



State of New Jersey  
 THE PINELANDS COMMISSION  
 PO Box 7  
 NEW LISBON NJ 08064  
 (609) 894-7300

JON S. CORZINE  
 Governor

JOHN C. STOKES  
 Executive Director

**MEMORANDUM**

**DATE:** September 22, 2009

**TO:** Members of the Public and Governmental Programs Committee  
**FROM:** Charles M. Horner, P.P., Director of Regulatory Programs *CMH*  
**SUBJECT:** Proposed MOA with Ocean Township to Allow a Solar Generating Facility at a Closed Landfill in the Township

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**I. Summary of Proposed MOA**

On August 20, 2009, the Commission staff received a request from Ocean Township to enter into a Memorandum of Agreement (MOA) with the Township. The MOA would allow for the development of a solar generating facility on a parcel located in a Pinelands Forest Area. There is an existing closed landfill on the parcel. Unless proposed at a scale that qualifies as accessory to the existing closed landfill, a solar energy facility would not be a permitted use in a Pinelands Forest Area. The solar generating facility is not proposed as accessory to the closed landfill.

**II. Commission Process To Evaluate Requested Public Agency MOAs**

The Commission has established a process (see attachment) to evaluate public agency requests for MOAs. First, the requesting public agency provides the Commission staff with certain specified information regarding the proposed MOA. The Commission's Executive Director then reviews that information and advises the agency of any additional information that may be necessary to facilitate the Commission's evaluation of the MOA. The public agency's proposal, along with the Executive Director's preliminary assessment are then provided to the Commission's Public and Governmental Programs Committee for review. The Committee is briefed by the public agency on the proposed MOA at the Committee's monthly meeting. The Public and Governmental Programs Committee, in consultation with the Commission's Executive Director, then determines whether the Commission should consider entering into an MOA for the proposed project.

The Commission staff has completed a review of the information received on August 20, 2009 from Ocean Township. Additional information is necessary to complete the Commission's evaluation of the MOA. However, we believe the proposal merits consideration and because the



<http://www.nj.gov/pinelands/>  
 E-mail: [info@njpines.state.nj.us](mailto:info@njpines.state.nj.us)

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Township asked for an expedited review, we have scheduled the matter for discussion at the September 29, 2009 Committee meeting.

### **III. Summary of Proposed Project**

Attached please find a copy of the Township's submission. This memorandum attempts to summarize the information provided in that submission.

The proposed MOA would allow for the development of an approximate 22 acre solar energy generating facility on a 295 acre parcel. There is an existing closed landfill on the parcel. The closed landfill occupies approximately 50 acres of the 295 acre parcel. For the most part, the solar facility will be located on an area previously disturbed by the landfill.

The parcel is not currently owned by the Township. The Township proposes to secure ownership of the parcel. While the facility is proposed to be located on land to be owned by the Township, the facility itself would be owned, operated and maintained by a private entity. That private entity would own, operate and maintain the facility and make annual land lease payments to the Township for a 15 year period.

The solar facility would generate 7,189,076 kilowatts of energy per year. All of the power generated from the facility will be fed into the region's electric utility system and be sold to PJM markets. It is estimated that the solar facility will cost 39.7 million dollars from design phase through placement into operation.

The Township represents that, based upon prior litigation regarding closure of the landfill, certain acreage of the 295 acre parcel, not previously utilized for the landfilling operation, is already the subject of a deed restriction that limits use of that acreage to low intensity recreation. Based upon that same prior litigation, certain acreage is proposed to be transferred to the State of New Jersey.

The Township represents that the ongoing cost of maintenance for the closed landfill is a "significant" burden on the Township and the County. Although we are aware of the County's obligation, we are uncertain as to the Township's obligation and how this MOA might help them fulfill those obligations.

There is a lined and unlined portion of the closed landfill. The Commission previously entered into an MOA with the NJDEP and other private entities to allow the landfill to accept certain additional waste products to generate funds to facilitate the closure of the lined portion of the landfill.

### **IV. Pinelands Comprehensive Management Plan MOA Requirement**

The Commission's regulations authorize the Commission to enter into MOAs to permit development that may not be fully consistent with the provisions of the Pinelands Comprehensive Management Plan (CMP) provided that it is demonstrated that the variation from the standards of the CMP will be accompanied by measures that, at a minimum, will afford an

equivalent level of protection of the resources of the Pinelands than would be provided through strict application of the standards of the CMP.

**V. Township Proposed Measures that Afford the Pinelands Environment at Least an Equivalent Level of Protection**

With respect to measures that, at a minimum, will afford an equivalent level of protection of the resources of the Pinelands, the Township submission represents that the project benefits will result in a reduction in airborne emissions when compared to a conventional fossil fuel power generation, provide for utilization of a brownsfield site, provide educational benefits, improved electric service to the landfill parcel, create green jobs, encourage development of the solar energy industry and provide a safe and beneficial use of a closed landfill site.

**VI. Additional Information Required to Facilitate Commission Staff Evaluation of the MOA.**

The following additional information is required to facilitate the Commission's evaluation of the MOA:

1. Currently, the Township appears to have no direct ownership interest in the property. The specific approach and timeline for acquisition of the parcel by the Township must be provided. For example, if the current owner is not supportive of the effort, what is the time line for a foreclosure action? If proposed, what is the time line and requirements for condemnation?
2. The results of Ocean County's review of the compatibility of the proposed solar facility with the landfill liner, the landfill stormwater management system and other landfill facilities which might be impacted by development of the solar facility.
3. The measures currently proposed by the Township to afford, at a minimum, an equivalent level of protection of the resources of the Pinelands do not appear sufficient to meet the CMP MOA regulatory obligation. The Township should consider what additional measures it will propose which will afford, at a minimum, an equivalent level of protection of the resources of the Pinelands than would be provided through strict application of the standards of the CMP. Such measures could include open space acquisition\*, development of a landfill closure design for use throughout the Pinelands Area and/or contributions to the Pinelands Conservation Fund.

