call and which will be called by the State Plaintiffs in the Actions.

The Town seeks a permanent injunction, enjoining and restraining defendants from violating or continuing to violate the Southampton Town Code, including specifically Section 330-184 (subdiv. I), Section 330-6, and Chapter 325 of the Town Code, and from engaging in the inherently and actually disruptive activities referenced above. The Town will suffer irreparable harm if it is not permitted to enforce its Zoning Law and other provisions of the Southampton Town Code with regard to Westwoods, and if the Shinnecock Tribe is permitted to engage in the aforementioned disruptive activities.

Defendants' Statement of Claims Asserted Or Abandoned

Defendants assert no counterclaims. Defendants assert (a) that the Westwoods Parcel is aboriginal land of the Shinnecock Indian Nation (the "Nation") within the meaning of federal law, as well as land concededly owned by the Nation in fee simple, (b) consistent with the Nation's aboriginal title, there is no deed to any part of Westwoods, and (c) and that State and local law does not apply to the Nation, to the individual named defendants, or to activities on the Westwoods Parcel except to the extent provided by federal and constitutional law.

Defendants further assert (a) that as a matter of law none of the laws State and the Town assert in the complaint in either of the Actions apply to the Nation or to the other named defendants, or to the development of the Westwoods Parcel and that none of such laws may be enforced against the Nation or against any of the named defendants, (b) the application of all such State and local laws is precluded, as to all

claims asserted by any of the plaintiffs in the Actions, (c) that the Nation at present has no architectural plans or construction drawings of a nature sufficiently detailed to form the basis for construction of any building on the Westwoods Parcel, (d) the Nation has no current approved plan for the construction of any building on the Westwoods Parcel, and (e) no activity that the Nation might reasonably be expected to engage in on the Westwoods Parcel would have any legally actionable effect on the environment.

The defendants further assert that as a matter of law the plaintiffs bear the burden of demonstrating the applicability of the State and local laws under which their claims arise, a burden they cannot satisfy. Defendants further assert as a defense that they are immune to suit by virtue of the sovereign immunity possessed by Indian tribes as a matter of federal and constitutional law. Defendants understand that this is not an issue to be tried before the Court at this time, but do not waive, and expressly continue to assert, this defense.

v) All parties agree that there is no right to a trial by jury in the Actions, and no party requests a trial by jury. With respect to the number of trial days needed, Plaintiffs collectively estimate that they will take 20 days to present their case. Defendants collectively estimate that it will take 20 days to present their case.

vi) All parties have not consented trial before a magistrate judge.

vii) Stipulations as to fact are listed below in the section entitled "Stipulations Of Fact." There are no stipulations as to law.

viii) Fact and expert witnesses expected to be called by each party are listed in the section titled "Order of Proof," below.

ix) Designations of deposition testimony expected to be offered at trial are listed in the section titled "Deposition Designations," below.

x) Exhibits expected to be introduced by each party are listed in the section titled "Anticipated Trial Exhibits," below.

### **Stipulations Of Fact**

All parties have stipulated to the following facts.

The parties expressly reserve the right to enter into additional stipulations if they determine it is advisable to do so, for example to limit the issues in dispute or to eliminate the need for live testimony.

### **The Parties**

1. Plaintiff State of New York is a sovereign State with offices at the Capitol, in the City and County of Albany, New York.
2. Plaintiff New York State Racing and Wagering Board is an agency established within the Executive Branch of the State Government pursuant to Section 101 of the Racing, Pari-Mutuel Wagering and Breeding Law of the State of New York, and consists of three members appointed by the Governor of the State.
3. Plaintiff New York State Department of Environmental Conservation is an agency established within the Executive Branch of the State Government pursuant to New York Environmental Conservation Law, Article 3.
4. Plaintiff Town of Southampton is a municipal corporation organized and existing under the laws of the State of New York, situated

within the County of Suffolk, State of New York and having an address at 116 Hampton Road, Southampton, NY 11968.

5. Defendant the Shinnecock Indian Nation (the "Nation") was held to be a tribe of Indians in this Court's Memorandum and Opinion dated November 7, 2005, and has offices located on the Shinnecock Reservation in Suffolk County, New York.
6. Defendant James W. Eleazer, Jr. was, at the time the complaints in the Actions were filed and is now an elected Trustee and official of the Nation, and is being sued by the State in his official capacity only.
7. Defendant Lance A. Gumbs was, at the time the complaints in the Actions were filed and is now an elected Trustee and official of the Nation, and is being sued by the State in his official capacity only.
8. Defendant Frederick C. Bess was, at the time the complaints in these Actions were filed, chairman of the Shinnecock Nation Casino at Westwoods Authority, and is now an elected Trustee of the Nation, and is being sued by the State in his official capacity only.

The Shinnecock Indian Nation

9. The Shinnecock Indian Nation has not been acknowledged to be an Indian tribe by the United States Department of the Interior.
10. The Shinnecock Indian Nation does not appear in the list of "tribal entities recognized and eligible for funding and services from the

United States Bureau of Indian Affairs by virtue of their status as Indian Tribes,” as set forth at 70 Fed. Reg. 71,194 (Nov. 25, 2005).

11. There exists no treaty between the Shinnecock Indian Nation and the United States.
12. The relationship between the Shinnecock Indian Nation and the government of the State of New York (and its predecessors) predates the existence of the federal government.
13. The Shinnecock Indian Nation currently occupies and is in possession of a reservation (the “Shinnecock Neck Reservation”) within the Town of Southampton in Suffolk County, New York, on which the Nation maintains its offices and on which some members of the Nation reside.
14. The Shinnecock Neck Reservation is generally described in the first sentence of Section 1 of Chapter 46 of the New York Laws of 1859, and does not include the Westwoods Parcel.

#### The Westwoods Parcel and Its Location

15. The Shinnecock Indian Nation owns a parcel of land commonly known as the “Westwoods” parcel (the “Westwoods Parcel”), of approximately 80 acres in total area, located in the Hampton Bays area within the boundaries of the Town of Southampton.
16. The Westwoods Parcel consists of two contiguous lots, Suffolk County Tax Map Nos. 0900-186-02-38 and 0900-187-02-78, running north-south, bisected by Newtown Road, bordered on the

north by the Great Peconic Bay and on the south by Sunrise Highway and, in addition, an approximately two acre parcel of land located immediately to the south of Sunrise Highway, Suffolk County Tax Map No. 0900-207-01-01.

17. The Shinnecock Indian Nation currently has fee simple title to the entire Westwoods Parcel.
18. The Shinnecock Indian Nation currently occupies and possesses the Westwoods Parcel.
19. No permanent structure currently exists on any part of the Westwoods Parcel.
20. The Westwoods Parcel is not part of any reservation established by the State of New York.
21. Only lands located to the east of Canoe Place are described in the deed executed in 1640 by certain named Shinnecock Indians, as grantors, and certain named freeholders of Southampton, as grantees; and the November 24, 1686 confirmation of that deed, purported to confirm only that conveyance.
22. Only lands located east of Canoe Place are described in the confirmation by James Farret dated July 7, 1640.
23. The Westwoods Parcel is not within the lands that were the subject of the transactions referred to in Chapter 46 of the New York Laws of 1859.



24. The Westwoods Parcel does not appear in the records of the Bureau of Indian Affairs as Indian fee land, the title to which is restricted against alienation in accordance with 25 U.S.C. § 177.
25. The Westwoods Parcel is not currently under federal superintendence, as that term is used in connection with land that is a “dependent Indian community” for purposes of 18 U.S.C. § 1151(b).
26. The Westwoods Parcel is not a “dependent Indian community” within the meaning of 18 U.S.C. § 1151.
27. The Westwoods Parcel was not set aside by the Federal Government for the use of Indians as Indian land, as that term is used in determining whether land is a “dependent Indian community” for purposes of 18 U.S.C. § 1151(b).
28. There exists no express agreement between the Nation and the United States regarding the Westwoods Parcel.
29. There exists in the Office of the Clerk of Suffolk County, New York, no recorded deed by the Shinnecock tribe of Indians, as grantor, conveying title to all or any part of the Westwoods Parcel to anyone.
30. There exists in the Office of the Clerk of Suffolk County, New York, no recorded deed conveying title to all or any part of the Westwoods Parcel to the Shinnecock tribe of Indians, as grantee.

31. The defendants are aware of no written document reflecting that the Shinnecock Tribe and/or its Trustees ever made any allotments of land within the borders of the Westwoods Parcel to any member of the Nation.
32. No property taxes have been assessed or imposed on the Westwoods Parcel from 1927 to the present, and the Westwoods Parcel is not listed in any tax records of the Town of Southampton for the years 1800 through 1926.
33. There exists no known evidence that the Westwoods Parcel ever has been listed as taxable property in any assessment records of the Town of Southampton.
34. Neither the State Plaintiffs nor the Town is aware of any evidence that the Westwoods Parcel ever has been listed in any assessment records of the Town of Southampton as anything other than tax-exempt Indian land.
35. Canoe Place or Niamuck ("Canoe Place") is a name given to a place where Indians formerly carried their canoes between Shinnecock Bay and the Great Peconic Bay in what is now the Town of Southampton.
36. Canoe Place is located at the approximate current site of the Shinnecock Canal in the Town of Southampton.
37. The Westwoods Parcel is located approximately 85 miles east of New York City.

38. Cold Spring Pond is a body of water within the Town of Southampton east of Canoe Place and is located approximately two miles east of the closest boundary of the Westwoods Parcel.
39. Quogue is a hamlet within the Town of Southampton to the west of Canoe Place and is located approximately 6-1/2 miles southwest of the closest boundary of the Westwoods Parcel.
40. The Canoe Place Inn is a building west of Canoe Place within the Town of Southampton and is located approximately 700 yards south of the closest boundary of the Westwoods Parcel.
41. The grave of Paul Cuffee is within the Town of Southampton to the west of Canoe Place and is located approximately ½ mile southwest of the closest boundary of the Westwoods Parcel.
42. The Canoe Place Chapel is a building located west of Canoe Place in the Town of Southampton and is located approximately 7/10 of a mile south and east of the Westwoods Parcel.
43. The graves of Noah Cuffee, Mary Cuffee and Absalom Cuffee are located less than 200 yards west of the Canoe Place Chapel.
44. Squiretown was located to the west of Canoe Place within the current boundaries of the Town of Southampton.
45. Good Ground was the name utilized during the later part of the 19<sup>th</sup> century and until 1922 to refer to what is now known as the hamlet of Hampton Bays within the Town of Southampton.

46. Seatuck is a place located at the southern end of the current western border of the Town of Southampton.

Development At Westwoods

47. On or about July 12, 2003, trees and brush were cleared by use of a bulldozer and other construction equipment from a portion of the Westwoods Parcel located to the south of Newtown Road.
48. The clearing of trees and brush within the Westwoods Parcel on or about July 12, 2003, was done by the Shinnecock Indian Nation in furtherance of its intention to construct a building on a site within the Westwoods Parcel located to the south of Newtown Road, in which it was intended to conduct gaming.
49. The entity formerly known as the Shinnecock Nation Casino at Westwoods Authority is now known as the Shinnecock Nation Gaming Authority, and is an instrumentality of the Shinnecock Indian Nation.
50. The Town of Southampton has not issued a state-authorized license to any defendant to permit gaming within the Westwoods Parcel.
51. Neither the Nation, nor any representative, trustee or any other person or entity acting on the Nation's behalf, has applied for or received site plan approval for any activity at the Westwoods Parcel from the Town of Southampton for any purpose at any time.

52. Neither the Nation, nor any representative, trustee or any other person or entity acting on its behalf, has submitted a completed environmental assessment or any other form to the New York State Department of Environmental Conservation with respect to construction of any building to be constructed at the Westwoods Parcel.
53. Neither the Nation, nor any representative, trustee or any other person or entity acting on its behalf, has submitted environmental or building permit applications to the Town of Southampton showing compliance with Town zoning laws, fire code regulations and State environmental laws with respect to any building to be constructed at Westwoods.
54. Neither the Nation, nor any representative, trustee or any other person or entity acting on its behalf, has ever applied for or received a bingo or games of chance identification number from any instrumentality of the State of New York.
55. Neither the Nation, nor any representative, trustee or any other person or entity acting on its behalf, has applied for or received permission from the Southampton Town Planning Board to engage in any activities at Westwoods Parcel in preparation for its development.
56. Neither the Nation, nor any representative, trustee or any other person or entity acting on its behalf has applied for or received any

permit or approval from the Town of Southampton for any activity conducted or to be conducted on any portion of the Westwoods Parcel.

57. An 8-inch water main currently exists beneath Newtown Road including but not limited to that portion of Newtown Road that bisects the Westwoods Parcel.

Facts Relating To Non-Party Persons

58. Williams S. Pelletreau was Town Clerk of the Town of Southampton from April of 1862 until April of 1870.
59. Williams S. Pelletreau wrote the Introduction to the First Book of Records 1874 under authority of the Town.
60. The Introduction to the Second Book of Records 1877 was written by William S. Pelletreau, under authority of the Town.
61. Henry S. Manley was Solicitor General of the State of New York from January 1, 1955 through May 31, 1955.

Facts Relating To Westwoods Prior to 1789

62. The Westwoods Parcel is located within the boundaries of lands west of Canoe Place that were the subject, in part, of a document signed by Governor Richard Nicolls of the Province of New York, bearing the date October [3], 1666 (the "Nicolls Determination").
63. The Nicolls Determination is not a royal charter or patent granting lands.

64. “The Inhabitants of the Town of Southampton” sued “The Inhabitants of the Town of Southold” over the possession and/or ownership of a Parcel of land described as the “Aquebak meadows,” and a trial or hearing concerning the matter took place in 1667 in the Court of Assizes of the Province of New York (the “1667 Trial”).
65. The “Aquebak meadows” were, as of the date of the 1667 Trial, situated to the west of the Westwoods Parcel.
66. The Westwoods Parcel is within “the land and marsh ground between Peaconnet and Niamocke” referred to in the testimony of “two Ancient women” named Aquabacack and Impeagwam taken on or about October 17, 1667 during the 1667 Trial.
67. Richard Nicolls, the first Governor of the Province of New York, issued no patent or grant for any lands within what is now the Town of Southampton.
68. Prior to the Andros Patent for Southampton of November 1676 (the “Andros Patent”), the English government possessed sovereignty over all the lands within-the current boundaries of the Town of Southampton, the title thereto being vested in the King (except during a period of Dutch rule in 1673-1674).
69. Apaacock Creek, as referred to in a document dated October 5, 1665 relating to a dispute between the Shinnecock Indians and Unchechawk Indians, is currently known as Beaverdam Creek and is located in the hamlet of Westhampton Beach, within the Town of

Southampton, west of Canoe Place and southwest of the Westwoods Parcel.

70. No deed or indenture granting lands west of Canoe Place to anyone was acknowledged, confirmed or endorsed by the Shinnecock tribe of Indians, or by any alleged Shinnecock Indian, after 1666 and prior to 1687.
71. No party is aware of any documentary evidence that as of the date of the Dongan Patent for Southampton of December 6, 1686 (the "Dongan Patent"), any purported Indian or Indian tribe, as grantor, ever had granted any lands to the west of Canoe Place by deed to the freeholders of the Town of Southampton.
72. The Dongan Patent was issued in response to a petition submitted by Major John Howell, a freeholder and one of the patentees under the Andros Patent, by order of the freeholders of the Town of Southampton, for confirmation of the grant of lands within the Town under the Andros Patent.
73. Subsequent to March 1, 1664 and prior to the date of the Dongan Patent, no purchase from any purported Indian or tribe or group of Indians of lands to the west of Canoe Place within the current boundaries of the Town of Southampton was recorded with the Office of the Secretary of the Province of New York.



74. The Andros Patent is the first royal patent for lands within the boundaries of the Town of Southampton that was registered and/or recorded in the office of the Secretary of the Province of New York.
75. The Andros Patent and the Dongan Patent are the only royal patents for lands within the boundaries of the Town of Southampton registered or recorded with the Secretary of the Province of New York.
76. The Andros Patent and the Dongan Patent are the only royal patents for lands within the boundaries of the Town of Southampton executed under seal of the Province of New York.
77. The Westwoods parcel is within the boundaries of the area described in the Andros Patent and the Dongan Patent.

Facts Relating To Westwoods After 1789

78. The State of New York is the governmental successor to the Province of New York.
79. None of the individuals (each, an "Allottee") whose names appear in the Canoe Place Division lot drawing dated April 2, 1739, found within the Third Book of Records of the Town of Southampton, Long Island, N.Y. with Other Ancient Documents of Historic Value at pages 129-132, were members of the Shinnecock tribe of Indians.

80. There is no documented record of any objection or challenge by or on behalf of the Shinnecock tribe of Indians to the laying out or allotment of the Canoe Place Division of 1738.
81. There exists no known deed executed by any Allottee, as grantor of any interest in fee simple, for any land indicated to have been allotted to that Allottee within the lands referred to in the Canoe Place Division lot drawing referred to in stipulated fact # 79.
82. On November 3, 1961, the Supreme Court of the State of New York, County of Suffolk awarded judgment in favor of the plaintiff in an action entitled Douglas King v. Shinnecock Tribe of Indians, reported at 221 N.Y.S.2d 980 (the "King Action").
83. The "Shinnecock Tribe of Indians" referred to as a defendant in the King Action is the same as the Shinnecock Indian Nation, and was represented in that action on the merits by the Attorney General's Office of the State of New York, through Assistant Attorney General Henry S. Manley, the same person referred to in stipulated fact # 61.
84. The State of New York, designated "The People of the State of New York," was a defendant in the King Action and was represented in that action on the merits by the Attorney General's Office of the State of New York, through Assistant Attorney General Henry S. Manley, the same person referred to in stipulated fact # 61.

85. The property that was at issue in the King Action is situated west of Canoe Place within the boundaries of the Town of Southampton and is located south of the Westwoods Parcel, to the west of the Shinnecock Bay.
86. The property that was at issue in the King Action is situated within the boundaries of the lands described in a document dated April 10, 1662 from Weany Sunk squaw, Anabackus and jackanapes, as grantors, and Captain Thomas Topping, as individual grantee.
87. On April 16, 1962 the Appellate Division of the Supreme Court of the State of New York, Second Department issued an order directing that the appeal taken by The Shinnecock Tribe of Indians from the judgment rendered in the King Action be perfected for the September 1962 Term.
88. The Shinnecock Tribe of Indians did not perfect its appeal from the judgment in the King Action, and the Appellate Division of the Supreme Court of the State of New York, Second Department dismissed the appeal on October 1, 1962.
89. In February 1978, the Nation submitted to the United States Department of the Interior a "Litigation Request and Statement in Compliance with 25 CFR § 54.6 by The Shinnecock Tribe" (the "1978 Litigation Request").

90. The land which was the subject of the 1978 Litigation Request did not include the Westwoods Parcel or any other land located to the west of Canoe Place.
91. In support of the 1978 Litigation Request the Shinnecocks submitted to the Department of the Interior a "Memorandum in Support of Litigation Request" (the "1978 Memo") and various "Appendices" and documentary exhibits.
92. One of the three signatories of the 1978 Memo was Marguerite Smith, an attorney admitted in the State of New York and a member of the Shinnecock Indian Nation.
93. The 1978 Memo was prepared by, or on behalf of, the Shinnecock Indian Nation, and its submission was authorized by the Nation.
94. At a public hearing of the "Joint Legislative Committee on Indian Affairs," which was established by the New York State legislature, and which was held on October 13, 1943, Fred Smith, who identified himself as a member of the Shinnecock Tribe, gave testimony.
95. Fred Smith was referring to the Westwoods Parcel or to a parcel of land including Westwoods when he referred to the "west wood land" in his testimony.
96. The "Map Showing the Subdivision of the Town of Southampton Among the Proprietors," attached as Exhibit H to the Supplemental Affidavit of S. Christopher Provenzano dated May 16, 2005 was

created by or under the supervision of William S. Pelletreau, Southampton Town Clerk from 1862 to 1870, and entered of record in or about 1885 during testimony by him at the trial of Trustees of the Freeholders of the Town of Southampton v. Mecox Bay Oyster Co., affirmed 116 N.Y. 1 (1889).

97. During the period from April of 1825 until June of 1865, Jonathan Fithian from time to time occupied the office of Town Clerk of the Town of Southampton, Justice of the Peace in the Town of Southampton and Supervisor of the Town of Southampton, and was elected to each of these positions in Town government several times over a period of years.
98. John Walker, David W. Bunn and Oliver F. Kellis, all were members of the Shinnecock tribe of Indians.
99. John Walker, David W. Bunn and Oliver F. Kellis, all were trustees of the Shinnecock tribe of Indians.
100. The tract of land referred to in Trustees of the Tribe of Shinnecock Indians v. James Cassady, Supreme Court of the State of New York, County of Suffolk, filed July 21, 1890, includes the Westwoods Parcel, in whole or in part.
101. The tract of land referred to in Paragraph V of the findings in the case Shinnecock Tribe of Indians v. Hubbard, Supreme Court of the State of New York, County of Suffolk, judgment entered

December 27, 1922, includes the Westwoods Parcel, in whole or in part.

### **Order Of Proof**

The trial of these Actions shall proceed from time to time in separate segments with respect to the issues to be tried, as the Court may direct. All parties generally agree that testimony of all witnesses (for the plaintiffs or for the defendants) relating to historical use and occupancy of the Westwoods parcel should precede testimony of witnesses relating to possible impacts resulting from development of the Westwoods Parcel.

Once any party has been fully heard on any issue, the Court shall entertain any motions pursuant to Federal Rule of Civil Procedure 52(c) with respect to that issue.

### **Testimony of Witnesses Generally**

Witnesses shall be scheduled to appear from time to time based on the availability of the Court, witnesses and counsel. Pursuant to Individual Practice 9(e), all counsel shall cooperate in the scheduling and production of witnesses.

### **Testimony of Expert Witnesses Generally**

Pursuant to Individual Practice 8, each party calling an expert witness with respect to any issue shall call that expert to the stand, and shall have the witness identify all expert reports (original, rebuttal and supplemental), and any appendices or exhibits thereto, disclosed pursuant to Federal Rule of Civil Procedure 26(a)(2)(B) (the "Expert Reports"). The contents of Expert Reports so identified shall be deemed to have been read into the record in lieu of direct testimony. Appendices and exhibits to

Expert Reports shall not be admitted into evidence, but rather marked for identification only, and are intended to facilitate the Court's review of the Expert Reports. No exhibit annexed to any Expert Report shall be admitted into evidence except to the extent, and through the procedure, set forth below for exhibits generally.

