STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
FRESHWATER WETLANDS SECTION

IN RE: WESTERN INDUSTRIAL COMPLEX CORP. Application No. 85-592F
Formal Application No. 85-592F
Western Cranston Industrial Complex
Phase II, Comstock Parkway, Cranston, RI

CONSENT AGREEMENT

This Consent Agreement is entered by and between the Department of Environmental Management, Division of Water Resources (the "DEM") and Western Industrial Complex Corp., a Rhode Island corporation ("WICC"). This Agreement is entered in accordance with Chapters 42-17.1 and 42-35 of the Rhode Island General Laws ("RIGL").

By letter dated June 2, 1986, from the DEM to William Stamp of WICC, the DEM issued an administrative decision (the "Decision") relating to Application No. 85-592F (the "Application"). In the Application, WICC sought permission to alter Fresh Water Wetlands in the City of Cranston for the purpose of roadway construction, drainage installation and detention pond construction associated with the proposed Western Cranston Industrial Complex - Phase II. The location of the proposed work is west of Comstock Parkway and south of Plainfield Pike, Cranston, Rhode Island.

The proposal is described by the site plans submitted with the Application entitled: "Western Industrial Complex - Phase II, Cranston, Rhode Island", prepared by James F. Lembo, P.E., Rumford, Rhode Island, scale 1" = 100 feet, three sheets, dated December, 1985 and received by the DEM January 16, 1986 (the "Site Plans").

The Decision contained a "conditional approval" which approved in part and denied in part the work proposed in the Application. By letter to the DEM dated June 6, 1986, from Frederick C. Kilguss, Jr., attorney for WICC, WICC requested a public hearing to show cause why the Decision should not remain in effect.

By letter to the DEM, dated August 8, 1986, Sean O. Coffey, attorney for WICC, requested that DEM defer the scheduling of the requested show cause hearing to allow WICC an opportunity to revise the Application and Site Plans to address the concerns raised by DEM in the Decision and permit development of the proposed industrial complex.

WICC has prepared and submitted to the DEM revised site plans. The revised site plans are entitled: "Western Industrial Complex, Phase II, situated in Cranston, Rhode Island", site development plans sheets 1 of 3, 2 of 3 and 3 of 3, revised September 9, 1986, September 3, 1986 and September 3, 1986 respectively, indicating that an alteration to Fresh Water Wetlands is proposed (the "Revised Site Plans").

The DEM has reviewed the Revised Site Plans in light of the Decision, the environmental impacts of the proposed alterations, and has determined that the Application and Revised Site Plan may be approved in accordance with the purpose and standards of the Fresh Water Wetlands Act (R.I.G.L. 2-1-18 et seq.) and the regulations adopted pursuant thereto.

In lieu of further administrative proceedings regarding the Application, the DEM and WICC agree as follows:

A. The DEM hereby grants its approval to the Application and the Revised Site Plans for the purpose of roadway construction, utility and drainage installation, detention pond construction, and site development associated with the proposed Western Cranston Industrial Complex - Phase II as shown on the Revised Site Plans. No further Fresh Water Wetlands authorizations will be required for future site development, grading, paving, building construction and other work associated with construction on the individual lots shown on the Revised Site Plans.

B. This approval is subject to the following Special Conditions:

1. Erosion and sedimentation controls shall be installed at the site prior to the start of construction and be properly maintained for the duration of the project, including but not limited to:

a) The placement of a continuous line of staked haybales in all locations shown on the approved site plan and where otherwise necessary to prevent sediments from entering downstream wetlands.

b) The placement of additional erosion - sedimentation controls as required by the Wetlands Section Staff during construction.

c) All disturbed areas are to be permanently stabilized with a suitable conservation grass seed mix prior to the completion of the project. Areas exposed for extended periods are to be completely covered with spread hay mulch.

d) Catch basins will be protected with haybale filters throughout the construction period and until all disturbed areas are thoroughly stabilized. Sumps are to be cleared immediately following installation of permanent pavement.

e) Culvert discharge areas are to be protected with rip-rap of adequate size to withstand the expected discharge velocities.

f) Culvert/pipe inlets and outfalls are to be protected by haybale filters until disturbed areas are permanently stabilized with vegetation.

g) All control measures will be maintained in effective condition throughout the construction period.

h) Erosion and sedimentation controls must be inspected and verified by the Wetlands Section Staff prior to the commencement of construction.