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\* For example, the Township could consider the transfer of the approximately 300 acres of Township owned land north of County Route 532 to the New Jersey Department of Environmental Protection, Green Acres Program, a contribution to the Pinelands Conservation Fund to reduce the potential for secondary growth impacts from the improvements to the Garden State Parkway around Interchange 69 in the Township (from the Interchange west to the County Park); or pursuing transfer of 58 acre Block 19, Lot 2 from the Ocean Township Board of Education to the New Jersey Department of Environmental Protection, Green Acres Program or Ocean the County Park].

4. It appears that there are numerous other interested parties in the matter. Those parties include the current owner, Southern Ocean Landfill, Inc, the New Jersey Department of Environmental Protection, the Ocean County Utilities Authority and Ocean County. The process through which each party will formally approve the project and a timeline for those approvals must be provided. For example, will NJDEP require a specific approval/permit for modification of the landfill? If yes, what is the process and timeline for securing that approval/permit?
5. Additional information regarding site improvements that are required for the proposed solar facility. For example, the number and size of substations, transformers, step up transformers, skid mounted substations and skid mounted transformers.
6. The proposed solar facility will be constructed, owned, operated and maintained by a private entity. The applicable CMP MOA provision authorizes the Commission to enter into an MOA with a public agency to allow that public agency to carry out specified development. So that the Commission may more fully judge whether the proposed solar facility is a public venture which qualifies for an MOA under the Commission's regulations, what public benefits accrue to Ocean Township? Does the Township's role in the development go beyond that of entering into a lease? What public benefits will accrue to Ocean Township relative to its obligation to maintain the closed landfill?
7. Will the solar generating facility necessitate any significant increase in onsite or offsite utility pole heights?
8. What public benefits will accrue to Ocean County relative to its obligation to maintain the closed landfill?
9. Clarification of the total acreage of the parcel currently subject to a conservation deed restriction.

One consideration for the Commission's evaluation will be a recognition that, if the Commission decides to pursue an MOA for the proposed solar facility, other interested public agencies will most likely approach the Commission with similar proposals. The Commission must decide whether it wishes to approach the issue on an MOA-by-MOA basis until it develops rules to govern the location of solar facilities and other similar facilities.

Representatives of Ocean Township will be attending the September 29, 2009 meeting to brief the Commission of the proposal .Please do not hesitate to contact me with any questions.

New Jersey Pinelands Commission  
THE PROCESS FOR CONSIDERING AN INTERGOVERNMENTAL AGREEMENT  
June 23, 2008

Under normal circumstances, the Pinelands Commission expects that a public agency's development plans will conform to all of the land use [N.J.A.C. 7:50, Subchapter 5] and development standards [N.J.A.C. 7:50, Subchapter 6] of the Pinelands Comprehensive Management Plan [CMP]. However, there may be instances where a public agency believes that a specific development plan can not conform to all of the CMP's requirements.

Although the Pinelands Commission expects these types of situations to be very rare, the CMP [N.J.A.C. 7:50 – 4.52 (c)] does allow the Commission to enter into an intergovernmental agreement that authorizes a public agency to undertake development activities that are not fully consistent with Pinelands land use and development standards. The Pinelands Commission recognizes its obligation to exercise this discretionary authority very carefully and, under no circumstance can consider such an agreement unless the relief sought from CMP standards is offset by other measures that will provide at least an equivalent level of protection of the Pinelands.

In order to properly discharge its responsibilities, the Commission's Executive Director works with a committee of Commission members [the Public and Government Programs Committee] to evaluate requests for intergovernmental agreements and, if warranted, prepare a formal agreement for the full Commission's consideration. This process consists of twelve steps, as outlined below, and may take 12 months or longer to complete:

Step 1. A public agency should contact the Commission's Executive Director if it believes its proposed development plan can not meet the land use or environmental standards of the CMP and wishes to pursue an intergovernmental agreement. The Executive Director will arrange for the public agency's representatives to meet with the Commission's staff to review the proposal in more detail.

Step 2. The Executive Director will provide the agency's representatives with a preliminary opinion as to whether its proposed project appears to be consistent with the types of other activities authorized by the Commission through intergovernmental agreements.

Step 3. If the agency wishes to proceed with its request, it will prepare a proposal that provides the following information and submit the proposal to the Executive Director.

1. A description of the project and at least a conceptual site plan. The project description and site plan must address both short term and long term development plans for the site.

2. If the project site is part of a larger tract of land, a description and at least a conceptual site plan illustrating any existing and future development and management plans for the remainder of the tract.
3. A detailed description of the need for the project and the public purposes it will serve.
4. A list of public agencies and non-governmental organizations that have been consulted regarding this project and information about their views or recommendations about the project.
5. The status of project financing, including an estimate of costs and preliminary or firm funding commitments.
6. The status of project planning and design work. At a minimum, a preliminary assessment of wetland, rare plant and rare animal resources that may exist on the tract must be included.
7. A detailed listing of CMP land use and development standards that can not or likely will not be met and why they can't be met.
8. A description of design measures to be taken to reduce the extent of the project's non-conformity with CMP standards.
9. A detailed listing of other CMP development standards for which insufficient information is currently available to assess the project's conformance.
10. A description of project alternatives [other locations for the project and other on-site designs] that were considered and why they weren't pursued.
11. The specific measures that are proposed to provide an equivalent or better level of protection of the Pinelands than would be achieved if the CMP's standards were strictly followed. These may include one or more environmental initiatives, including the protection of land elsewhere and the remediation of environmental impacts on this tract or elsewhere.

Step 4. The Commission's Director of Regulatory Programs shall organize the staff's review of the proposal and advise the agency's representative of any supplemental information that should be incorporated into to the proposal to help in the Commission's evaluation.

Step 5. The public agency's proposal, along with the Executive Director's preliminary assessment of the proposal, will be provided to Public and Government Programs Committee members. The agency will brief the Committee on its proposal at the Committee's next available meeting.

Step 6. Following the briefing, the Public and Government Programs Committee, in consultation with the Executive Director, shall determine whether the Commission should consider entering into an intergovernmental agreement for the project.