Because of the complexity of the issues in the Actions, each party shall be permitted (but not required) to conduct a brief direct examination of each expert offered by that party with respect to the data and conclusions presented in the relevant Expert Reports in order to familiarize the Court with the opinions of that Expert Witness. The Court shall direct how much time shall be permitted for this direct examination as to each expert witness.

During this brief direct examination, objections as to foundation generally shall not be made so that the expert witness may present his or her conclusions in summary fashion. Objections on other grounds, including that the testimony misrepresents or misstates the contents of an Expert Report, misstates the record, or was not properly disclosed pursuant to Federal Rules of Civil Procedure 26(a)(2)(B) or 26(e)(1), are not waived and may be presented as the Court shall direct.

Cross-examination shall be permitted with respect to any direct testimony offered by an expert witness, the data or opinions offered in any relevant Expert Report authored by that expert, any relevant expert disclosures concerning that expert made pursuant to Federal Rules of Civil Procedure 26(a)(2)(B) or 26(e)(1) or otherwise, any deposition testimony by that expert given in the Actions, or otherwise as permitted by the Federal Rules of Evidence.

Expert Reports to be deemed read into the record in accordance with the procedure set forth above are listed among the trial exhibits for identification only, as are appendices and exhibits annexed to Expert Reports, and the contents of the Expert Reports shall remain subject to any objections raised by the parties. No party waives its right to interpose any objections to any Expert Report or to testimony by any expert by consenting to the JPTO. Motions *in limine* or objections to the admissibility of some or all of the contents of the Expert Reports (or portions thereof) or testimony by an expert shall be made as and when directed by the Court. Any exhibit annexed to any Expert Report that a party wishes admitted into evidence shall be listed separately below as a trial exhibit, and the authenticity and admissibility (unless stipulated) of such exhibits shall be determined by the Court as and when appropriate.

#### Exhibits Generally

Each party shall, prior to trial, organize all exhibits it intends to offer in evidence or otherwise use at trial into bound volumes for convenience of use (the "Exhibit Volumes"). Each Exhibit Volume shall include an index of the exhibits contained within it, indicating as to each such exhibit whether or not any party has objected to its admission into evidence. As directed by Individual Practice 3(a)(x), exhibits as to which no party objects on the basis of authenticity shall be indicated "\*" and exhibits as to which no party objects on any basis shall be indicated "\*\*\*". Exhibits that are oversized and cannot be conveniently bound shall be represented by a descriptive placeholder in the Exhibit Volume, and provided simultaneously therewith. Copies of each party's Exhibit Volumes shall be provided to each party and to the Court in advance of trial.



Each party shall move the admission of its Exhibit Volumes *en masse* at the commencement of trial, or as otherwise directed by the Court. The Court shall admit those exhibits as to which authenticity and admissibility have been stipulated, and shall reserve decision on the admissibility of exhibits as to which an objection has been interposed until an appropriate time, as determined by the Court. Any exhibit contained in an Exhibit Volume as to which the Court sustains an objection shall be deemed not to be admitted in evidence to the extent the Court so rules.

Notwithstanding the foregoing, Expert Reports, appendices to Expert Reports and exhibits to Expert Reports shall not be separately marked for identification and shall not be admitted into evidence. Appendices and exhibits to Expert reports shall be admitted into evidence only if individually listed in the list of Anticipated Trial Exhibits, below, and either stipulated to as to authenticity and admissibility in accordance with the procedures set forth above, or admitted by the Court upon application.

The parties do not, by consenting to the procedure set forth above, stipulate or agree as to the legal construction or meaning of any document or exhibit, or to the relevance of any document or exhibit to the adjudication of any issue to be tried.

#### Opening Arguments

Opening arguments shall be conducted on October 4, 2006. The State plaintiffs and Town shall be allowed not more than 30 minutes each to present an opening argument (that is, the total time allotted for opening arguments by all plaintiffs shall be one hour). All defendants in the aggregate shall be allowed not more than one hour in total to present an opening argument.

Anticipated Issues and Witnesses

The descriptions of the expected testimony of the witnesses set forth below is for information only, and shall not constitute a limitation as to the content of that testimony. All objections to such testimony are expressly preserved.

Witnesses Relating to the Use and Occupancy of the Westwoods Parcel

The State expects to call some or all of the following witnesses during its case-in-chief with respect to the use and occupancy of the Westwoods Parcel:

1. Robert Williams, Esq., Assistant Counsel, State Racing and Wagering Board, who will testify to the provisions of State Gaming laws applicable to gaming operations in the State and that the Shinnecock Indian Nation's proposed casino is in violation of current state gaming law and State constitutional provisions.
2. George Hammarth, NY State Department of Environmental Conservation ("DEC"), who will testify regarding the regulatory procedures and standards of DEC with respect to the consideration, issuance and denial of permits that may be required under State law, including the regulatory processes under the State Environmental Quality Review Act, for the construction and operation of a casino complex of the sizes and components described by Dr. Eadington. He will also testify that the proposed permitless construction and operation of a casino complex is in violation of state environmental laws.

3. Frank Pearson, NY State Department of Transportation (“DOT”), who will testify regarding the procedures and standards of the DOT with respect to the authorization of additional ramps, connecting roads, flyovers, and other road-related structures by persons wishing to establish direct access to their property from a state highway.
4. Professor Alexander von Gernet, Ph. D., as an expert witness, who will testify pursuant to the procedure described above as to the authority of the colonial governors of the Province of New York to address questions related to extinguishment of Indian title to lands.

The Town expects to call some or all of the following witnesses during its case-in-chief with respect to the use and occupancy of the Westwoods Parcel:

1. Jefferson Murphree, Southampton Town Planning and Development Administrator, who will offer testimony, amongst other things, on the location of the Westwoods parcel and its environs, the applicability of the current Town zoning to the Westwoods Parcel.
2. Michael Benincasa, Southampton Chief Building Inspector, who will offer testimony concerning the applicability of the Southampton Town Code to the Shinnecock Indian Nation’s proposed development of the Westwoods Parcel.

3. David Emilita, former Southampton Town Planner, who will offer testimony concerning the history of Town zoning of the Westwoods Parcel.
4. James P. Lynch, as an expert witness, who will provide an ethnohistorical and historical evaluation of the claim made by the Shinnecock Indian Nation that it currently possess aboriginal rights of occupancy in the Westwoods Parcel.
5. Martin A. Read as an expert witness, who will testify as to the location of the Westwoods Parcel relative to the 1738 Canoe Place Division.
6. Marguerite Smith, Esq., an attorney admitted to practice in the State of New York and a member of the Shinnecock Indian Nation, as a hostile witness, who will offer testimony regarding the 1978 "Litigation Request and Statement in Compliance with 25 CFR § 54.6 by the Shinnecock Tribe," and the "Memorandum in Support of Litigation Request" that were submitted to the federal government on behalf of the Shinnecock Indian Nation.
7. Martin Shea, Southampton Chief Environmental Analyst, who will testify regarding the proximity of the Westwoods Parcel to the tidal wetlands associated with the Peconic Bay, and the potential application of Town Code Section 325 to the development of the Westwoods Parcel.

8. Tara Coady, Southampton Geographic Information Systems Supervisor, who will testify regarding the adoption of the 1999 Town of Southampton Zoning map.
9. Noreen McCully, if needed to authenticate certain historical documents in the possession of the Town.
10. Robert Smith, if needed to authenticate certain historical documents relating to Newtown Road which are maintained by the land-surveying firm Squires, Holden, Weisenbacher & Smith.

The defendants expect to call, if necessary, some or all of the following witnesses during its case-in-chief with respect to the use and occupancy of Westwoods:

1. Frederick C. Bess to offer testimony, among other things, as to the Shinnecock Indian Nation's plans for the Westwoods Parcel, the history and nature of those plans, and the nature of contractual agreements with the developer of a proposed casino on the Westwoods Parcel, and the location of the Westwoods Parcel in relation to other locations within the Town of Southampton.
2. Lance A. Gumbs to offer testimony, among other things, as to the Shinnecock Indian Nation's plans for the Westwoods Parcel, the history and nature of those plans, and the nature of contractual agreements with the developer of a proposed casino on the Westwoods Parcel.

3. James N. Wilford, formerly Building and Zoning Administrator of the Town of Southampton, to testify on subjects related to those addressed in his affidavit filed in the Actions, dated July 28, 2003.
4. Steven M. Rittvo as an expert witness, who will testify as to the economic and practical feasibility of construction of a casino facility on the Westwoods Parcel, and as to the traffic generated by such a facility.
5. Lubin Hunter, a member of the Shinnecock Indian Nation, to testify regarding the history of the Westwoods Parcel as conveyed to him orally more than fifty years ago.
6. Mason Haas as an expert witness, who will testify as to the title history of the Westwoods Parcel.
7. Professor Katherine A. Hermes, Ph.D., as an expert witness, who will testify as to colonial-era legal history relating to the Westwoods Parcel.
8. Dr. Jack Campisi, Ph.D., as an expert witness, who will testify as to the habitation of the Shinnecock Indian tribe west of Canoe Place.

Witnesses Relating to Possible Impacts Resulting From Development of the Westwoods Parcel

The State expects to call some or all of the following witnesses during its case-in-chief with respect to possible impacts resulting from development of the Westwoods Parcel:

1. Thomas F. Neely, Southampton Public Transportation & Traffic Safety Director, who will offer testimony concerning the general characteristics and layout of the roadways within the Town of Southampton; and statements made by trustees of the Shinnecock Indian Nation regarding its intentions for development of the Westwoods Parcel.
2. Professor William Eadington, Ph. D., as an expert witness, who will testify pursuant to the procedure described above as to a market feasibility study he performed relating to casino gaming at Westwoods.
3. Candace Evart, MBA, as an expert witness, who will testify pursuant to the procedure described above as to the projected costs to the Town and the State attributable to the various size casino scenarios projected in her report.
4. Michael Salatti as an expert witness, who will testify as to the impacts during peak traffic hours on intersections and roadways in eastern Long Island from the operation of a casino complex of the sizes and components described in his Expert Report and in that of Dr. Eadington.
5. Steven Eckler as an expert witness, who will testify as to the adverse environmental impacts that may occur upon the construction and operation of a casino complex of the sizes and components described in his Expert Report.

6. Robert Grover as an expert witness, who will testify as to the air pollution generated by vehicles traveling to and from a casino complex of the sizes and components described by Dr. Eadington and by Mr. Salatti in their Expert Reports, and as to the noise such vehicles will generate during certain periods of time, and the adverse impacts caused by such noise.

The defendants expect to call, if necessary, some or all of the following witnesses during its case-in-chief with respect to possible impacts resulting from development of the Westwoods Parcel:

7. Samuel I. Schwartz as an expert witness, who will testify as to the impact on traffic of the development of a gaming facility at the Westwoods Parcel.
8. James Mansky as an expert witness, who will testify as to the impact on the environment of the development of a casino facility at the Westwoods Parcel.
9. Fang Yang as an expert witness, who will testify as to the inadequacy of the methodology and results of the methods used by Mr. Grover in generating his expert report relating to air and noise impacts at the Westwoods Parcel.

#### Closing Arguments

Closing arguments shall be made as and when directed by the Court.



### **Deposition Designations**

Designations of deposition testimony expected to be used by each party in its case-in-chief are listed below. The State Plaintiffs join in the Town's designation.

Deposition testimony shall be presented to the Court pursuant to Individual Practice 4(e). The deposition designations shall be assembled by excerpting the "minuscrit" version of the relevant deposition transcript, color-coded to distinguish designations from counterdesignations, and presented to the Court at the appropriate time.

#### **Town and State Plaintiffs' Designations and Counter-Designations**

Deposition Testimony of Frederick Bess, dated May 26, 2006 (incorrectly noted on the transcript as April 26, 2006):

P. 19, Lines 17-21;  
P. 26, Lines 5-19;  
P. 48, Lines 3-21;  
P. 67, Lines 10-22;  
P. 71, Lines 2-7;  
P. 115, Lines 5-24;  
P. 117, Lines 5-15, Lines 19-22;  
P. 118, Line 15 – P. 119, Line 7;  
P. 121, Lines 13-20;  
P. 123, Line 20 – P. 124, Line 2;  
P. 149, Line 24 – P. 151, Line 25;  
P. 156, Lines 10-13;  
P. 157, Lines 8-17;  
P. 160, Line 17 – P. 161, Line 9;  
P. 161, Lines 12-18;  
P. 194, Lines 10-20;  
P. 198, Lines 9-22;  
P. 212, Lines 18-22;  
P. 263 Line 23 – P. 265, Line 12.

Deposition Testimony of Phillip Brown, dated June 6, 2006:

P. 30, Lines 4-9;  
P. 31, Lines 9-17;  
P. 33, Lines 11-14;

P. 75, Lines 3-22;  
P. 81, Lines 13-18;  
P. 83, Lines 6-25;  
P. 84, Lines 1-10;  
P. 132, Lines 14-17;  
P. 136, Line 23 – P. 138, Line 2;  
P. 204, Lines 7-16;  
P. 197, Line 25 – P. 198, Line 12;  
P. 218, Line 21 – P. 219, Line 15  
P. 245, Lines 6-11.

Deposition Testimony of Lancelot Gumbs, dated June 9, 2006:

P. 15, Line 23 – P. 16, Line 24;  
P. 30, Line 23 – P. 31, Line 25;  
P. 38, Line 23 – P. 39, Line 15;  
P. 42, Lines 4-7;  
P. 42, Line 25 – P. 44, Line 12;  
P. 80, Line 17 – P. 81, Line 5;  
P. 104, Lines 7-15;  
P. 114, Line 15 – P. 115, Line 25;  
P. 122, Line 23 – P. 123, Line 19;  
P. 130, Line 16 – P. 132, Line 23;  
P. 197, Lines 7 – 22;  
P. 198, Line 25 – P. 201, Line 3;  
P. 201, Line 25 – P. 202, Line 18;  
P. 224, Line 19 – P. 227, Line 4;  
P. 230, Line 19 – P. 232, Line 12;  
P. 247, Line 25 – P. 250, Line 2;  
P. 261, Line 14 – P. 262, Line 7;  
P. 262, Lines 19-25;  
P. 264, Lines 5-8;  
P. 265, Line 11 – P. 266, Line 10;

Deposition Testimony of James Eleazer, dated June 21, 2006:

P. 13, Lines 12-24;  
P. 32, Line 24 – P. 33, Line 4;  
P. 49, Lines 10-12;  
P. 39, Lines 3-17;  
P. 69, Line 19 – P. 71, Line 19;  
P. 80, Lines 8-20;  
P. 88, Lines 2-10;  
P. 89, Lines 4-22;  
P. 98, Line 11 – P. 99, Line 14;

P. 100, Lines 6-9;  
P. 110, Lines 12-20;  
P. 126, Line 12 – P. 127, Line 9;  
P. 138, Lines 15-19;  
P. 167, Lines 7-10;

Deposition of Frank Pearson - State Plaintiffs' Counter-Designations

P. 37, Line 24 – P. 38, Line 21  
P. 38, Lines 16 - 17  
P. 53, Lines 2 - 18  
P. 72, Line 13 – P. 75, Line 24  
P. 76, Line 19 – P. 77, Line 15

Deposition of George Hammarth - State Plaintiffs' Counter-Designations

P. 28, Line 23 – P. 38, Line 224  
P. 38, Line 22 – P. 39, Line 8  
P. 41, Line 15 – P. 42, Line 8  
P. 68, Line 15 – P. 73, Line 21

Deposition of Eileen Peters - State Plaintiffs' Counter-Designations

P. 54, Lines 4-16

General Objections:

The Town objects to the introduction of any and all portions of the deposition of Eileen Peters, as she is not a "party or any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency," as provided for by Fed. R. Civ. P. 32(a)(2).

Deposition of Michael Geiger

General Objections:

The Town objects to the introduction of any and all portions of the deposition of Michael Geiger, as she is not a "party or any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency," as provided for by Fed. R. Civ. P. 32(a)(2).

Specific Objection:

The State objects on the ground that the deposition transcript misquotes the exhibit at 50:2 – 9.

Town's Designations and Counter-Designations

Deposition of Patrick Heaney – Town's Counter-Designations:

P. 43, Line 22 – P. 45, Line 21;  
P. 47, Lines 9 – 16;  
P. 51, Lines 10 – 18;  
P. 56, Line 9 – 12 – P. 57, Line 4;  
P. 58, Lines 15 – 22;  
P. 60, Lines 11 – 15;  
P. 61, Line 15 – P. 62, Line 3;  
P. 62, Line 21 – P. 63, Line 8;  
P. 64, Line 24 – P. 65, Line 9;  
P. 65, Lines 19 – 23;  
P. 66, Lines 11-18;  
P. 68, Line 7 – P. 69, Line 9;  
P. 70, Lines 9 – 25;  
P. 85, Lines 15-18;  
P. 90, Line 17 – P. 91, Line 23;  
P. 93, Lines 13 – 22;  
P. 98, Line 20 – P. 99, Line 11;  
P. 124, Lines 3 – 8;  
P. 124, Line 24 – P. 125, Line 4;  
P. 129, Lines 2-5;  
P. 132, Lines 9 – 18;  
P. 133, Lines 8 – 11;  
P. 134, Line 24 – P.135, Line 4;  
P. 143, Lines 5-19;  
P. 146, Line 18 – P. 147, Line 8;  
P. 150, Line 15 – P. 151, Line 21;  
P. 152, Lines 18 – 23;  
P. 154, Line 24 – P. 155, Line 2;  
P. 155, Lines 7 – 14;  
P. 185, Line 16 – P.186, Line 22;  
P. 187, Lines 4 - 13;  
P. 188, Lines 11 – 20;  
P. 194, Lines 10 – 23;  
P. 200, Lines 6 – 11;  
P. 201, Lines 4 – 5;  
P. 201, Lines 9 – 11;  
P. 202, Line 9 – P.203, Line 3;  
P. 224, Lines 15 – 23.

Specific Objections:

P. 56, Lines 3-8 – Relevancy;  
P. 67, Lines 2-6 – Legal conclusion;  
P. 154, Lines 19 – 23 – Relevancy;  
P. 155, Lines 3 – 6 – Relevancy;  
P. 189, Lines 16 – 21 – Relevancy;  
P. 189, Line 24 – P. 190, Line 10 – Relevancy;  
P. 190, Line 15 – P. 192, Line 14 – Relevancy;  
P. 192, Line 19 – P. 194, Line 9 – Hearsay;  
P. 199, Line 21 – P. 200, Line 5 – Relevancy;  
P. 200, Line 12 – P. 201, Line 4 – Relevancy;  
P. 201, Line 12 – P. 202, Line 8 – Relevancy;  
P. 205, Lines 3-14 – Relevancy, Hearsay;  
P. 223, Line 11 – P. 224, Line 2 – Hearsay;  
P. 224. Line 24 – P. 225, Line 9 – Hearsay.

Deposition of Barbara Moeller - Town's Counter-Designations:

General Objections:

The Town objects to the introduction of any and all portions of the deposition of Barbara Moeller, as she is not a "party or any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency," as provided for by Fed. R. Civ. P. 32(a)(2). Furthermore, the Town objects to the introduction of any and all portions of the deposition of Barbara Moeller on the grounds that (i) defendants are seeking to solicit the opinions of an unretained testifying expert; and (ii) defendants are seeking to introduce expert opinion testimony from an individual who has not been proffered as an expert by any party pursuant to Fed. R. Civ. P. 26(a)(2).

Counter-Designations:

P. 18, Line 16 – P. 19, Line 4;  
P. 33, Lines 12-20;  
P. 38, Lines 15-23;  
P. 39, Line 14 – P. 40 Line 7;  
P. 53, Line 5 – P. 54, Line 17;  
P. 57, Line 22 – P. 60, Line 11;  
P. 62, Lines 6 – 15;  
P. 63, Line 7 – P. 64, Line 5;  
P. 65, Line 21 – P. 67, Line 2;  
P. 77, Lines 9-12;  
P. 102, Lines 6-20;  
P. 122, Lines 7-9;  
P. 136, Line 23 – P. 137, Line 10;  
P. 140, Line 18-23.

Specific Objections:

P. 22, Line 21 – P. 23, Line 13 – Calls for speculation;  
P. 28, Lines 7 – 28 – Hearsay;  
P. 29, Lines 5 -8 – Calls for speculation;  
P. 56, Line 19 – P. 57, Line 11 – Calls for expert opinion, speculation;  
P. 74, Line 20 – P. 75, Line 6 – Calls for speculation;  
P. 76 – P. 81 Calls for expert opinion;  
P. 82, line 24 – P. 84, line 12 – Calls for expert opinion;  
P. 113 – 114 – Relevancy;  
P. 123 – 129 – Relevancy;  
P. 129 – 136 – Relevancy;  
P. 139, Line 14 – P. 140, Line 17 – Hearsay.

Deposition of Henry Moeller, dated June 19, 2006 - Town's Counter-Designations:

General Objections:

The Town objects to the introduction of any and all portions of the deposition of Henry Moeller, as he is not a "party or any one who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency," as provided for by Fed. R. Civ. P. 32(a)(2). Furthermore, the Town objects to the introduction of any and all portions of

the deposition of Henry Moeller on the grounds that (i) defendants are seeking to solicit the opinions of an unretained testifying expert; (ii) defendants are seeking to introduce expert opinion testimony from an individual who has not been proffered as an expert by any party pursuant to Fed. R. Civ. P. 26(a)(2); and (iii) defendants are also seeking to introduce the expert opinions of an individual who was engaged as a consulting expert for the Town in connection with this litigation and in preparation for trial.

Counter-Designations:

P. 14, Lines 2-12;  
P. 41, Lines 4-5;  
P. 69, Lines 8-11;  
P. 76, Lines 11-13;  
P. 86, Line 20 - P. 87, Line 7;  
P. 145, Lines 22-23;  
P. 167, Lines 14-24.

