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A LIMITED LIABILITY PARTNERSHIP

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May 23, 2002

VIA REGULAR U.S. MAIL

The Honorable Donald Evans  
 Secretary of Commerce  
 United States Department of Commerce  
 Herbert C. Hoover Building  
 14<sup>th</sup> Street and Constitution Ave., N.W.  
 Washington, D.C. 20230

VIA OVERNIGHT MAIL

Molly Holt, Esq.  
 Department of Commerce  
 National Oceanic & Atmospheric Administration  
 General Counsel for Ocean Services  
 SSMC-4, Room 6111  
 1305 East-West Highway  
 Silver Spring, MD 20910

RE Barnes Nursery, Inc.  
 State of Ohio Department of Natural Resources  
**SUPPLEMENTAL MATERIALS IN SUPPORT OF  
 STIPULATION FOR STAY AND REMAND**

Dear Mr. Secretary and Ms. Holt:

Pursuant to 15 C.F.R. Section 930.129(c)(3) and (d), the parties hereto have requested that the within matter be stayed, and thereafter remanded to the State of Ohio, Department of Natural Resources, for reconsideration of the project's consistency with the enforceable policies of the Ohio Coastal Management Program.

On May 1, 2002, Barnes Nursery, Inc. was requested to supply documentation describing information not taken into consideration by the State in its objection. Accordingly, Barnes Nursery hereby submits the following supplementary materials:

- 1 The provisional permit issued on December 7, 2001 by the U.S. Army Corps of Engineers. This provisional permit would grant Barnes Nursery authorization to complete the work to which the State has objected. Barnes Nursery believes that the conditions contained in the Corps' provisional permit address substantially all of the objections asserted by the State. Barnes Nursery thus believes it is

important for the State to consider these provisional permit conditions as part of its decision-making process.

2. The Corps of Engineers issued its provisional permit only after engaging in an exhaustive administrative process. Part of that process was holding a public hearing on June 12, 2001. The transcript of that hearing contains comment relevant to the State's objections, and should be taken into consideration by the State in a review of the Barnes Nursery project.
3. Barnes Nursery has performed a wetlands delineation as a part of the Corps of Engineers process. This wetlands delineation is relevant to the State's objections, and should be taken into consideration by the State in a review of the Barnes Nursery project.
4. A portion of the Barnes Nursery project was constructed (under a permit issued by the U.S. Army Corps of Engineers) in the spring of 2000. Throughout 2001 and now into 2002, Barnes Nursery has been tracking the impact of the project. Materials concerning the impact of the project should be taken into consideration by the State in a review of the Barnes Nursery project.
5. A portion of the Barnes Nursery project was constructed (under a permit issued by the U.S. Army Corps of Engineers) in the spring of 2000. Throughout 2001 and now into 2002, Barnes Nursery has been tracking the biological diversity created as an impact of the project. Materials concerning the impact of the project should be taken into consideration by the State in a review of the Barnes Nursery project.
6. Barnes Nursery has conducted a series of investigations concerning the site where the project was partially constructed in the spring of 2000. Those materials should be taken into consideration by the State in a review of the Barnes Nursery project.
7. Representatives of the Ohio Department of Natural Resources visited the Barnes Nursery site on November 15, 2001. The site visit conducted by ODNR provided them with an opportunity to make observations that should be taken into consideration by the State in a review of the Barnes Nursery project. Representatives of Barnes Nursery were also able to provide additional information to the State during a face-to-face meeting held in January 2002.