Step 7. If an intergovernmental agreement is to be prepared, the Executive Director shall assign the appropriate staff member(s) to work with the agency to complete any remaining planning and design work, address any outstanding matters and to draft the intergovernmental agreement.

Step 8. The Executive Director shall consult with the Public and Government Programs Committee as the agreement is being prepared and will fully brief the Committee as to the specific contents of the draft agreement before scheduling a public hearing on the proposal.

Step 9. The Executive Director shall conduct a public hearing and prepare a written report addressing the public's comments on the proposed agreement. The report shall present a formal recommendation as to whether the Commission should approve the agreement. A proposed resolution memorializing the recommendation shall also be prepared.

Step 10. The Executive Director shall review the report and the proposed resolution with the Public and Government Programs Committee.

Step 11. The Public and Government Programs Committee's recommendation shall be incorporated into the proposed resolution. If the Committee disagrees with the Executive Director's recommendation, it may request that the Executive Director also prepare an alternative resolution for the Commission to consider

Step 12. The full Pinelands Commission shall consider the resolution(s) at its next available meeting.





GLUCK & ALLEN, LLC  
ATTORNEYS AT LAW

217 WASHINGTON STREET  
TOMS RIVER, NEW JERSEY 08753  
TELEPHONE: (732) 505-4800 FACSIMILE (732) 505-4813

App # 1981-2081,009  
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JAMES J. GLUCK†  
ROBERT W. ALLEN<sup>^</sup>

WAYNE R. FROHLICH<sup>^</sup>  
BRANDON M. DICKSTEIN<sup>^</sup>

† MEMBER NJ & PA BARS  
<sup>^</sup> MEMBER NJ & NY BARS

OF COUNSEL

CHARLES J. IRWIN (1931-2005)  
KELLEY JOHNSON

August 20, 2009

Via Hand Delivery

Mr. John C. Stokes, Executive Director  
New Jersey Pinelands Commission  
15 Springfield Road  
New Lisbon, New Jersey 08064

RE: Township of Ocean, Waretown, NJ  
Southern Ocean Landfill Redevelopment Project  
Initial Submittal of Proposal for Consideration of Intergovernmental Agreement  
5.675 MW Solar Voltaic Generation System

Dear Mr. Stokes:

Please be advised that the undersigned is the Assistant Township Attorney representing the Township of Ocean in regards to the above referenced project. As you may be aware the Township of Ocean is seeking to conduct a redevelopment project by constructing a on a portion of the closed Southern Ocean Landfill which is within your Commission's jurisdiction.

On behalf of the Township Committee I respectfully submit herewith sixteen (16) copies of the initial submittal for consideration by the Commission for an Intergovernmental Memorandum of Agreement for this noteworthy project, which has been prepared in accordance with the guidelines issued by the Commission on June 23, 2008 entitled "The Process for Considering an Intergovernmental Agreement."

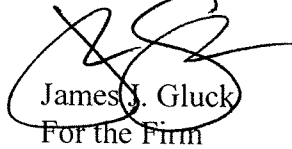
We welcome the opportunity to meet with the Commission or its appropriate committee to discuss this submittal in detail. Please understand that the Township is looking to "Fast Track" the approval process for this project and will make accommodations as necessary to the Commission.

Other Offices:

574 Avenue of the Americas, New York, New York 10011, Telephone (212) 286-0200, Facsimile (212) 883-0495

Thank you in advance for your time and consideration. Should you have any questions or require additional information, please contact me at your earliest convenience.

Very truly yours,  
GLUCK & ALLEN, LLC



James J. Gluck  
For the Firm

JJG/  
Enclosure

cc: Honorable Robert J. Kraft, Mayor  
Richard Reilly, Deputy Mayor  
Joseph Lachawiec, Township Committee Member  
Kenneth Mosca, Township Administrator  
Wayne Leahy, Director Business Development PEPCO Energy  
Honorable John Adler, United States Representative 3<sup>rd</sup> District, NJ  
Robert Swain, Esq., Southern Ocean Landfill, Inc.  
Richard Warren, Ocean County Utilities Authority  
Alan Avery, Ocean County Administrator  
Ernie Kuhlwein, Ocean County Solid Waste Management  
Joe Koehler, Hatch Mott MacDonald  
Jennifer Herrera, Esq., Deputy Attorney General NJDEP  
Mary Anne Goldman, NJDEP Solid and Hazardous Waste  
Rick Dovey, Atlantic County Utilities Authority


Other Offices:

