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## Landmark Court Ruling Favors Lenape Indians

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**BODY:** Attorneys from Washington, DC Office of Womble Carlyle Sandridge & Rice, PLLC Provide Pro Bono Representation to Tribe in Court Battle That Lasts Nearly Four Years

In a precedent-setting, watershed decision, the Superior Court of New Jersey today ruled in favor of both the Nanticoke Lenni-Lenape Indians of New Jersey and the N.J. Department of Environmental Protection (DEP) in their long-standing battle to protect a N.J. Register of Historic Places designation for a 10,000-year-old Native American archaeological site. The ruling is a landmark in N.J. state law because it is the first challenge to a N.J. Historic Register listing.

The appeal, filed by Vernon Township in Sussex County, challenged the reasonableness and timeliness of the final decision by DEP Commissioner Bradley Campbell to list the Black Creek Native American site on the N.J. Historic Register. Today, a three-judge appellate panel ruled in favor of the Lenape and the DEP on every count, finding that the DEP commissioner complied with state law and regulations governing the historic preservation process. The court also held that the commissioner's decision was lawful, timely, fully within his discretion and consistent with the requirements of due process.

"Today is a great day for the Lenape Indians. The tribe is extremely pleased with this decision, and, at the same time, grateful to Commissioner Campbell as well as to the hundreds of supporters who have stood by the tribe during this long battle," said Womble Carlyle's **Greg Werkheiser**. "Ten thousand years of human history are now saved, not just for Native Americans, but for all citizens who respect history and want to preserve it for future generations."

Werkheiser and co-counsel Deborah Israel have provided pro bono representation to the Lenape tribe throughout the trial's four-year duration -- devoting several thousands hours to the case.

"I'm grateful that the court has vindicated our efforts to save a precious resource from destruction," Campbell said. "New Jersey could have lost thousands of years of Native American history. We always support local community efforts to develop recreational spaces but it need not come at the expense of other local treasures like the Black Creek Native American site. I am also pleased that the court recognized our efforts to accommodate the interests of the township prior to listing the site."

The ruling applied to a 40-acre parcel in Vernon Township where more than 15,000 artifacts have been found and an estimated 13 million remain. Highland Lakes, N.J. archaeologist Rick Patterson discovered the cultural resource 10 years ago and named it the Black Creek Native American site.

In 2001, Patterson and the Lenape Indians nominated the site to the N.J. Register of Historic Places. The site then went before a historic review board of the DEP, which has jurisdiction over register listings. After the review board recommended the site's listing and deemed it worthy of preservation, newly appointed DEP Commissioner Campbell officially listed Black Creek on the N.J. Historic Register on April 1, 2002 and forwarded a recommendation to the U.S.

Department of the Interior to list the site on the National Register of Historic Places. The Vernon Township Council challenged the listing in the appeals court. A hearing was held before the three judges on October 29, 2003.

The October 29 hearing was one of 14 rounds of litigation on the matter. Immediately prior to the first court appearance in 2001, the Vernon Township Council dispatched a bulldozer in an attempt to destroy the historic site. Patterson and the Lenape, however, won a temporary restraining order and an injunction in the Superior Court in Morristown. Despite the injunction, the Vernon Township Council proceeded to award a contract for the construction of football fields on the site during April 2002. Just hours prior to the council meeting when the contract was awarded, Campbell pre-empted the governing body by listing the site to the N.J. Historic Register, thereby invalidating the township's contract. The township then filed the appeal of Campbell's listing. The judges ruled Friday that the site was validly listed on the N.J. Register of Historic Places and should remain protected.

#### About Womble Carlyle Sandridge & Rice, PLLC

A full-service business law firm, Womble Carlyle ranks among AmLaw's 100 leading firms in the country and is considered a top firm for companies doing business in the Southeast and Mid-Atlantic states. The firm is the 2003 recipient of the Thurgood Marshall Scholarship Fund Corporate Leadership Award, making Womble Carlyle the first law firm ever to receive the highest honor given to a company in recognition of its support of the Fund and its 45 member institutions.

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