Specific Objections:

P. 44, Line 3 – P. 45, Line 16 – Relevancy;  
P. 45, Lines 20-23 – Relevancy;  
P. 51, Line 22 – P. 52, Line 17; Relevancy;  
P. 52, Line 25 – P. 60, Line 5 – Relevancy, Calls for expert opinion;  
P. 60, Line 10 – Asked and answered;  
P. 60, Line 19 – P. 65, Line 7 – Relevancy, Calls for expert opinion;  
P. 65, Line 15 – P. 66, Line 15 – Relevancy, Calls for expert opinion;  
P. 67, Line 19 – P. 68, Line 8 – Relevancy, Calls for expert opinion;  
P. 68, Lines 16-20 – Relevancy, Calls for expert opinion;  
P. 71, Lines 7-16 – Relevancy, Calls for expert opinion;  
P. 73, Line 13 – P. 74, Line 6 – Relevancy, Calls for expert opinion;  
P. 74, Line 15 – P. 75, Line 15 – Relevancy, Calls for expert opinion;  
P. 113, Line 14 – P. 114, Line 10 – Hearsay.

Deposition of Henry Moeller, dated July 20, 2006 - Town's Counter-Designations:

General Objections:

The Town asserts the same general objections it asserted in response to defendants' designation of Henry Moeller's June 19, 2006 testimony.

Cross Designations:

P. 202, Lines 6-11;  
P. 203, Lines 15-19;  
P. 204, Lines 2-11;  
P. 214, Line 17 – P. 215, Line 6;  
P. 227, Lines 19 – 22;  
P. 228, Line 4 – P. 229, Line 2;  
P. 229, Lines 14-23;  
P. 319, Lines 5 – 6;  
P. 336, Line 2 – P. 337, Line 17;  
P. 354, Line 21 – P. 355, Line 4;  
P. 357, Lines 5 – 8;  
P. 360, Lines 14 – 17;  
P. 370, Lines 4 – 14;  
P. 375, Line 21 – P. 376, Line 19.

Specific Objections:

P. 204, Line 12 – P. 205, 5 – Relevancy;  
P. 206, Line 11 – P. 207, Line 11 – Relevancy;  
P. 208, Line 18 – P. 209, Line 25 – Relevancy;  
P. 210, Lines 10-25 – Relevancy;  
P. 213, Lines 3-15 – Relevancy;  
P. 213, Line 21 – P. 215, Line 16 – Relevancy;  
P. 215, Line 10 – P. 227, Line 18 – Relevancy;  
P. 229, Lines 3 – 13 - Relevancy;  
P. 229, Line 2 – P. 230, Line 15 – Relevancy;  
P. 325, Line 19 – P. 326, Line 8 – Hearsay;  
P. 333, Line 4 – P. 335, Line 24 – Relevancy;  
P. 345, Line 4 – P. 347, Line 6 – Calls for expert opinion;  
P. 352, Lines 4 – 7 – Relevancy, Opinion;  
P. 355, Lines 19-25 – Hearsay, Relevancy;  
P. 356, Line 2 – P. 357, Line 2 – Calls for expert opinion; Relevancy;  
P. 361, Line 19 – P. 370, Line 2 – Calls for expert opinion;  
P. 370, Line 15 – P. 375, Line 20 – Calls for expert opinion;  
P. 377, Line 2 – P. 387, Line 14 – Calls for expert opinion;  
P. 378, Lines 17 – 21 – Hearsay.

Deposition of Michael J. Benincasa - Town's Counter-Designations:



Cross-designations:

P. 53, Lines 21-22;  
P. 55, Lines 12-25;  
P. 59, Line 15 – P. 60, Line 12;  
P. 61, Lines 4-22.

Specific Objections:

P. 9, Lines 13 – 22 – Vague;  
P. 15, Lines 8 – 21 – Compound, Vague, Assumes facts not in evidence;  
P. 16, Line 18 – P. 19, Line 11 – Compound, Vague, Assumes facts not in evidence;  
P. 35, Line 6 – P. 40, Line 13 – Relevancy;  
P. 41, Line 20 – P. 42, Line 9 – Relevancy  
P. 4, Line 2 – P. 44, Line 7 – Relevancy, Assumes facts not in evidence;  
P. 45, Lines 18 – 24 – Relevancy;  
P. 46, Line 16 – P. 48, Line 23 – Relevancy;  
P. 48, Line 24 – P. 49, Line 18 – Relevancy; Asked and answered;  
P. 49, Line 19 – P. 50, Line 15 – Relevancy;  
P. 66, Lines 13 – 20 – Relevancy;  
P. 72, Lines 15 – 20 – Relevancy;  
P. 74, Line 20 – P. 75, Line 9 – Relevancy;  
P. 75, Line 14 – P. 76, Line 5 – Relevancy, document speaks for itself;  
P. 76, Lines 21 – 25; Beyond the scope of witnesses authority;  
P. 81, Lines 18 – P. 82, Line 6 – Calls for speculation;  
P. 82, Lines 10 – 20 – Attorney-client privilege, Hearsay.

Defendants' Designations and Counterdesignations

Deposition Testimony of Barbara Moeller, dated July 17, 2006

6: 8 – 21	73: 12 – 75: 14
8: 2 – 10	75: 18 – 77: 8
8: 16 – 10: 11	77: 13 – 21
12: 7 – 22	78: 20 – 79: 13
12: 2 – 14: 12	79: 17 – 24
14: 18 – 23	80: 5 – 8
15: 4 – 20	80: 14 – 81: 4
16: 13 – 18: 15	81: 15 – 23
19: 17 – 26: 4	82: 4 – 83: 20
27: 8 – 13	84: 3 – 12
28: 4 – 29: 13	84: 16 – 85: 14
30: 6 – 12	88: 5 – 89: 13
31: 24 – 32: 5	91: 7 – 92: 22

33: 5 – 11  
33: 21 – 36: 23  
37: 19 – 38: 14  
40: 8 – 14  
44: 13 – 17  
44: 19 – 45: 20  
46: 17 – 47: 7  
48: 11 – 15  
48: 24 – 49: 10  
49: 14 – 15  
50: 8 – 9  
50: 14 – 24  
54: 18 – 20  
54: 24 – 55: 16  
56: 19 – 57: 11  
57: 15 – 21  
60: 12 – 62: 5  
67: 3 – 6  
67: 21 – 68: 8  
68: 16 – 21  
69: 3 – 70: 10  
70: 22 – 72: 7

100: 6 – 15  
100: 18 – 102: 5  
108: 14 – 24  
109: 4 – 5  
113: 25 – 114: 10  
121: 21 – 122: 6  
122: 10 – 122: 17  
123: 6 – 19  
123: 24 – 124: 11  
124: 15 – 17  
125: 10 – 126: 9  
126: 10 – 128: 3  
129: 3 – 7  
129: 11 – 131: 22  
132: 13 – 133: 22  
134: 14 – 135: 24  
136: 3 – 7  
139: 14 – 140: 17

Deposition Testimony of Eileen Peters, dated June 26, 2006

7: 12 – 17  
8: 7 – 19  
9: 22 – 10: 11  
10: 21 – 11: 3  
11: 14 – 12: 24  
13: 2 – 4  
17: 23 – 18: 3  
19: 5 – 15  
19: 24 – 21: 5  
24: 18 – 25: 18  
26: 10 – 28: 11  
32: 21 – 35: 25  
36: 7 – 37: 2  
38: 10 – 39: 8  
40: 6 – 24  
42: 6 – 43: 8  
43: 25 – 45: 11  
47: 18 – 50: 15  
51: 20 – 54: 3  
56: 14 – 57: 25

66: 6 – 10  
66: 16 – 67: 17  
70: 14 – 73: 17  
74: 2 – 86: 17  
87: 8 – 88: 23  
89: 10 – 90: 7  
93: 9 – 94: 3  
94: 21 – 117: 24  
119: 3 – 121: 15  
122: 6 – 125: 11  
128: 16 – 130: 12  
131: 12 – 17  
132: 22 – 133: 25  
134: 8 – 135: 5  
135: 10 – 135: 17  
136: 25 – 138: 16  
138: 24 – 158: 20  
164: 25 – 169: 6  
169: 12 – 170: 21

59: 11 – 64: 4

Deposition Testimony of Frank Pearson, dated June 29, 2006

6: 8 – 12	7: 18 – 8: 15
9: 12 – 11: 2	11: 11 – 13: 17
13: 25 – 18: 22	19: 23 – 22: 25
23: 17 – 24: 3	25: 3 – 27: 8
28: 4 – 29: 25	30: 10 – 32: 20
33: 4 – 37: 14	37: 19 – 23
40: 11 – 49: 24	52: 17 – 52: 25
55: 25 – 58: 25	59: 24 – 60: 15
63: 10 – 66: 19	84: 8 – 86: 17
88: 8 – 90: 12	

Deposition Testimony of George Hammarth, dated June 20, 2006

5: 15 – 23	20: 14 – 21: 21
24: 2 – 25: 11	26: 13 – 27: 13
38: 14 – 21	42: 9 – 23
50: 23 – 51: 9	51: 13 – 52: 18
55: 3 – 16	60: 5 – 24
61: 10 – 62: 3	62: 8 – 64: 18
66: 18 – 67: 2	67: 7 – 68: 14
73: 22 – 74: 2	74: 8 – 17

Deposition Testimony of Henry Moeller, dated June 19 and July 20, 2006

6: 8 – 7: 15	
7: 21 – 9: 23	22: 7 – 14
23: 12 – 20	26: 2 – 12
31: 3 – 25	33: 2 – 9
34: 3 – 25	40: 12 – 41: 3
41: 6 – 42: 22	43: 2 – 25
44: 3 – 45: 16	45: 20 – 23
50: 22 – 52: 17	52: 25 – 60: 5
60: 10	60: 19 – 65: 7
65: 15 – 66: 15	67: 19 – 68: 8
68: 16 – 68: 20	71: 7 – 16
73: 13 – 74: 6	74: 15 – 75: 15
80: 12 – 15	89: 10 – 15
110: 5 – 17	113: 14 – 114: 21
115: 2 – 18	144: 22 – 145: 21
145: 24 – 146: 22	150: 15 – 17
151: 11 – 20	195: 16 – 24

201: 9 – 18  
203: 20 – 22  
205: 19 – 22  
206: 11 – 207: 11  
208: 18 – 209: 25  
213: 3 – 15  
215: 10 – 222: 15  
224: 24 – 226: 10  
226: 25 – 227: 18  
229: 24 – 230: 15  
319: 7 – 320: 11  
333: 4 – 335: 25  
352: 4 – 7  
355: 19 – 357: 4  
361: 19 – 367: 17  
369: 14 – 370: 3  
372: 9 – 375: 20  
378: 12 – 379: 19  
382: 10 – 387: 14

202: 12 – 203: 14  
204: 12 – 205: 5  
205: 24 – 25  
207: 21 – 208: 7  
210: 10 – 25  
213: 21 – 214: 16  
222: 18 – 224: 17  
226: 13 – 16  
229: 3 – 13  
311: 18 – 319: 4  
320: 14 – 326: 8  
345: 15 – 347: 6  
355: 5 – 14  
359: 22 – 360: 13  
367: 20 – 369: 11  
370: 15 – 372: 6  
377: 2 – 378: 6  
379: 23 – 382: 8

Deposition Testimony of Michael Benincasa, dated June 28, 2006

8: 23 – 9: 35  
14: 15 – 17: 11  
41: 18 – 24  
44: 19 – 50: 15  
53: 25 – 54: 25  
66: 13 – 73: 11

13: 10 – 14: 4  
30: 14 – 40: 13  
42: 2 – 44: 7  
51: 17 – 53: 18  
56: 2 – 57: 15  
74: 20 – 82: 20

Deposition Testimony of Michael Geiger, dated June 29, 2006

6: 10 – 12  
14: 11 – 15: 10  
21: 24 – 22: 13  
27: 19 – 32: 10  
36: 10 – 38: 14  
62: 11 – 64: 14

8: 14 – 13: 17  
18: 14 – 17  
24: 2 – 10  
34: 15 – 22  
48: 21 – 50: 24

Deposition Testimony of Patrick Heaney, dated June 29, 2006

6: 8 – 18  
9: 18 – 25  
19: 16 – 18  
21: 21 – 22: 6  
43: 2 – 21

6: 24 – 7: 7  
19: 10 – 12  
21: 7 – 18  
26: 2 – 4  
51: 2 – 9

51: 18 – 52: 3  
 56: 3 – 8  
 57: 5 – 58: 3  
 65: 24 – 66: 3  
 67: 9 – 68: 6  
 121: 20 – 122: 16  
 124: 9 – 124: 24  
 126: 24 – 127: 3  
 130: 15 – 131: 5  
 132: 18 – 133: 7  
 136: 21 – 137: 10  
 154: 19 – 23  
 184: 4 – 185: 15  
 189: 16 – 21  
 190: 15 – 192: 14  
 194: 24 – 195: 4  
 199: 21 – 200: 5  
 201: 6 – 8  
 205: 3 – 14  
 224: 4 – 14

54: 2 – 15  
 56: 13 – 25  
 65: 10 – 18  
 66: 19 – 67: 6  
 69: 16 – 70: 8  
 122: 25 – 124: 2  
 126: 3 – 18  
 129: 6 – 18  
 131: 12 – 132: 8  
 133: 12 – 134: 23  
 137: 17 – 23  
 155: 3 – 6  
 187: 25 – 188: 6  
 189: 24 – 190: 10  
 192: 19 – 194: 9  
 198: 19 – 199: 8  
 200: 12 – 201: 4  
 201: 12 – 202: 8  
 223: 11 – 224: 2  
 224: 24 – 225: 9

#### Counter-designations for Lancelot Gumbs

5: 8 – 12  
 14: 18 – 15: 11  
 17: 20 – 24  
 33: 23 – 34: 6  
 36: 18 – 37: 7  
 39: 23 – 40: 5  
 48: 7 – 50: 13  
 81: 6 – 16  
 104: 16 – 19  
 108: 24 – 109: 3  
 123: 20 – 22  
 125: 10 – 25  
 133: 7 – 15  
 134: 23 – 136: 6  
 196: 5 – 6  
 198: 2 – 6  
 201: 4 – 11  
 223: 22 – 224: 18  
 231: 13 – 21  
 245: 7 – 12  
 250: 3 – 22  
 263: 10 – 11

7: 18 – 9: 11  
 16: 25 – 17: 17  
 32: 17 – 33: 19  
 34: 15 – 19  
 39: 16 – 18  
 44: 13 – 45: 6  
 70: 3 – 25  
 104: 2 – 6  
 107: 2 – 108: 19  
 109: 22 – 25  
 123: 25 – 124: 25  
 127: 23 – 129: 19  
 133: 25 – 134: 10  
 136: 13 – 17  
 197: 3 – 6  
 198: 14 – 24  
 202: 19 – 17  
 230: 13 – 18  
 232: 14 – 25  
 245: 22 – 246: 11  
 261: 3 – 12  
 263: 22 – 264: 4

264: 8

Counter-designations for Frederick Bess

5: 8 – 10	6: 18 – 21
7: 5 – 10	17: 18 – 23
18: 11 – 18	19: 22 – 20: 5
48: 22 – 49: 19	49: 22
51: 5 – 9	51: 12 – 25
54: 2 – 11	55: 18 – 56: 2
62: 13 – 18	64: 4 – 9
64: 13 – 17	64: 22 – 25
67: 3 – 5	67: 9
67: 23 – 68: 2	69: 24 – 70: 5
70: 11 – 70: 20	70: 23 – 25
83: 14 – 21	85: 2 – 5
116: 25 – 117: 4	117: 16 – 18
117: 23 – 24	118: 7 – 14
123: 16 – 19	124: 3 – 8
125: 13 – 21	126: 2 – 10
138: 5 – 18	143: 21 – 145: 18
146: 10 – 148: 9	156: 14 – 157: 7
156: 14 – 157: 7	158: 3 – 8
193: 10 – 194: 9	197: 22 – 24
199: 7 – 19	200: 12 – 23
202: 10 – 18	210: 4 – 12
211: 6 – 12	211: 24 – 212: 5
212: 12 – 17	262: 13 – 263: 9

Counter-designations for James Eleazar

5: 8 – 13	6: 18 – 7: 8
11: 24 – 12: 25	14: 5 – 13
30: 7 – 14	30: 16 – 19
32: 22 – 23	33: 5 – 18
33: 25 – 34: 7	36: 23 – 25
37: 19 – 38: 8	39: 18 – 40: 16
68: 16 – 19	68: 24 – 69: 8
71: 20 – 72: 21	77: 22 – 78: 6
80: 21 – 25	85: 11 – 14
85: 23	87: 13 – 25
93: 19 – 94: 24	100: 10 – 12
107: 8 – 108: 5	108: 15 – 17
108: 24 – 109: 7	109: 14 – 110: 3

110: 21 – 23  
114: 10 – 20  
138: 2 – 12  
158: 7 – 13

111: 25 – 112: 13  
126: 6 – 11  
156: 21 – 158: 2  
158: 16 – 159: 4

Counter-designations for Philip Brown

5: 8 – 11  
6: 19 – 7: 3  
8: 18 – 20  
9: 22 – 24  
32: 15 – 21  
75: 24 – 76: 8  
82: 14 – 83: 5  
85: 22 – 86: 8  
88: 11 – 14  
89: 16  
130: 20 – 131: 3  
153: 7 – 13  
205: 18 – 206: 18  
218: 15 – 20  
242: 24 – 244: 18  
5: 8 – 11  
6: 19 – 7: 3  
8: 18 – 20  
9: 22 – 24  
32: 15 – 21  
75: 24 – 76: 8  
82: 14 – 83: 5  
85: 22 – 86: 8  
88: 11 – 14  
89: 16  
130: 20 – 131: 3  
153: 7 – 13  
205: 18 – 206: 18  
218: 15 – 20  
242: 24 – 244: 18

6: 15 – 16  
7: 16 – 8: 14  
8: 24 – 9: 12  
11: 21 – 12: 6  
33: 15 – 18  
82: 8 – 9  
84: 11 – 15  
88: 3 – 7  
88: 24 – 89: 13  
129: 25 – 130: 5  
133: 20 – 134: 20  
205: 13 – 15  
216: 23 – 217: 17  
219: 16 – 220: 21  
245: 15 – 25  
6: 15 – 16  
7: 16 – 8: 14  
8: 24 – 9: 12  
11: 21 – 12: 6  
33: 15 – 18  
82: 8 – 9  
84: 11 – 15  
88: 3 – 7  
88: 24 – 89: 13  
129: 25 – 130: 5  
133: 20 – 134: 20  
205: 13 – 15  
216: 23 – 217: 17  
219: 16 – 220: 21  
245: 15 – 25

**Anticipated Trial Exhibits**

Exhibits are listed below with respect to each issue described above in the section titled “Order of Proof” by each party in its case in chief. As directed by Individual

Practice 3(a)(x), exhibits as to which no party objects on the basis of authenticity are indicated “\*” and exhibits as to which no party objects on any basis are indicated “\*\*\*”.

As noted above, the parties do not, by consenting to this procedure, stipulate as to the legal construction or meaning of any document, or to the weight or credibility of any statement therein.

#### Town's Exhibits

1. Aerial photograph of the Westwoods parcel and surrounding area taken in 2003 (Exhibit 4 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
2. Aerial photograph of the Westwoods parcel and surrounding area taken in 2003 (Exhibit 5 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
3. Aerial photograph of the Westwoods parcel and surrounding area taken in 2003 (Exhibit 6 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
4. Graphically enhanced version of the 1997 Suffolk County Real Property Tax Map detailing the Town of Southampton.
5. 1957 Town of Southampton Zoning Map (Exhibit 2 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).



6. 1972 Town of Southampton Zoning Map (Exhibit 1 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
7. 1986 Town of Southampton Zoning Map (Exhibit 3 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
8. Transcript of Public Hearing held by the Town Board of the Town of Southampton on October 22, 1985 (Exhibit 7 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003; Town Deposition Exhibit 19).
9. Town of Southampton Master Plan Update Report # 3 Map Supplement (Exhibit 8 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
10. Town of Southampton Master Plan Update Report # 3, Business and Hamlet Light Industrial Zoning Provisions and Other Refinements, A Report to the Town Board, May 1985 (Exhibit 9 to Appendix of Exhibits in Support of Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).
11. 1986 Local Law Amending Chapter 69 (Zoning) of the Town Code of the Town of Southampton in relation to implementing Phase 3 of the Master Plan Update and making certain additional clarifying amendments. (Exhibit 10 to Appendix of Exhibits in Support of

Plaintiffs' Motion for Preliminary Injunction, Entered August 8, 2003).

12. The Shinnecock and "Westwoods" in Southampton, New York: An Ethnohistorical Analysis, by James P. Lynch, dated February 16, 2005 (the "Lynch Report"), together with two accompanying volumes of exhibits, numbered 1 - 177.
13. Supplement to The Shinnecock and "Westwoods" in Southampton, New York: An Ethnohistorical Analysis, by James P. Lynch, dated June 29, 2005 (the "Lynch Supplemental Report"), together with annexed exhibits, numbered 1 - 19.
14. James P. Lynch's Curriculum Vitae (p. 40-45 of the Lynch Supplemental Report).
15. Letters Patent to John Cabot, March 5, 1496, as transcribed in Documents of American History, 5 (Henry Steele Commager ed., 1944) (Exhibit 1 to the Lynch Report).
16. The First Letters Patent Granted to John Cabot and His Sons, 5 March 1496, as transcribed in The Cabot Voyages and Bristol Discovery under Henry VII, 204-05 (James A. Williamson, 1962) (Exhibit 2 to the Lynch Report).
17. Charter To Sir Walter Raleigh, March 25, 1584, as transcribed in Documents of American History, 6-7 (Henry Steele Commager ed., 1944) (Exhibit 3 to the Lynch Report).

18. Francis Jennings, *The Invasion of America*, 333 (Exhibit 4 to the Lynch Report).
19. James A. Williamson, *The Cabot Voyages and Bristol Discovery under Henry VII*, 52-53 (Exhibit 5 to the Lynch Report).
20. Bernard Lewis, *The Crisis of Islam*, 54-55 (Exhibit 6 to the Lynch Report).
21. Nichols P. Canny., *The Ideology of English Colonization*, 56-57, published in *Colonial America, Essays in Politics and Social Development*, Third Edition (Stanley N. Katz, John M. Murrin, eds.) (Exhibit 7 to the Lynch Report).
22. *The Book of the General Laws for the People within the Jurisdiction of Connecticut 1673*, Appendix, 567 (Exhibit 8 to the Lynch Report).
23. Albert K. Weinberg, *Manifest Destiny, A Study of Nationalist Expansionism in American History*, 74-75 (Exhibit 9 to the Lynch Report).
24. Alden T. Vaughan, *New England Frontier, Puritans and Indians, 1620-1675*, 118-119 (Exhibit 10 to the Lynch Report).
25. *Johnson and Graham's Lessee v Mc'Intosh*, 21 U.S. 543 (1823) (Exhibit 11 to the Lynch Report).
26. Francis Paul Prucha, *The Great Father*, Vol. 1:14-17 (Exhibit 12 to the Lynch Report).
27. *Debates and Proceedings in the Congress of the United States*, 4th Congress, 1st Session, 893-906 (Exhibit 13 to the Lynch Report).