574 Avenue of the Americas, New York, New York 10011, Telephone (212) 286-0200, Facsimile (212) 883-0495

AUG 20 2009

**Township of Ocean  
50 Railroad Avenue  
Waretown, New Jersey 08758**

**Honorable Robert J. Kraft, Mayor**

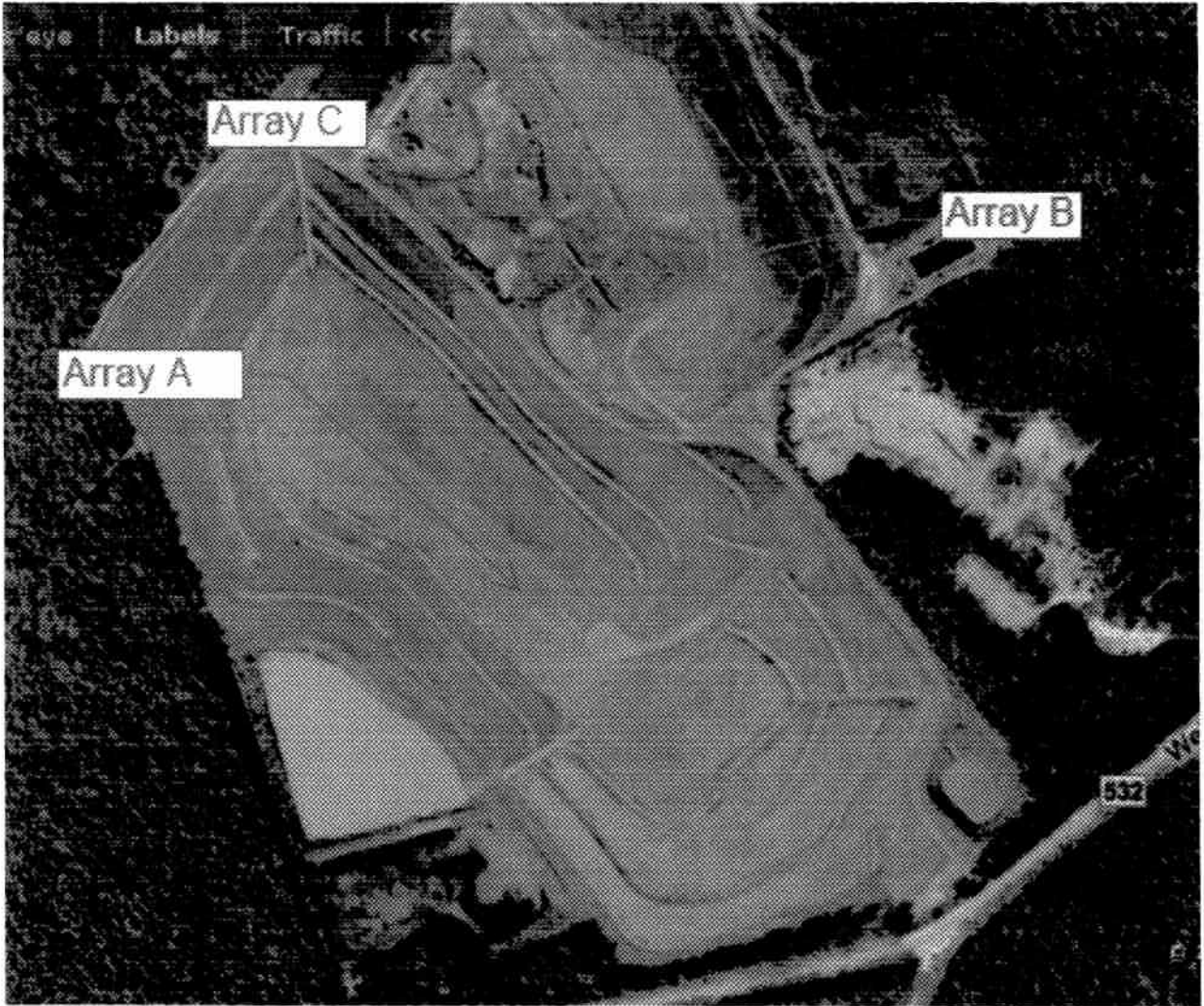
  
By: **James J. Gluck, Esq.**  
Assistant Township Attorney  
Gluck & Allen, LLC  
217 Washington Street  
Toms River, New Jersey 08753

**Proposal to NJ Pinelands Commission  
for Intergovernmental Agreement by the Township of Ocean to  
Install a Solar Photovoltaic Generation System**

- 1. A description of the project and at least a conceptual site plan. The project description and site plan must address both short term and long term development plans for the site.*

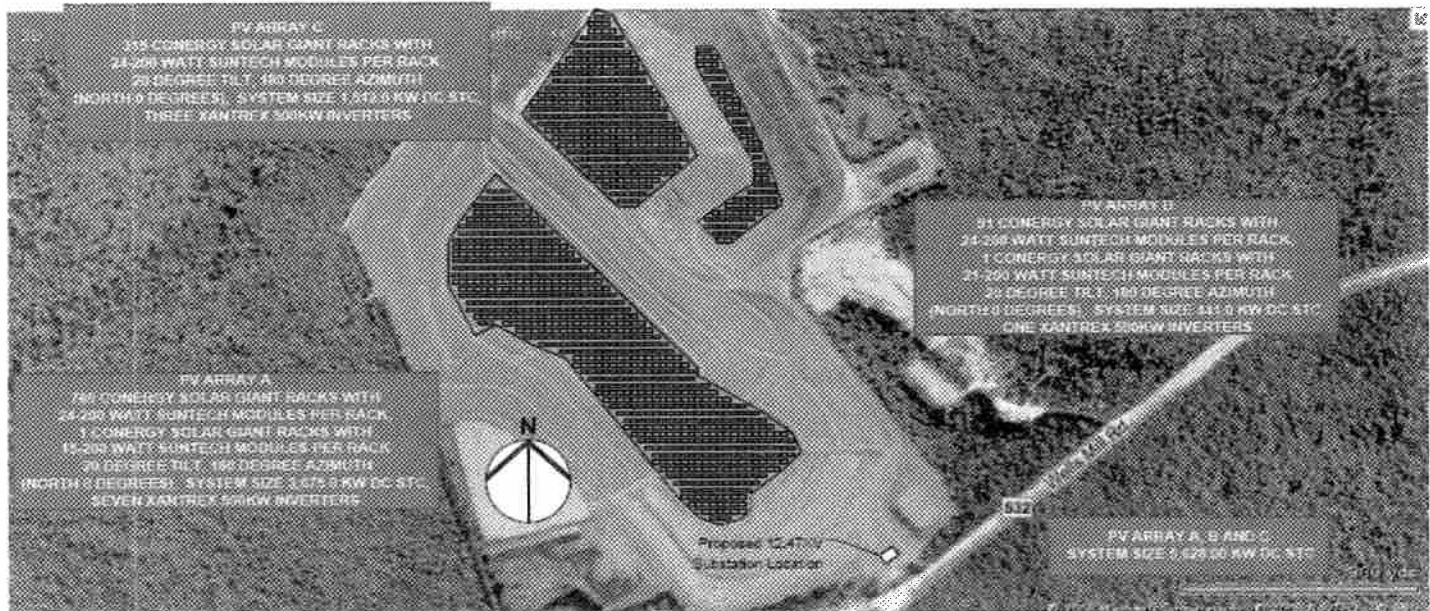
The Township of Ocean (Township) landfill located adjacent to Wells Mill Road within the Township of Ocean consists of two (2) disposal areas – a 50 acre unlined landfill and a 12 acre lined landfill. Solid wastes were not accepted after the year 1988, and the landfill was closed completely in compliance with the NJDEP landfill closure regulations in August 2004. The 50 acre unlined landfill has a cap consisting of a 40 mil geomembrane layer covered with an 18 inch sand drainage layer which is covered with a 6 inch vegetated topsoil layer with hay and mulch. Landfill gas is vented through a series of individual vent stacks. The 12 acre lined landfill is capped the same as the 50 acre site but has a landfill gas collection and flare system in lieu of individual vent stacks.