2. The limits of all clearing, grading and disturbance shall be kept within the approved area of construction. All areas outside of the limits of disturbance shall remain totally undisturbed.

3. The bottom design elevation of the stormwater detention basin is to be maintained at all times and the bottom of the basin is to be stabilized with a vegetative cover of Reed Canary Grass (Phalaris arundinacea).

4. Any material, man made or natural, which is in any way disturbed and/or utilized during work herein authorized shall not be deposited in any wetland or watercourse, either onsite or off-site, unless so specifically authorized in the approved Application and Revised Site Plans.

5. Upon receipt of final approval of the project as proposed in the Application and Revised Site Plans by the Army Corps of Engineers or the U.S. Environmental Protection Agency and upon expiration of all periods for appeal of this Consent Agreement to the Superior Court, but in no event more than ninty days following the effective date of this consent agreement, WICC shall deed to the City of Cranston or to a land trust, approved by the Department the fee simple interest in that parcel of land

designated "conservation area" on the Revised Site Plan. Said deed shall be subject to a conservation Easement and Restrictions granted to the State of Rhode Island Department of Environmental Management and it successors or assigns as beneficiary. Said conservation easement shall contain the terms and conditions in that document attached to this consent agreement and made a part hereof by reference, Exhibit A. Said deed and Conservation Easement and Restrictions may also contain a provision allowing grantor to seek reversion of title to the parcel to WICC, its successors or assigns under the following circumstances:

a.) The parcel is being used in a manner amounting to a material breach of the terms and conditions of the Conservation Easement and Restrictions. A material breach is defined to mean use of the parcel for industrial, residential commercial or agricultural purposes.

b.) WICC, its successors or assigns has given written notice by certified mail to the beneficiary and the grantee of the material breach.

c.) The beneficiary and the grantee have failed to take action to cure the material breach within six months of the date of notification of the breach; and

d.) WICC, its successors or assigns, has obtained an order from a court of competent jurisdiction effecting the reversion of title to the parcel to WICC, its successors or assigns.

Said reversion of title shall be free from the terms, conditions and restrictions contained in the Conservation Easement and Restricitons. Prior to development of said reverted parcel, WICC, its successors or assigns, shall obtain all necessary approvals and permits from Federal State and Municipal authorities.

C. This approval is subject to the following Standard Permit Conditions:

1. Prior to commencing any work on this project, WICC shall record a copy of this Consent Agreement in the land evidence records of the City of Cranston.

2. All material for fill is clean and free of matter which could pollute adjacent wetlands and water courses;

3. The applicant must notify the Fresh Water Wetlands Section in writing prior to the commencement of construction and upon completion of the project;

4. A copy of the approved site plans and Consent Agreement shall be kept on the site at all times during construction.

D. The approval of the Department may be revoked by DEM for failure by WICC, to comply with any of the conditions of this Agreement.

This Agreement shall supersede the Decision dated June 2, 1986.

This Consent Agreement shall be deemed a final Administrative decision under the Administrative Procedures Act (Title 42, Chapter 35 of the General Laws of Rhode Island) from which no timely appeal was taken by the parties hereto, and which is enforceable by resort to Superior Court.

This Consent Agreement shall be entered and effective as of September 10, 1986.

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Approved as to Form:

Robert A. Shawn
Legal Counsel

For the Director,

Michael Annarummo, Supervisor
Wetlands Section

9/10/86
Date

WESTERN INDUSTRIAL COMPLEX CORP.

Sean O. Coffey, Esquire
Licht & Semonoff

William M Stamp
William Stamp, Jr.
President

9/10/86
Date