28. Charles M. Andrews, The Colonial Period in American History, Vol. II, 78-79, 106-107 (Exhibit 14 to the Lynch Report).
29. Documents Relating to the Colonial History of the State of New York, Vol. XIV, 29-31 (Exhibit 15 to the Lynch Report).
30. Geo. Rogers Howell, The Early History of Southampton L.I., New York, With Genealogies, 14-17 (Exhibit 16 to the Lynch Report).
31. George Truslow Adams, History of the Town of Southampton (East of Canoe Place), 44-47 (Exhibit 17 to the Lynch Report).
32. 1640 Lord Stirling's Confirmation of the Sale of Southampton, Aug. 20, 1640, as transcribed in the Minutes of the Board of Trustees of the Freeholders and Commonality of the Town of Southampton, Book 1, 50-51 (Exhibit 18 to the Lynch Report).
33. 1640 Deed of James Farrett, Apr. 17, 1640, as transcribed in the Minutes of the Board of Trustees of the Freeholders and Commonality of the Town of Southampton, Book 1, 45-51 (Exhibit 19 to the Lynch Report).
34. The First Book of Records of the Town of Southampton, 30-31 (Exhibit 20 to the Lynch Report).
35. Copie of Y Combynation of Southampton With Harford, as transcribed in The Public Records of the Colony of Connecticut, Vol. 1, 566-67 (Exhibit 21 to the Lynch Report).

36. Records of the Colony of New Plymouth, Vol. 1, 20-21 (Acts of the Commissioners of the United Colonies) (Exhibit 22 to the Lynch Report).
37. Letter to Easthampton, as transcribed in The Public Records of the Colony of Connecticut, Vol. 1, 572-73 (Exhibit 23 to the Lynch Report).
38. The Charter granted by His Majesty King Charles the Second, as transcribed in The Public Records of the Colony of Connecticut, Vol. 2 (Exhibit 24 to the Lynch Report).
39. The Public Records of the Colony of Connecticut, Vol. 1, 426-27 (Exhibit 25 to the Lynch Report).
40. Benjamin Trumbull, A Complete History of Connecticut, Vol. 1, 98-99 (Exhibit 26 to the Lynch Report).
41. The Public Records of the Colony of Connecticut, Vol. 1, 214 (Exhibit 27 to the Lynch Report).
42. Acts and Laws of His Majesty's English Colony of Connecticut in New-England in America (1661), 416-17 (Exhibit 28 to the Lynch Report).
43. The Public Records of the Colony of Connecticut, Vol. 1, 552 (Exhibit 29 to the Lynch Report).
44. Acts and Laws of His Majesty's English Colony of Connecticut in New-England in America (1702), 64 (Exhibit 30 to the Lynch Report).

45. John A. Strong, The Algonquian Peoples of Long Island, From Earliest Times to 1700, 198 (Exhibit 31 to the Lynch Report).
46. The First Book of Records of the Town of Southampton, 157-58 (Exhibit 32 to the Lynch Report).
47. The Public Records of the Colony of Connecticut, Vol. 1, 294-95 (Exhibit 33 to the Lynch Report).
48. Documents Relating to the Colonial History of the State of New York, Vol. XIV, 647 (Exhibit 34 to the Lynch Report).
49. John A. Strong, The Algonquian Peoples of Long Island, From Earliest Times to 1700, 227 (Exhibit 35 to the Lynch Report).
50. Wyandanch's Deed to John Ogden, as transcribed in The First Book of Records of the Town of Southampton, 162 (Exhibit 36 to the Lynch Report).
51. Readings in Long Island Archeology and Ethnohistory, Volume III, the History and Archaeology of the Montauk Indians, 65 (Exhibit 37 to the Lynch Report).
52. John A. Strong, The Algonquian Peoples, of Long Island, From Earliest Times to 1700, 231 (Exhibit 38 to the Lynch Report).
53. The First Book of Records of the Town of Southampton, 175-77 (Exhibit 40 to the Lynch Report).
54. Records of the Colony of New Plymouth, Vol. II, 180-81 (Acts of the Commissioners of the United Colonies) (Exhibit 41 to the Lynch Report).

55. The Public Records of the Colony of Connecticut, Vol. 1, 532-33  
(Exhibit 42 to the Lynch Report).
56. The First Book of Records of the Town of Southampton, 171  
(Exhibit 43 to the Lynch Report).
57. Original document dated June 7, 1665, located in Misc. Documents  
of Southampton 1649-1697 #4 (Exhibit 43 to the Lynch Report).
58. The First Book of Records of the Town of Southampton, 165-68  
(Exhibit 44 to the Lynch Report).
59. George Truslow Adams, History of the Town of Southampton (East  
of Canoe Place), 70-71 (Exhibit 45 to the Lynch Report).
60. Town of Southampton Indian Papers 1640-1670, document # 4,  
dated February 22, 1666 (Exhibit 46 to the Lynch Report).
61. Indian Deed to the Town For Topping's Purchase, as transcribed in  
The First Book of Records of the Town of Southampton, 169  
(Exhibit 47 to the Lynch Report).
62. Documents Relating to the Colonial History of the State of New  
York, Vol. XIV, 561 (Exhibit 48 to the Lynch Report).
63. Geo. Rogers Howell, The Early History of Southampton LI., New  
York, With Genealogies, 62-65 (Exhibit 48 to the Lynch Report).
64. The Duke of York's Book of Laws, Indians, March 1, 1664, 31-33  
(Exhibit 49 to the Lynch Report).
65. Charles McLean Andrews, Colonial Self-Government 1652-1689,  
82-84 (Exhibit 50 to the Lynch Report).

66. 1666, a document (the "Nicolls Determination") transcribed in the Minutes of the Board of Trustees of the Freeholders and Commonality of the Town of Southampton, Book 1, 54-55 (Exhibit 51 to the Lynch Report).
67. Copy of the original Nicolls Determination, dated in Fort James in New York the third of October, 1666, located in the Town of Southampton Historical Documents 1637-1869, 74A (Exhibit 51 to the Lynch Report).
68. Copy of a true copy of the original Nicolls Determination, compared March 5, 1666, located in the Town of Southampton Historical Documents 1637-1869, 74B (Exhibit 51 to the Lynch Report).
69. 1686, Gov. Dongan Patent, as transcribed in the Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 387 (Exhibit 52 to the Lynch Report).
70. Documentary History of the State of New York, Vol. 1, 665-69 (Exhibit 53 to the Lynch Report).
71. The Second Book of Records of the Town of Southampton, 358-359 (Exhibit 54 to the Lynch Report).
72. The Second Book of Records of the Town of Southampton, 176-179 (Exhibit 55 to the Lynch Report).
73. 1703, Indian Lease for Shinnecock and Shinnecock Hills, as transcribed in the Minutes of the Board of Trustees of the



- Freeholders and Commonality of the Town of Southampton, Book 1, 57-59 (Exhibit 56 to the Lynch Report).
74. 1703, Confirmation of the Indian Deed, as transcribed in The First Book of Records of the Town of Southampton, 15-16 (Exhibit 57 to the Lynch Report).
75. Copy of original 1703, Confirmation of the Indian Deed (Exhibit 57 to the Lynch Report).
76. Gaynell Stone, ed., The History and Archaeology of the Montauk, 213 (Exhibit 58 to the Lynch Report).
77. Documentary History of the State of New York, Vol. 1, 765 (Exhibit 59 to the Lynch Report).
78. The Third Book of Records of the Town of Southampton, 77-80 (Exhibit 60 to the Lynch Report).
79. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 150-51 (Exhibit 61 to the Lynch Report).
80. The Third Book of Records of the Town of Southampton, 145-48 (Exhibit 62 to the Lynch Report).
81. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 174-75 (Exhibit 63 to the Lynch Report).
82. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 155 (Exhibit 64 to the Lynch Report).
83. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 196-97 (Exhibit 65 to the Lynch Report).

84. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 290-91 (Exhibit 66 to the Lynch Report).
85. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 334-35 (Exhibit 67 to the Lynch Report).
86. William Cronon, Changes in the Land, Indians, Colonists, and the Ecology of New England, 120-21 (Exhibit 68 to the Lynch Report).
87. William Cronon, Changes in the Land, Indians, Colonists, and the Ecology of New England, 29-30 (Exhibit 69 to the Lynch Report).
88. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 6 (Exhibit 70 to the Lynch Report).
89. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 34-35 (Exhibit 71 to the Lynch Report).
90. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 44-45 (Exhibit 72 to the Lynch Report).
91. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 54-55 (Exhibit 73 to the Lynch Report).
92. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 26-27 (Exhibit 74 to the Lynch Report).
93. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 56-59 (Exhibit 75 to the Lynch Report).
94. Copy of original document, dated June 12, 1764, found in Southampton Indian Papers 1680-1806 (Exhibit 76 to the Lynch Report).

95. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 385-85 (Exhibit 77 to the Lynch Report).
96. Natalie N. Naylor, ed., Journeys on Old Long Island 1744-1899, 94 (Exhibit 78 to the Lynch Report).
97. The Third Book of Records of the Town of Southampton, 123-28 (Exhibit 79 to the Lynch Report).
98. Suffolk County Historical Society, Reuben H. Farnham Papers, Box 1, Series A, Folder 17 (Exhibit 80 to the Lynch Report).
99. Collection of the New-York Historical Society for the Year 1895, Abstracts of Wills, Vol. 4, 28 (Exhibit 81 to the Lynch Report).
100. Collection of the New-York Historical Society for the Year 1895, Abstracts of Wills, Vol. 4, 36-37 (Exhibit 82 to the Lynch Report).
101. An Act for the Partition of certain Lots of Land in the Town of Southampton, County of Suffolk, April 7, 1804 (Exhibit 83 to the Lynch Report).
102. Deed of Moses & Phebe Culver to Elias White, Suffolk County Records, Unacknowledged Deeds, Liber 2: 534-535, February 27, 1804 (Exhibit 84 to the Lynch Report).
103. The Third Book of Records of the Town of Southampton, 283 (Exhibit 85 to the Lynch Report).
104. Collection of the New-York Historical Society for the Year 1894, Abstracts of Wills, Vol. 3, 306-07 (Exhibit 86 to the Lynch Report).

105. Last Will and Testament of Silas Howell, Suffolk County Surrogate Court, Will Liber A: 25-27, June 2, 1787 (Exhibit 87 to the Lynch Report).
106. Report of the Special Committee to Investigate the Indian Problem of the State of New York, Appointed by the Assembly of 1888, 852 (Exhibit 88 to the Lynch Report).
107. The Third Book of Records of the Town of Southampton, 129-32 (Exhibit 89 to the Lynch Report).
108. The Eighth Volume of Records of the Town of Southampton, 1893-1927, Part 2, 236-237 (Exhibit 90 to the Lynch Report).
109. Collection of the New-York Historical Society for the Year 1895, Abstracts of Wills, Vol. 4, 392 (Exhibit 91 to the Lynch Report).
110. Andre Map of 1780, William Clements Library, University of Michigan, Ann Arbor (Exhibit 92 to the Lynch Report).
111. Southampton Historical Society, W. K. Dunwell Papers, Folder #7 (Exhibit 93 to the Lynch Report).
112. Collection of the New-York Historical Society for the Year 1895, Abstracts of Wills, Vol. 4, 393 (Exhibit 94 to the Lynch Report).
113. Collection of the New-York Historical Society for the Year 1897, Abstracts of Wills, Vol. 6, 60 (Exhibit 95 to the Lynch Report).
114. Israel Conklin Mortgage, Suffolk County Records, Mortgage Liber D Assistant Clerk, 17-18, April 3, 1801 (Exhibit 96 to the Lynch Report).

115. Indenture between Israel Conklin and Cephas Foster, Suffolk County Records, Mortgage Liber J Assistant Clerk, 9-10, January 20, 1824 (Exhibit 97 to the Lynch Report).
116. Israel and Sarah Conklin Mortgage, Suffolk County Records, Mortgage Liber H Assistant Clerk, 358-359, October 24, 1824 (Exhibit 99 to the Lynch Report).
117. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 147 (Exhibit 101 to the Lynch Report).
118. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 148 (Exhibit 102 to the Lynch Report).
119. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 150-51 (Exhibit 103 to the Lynch Report).
120. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 158-59 (Exhibit 104 to the Lynch Report).
121. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 540-41 (Exhibit 105 to the Lynch Report).
122. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 488-89 (Exhibit 106 to the Lynch Report).
123. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 514-15 (Exhibit 107 to the Lynch Report).
124. State of New York, Index to Senate Journals 1777-1799, 15 (Exhibit 108 to the Lynch Report).

125. 15th Session Chapter 15, Laws of the State of New York, Vol. 3, 280-81 (Exhibit 109 to the Lynch Report).
126. Southampton Indian Records 1793-1833, April 5, 1796 (Exhibit 110 to the Lynch Report).
127. Southampton Indian Records 1793-1833, April 14, 1794 (Exhibit 111 to the Lynch Report).
128. Southampton Indian Records 1793-1833, November 12, 1793 (Exhibit 112 to the Lynch Report).
129. Southampton Indian Records 1793-1833, April 28, 1794 (Exhibit 114 to the Lynch Report).
130. Southampton Indian Records 1793-1833, April 19, 1798 (Exhibit 115 to the Lynch Report).
131. Southampton Indian Records 1793-1833, April 22, 1807 (Exhibit 116 to the Lynch Report).
132. Suffolk County Records, Suffolk County Court Actions, File 598: 117 1859 (Exhibit 117 to the Lynch Report).
133. Report of the Special Committee to Investigate the Indian Problem of the State of New York, Appointed by the Assembly of 1888, 830-31 (Exhibit 118 to the Lynch Report).
134. Town of Southampton, Records of the Indian Trustees, Misc. Indian Files, dated April 7, 1808 (Exhibit 119 to the Lynch Report).
135. David J. Bernstein, et al., A Stage 1 Archaeological Survey for the Shinnecock Reservation-West Hills Hampton Bays, Town of

Southampton, Suffolk County, New York, Feb. 2003, 16, 17, 21  
(Exhibit 121 to the Lynch Report).

136. New York State Archives, Assembly Papers A1823-78, Vol. 41,  
January 20, 1822 (Exhibit 122 to the Lynch Report).
137. Indenture between Israel and Sarah Conklin and Jason Sandford,  
Suffolk County Records, Assistant Clerk Mortgages, Liber K, 253-  
256, dated March 30, 1831 (Exhibit 123 to the Lynch Report).
138. Indenture between Israel and Sarah Conklin and Daniel Brewer,  
Suffolk County Records, Assistant Clerk Mortgages, Liber U, 190,  
March 26, 1834 (Exhibit 124 to the Lynch Report).
139. Gaynell Stone, ed., The Shinnecock Indians: A Culture History, 314  
(Exhibit 125 to the Lynch Report).
140. Deed from Israel Conklin to Cornelia W. Conklin, Suffolk County  
Records, Liber 46, 316-317, dated April 17, 1847 (Exhibit 126 to the  
Lynch Report).
141. Indenture between Cephas Foster and Israel and Sarah Conklin,  
Suffolk County Records, Assistant Clerk Mortgage, Liber J, 54-55,  
September 8, 1824 (Exhibit 127 to the Lynch Report).
142. Indenture between Trustees of the Shinnecock Tribe of Indians and  
Elisha King, Suffolk County Records, Liber 191, 403, dated January  
21, 1873 (Exhibit 128 to the Lynch Report).

143. Frederick Webb Hodge, Handbook of American Indians North of Mexico, Part 1, 812-13, Part 2, 550-51 (Exhibit 129 to the Lynch Report).
144. J.H. French, Gazetteer of the State of New York, 638-39 (Exhibit 130 to the Lynch Report).
145. Report of the Special Committee to Investigate the Indian Problem of the State of New York, Appointed by the Assembly of 1888, 850-51 (Exhibit 131 to the Lynch Report).
146. Mortgage of Israel and Hannah Conklin, Suffolk County Records, Assistant Clerk Mortgages, Liber D, 17-18, dated April 3, 1801 (Exhibit 132 to the Lynch Report).
147. Gaynell Stone, ed., The Shinnecock Indians: A Culture History, 164 (Exhibit 133 to the Lynch Report).
148. Shinnecock Trustees v. Cassady, Suffolk County Justice Records, Documents 32-32d, dated 1889 (Exhibit 134 to the Lynch Report).
149. The Third Book of Records of the Town of Southampton, 123-32 (Exhibit 135 to the Lynch Report).
150. Indenture between Israel Conklin and Edward Hedges, Suffolk County Records, Liber 42, 153, dated May 24, 1845 (Exhibit 136 to the Lynch Report).
151. Indenture between Daniel and Lisa Brewer and Barney Hubbard, Suffolk County Records, Liber 95, 536, dated 1857 (Exhibit 137 to the Lynch Report).



152. Indenture between Virginia Hardy and Charles Hardy Suffolk County Records, Liber 554, 19, dated May 26, 1904 (Exhibit 138 to the Lynch Report).
153. Map of Property Belonging to Chas. J. Hardy, Situated in Suffolk County, N.Y., surveyed by L.G. Squires, Survey No. 424, dated November 5, 1902 and Jan. 1904 (Exhibit 139 to the Lynch Report).
154. Indenture between Clinton G. Warner to Ernest A. Buchmuller, Suffolk County Records, Liber 845, 380-81, dated May 8, 1913 (Exhibit 140 to the Lynch Report).
155. Indenture between Emma Phillips to Edward Hardy, Suffolk County Records, Liber 699, 48, dated August 31, 1909 (Exhibit 141 to the Lynch Report).
156. Indenture between Malbry Foster and Richard Wells, Suffolk County Records, Liber 305, 306, July 2, 1858 (Exhibit 142 to the Lynch Report).
157. The Eighth Volume of Records of the Town of Southampton, 1893-1927, Part 2, 360 (Exhibit 143 to the Lynch Report).
158. Indian Records Book No. 1, April 3, 1792 – May 3, 1793, page 4, as transcribed in The Shinnecock Indians: A Culture History, 142-43 (Exhibit 144 to the Lynch Report).

159. Shinnecock Tribe of Indians v. Hubbard, Supreme Court, Suffolk County, Findings of Fact by Robert Pelletreau (Exhibit 145 to the Lynch Report; SN 07318 – 07320).
160. Section of the Map of Suffolk Co. depicting Canoe Place, published by J. Chace Co., New York, 1858 (Exhibit 146 to the Lynch Report).
161. Section of the 1873 F.W. Beers Atlas of Long Island, New York Map depicting Speonk, Town of Southampton, Suffolk County (Exhibit 147 to the Lynch Report).
162. Bernard Lewis, History Remembered, Recovered, Invented, 54-55, 58-59 (Exhibit 148 to the Lynch Report).
163. Southampton Town Records 1659-1754, Liber A, 219 (Exhibit 149 to the Lynch Report).
164. Southampton Town Records 1659-1754, Liber A, 159, 217 (Exhibit 150 to the Lynch Report).
165. Southampton Town Records 1659-1754, Liber A, 155 (Exhibit 151 to the Lynch Report).
166. The Third Book of Records of the Town of Southampton, 9-12 (Exhibit 152 to the Lynch Report).
167. The Fourth Book of Records of the Town of Southampton, 14-15, 102 (Exhibit 153 to the Lynch Report).
168. The Fourth Book of Records of the Town of Southampton, 124-25 (Exhibit 154 to the Lynch Report).

169. The Fourth Book of Records of the Town of Southampton, 294-97 (Exhibit 155 to the Lynch Report).
170. The Fourth Book of Records of the Town of Southampton, 326-27 (Exhibit 156 to the Lynch Report).
171. The Sixth Volume of Records of the Town of Southampton, 252 (Exhibit 157 to the Lynch Report).
172. Documentary History of the State of New York, Vol. 1, 601 (Exhibit 158 to the Lynch Report).
173. Enrollment and Statistics of Town of Southampton, Suffolk County Long Island, 1861-1865 (Exhibit 159 to the Lynch Report).
174. Pennsylvania Archives, Vol. 1, 26-29 (Exhibit 160 to the Lynch Report).
175. The Seventh Volume of Records of the Town of Southampton, 214 (Exhibit 161 to the Lynch Report).
176. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 1, 108-09 (Exhibit 162 to the Lynch Report).
177. Trustees Records of the Town of Southampton N.Y. 1741-1826, Part 2, 254-57 (Exhibit 163 to the Lynch Report).
178. Nancy Hyden Woodward, East Hampton, A Town and Its People, 1648-1994, 124 (Exhibit 164 to the Lynch Report).
179. Records of the Town of East Hampton, Vol. 1, 146-49, 156-57 (Exhibit 165 to the Lynch Report).

180. Map of New England by Sir Jonas Moore, 1681 (Exhibit 166 to the Lynch Report).
181. George Truslow Adams, History of the Town of Southampton (East of Canoe Place), 266-67 (Exhibit 167 to the Lynch Report).
182. M.R. Harrington, An Ancient Village Site of the Shinnecock Indians, 277-80 (Exhibit 169 to the Lynch Report).
183. Indian Book of Records, 1880-1908, Town of Southampton, 360-61 (Exhibit 170 to the Lynch Report).
184. The Public Records of the Colony of Connecticut, Vol. 1, 402-03 (Exhibit 171 to the Lynch Report).
185. Richard S. Dunn, Puritans and Yankees, The Winthrop Dynasty of New England, 1630-1717, 154-57 (Exhibit 172 to the Lynch Report).
186. Map Showing Land of Shinnecock Tribe Canoe Place, surveyed by C. M. Raynor, filed May 16, 1963 (Exhibit 173 to the Lynch Report; Town Deposition Exhibits 1 & 24).
187. Collection of the New-York Historical Society for the Year 1895, Abstracts of Wills, Vol. 4, 218-19 (Exhibit 174 to the Lynch Report).
188. 1676, Gov. Andross' Patent, as transcribed in Adams' History of the Town of Southampton (East of Canoe Place), 279-80 (Exhibit 176 to the Lynch Report).
189. Records of the Town of East Hampton, Vol. 1, 260-61 (Exhibit 177 to the Lynch Report).