The proposed project is a Solar Photovoltaic Generation System (Solar System) which will convert sunlight which falls upon the landfill into useful electricity. The Solar System will be composed of solar panels located atop three (3) different sections of the landfill utilizing approximately 22 acres of the landfill cap. An aerial view of Township of Ocean landfill and the locations of three proposed solar arrays are shown below:



*Aerial view of the Southern Ocean Landfill*

The proposed layout for the Solar Photovoltaic Generation System is shown below:



***Layout of the Proposed Solar Photovoltaic Generation System at the Southern Ocean Landfill***

The design of this solar photovoltaic system envisages utilization of fixed ground mounted, polycrystalline photovoltaic (PV) modules. The proposed system design maximizes the environmental and economic benefits to the Township while taking optimum advantage of the available ground area designated for this System.

This solar PV system is rated at 5.675 MW and is projected to produce 7,189,076 kWh of clean renewable energy during its first year of operation. Annual system degradation is estimated to be 0.5% on initial year energy production. The proposed Solar System would be designed, constructed, owned, operated and maintained by Pepco Energy Ocean Solar, LLC, through a 15 year lease agreement. Pepco Energy would compensate the Township by making monthly lease payments to the Township for the term of the contract for the use of the land below the Solar System.

Pepco Energy has selected among the best available commercial technologies for the system components including: Suntech STP 200 24 Ub-1 PV solar modules rated at 200 watts DC STC; Conergy Solar Giant III module mounting system; and Satcon 500 kW inverters. The solar PV modules will be mounted on the Solar Giant III mounting systems. The module mounting systems will be installed on the flat areas of the landfill site using ballasts and without penetrating the landfill cap. The solar modules will be installed at 20° tilt with respect to the horizontal axis, with an Azimuth of 180° (0 degrees true north) to maximize system size and electric output.

The Solar System will deliver DC power to eleven (11) 3-phase, 500 kW power inverters. The 208 V AC power output from the inverters will be stepped up to 12.47 kV using four (4) 208 V-12.47 kV, 1,000 kVA liquid filled transformers, each equipped with two (2)

isolated 208 V windings, one for each inverter, and one (1) 12.47 kV winding and three (3) 208 V-12.47 kV, 500 kVA liquid filled transformers each equipped with one (1) 208 V winding and one (1) 12.47 kV winding. Each transformer package will include a built-in AC disconnect and fused switch. The two (2) 1,000 kVA and two (2) 500 kVA transformers will distribute power into one (1) separate 12.47 kV substation which will tie into the existing utility electrical distribution system. Atlantic City Electric will make the necessary upgrades required to connect to the onsite 12.47 kV substation. When sufficient sunlight is present, the Solar System is energized and will supply clean renewable energy to the utility electrical distribution system. The combiners, inverters, disconnects and step up transformers will be housed on skids in close proximity to solar arrays while the one (1) skid mounted substation would be located near the Wells Mill Road landfill entrance. All of the power generated from the Solar System will feed into the utility electrical distribution system and will be sold to the PJM market at wholesale rates.

Technical parameters of the three proposed solar PV arrays are shown below:

<b>Parameter</b>	<b>Array A</b>	<b>Array B</b>	<b>Array C</b>
<b>Array Size (STC DC)</b>	<b>3,675.0 KW</b>	<b>441.0 KW</b>	<b>1,512.0 KW</b>
<b>Array Tilt</b>	<b>20°</b>	<b>20°</b>	<b>20°</b>
<b>Array Orientation</b>	<b>180° (North =0°)</b>	<b>180° (North =0°)</b>	<b>180° (North =0°)</b>
<b>PV Module (Manufacturer)</b>	<b>Suntech</b>	<b>Suntech</b>	<b>Suntech</b>
<b>Quantity</b>	<b>18,375</b>	<b>2,205</b>	<b>7,560</b>
<b>Power Output</b>	<b>200 watts (-3% / +3%)</b>	<b>200 watts (-3% / +3%)</b>	<b>200 watts (-3% / +3%)</b>
<b>Inverter Manufacturer</b>	<b>Satcon</b>	<b>Satcon</b>	<b>Satcon</b>
<b>KVA Rating</b>	<b>(7) 500 KVA</b>	<b>(1) 500 KVA</b>	<b>(3) 500 KVA</b>
<b>Mounting System</b>	<b>Conergy SolarGiant III</b>	<b>Conergy SolarGiant III</b>	<b>Conergy SolarGiant III</b>
<b>DAS System</b>	<b>Fat Spaniel</b>	<b>Fat Spaniel</b>	<b>Fat Spaniel</b>

#### **Technical parameters for the proposed three solar Arrays**

The inverters would be located outdoors on a crushed stone foundation in close proximity to solar arrays and the substation would be located near the entrance of the landfill site. With the exception of the proposed photovoltaic array C, the only site disturbance will be associated with the installation of utility poles along the landfill road. For the photovoltaic array C area, minor grading and leveling will be necessary. An erosion control and sediment control plan will be prepared for the photovoltaic array C area.

The development activities mentioned above are proposed to be completed in a span of about six months from the actual date of beginning of project construction which will occur only after obtaining all the necessary clearances and permits. Upon completion of the project, Pepco Energy will be responsible for the maintenance of the Solar System on the site over the duration of the lease. However this does not entail any kind of development activity. Apart from the short term project development activities detailed above, no other plans for development are made for the Township of Ocean landfill either in the short term or over the long term.

**2. *If the project site is part of a larger tract of land, a description and at least a conceptual site plan illustrating any existing and future development and management plans for the remainder of the tract. (Ocean from recent survey)***

The entire property in question is shown on the Tax Map of Ocean Township as Block 6, Lot 4.01 consisting of 193.60 acres and Block 7, Lot 1 consisting of 101.2 acres. The proposed solar system is projected to encompass approximately 22.0 acres of property, all contained within Block 7, Lot 1.

The entire tract of land is covered by a Consent Decree which was filed in the Superior Court of New Jersey on June 25, 2007. (See Attached Exhibit A) The Consent Decree was a result of litigation known as New Jersey Department of Environmental Protection, et al. v. Southern Ocean Landfill, Inc., et al. Docket No. OCN-L-003965-97 and New Jersey Department of Environmental Protection et al. v. Joseph Caldeira, Jr., et al. Docket No. OCN-L-001329-99.

As part of the litigation, Southern Ocean Landfill, Inc. (SOLI) agreed to impart a deed restriction on the property. Specifically the restriction is imposed in a Deed dated May 19, 2000 between the SOLI and SOLI recorded in the Office of the Ocean County Clerk on June 8, 2000 at Book 10117, Page 02249. The restriction is as follows:

“on the portions of the subject property that have not been used for waste disposal or improvements associated with the management of the landfill, shall remain undeveloped and vacant. Only low intensity recreational uses are permitted on this land, and this land shall not be used as a dilution area for any septic system.”

The Consent Decree contains a provision for the donation of Block 6, Lot 4.01 of the property to the State of New Jersey pursuant to a Land Transfer Agreement (LTA). Although the time frames contemplated in the LTA for the property have not been met, Ocean Township has recently been actively involved in working with the necessary parties to effectuate said transfer. As a predicate to said transfer however, the NJDEP is requiring the southerly lot line of Block 6, Lot 4.01 be relocated to the North outside of the active landfill/waste disposal area. As such, Ocean Township has entered into Agreement with SOLI to bring a minor sub-division application before the Township Land Use Board. The Township will proceed with that

application once it has received the necessary Certificate of Filing from the Pinelands Commission. (See Attached Exhibit B)

Upon completion of the subdivision and recording of the final plat, new lot 4.05 will be deeded by SOLI to the State of New Jersey as required by the referenced LTA. Lot 4.05 will be subject to the deed restriction contained in the aforementioned deed.

It is expected that the remaining property, Block 7, Lot 1 will be transferred by SOLI to the Township under a separate written agreement, or by foreclosure, upon authorization of the Governing Body. This property will also be subject to the restrictions as recited in the Consent Decree at Page 10, Section VII. 8. This requires that concurrent with the transfer of Lot 4.05 to the State of New Jersey, an additional deed restriction “on each parcel of real property that was used for landfill purposes or on which contamination has come to be located prohibiting any use of these properties for recreational, education, or residential purposes; prohibiting use of the ground water under the Site; and requiring appropriate engineering and institutional controls that will prevent any future exposure to, or release of hazardous substances at or from the Site.”

The Township, in conjunction with the County of Ocean, will continue the post closure maintenance and monitoring of the landfill areas as provided in the Consent Decree. The Township is not aware of any other development plans currently proposed for the remainder of the tract.

**3. *A detailed description of the need for the project and the public purposes it will serve.***

The Southern Ocean landfill stopped accepting solid wastes in the year 1988 and was completely closed in compliance with the NJDEP regulations in Aug 2004. This significant expanse of brown field area has not been of any tangible use since the year 1988. It has remained an unproductive space for over 21 years generating no financial or environmental benefits to the Township. On the contrary, the landfill will continue to emit methane gas which is a highly potent greenhouse gas. Since the 50 acre landfill does not possess a methane gas flaring system, the gas produced by this portion of the landfill is released directly to the atmosphere. The 12 acre portion of the landfill has a methane flaring system, however carbon dioxide is produced as a product of methane combustion which is also a greenhouse gas. Apart from the millions of dollars of tax payers money spent on proper closure of this landfill, there is a need to ensure continuous maintenance of the closed landfill and the flaring system throughout their lifetimes – another significant financial burden on the Township. Presently, this landfill is not only a financial liability to the Township as well as the County of Ocean, but also has significant negative impacts on the environment due to emission of greenhouse gases like methane and carbon dioxide thereby contributing to global climate change.



state of NJ, but will also contribute to the efforts to boost the national economy during our present economic recession.

- ***Support to Solar Industry:*** Even though sunlight is a clean, free and renewable source of energy, many potential solar energy projects are not financially attractive compared to other conventional technologies. Clearly, economies of scale must be achieved to make this universally available renewable source of green energy economically viable for all. The significant investments envisaged under this 5.675 MW Solar Photovoltaic Generation System will contribute to the development of the solar energy industry within the County of Ocean, New Jersey and beyond.
- ***Setting Example for Safe and Beneficial Use of Closed Landfills:*** Successful completion of this Solar Photovoltaic Generation System will demonstrate the safe and beneficial use of closed landfills. The potential environmental and economic benefits achieved by a cascading effect to other landfills throughout New Jersey and beyond are immense.

Closed landfill sites are deemed unfit for most types of beneficial economic and environmental activities. The only viable alternative to the proposed renewable energy project at of the Southern Ocean Landfill is to maintain the status quo – where in the landfill will continue to be a financial burden to its owner throughout its life span while continuing to emit greenhouse gases (i.e. methane and carbon dioxide) into the atmosphere contributing to global climate change. Clearly the proposed Solar Photovoltaic Generation System creates many tangible environmental, economic and social benefits compared to maintaining status quo. Not only will these environmental, economic and social benefits be sacrificed by maintaining status quo at the Southern Ocean landfill but will also result in a lost opportunity to shift away from fossil fuel generated electricity and towards a clean, green and renewable source of energy.

In addition to the above, the acquisition of the property by the Township will extinguish outstanding tax liens, satisfy an outstanding mortgage made by SOLI to the Township, resolve outstanding sewer charges from the Ocean County Utilities Authority and fulfill the requirements of the Consent Decree.