190. Documents Relating to the Colonial History of the State of New York, Vol. XIV, 564-65 (Exhibit 1 to the Lynch Supplemental Report).
191. New York State Archives, Albany, Deed Book 2, 154 (Exhibit 2 to the Lynch Supplemental Report).
192. New York State Archives, Albany, Deed Book 2, 124-25 (Exhibit 3 to the Lynch Supplemental Report).
193. New York State Archives, Albany, Deed Book 2, 49-50 (Exhibit 4 to the Lynch Supplemental Report).
194. New York State Archives, Albany, Deed Book 2, 115-17 (Exhibit 5 to the Lynch Supplemental Report).
195. New York State Archives, Albany, Deed Book 2, 126 (Exhibit 6 to the Lynch Supplemental Report).
196. New York State Archives, Albany, Deed Book 2, 125 (Exhibit 7 to the Lynch Supplemental Report).
197. New York State Archives, Albany, Deed Book 2, 257 (Exhibit 9 to the Lynch Supplemental Report).
198. New York State Archives, Albany, Deed Book 2, 200-01 (Exhibit 8 to the Lynch Supplemental Report).
199. New York State Archives, Albany, Department of Transportation Map # 348 (a) (b) (Exhibit 10 to the Lynch Supplemental Report).
200. M.R. Harrington, An Ancient Village Site of the Shinnecock Indians, 233, 246, Fig. 1 (Exhibit 11 to the Lynch Supplemental Report).

201. David J. Bernstein, et al., A Stage 1 Archaeological Survey for the Shinnecock Reservation-West Hills Hampton Bays, Town of Southampton, Suffolk County, New York, Feb. 2003, 19, 21 (Exhibit 12 to the Lynch Supplemental Report).
202. Alfred G. Camisa and Alexander Padilla, Phase I Archaeological Investigation for the proposed Holzman subdivision Hampton Bays, Town of Southampton Suffolk County, New York, Tracker Archaeology Services, Inc., Abstract, 14, Fig. 8 (Exhibit 12 to the Lynch Supplemental Report).
203. New York State Archives, Albany, Deed Book 2, 112 (Exhibit 13 to the Lynch Supplemental Report).
204. Gaynell Stone, ed., The History and Archaeology of the Montauk, 197-98, 202 (Exhibit 14 to the Lynch Supplemental Report).
205. Annual Report of the Board of Directors to the New York Missionary Society, 8-9, 17 (Exhibit 19 to the Lynch Supplemental Report).
206. The Eighth Volume of Records of the Town of Southampton, 1893-1927, 386-87 (Exhibit 15 to the Lynch Supplemental Report).
207. Survey Map, November 5, 1920, found in Harplan-Gregg File #19, Squires, Holden, Weisenbacher and Smith: Land Surveyors, Southampton, New York (Exhibit 16 to the Lynch Supplemental Report).
208. Letter to Mr. Harri W. Howell Esq., dated October 12, 1921, found in Harplan- Gregg File #19 D 8051, Squires, Holden, Weisenbacher

- and Smith: Land Surveyors, Southampton, New York (Exhibit 17 to the Lynch Supplemental Report).
209. Indian Records Book No. 2 1793-1833, page 2, as transcribed in The Shinnecock Indians: A Culture History, 145 (Exhibit 18 to the Lynch Supplemental Report).
210. The Location of the “Westwoods” Parcel Relative to 1738 Canoe Place Division, by Martin A. Read, L.S., Barrett, Bonacci & Van Weele, P.C., dated June 28, 2006 (the “Read Report”), together with annexed exhibits, numbered 1 - 14.
211. Martin A. Read’s Curriculum Vitae (attached to the Read Report).
212. Key Map depicting Westwoods and surrounding properties (the “Key Map”) (Exhibit 1 to the Read Report).
213. The Key Map with Suffolk County Tax Map Overlay (Exhibit 2 to the Read Report).
214. Map Showing Land of Shinnecock Tribe Canoe Place, surveyed by C. M. Raynor, filed May 16, 1963 (“Map of Shinnecock Tribe”) (Exhibit 3 to the Read Report).
215. The Third Book of Records of the Town of Southampton, 123-28 (Exhibit 4 to the Read Report).
216. 1894 Beers Atlas Map, Plan of Southampton (Exhibit 5 to the Read Report).
217. Section of 1894 Beers Atlas Map, Plan of Southampton with Canoe Place Division Overlay (Exhibit 6 to the Read Report).

- 218. Deed History for Part of Lot 2, Canoe Place Division (Exhibit 7 to the Read Report).
- 219. Map of Shinnecock Tribe Enlargement showing property of Milton E. Reiner (Exhibit 8 to the Read Report).
- 220. Map of Property Belonging to Chas. J. Hardy, Situated in Suffolk County, N.Y., surveyed by L.G. Squires, Survey No. 424, dated November 5, 1902 and Jan. 1904 (Exhibit 9 to the Read Report).
- 221. Map of Property Belonging to Charles J. Hardy with parcel numbers in the deed history of the property (Exhibit 10 to the Read Report).
- 222. Deed history for the property belonging to Charles J. Hardy (Exhibit 11 to the Read Report).
- 223. Map detail of Parcel 1D in the deed history for the property belonging to Charles J. Hardy (Exhibit 12 to the Read Report).
- 224. Indenture between Elias W. Howell and Benjamin F. Warner, Suffolk County Records, Liber 130, 62-63, recorded March 1, 1865 (Exhibit 13 to the Read Report).
- 225. Key Map with Projected Canoe Place Division Lots/Conclusion (Exhibit 14 to the Read Report).
- 226. Map Showing the Subdivision of the Town of Southampton Among the Proprietors, created by or under the supervision of William S. Pelletreau, and entered of record in or about 1885 during testimony by him at the trial of Trustees of the Freeholders of the Town of Southampton v. Mecox Bay Oyster Co. (T0001508; SNO3836 -



SNO3837; Campisi Deposition Exhibit 11; Exhibit H to the Supplemental Affidavit of S. Christopher Provenzano, dated May 16, 2005).

227. Peters R. and Florence A. Christoph, New York Historical Manuscripts, English, Records of the Court of Assizes for the Colony of New York, 1665-1682, 59-63 (Exhibit U to Rebuttal Report to Alexander von Gernet's Report entitled "On the Authority of New York Colonial Governors to Decide on Matters Relating to Shinnecock Lands and the Town of Southampton" (Hermes Rebuttal Report to von Gernet)).
228. Documents Relative to the Colonial History of the State of New-York, Vol. III, 86 (Exhibit Q to Hermes Rebuttal Report to von Gernet, Hermes Deposition Exhibit 8).
229. "Litigation Request and Statement in Compliance with 25 CFR § 54.6 by the Shinnecock Tribe," which includes a cover letter signed by Lawrence A. Aschenbrenner of the Native American Rights Fund, dated February 8, 1978, a "Memorandum in Support of Litigation Request" ("1978 Memo"), and various "Appendices" and documentary exhibits (Exhibit "I" to the Declaration of Michael S. Cohen in Support of Plaintiff Town of Southampton's Motion for Partial Summary Judgment; Bates Nos. N.Y.-14 through N.Y.-128; Town Deposition Exhibit 18).

- 230. Map for Proposed Water Main, Newtown Road, Hampton Bays, New York (T010519).
- 231. Map of Newtown Road, dated 1920, Town Archives, Book 5, pages 44, 45, 46, and 47 (T010520).
- 232. The Eighth Volume of Records of the Town of Southampton, 1893-1927, 349-50, 365, 372-75, 384-87 (T008694 – 008701).
- 233. Transcript from Joint Legislative Committee on Indian Affairs Public Hearing Had in Assembly Hall Shinnecock Reservation (Oct. 14, 1943), 1-2, 39-42 (testimony of Fred Smith) (SN 11482 – 11484, SN 11521 – 11524).
- 234. Certified copy of Judgment entered in King v. The Shinnecock Tribe of Indians, Index No. 15415 (Sup. Ct. Suffolk Co. 1961).
- 235. February 22, 1666 Confirmation by Weads, Annobacco, and others of the April 10, 1662 Deed to Capt. Thomas Topping, as transcribed in The Shinnecock Indians: A Culture History, 80 (Exhibit 7 to Plaintiff Town of Southampton's First Revised and Restated Requests for Admissions Directed to All Defendants).
- 236. Documents Relating to the History of the Early Colonial Settlements, Principally on Long Island, 29-31 (Hermes Deposition Exhibit 2).
- 237. The Public Records of the Colony of Connecticut, Vol. 1, 149-54, 213-16, 314-17, 398406 (Hermes Deposition Exhibit 6).

- 238. The Public Records of the Colony of Connecticut, Vol. 3, 47-57, 422-23 (Hermes Deposition Exhibit 7).
- 239. Timothy Dwight, Travels in New England and New York, Vol. 3, 214-24 (Hermes Deposition Exhibit 13; SN 05449 – 05461).
- 240. Map of Property Belonging to Charles J. Hardy, #424 placed on tax map (Mason Hass Deposition Exhibit 4).
- 241. William Pelletreau, History of Suffolk County, New York, Town of Southampton (Campisi Deposition Exhibit 6; SNE 02119 – 02171).
- 242. October 1665 document signed by Richard Nicolls regarding the Apaucock Creek (Campisi Deposition Exhibit 7; SNE 02262 – 02263).
- 243. The First Book of Records of the Town of Southampton, Introduction (Campisi Deposition Exhibit 9; SNE 02276 – 02287).
- 244. Documentary History of the State of New York, Vol. 1, 601, 600 (Campisi Deposition Exhibit 10; SNE 02257 – 02260).
- 245. Russell Vail Carman, Quoge, 1659-1984, The 325th Anniversary of the Purchase of its Lands from the Shinnecock Indians (Campisi Deposition Exhibit 12; SNE 01890, 0189601897).
- 246. Nathaniel S. Prime, History of Long Island, 90-122, Appendix (Campisi Deposition Exhibit 13; SNE 02101 – 02118).
- 247. Gaynell Stone, ed., The Shinnecock Indians: A Culture History, 265-90 (Campisi Deposition Exhibit 14; SNE 02397 – 02425).

- 248. Nathaniel S. Prime, History of Long Island, 125-30, 216-17  
(Campisi Deposition Exhibit 15; SNE 01930 – 01936).
- 249. Map of the County of Suffolk, David H. Burr (Campisi Deposition  
Exhibit 16).
- 250. Map of Massachusetts, Connecticut, and Rhode Island, R.F.  
Sumner & Co., 1833 (Campisi Deposition Exhibit 18).
- 251. Shinnecock Indian Nation, Response to the Technical Assistance  
Letter of December 22, 1998 (without Exhibits) (Campisi Deposition  
Exhibit 19).
- 252. Shinnecock Tribal Meeting Minutes, dated February 24, 1975  
(Town Deposition Exhibit 3, Bates Nos. SN 01410 – 01411).
- 253. Shinnecock Tribal Meeting Minutes, dated February 11, 1981  
(Town Deposition Exhibit 4, Bates Nos. SN 01440 – 01441).
- 254. Letter from George C. Stankevich to Mr. Kiernan Mahoney, dated  
May 20, 2003, with two enclosed memorandums from John M.  
Peebles, dated February 5, 2003 and May 19, 2003 (Town  
Deposition Exhibit 6, Bates Nos. SN 09248 – 09272).
- 255. Letter from Derrick Watchman at JP Morgan Chase to Mr. Phillip D.  
Brown V, dated February 3, 2006 (Town Deposition Exhibit 7,  
Bates Nos. 14470 – 14471).
- 256. Letter from Phil Brown to Andy Tung, undated (Town Deposition  
Exhibit 8, Bates Nos. SN 10558 – 10559).

- 257. Shinnecock Tribal Meeting Minutes, dated April 29, 2003 (Town Deposition Exhibit 9, Bates Nos. SN 16433 – 16434).
- 258. Shinnecock Tribal Meeting Minutes, dated April 15, 2003 (Town Deposition Exhibit 11, Bates Nos. SN 09003).
- 259. Map of Shinnecock Indian Reservation Land, dated December 17, 2002, surveyed by Pat T. Seccafico (Town Deposition Exhibit 13, Bates Nos. SN 13267 – 13268).
- 260. Shinnecock Tribal Meeting Minutes, dated February 4, 2003 (Town Deposition Exhibit 15, Bates Nos. SN 08890).
- 261. Shinnecock Tribal Meeting Minutes, dated February 4, 2003 (Town Deposition Exhibit 16, Bates Nos. SN 08921).
- 262. Shinnecock Tribal Meeting Minutes, dated November 23, 2002 (Town Deposition Exhibit 21, Bates Nos. SN 08780 - 08825).
- 263. Lease between the Shinnecock Tribe of Indians and J. Carl Kriendler, dated September 1, 1942 (Town Deposition Exhibit 22).
- 264. 1984 Town of Southampton Local Law adopting the 1984 Town of Southampton Zoning map.
- 265. 1957 Town of Southampton Ordinance adopting the 1957 Town of Southampton Zoning Map.
- 266. 1972 Town of Southampton Ordinance No. 20 adopting the 1972 Town of Southampton Zoning Map.
- 267. Chapter 330 of the Code of the Town of Southampton, New York.
- 268. Chapter 325 of the Code of the Town of Southampton, New York.

- 269. Record of 1999 Public Hearing concerning adoption of the 1999 Town of Southampton Zoning Map.
- 270. Southampton Town Board Meeting Minutes of May 11, 1999 regarding Public Hearing #6 – Local Law Amending Chapter 330-5 of the Town Code.
- 271. Mason Haas deposition exhibit 9 (SNE 07621 through SNE 07627) (email from C. Lunding to M. Haas, dated August 11, 2006, with attachments mentioning Newtown Road)
- 272. Map of the Town of Southampton, prepared by Town Geographic Information Systems Department, showing the Town of Southampton and relative locations of Westwoods and Shinnecock Reservation at Shinnecock Neck.
- 273. Deposition Testimony of Frederick Bess, dated May 26, 2006.
- 274. Deposition Testimony of Phillip Brown, dated June 6, 2006.
- 275. Deposition Testimony of Lancelot Gumbs, dated June 9, 2006.
- 276. Deposition Testimony of James Eleazer, dated June 21, 2006.
- 277. Cross-Designations of Deposition Testimony for Barbara Moeller.
- 278. Cross-Designations of Deposition Testimony for Henry Moeller.
- 279. Cross-Designations of Deposition Testimony for Michael J. Benincasa.
- 280. Cross-Designations of Deposition Testimony for Patrick Heaney.
- 281. Defendants' Answers & Objection to Plaintiff Town of Southampton's Revised and Restated First Set of Requests for

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- 282. Defs. Ans to First Town RFA’s at 2.
- 283. Defs. Ans to First Town RFA’s at 3.
- 284. Defs. Ans to First Town RFA’s at 4.
- 285. Defs. Ans to First Town RFA’s at 5.
- 286. Defs. Ans to First Town RFA’s at 6.
- 287. Defs. Ans to First Town RFA’s at 7.
- 288. Defs. Ans to First Town RFA’s at 8.
- 289. Defs. Ans to First Town RFA’s at 9.
- 290. Defs. Ans to First Town RFA’s at 25.
- 291. Defs. Ans to First Town RFA’s at 26.
- 292. Defs. Ans to First Town RFA’s at 31.
- 293. Defs. Ans to First Town RFA’s at 39.
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- 295. Defs. Ans to First Town RFA’s at 59.
- 296. Defs. Ans to First Town RFA’s at 68.
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- 298. Defs. Ans to First Town RFA’s at 71.
- 299. Defs. Ans to First Town RFA’s at 73.
- 300. Defs. Ans to First Town RFA’s at 75.
- 301. Defs. Ans to First Town RFA’s at 76.
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- 303. Defs. Ans to First Town RFA's at 87.
- 304. Defs. Ans to First Town RFA's at 88.
- 305. Defendants' Supplemental Answers and Objections to Plaintiff  
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- 306. Defs. Ans to Town Supplemental RFA's at 84.
- 307. Defs. Ans to Town Supplemental RFA's at 85.
- 308. Defendants' Response to the Town of Southampton's First Set of  
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Interrogs.") at 1.
- 309. Defs. Resps. to Town Interrogs. at 4.

State Plaintiffs' Exhibits

- 1. Eadington : State of New York v. Shinnecock Indian Tribe Casino  
Market and Financial Feasibility Analysis June 2006
- 2. Eadington: Table 1: Alternative 2 Development: 162,500 Sq. Ft.  
Casino
- 3. Eadington: Table 2: Alternative 3 Development: 300,000 Sq. Ft.  
Casino
- 4. Eadington: Table 3: CWWO Financial Projection (released Nov.  
2002)
- 5. Eadington: Table 4: Multi-Year History of Electronic Gaming Slot  
Revenue from Mohegan Sun and Foxwoods



6. Eadington: Table 5: Relationship of Population per Slot Machine to Win Per Unit Per Day, Various Markets
7. Eadington: Table 6: Revised Cash Flow Analysis Using Win, per Unit per Day of \$300 for Slot Machines
8. Eadington: Table 7: Cash Flow Difference
9. Eadington: Table 8: Pro Forma Income Statement - 162,500 Sq. Ft. Casino with Hotel and Commercial Components and Including Expenses for Depreciation, Interest, Partner Distribution and Management Contract
10. Eadington: Table 9: Pro Forma Income Statement - 300,000 Sq. Ft. Casino with Hotel and Commercial Components and Including Expenses for Depreciation, Interest, Partner Distribution and Management Contract
11. Eadington: Appendix 1
12. Eadington: Trial Testimony, Depositions and Declarations (since 1997)
13. Eadington: Curriculum Vitae State of New York v. Shinnecock Tribe
14. Eadington: New York v. Shinnecock Tribe, Rebuttal to the Gaming Visitation Analysis Prepared by the Innovation Group Submitted by Steven Rittvo

15. Eadington: Supplemental Report to State of New York v. Shinnecock Indian Tribe Casino Market and Financial Feasibility Report (August 2006)
16. Eart: Shinnecock Indian Tribe's Proposed Casino; Supplemental Report; Fiscal Impact and Salary/Housing Analyses (August 2006)
17. Eart: Curriculum Vitae
18. Eart: Testimony List
19. Eart: Scenario 1-Appendix 1; Construction Timeframe and Estimated Revenue Generated
20. Eart: Scenario 1-Appendix 2; Estimated Number of Daily Visitors, Employees and Residents Onsite at One Time
21. Eart: Scenario 1-Appendix 3; Estimated Property Tax Revenue at 2005 Property Tax Rate
22. Eart: Scenario 1-Appendix 4; Land Management Department Estimated Building Permit Revenue
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24. Eart: Scenario 1-Appendix 6; Summary of Estimated Revenue
25. Eart: Scenario 1-Appendix 7; Town of Southampton Summary of Estimated Revenue
26. Eart: Scenario 1-Appendix 8; Town of Southampton - General Fund Justice Court Cost Projections

27. Evar: Scenario 1-Appendix 9; Town of Southampton-Police Law Enforcement Cost Projections
28. Evar: Scenario 1-Appendix 10; Town of Southampton-Land Management Building and Zoning Cost Projections
29. Evar: Scenario 1-Appendix 11; Town of Southampton-General Fund Administration/Overhead Cost Projections
30. Evar: Scenario 1-Appendix 12; Town of Southampton-General Fund Estimated Operating Costs
31. Evar: Scenario 1-Appendix 13; Town of Southampton Summary of Estimated Costs.
32. Evar: Scenario 1-Appendix 14; Hampton Bays Water District Water Cost Projections.
33. Evar: Scenario 1-Appendix 15; Hampton Bays Fire District Fire Cost Projections.
34. Evar: Scenario 1-Appendix 16; Hampton Bays Ambulance District Emergency Medical Services Cost Projections.
35. Evar: Scenario 1-Appendix 17; Comparison of Estimated Revenue to Estimated Costs and Cumulative Revenue Surplus.
36. Evar: Scenario 1-Appendix 18; State of New York Estimated Corporate Franchise and Sales Tax Revenue.
37. Evar: Scenario 1-Appendix 19; State of New York-State Troopers Law Enforcement Cost Projections.
38. Evar: Scenario 2-Appendix 1; Construction Timeframe.

39. Evar: Scenario 2-Appendix 2; Estimated Number of Daily Visitors, Employees and Residents Onsite at One Time.
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42. Evar: Scenario 2-Appendix 5; Town of Southampton- Land Management Building and Zoning Cost Projections.
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44. Evar: Scenario 2-Appendix 7; Town of Southampton- General Fund Estimated Operating Costs.
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46. Evar: Scenario 2-Appendix 9; Hampton Bays Water District Water Cost Projections.
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58. Evar: Scenario 3-Appendix 9; Hampton Bays Water District Water Cost Projections.
59. Evar: Scenario 3-Appendix 10; Hampton Bays Fire District Fire Cost Projections.
60. Evar: Scenario 3-Appendix 11; Hampton Bays Ambulance District Emergency Medical Services Cost Projections.
61. Evar: Scenario 3-Appendix 12; State of New York-State Troopers Law Enforcement Cost Projections.