4. ***A list of public agencies and non-governmental organizations that have been consulted regarding this project and information about their views or recommendations about the project.***

- Office of the Governor of New Jersey:

Discussions were held with the Chief Energy Advisor to the Governor along with the representatives of the Pinelands Commission, New Jersey Department of Environmental Protection (NJDEP), Ocean County, International Brotherhood of

The proposed 5.675 MW Solar Photovoltaic Generation System would utilize approximately 22 acres of space on this closed landfill. It is estimated that the project would generate clean and green renewable energy in the amount of 7,189,076 kWh during its initial year of operation. The project would be designed, constructed, owned, operated and maintained by Pepco Energy through a 15 year lease agreement. Pepco Energy would compensate the Township by making annual land lease payments to the Township for the term of the lease. Pepco Energy has offered the following three options to the Township upon expiration of the 15 year lease agreement: (i) continuation of the lease agreement at mutually agreeable lease amount; (ii) sale of the Solar Photovoltaic Generation System to the Township at fair market value; or (iii) termination of the lease and removal of the Solar Photovoltaic Generation System from the landfill at no cost to the Township. Clearly, this renewable energy project will result in significant revenues to the Township which can be used to offset other Township expenses including landfill maintenance costs or mitigation of future municipal tax increases.

Apart from the financial benefits to the Township, significant environmental benefits can be realized through this Solar Photovoltaic Generation System. It is estimated that the proposed Solar PV System will help to achieve the following emissions reductions (in kg/year) compared to conventional fossil fuel based power generation:

- Carbon Dioxide CO<sub>2</sub>: 6,363,194
- Nitrogen Oxides NO<sub>x</sub>: 2,815
- Sulphur Dioxide SO<sub>2</sub>: 3,124
- Particulates: 395

Apart from these financial and environmental benefits the proposed project will result in a number of benefits to the public as mentioned below:

- **Brown Site Utilization:** The currently useless landfill area will become a productive site and will generate renewable energy.
- **Educational Benefits:** Through the web-based monitoring system and potential site tours of the Solar Photovoltaic Generation System (within the context of the deed restriction), Township citizens and school students can learn more about the virtues and benefits of solar energy.
- **Electric Utility Improvements:** By installing a Solar Photovoltaic Generation System at 5.675 MW upon the landfill, the utility distribution system currently supplying electricity to the landfill will be improved. These distribution system improvements will also help areas in and around the landfill.
- **Green Job Creation:** At 5.675 MW, the proposed Solar Photovoltaic Generation System will result in millions of dollars worth of investments. This will not only lead to creation of large number of green jobs within the

Electrical Workers (IBEW) and Pepco Energy Services concerning the implementation of the proposed Solar Photovoltaic Generation System. The Chief Energy Advisor facilitated discussions between all aforementioned concerned parties in an effort to expedite the development and potential implementation of the Solar Photovoltaic Generation System as well as a similar proposed solar energy project atop a closed landfill in Lumberton Township, NJ.

- New Jersey Department of Environmental Protection (NJDEP):

Discussions were held with the representatives of NJDEP along with the representatives of the Governor's Office, Attorney General, Pinelands Commission, Ocean County, Pepco Energy Services and IBEW. The NJDEP representatives have provided information about the process involved and the time required to obtain a landfill closure modification permit.

- Pinelands Commission:

Discussions were held with the counsel of the Pinelands Commission along with the representatives of the NJDEP, Governor's Office, Ocean County, IBEW and Pepco Energy. The preliminary views of the Pinelands Commission regarding the admissibility of the proposed Solar Photovoltaic Generation System would only be known upon submission of a proposal from the Township of Ocean to the Pinelands P&G Committee and their subsequent review of the project proposal. A Senior Counsel of Pinelands Commission has provided information and advice regarding the process involved in amending an existing Memorandum of Agreement (MOA).

- Township of Ocean:

The Township of Ocean desires to have a Solar Photovoltaic Generation System implemented on their closed landfill for the purpose of gaining environmental and economic benefits derived from the generation of renewable energy. Pepco Energy Services was selected by the Township to develop, design, operate and maintain a Solar Photovoltaic Generation System through a competitive bidding process which occurred earlier this year.

The Township views this project as an opportunity to convert the otherwise useless landfill site into an environmentally and economically beneficial asset. The Township is supportive of the proposed Solar Photovoltaic Generation System and is facilitating the process of deed transfer from the private owner of the landfill to the Township of Ocean which will help expedite other necessary permitting.

- Township of Ocean Land Use Board:

A minor subdivision application will be submitted to the Township Land Use Board in order to redefine the lot lines as previously outlined. Subsequent to receiving other outside agency approvals a major site plan application will be submitted to the Land Use Board. The Land Use Board shall provide a “courtesy review” of both applications as provided for in the Municipal Land Use Law as the Township of Ocean will be the Applicant.

The Township expects the Land Use Board will not have any objections to the subdivision or Solar Project.

- Ocean County:

Ocean County (County) is aware that time is of the essence in attempting to place the proposed Solar Photovoltaic Generation System in service by December 31, 2009. The County is concerned with the impact the Solar Photovoltaic Generation System may have on the landfill liner and storm water drainage system. The County and its engineering consultant (Hatch Mott MacDonald) are willing to expeditiously review any detailed engineering plans for the Solar Photovoltaic Generation System layout as soon as they are provided to the County. The County has also performed a site visit to the Pennsauken (NJ) Landfill to obtain a first-hand look at a closed landfill with solar panels installed upon it. The County anticipates the potential recovery of a small portion of the funds it invested for the proper closure of Ocean Township landfill through an agreement with the Township.

The County has also expressed its willingness to consider entering into an interagency agreement with the Pinelands Commission and other affected parties once the title of the landfill is secured by the Township of Ocean which is a necessary requirement for the potential modification of the existing Memorandum of Agreement with the Pinelands Commission that governs the permitted use of the landfill site.

- Ocean County Utilities Authority:

The Ocean County Utilities Authority (OCUA) participated in a roundtable discussion of the project. The OCUA did not express any objection to the project and views same as a potential to resolve outstanding sewer service charges owed by SOLI.

- The Atlantic County Utilities Authority

The Atlantic County Utilities Authority has been designated by the Township as its Renewable Energy Consultant.