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81. Salatti: Appendix C - Capacity Analysis (Existing 2006)
82. Salatti: Appendix D - No Build Projections Traffic.
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- 115. Shinnecock Nation - Westwoods Development Peconic Bay LLC - site plan (State's Exhibit 17 Bates Number SN 10380)
- 116. Power Point Presentation - Peconic Bay LLC (State's Exhibit 18 Bates Numbers SN 10480 to SN 10518)
- 117. Shinnecock Economic Development Committee 1998 Annual Report (State's Exhibit 2 Bates Numbers SN 12920- 12926)
- 118. Project Proposal for a Lodge and Wellness Center (State's Exhibit 6 Bates Numbers SN 12438 - 12451)

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- 198. Appendix F to Eckler Expert Report, State Coastal management  
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- 203. Grover: Table 2, No-Build Emissions: Carbon Monoxide
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- 206. Grover: Table 5, No-Build Emissions: Particulates (PM10)
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NYS Dept. of Transportation
- 225. Grover: Ecological Communities of New York State,  
[www.dec.state.ny.us/website/dfwmr/heritage/draft\\_ecny2002.htm](http://www.dec.state.ny.us/website/dfwmr/heritage/draft_ecny2002.htm)
- 226. Grover: Ecological Assessment Rebuttal Report, August 2006
- 227. Central Pine Barrens Comprehensive Land Use Plan, Vol. 2:  
Existing Conditions, page 76 (1995)

- 228. Grover: Exhibit 1 to Rebuttal Report, Species Observed at Westwoods
- 229. Grover: Exhibit 2 to Rebuttal Report, Probably Breeding Birds at Westwoods
- 230. Grover: Supplemental Report, Environmental Assessment, Proposed Westwoods Site Development, Noise Assessment, August 2006
- 231. Grover: Table 1, Existing and Projected Noise levels With Impacts Highlighted
- 232. Grover: NYSDOT Environmental Procedures Manual, page 3.1-10
- 233. Grover: Exhibit 1 to Supplemental Report, Traffic Volumes
- 234. Grover: Figure 1 to Supplemental Report, Land use and Noise Monitoring Locations
- 235. State Plaintiffs' Complaint, dated June 27, 2003, 2-9
- 236. Defendants Answer to State Complaint, July 3, 2003, dated July 3, 2003, ¶¶ 2-9, 43, 44, 46, 48, 49, 50, 52, 54, 55, 58, 59, third affirmative defense.
- 237. Affirmation of Robert T. Williams, Assistant Counsel, New York State Racing & Wagering Board, June 27, 2003 at ¶¶ 1-11, annexed as Exh. E to the St. Pls. Cplt.
- 238. Pogue Aff. ¶¶ 1-4, sworn to May 16, 2003 and annexed as Exh. A to the State Plaintiffs' Complaint dated June 27, 2003



- 239. Town Plaintiff's Complaint, July 14, 2003, ¶¶ 1, 3, 9, 11, 12, 14, 15, 16, 17, 20, 22, 23, 24, 33, 36
- 240. Defendants' Answer to Town Complaint, July 21, 2003 ¶¶ 1, 3, 9, 11, 12, 14, 15, 16, 17, 20, 22, 23, 24, 33, 36, third affirmative defense
- 241. Defendants' Answers And Objections To Plaintiff Town of Southampton's Revised And Restated First Set Of Requests For Admissions Directed To All Defendants (5/24/04), Nos. 40, 41, 68, 70, 71, 73, 75, 76, 77, 82, 86, 88, 92, 93, 94, 95, 96, 101, 102, 103
- 242. Defs. Response To State Plaintiffs' First Set of Interrogatories (March 1, 2004), No. 17, 18
- 243. Defendants' Supplemental Answers and Objections To Plaintiff Town of Southampton's Supplemental Requests For Admissions Directed To All Defendants (10/8/04), No. 83, 84, 85
- 244. State Plaintiffs' Responses And Objections To Defendants' First Set Of Requests For Admissions (1/16/04, updated 6/27/05), No. 13, 14, 33, 36, 37
- 245. NYSDOT Project Development Manual, Appendix 8, Interstate & Other Freeway Access Control & Modifications, page 8-14 and 8-15
- 246. Rittvo Deposition Ex. 5, electronic spreadsheet files - CD

Defendants' Anticipated Exhibits

- 1. True and complete copies of the judgment, opinion and findings of fact in an action tried in the Supreme Court, Suffolk County,

between the Shinnecock tribe of Indians and William W. Hubbard, judgment entered December 27, 1922 (Affidavit of Christopher Provenzano 5/05, Exhibit C)

2. True and complete copies of the findings of fact and the judgment in an action tried in the Supreme Court, Suffolk County, between the Shinnecock tribe of Indians and James Cassady, filed July 21, 1890 (Affidavit of Christopher Provenzano 5/05, Exhibit D)
3. True copies of the frontispiece and introduction of the First Book of Records of the Town of Southampton ("First Book of Records"), written by William S. Pelletreau, Southampton Town Clerk from 1862 to 1870, under the authority of the Town, Pages I - XI (Affidavit of Christopher Provenzano 5/05, Exhibit G)
4. True and complete copy of a map created by or under the supervision of William S. Pelletreau, Southampton Town Clerk from 1862 to 1870, and entered of record in or about 1885 during testimony by him at the trial of Trustees of the Freeholders of the Town of Southampton v. Mecox Bay Oyster Co., affirmed 16 N.Y. 1 (1889) (Affidavit of Christopher Provenzano 5/05, Exhibit H)
5. True copies of pages 213-214 of the Public Records of Connecticut, containing relevant excerpts from "A Session of the Generall Courte, This 5'h of February, 1650" related to the purchase of Indian land (Affidavit of Christopher Provenzano 5/05, Exhibit K)

6. True copies of the frontispiece, introduction and pages 189-193 of a book titled A Complete History of Connecticut, Vol. I, written by Benjamin Trumbull and published in 1818, relating to the Treaty of Hartford (Affidavit of Christopher Provenzano 5/05, Exhibit L)
7. True copies of the frontispiece and pages 167-168 of the First Book of Records, written by William S. Pelletreau, Southampton Town Clerk from 1862 to 1870, under the authority of the Town, containing a deed to Topping dated April 10, 1662 (Affidavit of Christopher Provenzano 5/05, Exhibit Q)
8. True copies of the frontispiece and page 583 of a book titled Documents Relating to the Colonial History of the State of New York. Vol. XIV - Old Series, Vol. III - New Series, published in 1883, containing a warrant issued by then-Governor Richard Nicolls on or about June 10, 1666 (Affidavit of Christopher Provenzano 5/05, Exhibit T)
9. True and complete copy of "Richard Nicoll's East Hampton Patten, 1666." (Affidavit of Christopher Provenzano 5/05, Exhibit V)
10. True copies of the frontispiece and pages 600-602 of a book titled Documents Relating to the Colonial History of the State of New York, Vol. XIV - Old Series, Vol. III - New Series, published in 1883, containing the text of a decision of the court in the "Trial of the Case Between Southampton and Southold," rendered on or about

November 1, 1667 (Affidavit of Christopher Provenzano 5/05, Exhibit W)

11. True copies of the frontispiece and pages 104-105 of The Colonial Laws of New York, Vol. I, published in 1894, relating to the Second Grant to the Duke of York, 1674 (Affidavit of Christopher Provenzano 5/05, Exhibit X)
12. True copies of the frontispiece and pages 281-287 of the second printing of a book titled History of the Town of Southampton, written by James Truslow Adams and published in 1962, relating to the Dongan Patent (Affidavit of Christopher Provenzano 5/05, Exhibit BB)
13. True copies of the frontispiece and page 149 of The Colonial Laws of New York, Vol. I, published in 1894 and containing the full text of "A Bill Concerning Purchasing of Lands From the Indians," passed on or about October 23, 1684 (Affidavit of Christopher Provenzano 5/05, Exhibit CC)
14. True copies of the frontispiece and pages 226-228 of a book titled Early American Indian Documents: Treaties and Laws, 1607-1789, Vol. IX, New York and New Jersey Treaties, 1714-1753, edited by Barbara Graymont and published in 1996, containing the full text of a document titled "Governor Cosby to the Lords of Trade: Fraudulent Indian Deed," dated December 15, 1733 (Affidavit of Christopher Provenzano 5/05, Exhibit DD)

15. True and complete copy of an article titled "No Man's Land, Long Island," written by Henry S. Manley in or around October 1953 (Affidavit of Christopher Provenzano 5/05, Exhibit NN)
16. True copies of the frontispiece and pages 28-30 of the second printing of a book titled History of the Town of Southampton, written by James Truslow Adams and published in 1962, describing Shinnecock villages in Southampton (Affidavit of Christopher Provenzano 5/05, Exhibit OO)
17. True copies of relevant excerpts from an "On-The-Record Technical Assistance Meeting" conducted by the Bureau of Indian Affairs, United States Department of the Interior on or about August 8, 2000 (Affidavit of Christopher Provenzano 5/05, Exhibit TT)
18. True copies of the frontispiece and page 647 of a book titled Documents Relating to the Colonial History of the State of New York, Vol. XIV - Old Series, Vol. III - New Series, published in 1883, relating to the Shinnecock's election of a Chief or Sachem (Affidavit of Christopher Provenzano 5/05, Exhibit VV)
19. Instrument found in the New York State Archives in Albany, in the New York State Book of Deeds, Volume II (1659-1667), executed in October, 1665, by then-Governor Richard Nicolls of the Province of New York, purporting to settle a boundary dispute involving the Shinnecock tribe of Indians (Affidavit of Christopher Provenzano 12/22/04, Exhibit B)

20. True and complete copy of the text of an article from the Brooklyn Eagle, dated January 3, 1877, titled "Shipwreck-Fourteen of the Lost of the Circassian Recovered," obtained from the Internet site of the Brooklyn Public Library (Affidavit of Christopher Provenzano 12/22/04, Exhibit CC)
21. True and complete copy of the text of an article from the Brooklyn Eagle, dated January 2, 1877, titled "Shipwreck-Twenty-Nine Lives Lost on the Long Island Coast," obtained from the Internet site of the Brooklyn Public Library (Affidavit of Christopher Provenzano 12/22/04, Exhibit DD)
22. Full text of Chapter 429 of the New York Laws of 1877 titled "An act making a gratuity to the survivors of certain Shinnecock Indians, who were lost upon the wreck of the steamer 'Circassian.'" (Affidavit of Christopher Provenzano 12/22/04, Exhibit FF)
23. True and complete copy of a document prepared by Robert Keene, written while Mr. Keene was Historian of the Town of Southampton (Affidavit of Christopher Provenzano 12/22/04, Exhibit MM)
24. True and complete copies of email messages between officials of the New York Office of Children and Family Services, dated March 7, 2000 (Affidavit of Christopher Provenzano 12/22/04, Exhibit AAA)
25. Report on the History of Land Transactions Between the Colony of Connecticut and the Long Island Indian Tribes in the Seventeenth

Century--Expert Report of Katherine Hermes (Expert Report  
Katherine Hermes, Exhibit 0)

26. Katherine Hermes, curriculum vitae
27. Report on the History of Land Transactions Between the Colony of Connecticut and the Long Island Indian Tribes in the Seventeenth Century: Appendix: A: Definitions of Colonial Terms, especially those pertaining to Connecticut Report on the History of Land Transactions Between the Colony of Connecticut and the Long Island Indian Tribes in the Seventeenth Century: Appendix B: Organization of Connecticut Colony Government
28. Report on the History of Land Transactions Between the Colony of Connecticut and the Long Island Indian Tribes in the Seventeenth Century: Bibliographic Sources
29. Report on Habitation by Shinnecock Indians West of Canoe Place in the Town of Southampton--Expert Report by Jack Campisi (Expert Report Jack Campisi, Exhibit 0)
30. Jack Campisi: curriculum vitae (Expert Exhibits Jack Campisi, Exhibit 1)
31. Report on Habitation by Shinnecock Indians West of Canoe Place in the Town of Southampton: Works and Maps Cited (Expert Exhibits Jack Campisi, Exhibit 2)
32. REBUTTAL REPORT Responding to "The Shinnecock and Westwoods in Southampton NY: An Ethnohistorical Analysis" and

the "Supplement to 'The Shinnecock and Westwoods in Southampton, NY: An Ethnohistorical Analysis'" by James Lynch, Aug. 21, 2006 (revised for typographical errors, Sept. 28, 2006) (RR by Hermes (Lynch), Exhibit 0)

33. Bibliographic sources and Appendix of Exhibits (RR by Hermes (Lynch))
34. Bradley Chapin, Criminal Justice in Colonial America, 1606-1660, cited in Katherine Hermes, Religion and Law in Colonial New England, 1620-1730 (Yale Univ., unpub. Ph.D. dissertation, 1995), p.32, p.187 (RR by Hermes (Lynch), Exhibit 1)
35. John Winthrop, The History of New England from 1630-1649, ed. James Savage, facsimile edition of the 1825 ed. (Salem, New Hampshire: Ayer Publishers, Inc., 1992), vol. 2, p. vi-vii, 4-7, 296-297, 302-305 (RR by Hermes (Lynch), Exhibit 2)
36. Records of the Particular Court of Connecticut, 1639-1663, Collections of the Connecticut Historical Society, vol. XXII (Hartford: Connecticut Historical Society, 1928), X; and Connecticut Colonial Records, vol. 1, p. 336-337, 414. Cornelia Hughes Dayton, Women Before the Bar: Gender, Law and Society in Connecticut, 1639-1789 (Chapel Hill: The University of North Carolina Press, 1995), 25, and n. 14; 26,38, 50 and Bruce Mann, Neighbors and strangers Law and Community in Early Connecticut (Chapel Hill: The



University of North Carolina Press, 1987), 56, 129-130. (RR by Hermes (Lynch), Exhibit 3)

37. Particular Court Records, 175-176, 186, 218. (RR by Hermes (Lynch), Exhibit 4)
38. Connecticut Colonial Records, vol. 1, p. 316. (RR by Hermes (Lynch), Exhibit 5)
39. Connecticut Colonial Records, vol. 1, p. 348, p.365 (RR by Hermes (Lynch), Exhibit 6)
40. Connecticut Colonial Records, vol. 1, p. 134 (Dec. 1, 1645). (RR by Hermes (Lynch), Exhibit 7)
41. Francis Bremer, The Puritan Experiment (New York: St. Martin's Press, 1976), p. 113( (RR by Hermes (Lynch), Exhibit 12)
42. "History of the Town of Southampton" by J. T. Adams, 1962 p.88-89 (RR by Hermes (Lynch), Exhibit 13)
43. "History of the Town of Southampton" by J. T. Adams, 1962 p. 23-24 (RR by Hermes (Lynch), Exhibit 14)
44. David D. Hall, The Faithful Shepherd: A History of the New England Ministry in the Seventeenth Century (Chapel Hill: University of North Carolina Press, 1972), 146-147. (RR by Hermes (Lynch), Exhibit 15)
45. Richard Bushman, From Puritan to Yankee: Character and the Social Order in Connecticut, 1690-1765 (Cambridge: Harvard

University Press, 1967) 41-53, 84-85 (RR by Hermes (Lynch),  
Exhibit 17)

46. Connecticut Colonial Records, vol. 1, p. 214 (1650). (RR by  
Hermes (Lynch), Exhibit 18)
47. Connecticut Colonial Records, vol. 1, 146. (RR by Hermes (Lynch),  
Exhibit 20)
48. Connecticut Colonial Records, vol. 1, 206 (RR by Hermes (Lynch),  
Exhibit 21)
49. Connecticut Colonial Records, vol. 1, 224. (RR by Hermes (Lynch),  
Exhibit 22)
50. Connecticut Colonial Records, vol. 1, 228. (RR by Hermes (Lynch),  
Exhibit 23)
51. Connecticut Colonial Records, vol. 1, 250. (RR by Hermes  
(Lynch), Exhibit 24)
52. Connecticut Colonial Records, vol. 4, 212-213. (RR by Hermes  
(Lynch), Exhibit 25)
53. Connecticut Colonial Records, vol. 4, 257 (RR by Hermes (Lynch),  
Exhibit 26)
54. Connecticut Colonial Records, vol. 4, 419 (RR by Hermes (Lynch),  
Exhibit 27)
55. Connecticut Colonial Records, vol. 4, 432 (RR by Hermes (Lynch),  
Exhibit 28)

56. Connecticut Colonial Records, vol. 1, 295-296. (RR by Hermes (Lynch), Exhibit 29)
57. Connecticut Colonial Records. vol. 1, 316. (RR by Hermes (Lynch), Exhibit 30)
58. Connecticut Colonial Records, vol. 1, 293. (RR by Hermes (Lynch), Exhibit 31)
59. Connecticut Colonial Records, vol. 1, 439. (RR by Hermes (Lynch), Exhibit 32)
60. Connecticut Colonial Records, vol. 1, 179. (RR by Hermes (Lynch), Exhibit 33)
61. Ruth Herndon, *Unwelcome Americans: Living on the Margin in Early New England* (Philadelphia: University of Pennsylvania Press, 2001), p. 2-3 (RR by Hermes (Lynch), Exhibit 34)
62. Connecticut Colonial Records, vol. 2, 93 (Testimony heard regarding Lord Sterling's claim); "Order in Council on a Petition from the Eastern Town of Long Island," July 3, 1679. *Documents Relative to the Colonial History of the State of New York; Procured in Holland, England and France*, ed. John Romeyn Brodhead, Esq. (Albany: Weed, Parsons and Company, Printers, 1853), vol. 3, p.197-198. (RR by Hermes (Lynch), Exhibit 35)
63. Richard Dunn, *Puritans and Yankees: The Winthrop Dynasty of New England, 1630-1717* (New York: W.W. Norton, 1962), p. 154-157 (RR by Hermes (Lynch), Exhibit 37)

64. Connecticut Colonial Records, vol. 1, p. 280, 334, 347, 364. (RR by Hermes (Lynch), Exhibit 38)
65. Black's Law Dictionary, 5' ed. "Conveyance" 1968 p.402-403 (RR by Hermes (Lynch), Exhibit 40)
66. The First Book of Records of the Towne of Southampton, Trans, and Intro, William S. Pelletreau. (Sag-Harbor, N.Y.: John H. Hunt, Book and Job Printer, 1874), 172-174. (RR by Hermes (Lynch), Exhibit 41)
67. The New Encyclopedia Britannica, Vol. 3 15th Edition, p. 602-603 "Calendar: Adoption of the New Style by Protestant Countries;" "History of the Town of Southampton" 1918, p.47 by J. T. Adams (RR by Hermes (Lynch), Exhibit 42)
68. The First Book of Records of the Towne of Southampton, Trans. and Intro., William S. Pelletreau. (Sag-Harbor, N.Y.: John H. Hunt, Book and Job Printer, 1874), 169. (RR by Hermes (Lynch), Exhibit 43)
69. The First Book of Records of the Towne of Southampton, Trans. and Intro., William S. Pelletreau. (Sag-Harbor, N.Y.: John H. Hunt, Book and Job Printer, 1874), 172-174 (RR by Hermes (Lynch), Exhibit 44)
70. A photocopy of the frontispiece to Book I, Minutes of the Board of Trustees, Town of Southampton, pages 54-55 of a printed addendum containing part of the Governor's Determination, and

two handwritten documents of the governor's determination. (RR by Hermes (Lynch), Exhibit 46)

71. John Allyn, Secretary of Connecticut, to Colonel Nicolls, Feb. 1, 1664, in Documents Relative to the Colonial History of the State of New York ... ed. John Romeyn Brodhead, Esq. (Albany: Weed, Parsons and Company, Printers, 1853), vol. 3, p.86. (RR by Hermes (Lynch), Exhibit 47)
72. "The Duke's Laws," The Colonial Laws of New York from the Year 1664 to the Revolution (Albany: James B. Lyon, State Printer, 1894), vol. 1, 40. (RR by Hermes (Lynch), Exhibit 49)
73. Katherine A. Hermes, "'Justice Will be Done Us': Algonquian Demands for Reciprocity in the Courts of European Settlers," in Christopher Tomlins and Bruce Mann, eds., The Many Legalities of Early America (Chapel Hill: University of North Carolina Press, 2001), p.126-129 (RR by Hermes (Lynch), Exhibit 51)
74. New York State Archives, Deed Book 2: 200-201, March 13, 1666. This is the document Mr. Lynch refers to as an "affirmation document" in his Supplemental Report, p. 16, cited at fn. 19. It is also the document included by Prof. Von Gernet as his Exhibit 7, cited at 12, n. 16 of his report to "Town of Southampton Archives, Indian Papers 1640-70, Box 4." (RR by Hermes (Lynch), Exhibit 53)

75. Photocopy of Original Document, "A Confirmation Graunted unto John Seaman," Dec. 5, 1666. Microfilm. New York State Archives. Ex. V. (RR by Hermes (Lynch), Exhibit 55)
76. Documents Relating to the Colonial History of the Early Colonial Settlements Principally on Long Island, in Documents Relating to the Colonial History of the State of New York, vol. XIV Old Series, vol., 3 New Series (Albany: Weed, Parsons and Company, 1883), 569. (RR by Hermes (Lynch), Exhibit 56)
77. Documents Relating to the Colonial History of the State of New York, vol. XIV Old Series, vol., 3 New Series Albany: Weed, Parsons and Company, 1883), 722-724. (RR by Hermes (Lynch), Exhibit 57)
78. History of the Town of Southampton by Adams, Appendix X: Gov. Andross' Patent, 279-280. (RR by Hermes (Lynch), Exhibit 58)
79. "Letter from Secretary Nicolls to Richard Woodhull about the Preceding Petition," The Andros Papers, p.129-130. (RR by Hermes (Lynch), Exhibit 62)
80. "Farrett's Confirmation July 7' 1640," in Adams, History, 264-265. (RR by Hermes (Lynch), Exhibit 63)
81. Adams, History, 266-268. (RR by Hermes (Lynch), Exhibit 64)
82. Hartford County, Connecticut Minutes, Volumes 3 and 4: 1663-1687, 1697, 19, confirming the right to mow Indian land at Farmington, p.23 (RR by Hermes (Lynch), Exhibit 67)

83. Sydney E. Ahlstrom, *A Religious History of the American People* (New Haven: Yale University Press, 1972), 290-292. (RR by Hermes (Lynch), Exhibit 68)
84. Martha Howell and Walter Prevenier, *From Reliable Sources: An Introduction to Historical Methods* (Ithaca: Cornell University Press, 2001), p.60 (RR by Hermes (Lynch), Exhibit 69)
85. Colin G. Calloway, *New Worlds for All. Indians, Europeans, and the Remaking of Early America* (Baltimore: Johns Hopkins University Press, 1997), p.22-23, 132-133. (RR by Hermes (Lynch), Exhibit 72)
86. "Facing East from Indian Country: Native History of Early America" by P. K. Richter 2001 P. 134, 156, 182 (RR by Hermes (Lynch), Exhibit 73)
87. Karen Ordahl Kupperman, *Indians and English: Facing Of Sin Early America* (Ithaca: Cornell University Press, 2000), 103. (RR by Hermes (Lynch), Exhibit 75)
88. Alden Vaughan, ed., *New England Encounters. Indians and Euroamericans, ca. 1600-1850* (Boston: Northeastern University Press, 1999), xi-xiv, on the importance of the changing historiography for understanding cultural encounters. (RR by Hermes (Lynch), Exhibit 76)

89. Francis Bremer, John Winthrop: America's Forgotten Founding Father (Oxford: Oxford University Press, 2003), 101. (RR by Hermes (Lynch), Exhibit 77)
90. Kenneth L. Feder, A Village of Outcasts: Historical Archaeology and Documentary Research at the Lighthouse Site (London: Mayfield Publishing Company, 1994), 124-125. (RR by Hermes (Lynch), Exhibit 79)
91. REBUTTAL REPORT to ALEXANDER VON GERNET Report Entitled "On the Authority on NY Colonial Governors to Decide on Matters Relating to Shinnecock Lands and the Town of Southampton, Aug. 21, 2006" (revised for typographical errors, Sept. 28, 2006), including attached exhibits (RR by Hermes (Von Gernet), Exhibit 0)
92. Bibliographic sources (RR by Hermes (von Gernet))
93. Kenneth Lockridge, A New England Town: The First Hundred Years (New York, W.W. Norton, Inc., 1970), 16-19 (RR by Hermes (Von Gernet), Exhibit B)
94. James Truslow Adams, The History of the Town of Southampton (East of Canoe Place) (Southampton: Hampton Press, 1918), p.47 (RR by Hermes (Von Gernet), Exhibit D)
95. Combynation of Southampton Harford, in Hammond J. Trumbull, ed., The Public Records of the Colony of Connecticut (Hartford:



Browne and Parsons, 1850), vol. 1, appendix, 566-568. (RR by Hermes (Von Gernet), Exhibit E)

96. John Strong, "Wyandanch: Sachem of the Montauks," in Robert S. Grumet, ed., *Northeastern Indian Lives, 1632-1816* (Amherst: University of Massachusetts Press, 1996), 64 (RR by Hermes (Von Gernet), Exhibit F)
97. *Connecticut Colonial Records*, vol. 1, 19 (May, 1637). See also Colin G. Calloway, *New Worlds For All: Indians, Europeans, and the Remaking of Early America* (Baltimore: The Johns Hopkins University Press, 1997), 122. (RR by Hermes (Von Gernet), Exhibit G)
98. *The First Book of Records of the Towne of Southampton*, Trans. and Intro., William S. Pelletreau. (Sag-Harbor, N.Y.: John H. Hunt, Book and Job Printer, 1874), 162 (Ogden Deed). (RR by Hermes (Von Gernet), Exhibit H)
99. *Connecticut Colonial Records*, vol. 1, 214 (Feb. 5, 1650/51). (RR by Hermes (Von Gernet), Exhibit I)
100. Extracts from "Connecticut Colonial Records Vol. 1" p.402, 420 (RR by Hermes (Von Gernet), Exhibit J)
101. William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983), 68-69. (RR by Hermes (Von Gernet), Exhibit K)

102. Harjbrd County, Connecticut Minutes, Volumes. 3 and 4: 1663-1687, 1697, transc. Helen Schatvet Ullman (Boston: New England Historic Genealogical Society, 2005), 23 (RR by Hermes (Von Gernet), Exhibit L)
103. The First Book of Records of the Towne of Southampton, Trans. and Intro., William S. Pelletreau. (Sag-Harbor, N.Y.: John H. Hunt, Book and Job Printer, 1874) (RR by Hermes (Von Gernet), Exhibit N)
104. The Inhabitants of Southampton v. The Inhabitants of Southold, New York Historical Manuscripts: English, Records of the Assizes for the Colony of New York, 1665-1682, ed. W. Peters R. Christoph and Florence A. Christoph (Baltimore: Genealogical Publishing Co., 1983), Pages 59-63 (Nov. 2, 1667). (RR by Hermes (Von Gernet), Exhibit U)
105. George Park Fisher, The Colonial Era (New York: Charles Scribner's Sons, 1892), Pages 188-189. (RR by Hermes (Von Gernet), Exhibit X)
106. "A History of Colonial America" by Savelle and Middlekauff p.190 – p.191, p.198 – 200 (RR by Hermes (Von Gernet), Exhibit Y)
107. Russell V. Carman, In The Beginning: The Shinnecock Indians and The First White Settlers in Quogue. Pp. 1-3 in Quogue As We Remember It: A Collection of Memories. Diana Stokes Callaway,

Margaret B. Perry, and Patricia D. Shuttleworth, eds. Quogue Historical Society (cited in Campisi Report)

108. James Y. Downs, History of the Shinnecocks. Pennypacker Collection. East Hampton Library, East Hampton, N.Y. (cited in Campisi Report)
109. Gaynell Stone, Maps and Landscape of the Shinnecock Through Time. Pp. 265-90 in The Shinnecock Indians: A Culture History. Gaynell Stone, ed. Readings in Long Island Archaeology and Ethnohistory. Vol 6. Suffolk County Archaeological Association. Lexington, Mass.: Ginn Custom Publishing. (cited in Campisi Report)
110. Readings in Long Island Archaeology & Ethnohistory: The History & Archaeology of the Montauk. Gaynell Stone, ed. Vol. 3, 2nd ed. Suffolk County Archaeological Association. Mattituck, N.Y.: American Press. (cited in Campisi Report)
111. Nathaniel S. Prime, History of Long Island, From Its First Settlement By Europeans to the Year 1845, With Special Reference to its Ecclesiastical Concerns. New York: Robert Carter. (cited in Campisi Report)
112. Edward Earnest Eells, Indian Missions on Long Island. Pp. 170-90 in Readings in Long Island Archaeology & Ethnohistory: The History & Archaeology of the Montauk. Gaynell Stone, ed. Vol. 3,

2nd ed. Suffolk County Archaeological Association. Mattituck, N.Y.: American Press. (cited in Campisi Report)

113. Documents Relating to the Colonial History of the State of New York. Vol. 14. Documents Relating to the History of the Early Colonial Settlements Principally on Long Island, with a Map of Its Western Part, Made in 1666. Albany: Weed, Parsons and Company. (on CD) (cited in Campisi Report)
114. The Bounds Agreed upon between the Shinnacock and Montaukett Yndians before the Right Honoble the Governor at New York ye 4th day of October 1665. New York Book of Deeds, volume II, pps. 125-126. Albany, N.Y. (cited in Campisi Report)
115. The Documentary History of the State of New York, Vol. 1. Albany: Weed, Parsons & Co. (cited in Campisi Report)
116. The Second Book of Records of the Town of Southampton Long Island, N.Y., with other Ancient Documents of Historic Value. Sag-Harbor, N.Y.: John H. Hunt. (cited in Campisi Report)
117. Harry D. Sleight, The Eighth Volume of Records of the Town of Southampton, 1893-1927. Part 2. Bridgehampton, N.Y.: The Hampton Press. (cited in Campisi Report)
118. David H. Burr, 1829 Map of the County of Suffolk County. New York: Rawson, Wright & Co. (cited in Campisi Report)
119. J. Calvin Smith, 1836 Map of Long Island with the Environs of New York and the Southern Part of Connecticut, Compiled From Various

Surveys & Documents. New York: J.H. Colton & Co. (cited in Campisi Report)

120. J. Calvin Smith, 1844 Map of Long Island with the environs of New York and the southern part of Connecticut compiled from various surveys & documents. New York: J. H. Colton & Co. (cited in Campisi Report)
121. Large-scale Map delivered to Court on 9/28/06
122. Documents Relative to the Colonial History of the State of New York ... ed. John Romeyn Brodhead, Esq. Albany: Weed, Parsons and Company, Printers, 1853.
123. Connecticut Colonial Records, vol. 1, p. 384 (cited in June 30, 2006 Hermes Report)
124. Connecticut Colonial Records, vol. 1, p. 13 (cited in June 30, 2006 Hermes Report)
125. Connecticut Colonial Records, vol. 1, p. 149 (cited in June 30, 2006 Hermes Report)
126. Connecticut Colonial Records, vol. 1, p. 167 (cited in June 30, 2006 Hermes Report)
127. Connecticut Colonial Records, vol. 1, p. 215-220 (cited in June 30, 2006 Hermes Report)
128. Connecticut Colonial Records, vol. 1, p. 72 (cited in June 30, 2006 Hermes Report)

129. Connecticut Colonial Records, vol. 1, p. 230 (cited in June 30, 2006 Hermes Report)
130. Connecticut Colonial Records, vol. 1, p. 344-47 (cited in June 30, 2006 Hermes Report)
131. Connecticut Colonial Records, vol. 1, p. 307 (cited in June 30, 2006 Hermes Report)
132. Connecticut Colonial Records, vol. 1, p. 37 (cited in June 30, 2006 Hermes Report)
133. Connecticut Colonial Records, vol. 1, app. 2, 566 (cited in June 30, 2006 Hermes Report)
134. Connecticut Colonial Records, vol. 1, p. 354 (cited in June 30, 2006 Hermes Report)
135. Connecticut Colonial Records, vol. 1, p. 280-83 (cited in June 30, 2006 Hermes Report)
136. Connecticut Colonial Records, vol. 1, p. 297, 314 (cited in June 30, 2006 Hermes Report)
137. Connecticut Colonial Records, vol. 1, p. 337 (cited in June 30, 2006 Hermes Report)
138. Connecticut Colonial Records, vol. 2, p. 15-16 (cited in June 30, 2006 Hermes Report)
139. Connecticut Colonial Records, vol. 2, p. 94-96 (cited in June 30, 2006 Hermes Report)

140. Connecticut Colonial Records, vol. 2, p. 219 (cited in June 30, 2006 Hermes Report)
141. Connecticut Colonial Records, vol. 3, p. 34 (cited in June 30, 2006 Hermes Report)
142. Connecticut Colonial Records, vol. 3, p. 31-32 (cited in June 30, 2006 Hermes Report)
143. Connecticut Colonial Records, vol. 3, p. 56-57 (cited in June 30, 2006 Hermes Report)
144. Connecticut Colonial Records, vol. 3, p. 422-23 (cited in June 30, 2006 Hermes Report)
145. The Records of the Governor and Company of the Massachusetts Bay Colony of New England, Nathaniel Shurtleff, ed. Boston: William White, 1853, [hereinafter MCR]. vol. 1, 112 (cited in June 30, 2006 Hermes Report)
146. MCR, vol. 1, 119 (cited in June 30, 2006 Hermes Report)
147. MCR, vol. 1, 160-161 (cited in June 30, 2006 Hermes Report)
148. MCR, vol. 1, 207 (cited in June 30, 2006 Hermes Report)
149. MCR, vol. 1, 223 (cited in June 30, 2006 Hermes Report)
150. MCR, vol. 1, appendix, 394 (cited in June 30, 2006 Hermes Report)
151. MCR, vol. 1, 400 (cited in June 30, 2006 Hermes Report)
152. MCR, vol. 2, 278 (cited in June 30, 2006 Hermes Report)
153. Books of Records of the Town of Southampton, Long Island, N. Y., with other ancient documents of historic value. Trans. and Intro.,

William S. Pelletreau. Sag-Harbor, N.Y.: J.H. Hunt, printer, 1874-1878. 3 vols. (cited in June 30, 2006 Hermes Report)

154. Declaration of Mason Haas (Declaration of Mason Haas, Exhibit 0)
155. List of Prior Expert Testimony (Declaration of Mason Haas, Exhibit A)
156. Tax Map 187 Westwoods Tax Map 207 Southeast of Westwoods Tax Map 186 North of Westwoods (Declaration of Mason Haas, Exhibit B)
157. Summary of Records of Title Examination of Real Property Adjoining "Westwoods" Tax Map 207 (Declaration of Mason Haas, Exhibit C)
158. Charles J. Hardy map; Tax Map Overlay Deed chain for Tax Lot 37 (Declaration of Mason Haas, Exhibit A)
159. Subdivision Map of Ravenswood Deed chain for Ravenswood Subdivision (Declaration of Mason Haas, Exhibit B)
160. Subdivision Map of Squire Woods Deed chain for Squire Woods subdivision (Declaration of Mason Haas, Exhibit C)
161. Subdivision Map of Section Three Holzman Estates Deed Chain for Holzman Estate Section 3 subdivision (Declaration of Mason Haas, Exhibit D)
162. Subdivision Map of Newtown Estates Deeds Chain for Newtown Estates (Declaration of Mason Haas, Exhibit E)



- 163. Minor Subdivision Map Deeds Chain for Tax Lot 31.001  
(Declaration of Mason Haas, Exhibit F)
- 164. Minor Subdivision Map Deeds Chain for Tax Lot 34.000  
(Declaration of Mason Haas, Exhibit G)
- 165. Minor Subdivision Map Deeds Chain for Tax Lot 26.000  
(Declaration of Mason Haas, Exhibit H)
- 166. Minor Subdivision Map Deeds Chain for Tax Lot 1:003 & 1:004  
(Declaration of Mason Haas, Exhibit I)
- 167. Minor Subdivision Map Deeds Chain for Tax Lot 1.002 (Declaration  
of Mason Haas, Exhibit J)
- 168. Map of Ground Containing 17A 1R 35 Rds. 10/8/1887 Map of  
Subdivision Hampton Pine Beach Inc. 10/11/1929 Deed Chain  
Hampton Pine Beach Subdivision (Declaration of Mason Haas,  
Exhibit K)
- 169. Notice of Appropriation, Sunrise Highway (Declaration of Mason  
Haas, Exhibit L)
- 170. 10/29/04 E-mail chain between M. Read and M. Cohen re: working  
with H. Moeller and J. Lynch (Deposition Exhibits Martin Read,  
Exhibit 2)
- 171. Map Showing Land of Shinnecock Tribe Canoe Place, 5/16/1963  
(Deposition Exhibits Martin Read, Exhibit 3)

172. The Third Book of Records of the Town of Southampton Long Island, NY with other Ancient Documents of Historic Value, 1878 (Deposition Exhibits Martin Read, Exhibit 4)
173. 3/2/05 E-mail chain between M. Cohen and M. Read re: materials provided by Advantage Title (Deposition Exhibits Martin Read, Exhibit 5)
174. Map: Easterly Portion of Canoe Place Subdivision Town of Southampton (Barrett, Bonacci & Van Weele, P.C.) T048599 (Deposition Exhibits Martin Read, Exhibit 6)
175. Memorandum of Agreement between State of New York Office of Attorney General and Dr. Alexander von Gernet (undated) (Deposition Exhibits Alexander von Gernet, Exhibit 1)
176. Jan. – June 2006 Invoices from Alexander von Gernet to Robert Siegfried (Deposition Exhibits Alexander von Gernet, Exhibit 2)
177. OCAP “Presquile/Mohawk Hunters Update” 2/1/03 (Deposition Exhibits Alexander von Gernet, Exhibit 4)
178. 2/2/06 Letter from R. Siegfried to A. von Gernet re: historical documents, Supplemental Affidavit of C. Provenzano (Deposition Exhibits Alexander von Gernet, Exhibit 5)
179. Copy of official transcript of James P. Lynch, University of Connecticut (Deposition Exhibits James Lynch, Exhibit 3)
180. Univ. of Connecticut Plan of Study and “Course Work,” James Patrick Lynch (Deposition Exhibits James Lynch, Exhibit 4)

181. Ellen Barry, December 2000, Boston Globe article: “A War of Genealogies” (Deposition Exhibits James Lynch, Exhibit 5)
182. Last 2 pages of Exhibit 51 to expert report of James P. Lynch [Nicolls Declaration] (Deposition Exhibits James Lynch, Exhibit 6)
183. New York Historical Manuscripts: English Records of the Court of Assizes for the Colony of NY, 1665-1682, pp. 59-63 (Deposition Exhibits James Lynch, Exhibit 7)
184. Excerpt from colonial records of the Connecticut General Court, Connecticut Colonial Records, pp. 304-06 (Deposition Exhibits James Lynch, Exhibit 8) – Connecticut Colonial Records
185. Excerpt from The Colonial History of the State of New York, 1853, vol. 3, p. 86 (Deposition Exhibits James Lynch, Exhibit 9)
186. James Truslow Adams, History of the Town of Southampton, 1962, Appendix VI “Indian Deed,” 266-68 (Deposition Exhibits James Lynch, Exhibit 10)
187. Excerpts from Colonial History of the State of New York, History of the Early Colonial Settlements Principally on Long Island, B. Fernow, 1883, 722-24 (Deposition Exhibits James Lynch, Exhibit 11)
188. Excerpt from Colonial History of the State of New York, Transcript of Documents 1614-1692, Transcript of English Privy Counsel, pp. 197-98 (Deposition Exhibits James Lynch, Exhibit 12)

189. Trustees Records of the Town of Southampton, N.Y. Part Two, 1741-1826, Harry D. Sleight (Deposition Exhibits James Lynch, Exhibit 13)
190. Excerpt from Records of the Town of Southampton, 1893-1927, Volume 8, Part 1 (Deposition Exhibits James Lynch, Exhibit 14)
191. Fithian Map, Southampton, April 16th 1884 (Deposition Exhibits Henry Moeller, Exhibit 7)
192. June 2005 "Historic Profile of Hampton Bays," by Barbara M. Moeller 6/2005 (Deposition Exhibits Henry Moeller, Exhibit 12)
193. Barbara Moeller 2004 consulting contract with Southampton, and Resolution, and 7/30/04 cover letter (Deposition Exhibits Barbara Moeller, Exhibit 46)
194. Press release and invoice re: "Hamlet Heritage Resources Report for Hampton Bays" (Deposition Exhibits Barbara Moeller, Exhibit 48)
195. Color copy of Town of Southampton map depicting area from Shinnecock Canal west of East Tiana Road (Deposition Exhibits Barbara Moeller, Exhibit 52)
196. Historical society's stewardship agreement for the Canoe Place Chapel (Deposition Exhibits Barbara Moeller, Exhibit 54)
197. 1/3/06 Memo from L. Kabot to H. Moeller (re: Planning Board Archeological Renew Policy) (Deposition Exhibits Henry Moeller, Exhibit 55)

198. 1/12/06 Memo from H. Moeller to L. Kabot response to 1/3/06  
Memo with attachment (Deposition Exhibits Henry Moeller, Exhibit 56)
199. No date, Letter from H. Moeller to C. Bellow (re: 1/12/06 letter from David Wilcox and survey for Sagaponack) (Deposition Exhibits Henry Moeller, Exhibit 57)
200. Excerpt from The Eighth Volume of Records of the Town of Southampton, including pgs. 172-75, 204-05, and 208-09 (Deposition Exhibits Henry Moeller, Exhibit 61)
201. 8/14/04 Memo from H. Moeller to C. Bellow enclosing final draft of the article mailed to the Suffolk County Historical Society (Deposition Exhibits Henry Moeller, Exhibit 63)
202. 5/15/05 Memo from H. Moeller to L. Kabot re: Indian Meeting Houses (Deposition Exhibits Henry Moeller, Exhibit 64)
203. 5/14/05 First Draft "Early Missionary Activities on Eastern Long Island" by Henry Moeller (Deposition Exhibits Henry Moeller, Exhibit 65)
204. 5/15/05 Version "Three Indian Meetinghouses" by Henry Moeller (HM000084 – HM000092) (Deposition Exhibits Henry Moeller, Exhibit 66)
205. 5/25/05 E-mail from J. Lynch to E. Powers copy to K. Murray re: Henry's Manuscript (Deposition Exhibits Henry Moeller, Exhibit 67)

- 206. 6/13/06 Version "Three Indian Meetinghouses" by Henry Moeller  
(Part II) (Deposition Exhibits Henry Moeller, Exhibit 68)
- 207. The Southampton Press, 3/28/1991 article: "Viewpoint" (Deposition  
Exhibits Henry Moeller, Exhibit 69)
- 208. 1780 Andre Map (Deposition Exhibits Henry Moeller, Exhibit 70)
- 209. 2/22/06 Memo from H. Moeller to L. Kabot re: Indian Meetinghouse  
with handwritten notes dated 6/11/06 and attachment of Draft Map  
of Real Property Taxmap parcel, Suffolk County Real Property Tax  
Service (Deposition Exhibits Henry Moeller, Exhibit 71)
- 210. Photograph of Tombstone (Deposition Exhibits Henry Moeller,  
Exhibit 72)
- 211. 1/22/03 Letter from Mr. Stankevich to Mr. Geiger re: new off-ramps  
NY27 (Deposition Exhibits Eileen W. Peters, Exhibit 12A)
- 212. 1/30/03 E-mail from Mr. Geiger to Mr. Ugolik regarding a request  
for new ramps to NY 27 (Deposition Exhibits Eileen W. Peters,  
Exhibit 13)
- 213. 2/6/03 Letter from M. Geiger to G. Stankevich re: NY 27 ramps  
(Deposition Exhibits Eileen W. Peters, Exhibit 14)
- 214. 3/3/03 E-mail from M. Geiger to W. Ugolik (Retting's office) re:  
Shinnecock Indian Development (Deposition Exhibits Eileen W.  
Peters, Exhibit 15)

- 215. 3/10/03 E-mail chain between Eileen W. Peters and Mr. Rettig's office re: request to construct an entrance and exit ramp from Sunrise Highway (Deposition Exhibits Eileen W. Peters, Exhibit 16)
- 216. 3/10/03 - 3/11/03 E-mail chain between Eileen W. Peters and M. Geiger re: request to construct and entrance and exit ramp from Sunrise Highway (Deposition Exhibits Eileen W. Peters, Exhibit 17)
- 217. 3/10/03 – 3/11/03 E-mail chain between Eileen W. Peters, W. Ugolik and M. Geiger re: request to construct and entrance and exit ramp from Sunrise Highway (Deposition Exhibits Eileen W. Peters, Exhibit 18)
- 218. 3/13/03 e-mail from Geiger to Peters, with additional handwritten notes dated 3/18 re: not releasing information to press (Deposition Exhibits Eileen W. Peters, Exhibit 19)
- 219. 3/21/03 Fax from Assemblyman Thiele's office to Eileen W. Peters attaching article re: Sunrise Highway exit (Deposition Exhibits Eileen W. Peters, Exhibit 20)
- 220. 3/21/03 Fax from E. Peters to B. Molinaro attaching 3/3/02 letter from Saad to Stankevich; and 1/22/03 letter from Stankevich to Geiger (Deposition Exhibits Eileen W. Peters, Exhibit 21)
- 221. Assemblyman Thiele 3/31/03 letter to Commissioner of New York State Department of Transportation re: Proposed Sunrise Highway Exit (Deposition Exhibits Eileen W. Peters, Exhibit 22)

- 222. 4/2/03 E-mail from E. Peters to Causin, Geiger, Pearson, Saad, Ugolik re: complaints about meeting with Shinnecock Nation developer (Deposition Exhibits Eileen W. Peters, Exhibit 23)
- 223. 6/9/03 Letter from Wells to Thiele responding to the 3/31/03 letter re: new exit on Sunrise Highway at Newtown Road in Hampton Bay (Deposition Exhibits Eileen W. Peters, Exhibit 24)
- 224. No date, E-mail from E. Peters to Fleischer, Kelly and Post re: inquires for Governors Office re: SN (Deposition Exhibits Eileen W. Peters, Exhibit 25)
- 225. No date, E-mail from E. Peters to Fleischer and Post re: Assemblyman Thiele – Head’s Up (Deposition Exhibits Eileen W. Peters, Exhibit 26)
- 226. No date, E-mail from E. Peters to Causin, Oelerich and Pearson re: Press coverage of SN story (Deposition Exhibits Eileen W. Peters, Exhibit 27)
- 227. 7/11/03 Affidavit of Michael Benincasa (Deposition Exhibits Michael Benincasa, Exhibit 28)
- 228. 4/8/87 Letter from Robert Batson to Michael Smith re: Authority of the Town of Southampton to include the territory of the Shinnecock Reservation in its zoning ordinance (Deposition Exhibits Michael Benincasa, Exhibit 29)
- 229. 5/20/87 Letter from F. Thiele to R. Batson responding to the 4/8/87 letter (Deposition Exhibits Michael Benincasa, Exhibit 30)



- 230. 7/30/03 Letter to Benincasa from J. Murphree re: Emergency Inspections – Proposed Shinnecock Casino (Deposition Exhibits Michael Benincasa, Exhibit 31)
- 231. Town of Southampton Zoning Map (Deposition Exhibits Michael Benincasa, Exhibit 32)
- 232. Suffolk County tax map for District 900, Section 187 (Deposition Exhibits Michael Benincasa, Exhibit 33)
- 233. Shinnecock Canal Public Access Sites and Maritime Planned Development District, May 1997 (Deposition Exhibits Patrick Heaney, Exhibit 34)
- 234. 6/30/03 Statement from Supervisor P. A. Heaney (Deposition Exhibits Patrick Heaney, Exhibit 41)
- 235. 7/14/03 Press Release: Southampton Town Obtains Court Order to Stop Progress on HB Casino (Deposition Exhibits Patrick Heaney, Exhibit 42)
- 236. Newsday Nassau and Suffolk Edition, 7/29/04 article: “Shinnecock Casino Plan; ‘Public Policy’ or ‘Parasitic’?; Tribe, Southampton clash at town board’s meeting over lawsuit to block gambling on Indian reservation” by M. Freedman (Deposition Exhibits Patrick Heaney, Exhibit 43)
- 237. Development/Management Agreement, May 1, 2003 (redacted), SN15579 through SN15658.

- 238. Addendum to Shinnecock National Gaming Commission Resolution (redacted), SN15778 through SN15782.
- 239. Closing Letter, Shinnecock Nation Gaming Authority/Gateway Casino Resorts, LLC, March 19, 2004, and attachments (redacted), SN15510 through SN15518.
- 240. NYSDOT Environmental Procedures Manual Chapter 1.1 Air Quality: Project Environmental Guidelines, Jan. 2001 (Deposition Exhibits Robert Grover, Exhibit 3)
- 241. Greenman-Pedersen, Inc. Noise Data Recording Sheets (Deposition Exhibits Robert Grover, Exhibit 4)
- 242. 5/8/06 E-mail from S. Eckler to W. Stradling re: Shinnecock Lawsuit – Project S2201, forwarding 5/2/06 E-mail from Linda Wilson (Deposition Exhibits Steven Eckler, Exhibit 3)
- 243. Hampton Bay Water District: 2005 Drinking Water Quality Report, May 2006 (Deposition Exhibits Steven Eckler, Exhibit 5)
- 244. OGS Project No. S2201, Scope of Services Shinnecock Tribe of Indians, Environmental Impact Assessment, April 7, 2006 (Deposition Exhibits Steven Eckler, Exhibit 6)
- 245. Invoices from O'Brien & Gere Engineers, Inc., Sept. 2006, re: Project No. S 2201 (Deposition Exhibits Steven Eckler, Exhibit 7)
- 246. Shinnecock Indian nation EIS, Draft EIS/Issue Scoping Outline prepared by O'Brien & Gere Engineers, Inc. 3/3/06 (Deposition Exhibits Steven Eckler, Exhibit 8)

- 247. Meeting Notes (kick-off meeting in NYC on 3/7/06) (Deposition Exhibits Steven Eckler, Exhibit 9)
- 248. 6/19/06 Report of Call re: Availability of electrical service to the Westwoods Property (Deposition Exhibits Steven Eckler, Exhibit 10)
- 249. Highway Design Manual Chapter 2: Design Criteria, Revision 45, June 24, 2005 (Deposition Exhibits Michael Salatti, Exhibit 6)
- 250. What's New Version 6? Summary of the changes in Synchro 6 from version 5 (Deposition Exhibits Michael Salatti, Exhibit 7)
- 251. Synchro 6 Report, 1: Montauk Hwy & Route 24, Sep. 24, 2006; Aerial photograph of Montauk Highway (Deposition Exhibits Michael Salatti, Exhibit 11)
- 252. Synchro 6 Report, 22: CR39 & Hampton Rd, Sep. 24, 2006; Aerial photograph of CR 39 and Hampton Road. (Deposition Exhibits Michael Salatti, Exhibit 12)
- 253. Synchro 6 Report, 9: Montauk Hwy & Newtown Rd, 10: Montauk Hwy & North Shore Rd., Sep. 24, 2006; Aerial photograph and chart (Deposition Exhibits Michael Salatti, Exhibit 13)
- 254. Traffic Analysis Toolbox Vol. 3: Guidelines for Applying Traffic Microsimulation Modeling Software, July 2004, SimTraffic error list, error results (Deposition Exhibits Michael Salatti, Exhibit 14)

- 255. 9/10/06 e-mail from M. Salatti to L. Feiner, K. Arnold, L. Wilson forwarding e-mail from C. Evert re: Secondary Vehicle Trips (Deposition Exhibits Michael Salatti, Exhibit 17)
- 256. "Mystic Seaport – Mystic, Connecticut" Heritage Tourism Classification Study (Deposition Exhibits Michael Salatti, Exhibit 19)
- 257. Resolution No. 604, Appropriating Funds in Connection with Interchange Improvements for CR 111, Port Jefferson-Westhampton Road, from the Long Island Expressway Exit 70 to Chapmar Blvd., June 29, 2006 (Deposition Exhibits Michael Salatti, Exhibit 20)
- 258. 9/23/06 Fax from Greenman-Pederson, Inc. to C. Provenzano enclosing Project Generated Trips (Deposition Exhibits Michael Salatti, Exhibit 21)
- 259. Declaration of James Mansky (Declaration of James Mansky Report, Exhibit 0)
- 260. Curriculum vitae of James M. Mansky (Declaration of James Mansky Report Exhibits, Exhibit 1)
- 261. Prior court experience of James M. Mansky (Declaration of James Mansky Report Exhibits, Exhibit 2)
- 262. Map Showing Land of Shinnecock Tribe, Canoe Place - Surveyed April 8, 1963 (Declaration of James Mansky Report Exhibits, Exhibit 3)

- 263. Email from Christopher Provenzano to James Mansky dated May 19, 2006 (Declaration of James Mansky Report Exhibits, Exhibit 4)
- 264. Figure of Westwoods Acreage of Central Parcel (Declaration of James Mansky Report Exhibits, Exhibit 5)
- 265. Preliminary Gaming Visitation Analysis: Westwoods, NY - by The Innovation Group (Declaration of James Mansky Report Exhibits, Exhibit 6)
- 266. Topographic Survey of main parcel of Westwood - by Pat T. Seccafico, Professional Land Surveyor, P.C. (January 15, 2003) (Declaration of James Mansky Report Exhibits, Exhibit 7)
- 267. Aerial photograph of Parcel B (April 2004) (Declaration of James Mansky Report Exhibits, Exhibit 8)
- 268. Ecological Investigation, Westwoods Property - by Earth Tech (June 2006) (Declaration of James Mansky Report Exhibits, Exhibit 9)
- 269. Ecological Communities of New York State Second Edition, A revised and expanded edition of Carol Reschke's Ecological Communities of New York State, January 2002 (Draft) (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 1)
- 270. New York Portion of the National Hydric Soil List - - August 11, 2005 (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 2)

271. Map showing land of Shinnecock Tribe Canoe Place, Surveyed April 8, 1963 (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 3)
272. Map Survey of Property situate at Hampton Bays Town of Southampton Suffolk County, NY January 15, 2003 (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 4)
273. Soil Survey of Suffolk County, New York (Contents and Map showing land of Shinnecock and Southampton) (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 5)
274. Three Google Satellite images; Ecological Communities of New York State Second Edition, A revised and expanded edition of Carol Reschke's Ecological Communities of New York State, January 2002 (Draft); Soil Survey of Suffolk County, New York (Contents and Map showing land of Shinnecock and Southampton); Map showing land of Shinnecock Tribe, Canoe Place, Surveyed April 8, 1963; Map Survey of Property situated at Hampton Bays Town of Southampton Suffolk County, NY January 15, 2003 (Declaration of James Mansky Report Exhibits, Exhibit 9 Reference 6)
275. Ecological Communities of New York State. Second Edition. New York Natural Heritage Program, New York State Department of Environmental Conservation, January 2002 (Declaration of James Mansky Report Exhibits, Exhibit 10)

- 276. Soil Survey of Suffolk County, New York. US Department of Agriculture, Soil Conservation Service (April 1975) (Declaration of James Mansky Report Exhibits, Exhibit 11)
- 277. Figure of Westwoods: 5/3/06 Monument and Disturbed Area Verification (Declaration of James Mansky Report Exhibits, Exhibit 12)
- 278. Figures of New York Coastal Zone boundary (2004) (Declaration of James Mansky Report Exhibits, Exhibit 13)
- 279. Central Pine Barrens Fact Sheet (Declaration of James Mansky Report Exhibits, Exhibit 14)
- 280. Map of Long Island, New York Central Pine Barrens (Declaration of James Mansky Report Exhibits, Exhibit 15)
- 281. Letter from James Mansky to US Fish and Wildlife Service - dated May 1, 2006 (Declaration of James Mansky Report Exhibits, Exhibit 16)
- 282. Letter from James Mansky to NY Natural Heritage Program - dated May 1, 2006 (Declaration of James Mansky Report Exhibits, Exhibit 17)
- 283. Letter from NY Natural Heritage Program to James Mansky - dated May 15, 2006 (Declaration of James Mansky Report Exhibits, Exhibit 18)
- 284. Significant Habitats and Habitat Complexes of the New York Bight Watershed, Long Island Pine Barrens - Peconic River Complex

(Complex #8) (Declaration of James Mansky Report Exhibits,  
Exhibit 19)

- 285. Map of Long Island Pine Barrens - Peconic Complex (Declaration of James Mansky Report Exhibits, Exhibit 20)
- 286. Long Island South Shore Estuary Reserve - Comprehensive Management Plan (Declaration of James Mansky Report Exhibits, Exhibit 21)
- 287. Southampton Tomorrow, Comprehensive Plan Update Implementation Strategies (March 1999) (Declaration of James Mansky Report Exhibits, Exhibit 22)
- 288. Map of Town of Southampton Significant Natural Areas (Eastern Half) - Comprehensive Plan Update, 1997 (Declaration of James Mansky Report Exhibits, Exhibit 23)
- 289. Town of Southampton Zoning Map - Sheet 3 of 5, Hampton Bays to Shinnecock Hills (Declaration of James Mansky Report Exhibits, Exhibit 24)
- 290. Town of Southampton Residence Districts Tables of Use Regulations (Declaration of James Mansky Report Exhibits, Exhibit 25)
- 291. Town of Southampton Residence Districts Table of Dimensional Regulations (Declaration of James Mansky Report Exhibits, Exhibit 26)



- 292. National Wetland Inventory Maps Fact Sheet, US Fish & Wildlife Service (Declaration of James Mansky Report Exhibits, Exhibit 27)
- 293. NWI Wetlands map of vicinity of Westwoods Property (Declaration of James Mansky Report Exhibits, Exhibit 28)
- 294. Tidal Wetlands Map - Map 708-530, New York State Department of Environmental Conservation (Declaration of James Mansky Report Exhibits, Exhibit 29)
- 295. Freshwater Wetlands Map - Mattituck Quadrangle, New York State Department of Environmental Conservation (Declaration of James Mansky Report Exhibits, Exhibit 30)
- 296. Suffolk County Sanitary Code - Article 6: Realty Subdivisions, Developments and Other Construction Projects (Declaration of James Mansky Report Exhibits, Exhibit 31)
- 297. Nassau-Suffolk Aquifer System - US Environmental Protection Agency, Region 2 (Declaration of James Mansky Report Exhibits, Exhibit 32)
- 298. Map of hydrogeologic zones for eastern Town of Southampton (Declaration of James Mansky Report Exhibits, Exhibit 33)
- 299. Critical Wildlands and Groundwater Protection Plan and GEIS Planning History Summary - FINAL (February 24, 2004) (Declaration of James Mansky Report Exhibits, Exhibit 34)

- 300. Suffolk County Water Authority Service Areas and Customer Service Centers (Declaration of James Mansky Report Exhibits, Exhibit 35)
- 301. Suffolk County Water Authority 2005 Annual Drinking Water Quality Report (Declaration of James Mansky Report Exhibits, Exhibit 36)
- 302. Parcels in the Hampton Bays Water District with no Utility Billing Account as of 3/22/2002, n:\infosystems\hbwater\hbwater.noub.apr dated March 22, 2002 (Declaration of James Mansky Report Exhibits, Exhibit 37)
- 303. Proposed 8-inch water Main along Newtown Road (4,850 linear feet of pipe), map by Byrne-Dolliver Associates. (Declaration of James Mansky Report Exhibits, Exhibit 38)
- 304. Hampton Bays Water District Mission Statement (Declaration of James Mansky Report Exhibits, Exhibit 39)
- 305. Hampton Bays Water District - 2005 Drinking Water Quality Report (May 2006) (Declaration of James Mansky Report Exhibits, Exhibit 40)
- 306. Town of Southampton Code Chapter 330 (Zoning) Article XIII Protection Overlay District (Declaration of James Mansky Report Exhibits, Exhibit 41)
- 307. Proposed Aquifer Protection Overlay District Preservation Area Town of Southampton (Draft March 23, 2004) (Declaration of James Mansky Report Exhibits, Exhibit 42)

- 308. Draft Environmental Impact Statement, St. Regis Mohawk Tribe, Mohawk Mountain Casino and Resort (Declaration of James Mansky Report Exhibits, Exhibit 43)
- 309. Water and wastewater calculations by Earth Tech June 9, 2006 (Declaration of James Mansky Report Exhibits, Exhibit 44)
- 310. Subdivision Map of Ravenswood, filed at Suffolk County Clerk's Office on May 24, 1982 (Declaration of James Mansky Report Exhibits, Exhibit 45)
- 311. Aerial photograph of Ravenswood subdivision (April 2004) (Declaration of James Mansky Report Exhibits, Exhibit 46)
- 312. Z-MOD-M Packaged Plant Specifications (Declaration of James Mansky Report Exhibits, Exhibit 47)
- 313. Solaire Apartments, Battery Park Wastewater Treatment System (Declaration of James Mansky Report Exhibits, Exhibit 48)
- 314. Viejas Indian Reservation - Casino and Outlet Shopping Mall (Declaration of James Mansky Report Exhibits, Exhibit 49)
- 315. Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations - New York State Department of Environmental Conservation (Declaration of James Mansky Report Exhibits, Exhibit 50)
- 316. General Permit for Discharges from Large and Small Construction Activities -US Environmental Protection Agency (Declaration of James Mansky Report Exhibits, Exhibit 51)

- 317. SPDES General Permit for Stormwater Discharges - New York State Department of Environmental Conservation (Declaration of James Mansky Report Exhibits, Exhibit 52)
- 318. Road and Drainage Standards - Town of Southampton (July 2002) (Declaration of James Mansky Report Exhibits, Exhibit 53)
- 319. Hydrodynamic separation products - CONTECH Stormwater Solutions, Inc. (Declaration of James Mansky Report Exhibits, Exhibit 54)
- 320. Westwoods Casino Traffic Analysis--Expert Report of Sam Schwartz PLLC (Expert Report Sam Schwartz, Exhibit 0)
- 321. Westwoods Casino Traffic Analysis: Abstract
- 322. Samuel I. Schwartz, P.E.: curriculum vitae
- 323. Westwoods Casino Traffic Analysis: List of documents considered by Samuel I. Schwartz in preparation of the report
- 324. Westwoods Casino Traffic Analysis: Appendix (Expert Appendix Sam Schwartz, Exhibit 1)
- 325. Expert Analysis for Shinnecock Indian Nation--Report of Steven M. Rittvo, President of The Innovation Group, with Exhibits (Expert Report Steve Rittvo, Exhibit 0)
- 326. Steven Rittvo: curriculum vitae (Expert Exhibits Steve Rittvo, Exhibit 1)
- 327. Expert Analysis for Shinnecock Indian Nation: List of Sources (Expert Exhibits Steve Rittvo, Exhibit 2)

- 328. Expert Analysis for Shinnecock Indian Nation: Gaming Visitation Analysis (Expert Exhibits Steve Rittvo, Exhibit 3)
- 329. Expert Analysis for Shinnecock Indian Nation: Economic Benefit Analysis (Expert Exhibits Steve Rittvo, Exhibit 4)
- 330. REBUTTAL REPORT: Review Analysis of Environmental Assessment - Shinnecock Tribe of Indian Westwood Site Development, Mobile Source Air Quality and Noise Assessment (RR by Yang (Grover), Exhibit 0)
- 331. Fang Yang CV (RR by Yang (Grover), Exhibit 1)
- 332. Federal Register, Part II: Environmental Protection Agency 11/24/1993 (RR by Yang (Grover), Exhibit 3)
- 333. Guidelines for Modeling Carbon Monoxide from Roadway Intersections (date of the report 11/92; date of the stamp 7/19/93) (RR by Yang (Grover), Exhibit 4)
- 334. Transportation Conformity Guidance for Qualitative Hot-Spot Analyses in PM<sub>2.5</sub> and PM<sub>10</sub> Nonattainment and Maintenance Areas (March 2006) (RR by Yang (Grover), Exhibit 5)
- 335. NYSDOT Environmental Procedures Manual, Chapter 1.1: Air Quality, Project Environmental Guidelines (January 2001) (RR by Yang (Grover), Exhibit 6)
- 336. City Environmental Quality Review (CEQR) Technical Manual 2001 (RR by Yang (Grover), Exhibit 7)

- 337. 8-Hr Ozone Areas Listed by Area Name as of 3/2/06 (RR by Yang (Grover), Exhibit 8)
- 338. Figure 2 Highway Link Plan: Shinnecock Tribe of Indians Westwoods Site Development (RR by Yang (Grover), Exhibit 9)
- 339. Federal Register, Part II: Environmental Protection Agency 11/30/1993 (RR by Yang (Grover), Exhibit 10)
- 340. Federal Register/ Vol. 71, No. 136/ Monday, July 17, 2006/ Rules and Regulations (RR by Yang (Grover), Exhibit 11)
- 341. NYSDOT Environmental Procedures Manual, Chapter 3.1: Noise Analysis Procedures: Project Environmental Guidelines (August 1998) (RR by Yang (Grover), Exhibit 12)
- 342. 8/3/06 Letter from Gordon Johnson to C. Lunding and noise data recording sheets (RR by Yang (Grover), Exhibit 13)
- 343. REBUTTAL REPORT: Response to EADINGTON Report and Deposition, August 2006 (RR by Rittvo (Eadington), Exhibit 0)
- 344. Map: Westwoods 100-mile Area with Competitive Sites (RR by Rittvo (Eadington), Exhibit A)
- 345. Chart 18: Home Location (RR by Rittvo (Eadington), Exhibit B)
- 346. The Journal News 1/31/06 Article "Yonkers raceway expansion under way" by Hannan Adely (RR by Rittvo (Eadington), Exhibit C)
- 347. REBUTTAL REPORT: Declaration of Mason Haas (RR by Haas (Lynch), Exhibit 0)

- 348. REBUTTAL REPORT: Response to EVART Report and Deposition, August 2006 (RR by Rittvo, Exhibit 0)
- 349. REBUTTAL REPORT: Westwoods Casino Traffic Analysis, August 21, 2006 (RR by Schwarz (Salatti), Exhibit 0)
- 350. Shinnecock Indian Tribe's Proposed Casino Supplemental Report Fiscal Impact and Salary/Housing Analyses, August 2006 (Evert Supplemental Deposition, Exhibit 1)
- 351. Table 71, Full-time Law Enforcement Officers as of Oct. 31, 2004, Number and Rate per 1,000 Inhabitants by Geographic Region and Division by Population; Uniform Crime Reporting Area Definitions – Crime in the United States 2004 (Evert Supplemental Deposition, Exhibit 2)
- 352. The Job of the Assessor, May 2006 (Evert Supplemental Deposition, Exhibit 3)
- 353. Commercial Formula Settling Certs. (Evert Supplemental Deposition, Exhibit 4)
- 354. Marshall & Swift – SwiftEstimator Commercial Estimator – Summary Report (Evert Supplemental Deposition, Exhibit 5)
- 355. Handwritten notes (Evert Supplemental Deposition, Exhibit 6)
- 356. 2000 U.S. Census Tables, Shinnecock Reservation
- 357. Opinion Letter by Paul B. Coburn, TSB-M-82(2), Feb. 18, 1982
- 358. Map, "Streetwise Southampton"
- 359. Deposition Testimony of Barbara Moeller, dated July 17, 2006

- 360. Deposition Testimony of Eileen Peters, dated June 26, 2006
- 361. Deposition Testimony of Frank Pearson, dated June 29, 2006
- 362. Deposition Testimony of George Hammarth, dated June 20, 2006
- 363. Deposition Testimony of Henry Moeller, dated June 19 and July 20, 2006
- 364. Deposition Testimony of Michael Benincasa, dated June 28, 2006
- 365. Deposition Testimony of Michael Geiger, dated June 29, 2006
- 366. Deposition Testimony of Patrick Heaney, dated June 29, 2006
- 367. Counter-designations for Lancelot Gumbs
- 368. Counter-designations for Frederick Bess
- 369. Counter-designations for James Eleazar
- 370. Counter-designations for Philip Brown

Dated: New York, New York  
September 28, 2006

For the State of New York, the New  
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SO ORDERED:

\_\_\_\_\_  
Thomas C. Platt  
United States District Judge

Date:\_\_\_\_\_