- International Brotherhood of Electrical Workers (IBEW):

The IBEW is a non-governmental organization and represents approximately 725,000 members working in a wide variety of fields including utilities, construction, telecommunications, broadcasting, and manufacturing. The IBEW is supportive of the proposed Solar Photovoltaic Generation System and recognizes the project's potential to generate green jobs to New Jersey based electrical contractors particularly in the context of economic recession and recent large scale job losses. Representatives of IBEW have facilitated communication with various permitting agencies and the Office of the Governor.

- United States Congressman John Adler:

On August 7, 2009, Congressman Adler's office had advised us that "The Congressman wishes to be of any assistance to help shepherd the project in the right direction."

**5. *The status of project financing, including an estimate of costs and preliminary or firm funding commitments.***

The solar system will be developed, owned, financed and operated by a wholly-owned, special purpose subsidiary of Pepco Energy Services, Inc. (the "Solar SPE"). This entity will not only own and operate the solar system, but will also be the contracting party under various project agreements to sell into the PJM energy grid the quantities of electric energy generated from the Solar Photovoltaic Generation System as well as to sell any solar renewable energy certificates created in connection with operation of the Solar System. The Solar SPE will also be the lessee under a lease agreement with the Township of Ocean by which it will acquire the rights to construct and operate its Solar System at the landfill.

Pepco Energy Services estimates that a total investment of approximately \$39,672,534 will be required to develop, engineer, design, permit, procure, construct, and place the Solar Photovoltaic Generation System in commercial operation. This includes all project related soft costs as well as hard costs.

The required project funding may be provided to the Solar SPE from a variety of available sources currently being evaluated. These include both intercompany debt and equity contributions from the Solar SPE's corporate parents as well as debt or equity from third party lenders/investors. Pepco Energy Services will pursue third party sources of financing based on capital market conditions and its ability to obtain satisfactory terms may assume a variety of possible forms and structures, ranging from a project loan agreement secured by a first-priority security interest in the plant assets and contract rights to a capital lease arrangement. It is most likely that the SPE's parents will provide 100% of the project funding, but seek to refinance some or all of its investment following commercial operation depending on capital market conditions. Regardless of the final structure and subject to the satisfaction of various

project milestones, Pepco Energy Services will, with the support of its public parent Pepco Holdings, Inc. (POM), underwrite 100% of the initial project capital requirements.

POM possesses the financial resources required to finance all necessary project costs solely from its internal sources. Pepco Energy Services is a member of the consolidated group of utility and unregulated energy companies which are wholly-owned by POM.

Pepco Energy Services is an indirect, wholly-owned subsidiary of POM. POM was formed on August 1, 2002 with the merger of Potomac Electric Power Company and Conectiv. This merger resulted in the creation of a system of utility and unregulated companies and a consolidation of various businesses that had existed independently prior to the merger. Headquartered in Washington, D.C., POM is the publicly traded parent of a consolidated group of electric utility and competitive energy subsidiaries, which includes Pepco Energy Services. POM is listed on the New York Stock Exchange and is a member of the S&P 500. Its financial information is available on "EDGAR" or its home page on the World Wide Web at [www.pepco.com](http://www.pepco.com). Its total assets exceed \$14 billion. Through its subsidiaries Pepco, Delmarva Power and Atlantic City Electric, POM delivers regulated electric and natural gas distribution service to about 1.9 million customers in Delaware, the District of Columbia, Maryland, and New Jersey.

POM's competitive businesses are comprised of a wholesale and retail segment. The wholesale businesses are conducted through Conectiv Energy Holdings, Inc. and its subsidiaries, which own and operate 4,182 MW of merchant electric generation capacity in the Mid-Atlantic and New England markets and are engaged in energy trading and supply procurement and management activities as well. Pepco Energy Services is POM's entity for conducting competitive, retail energy services throughout much of the eastern seaboard of the U.S.

With a staff of over 450 employees, Pepco Energy Services and its subsidiaries own and/or operate cogeneration plants, district heating and cooling facilities, renewable energy production facilities, and thermal storage, including its district heating and cooling business in Atlantic City. Pepco Energy Services and its subsidiaries can offer its customers a wide range of specialized services, including performance contracting, integrating power and thermal energy plants, operations and maintenance, and fossil fuel and electricity procurement. It is the fourth largest retail electric energy supplier in the nation.

- 6. The status of project planning and design work. At a minimum, a preliminary assessment of wetland, rare plant and rare animal resources that may exist on the tract must be included.***

In anticipation of future development of the subject property, on February 10, 2000 the Township Committee, by Resolution 2000-80, declared the Southern Ocean

Landfill Facility Area an area in need of redevelopment in the municipality. (See Attached Exhibit C)

The initial planning and design phase for the Solar Project has been completed as outlined in this submittal. PEPCO has taken the lead in the engineering for the design of the solar array, site specifications, site layout and coordination with Atlantic City Electric for the interconnection with the Power Grid. The initial plans are currently being reviewed by the County of Ocean and their engineering Consultant Hatch, Mott MacDonald.

The Solar Project is designed to be constructed on the landfill face and within the footprint of previously disturbed areas. No additional disturbance outside the footprint is planned. The Township has been advised that during the landfill closure permit process, there was no submittal required in regards to wetland assessments and rare plant or rare animal resources. As such, at this time the Township requests a waiver from any requirements to conduct a wetland assessment and survey of rare plants and rare animal resources.

**7. *A detailed listing of CMP land use and development standards that can not or likely will not be met and why they can't be met.***

The subject property is located within the Pinelands Management Area defined as a Forest Area. The Goals and Objectives of the Forest Area are outlined in the CMP at 7:50-5.13(b) which states that these “undisturbed, forested portions of the Protection Area support characteristic Pinelands plant and animal species and provide suitable habitat for many threatened or endangered species.” Further, the CMP states that although the overall type and level of development must be strictly limited, some parts of the Forest Areas are more suitable for development than others provided that such development is subject to strict environmental performance standards.”

As stated previously, the area of the subject property to be utilized for the Solar Project has previously been cleared and disturbed for the Landfill operations. No additional disturbance is proposed and as such the project is not inconsistent with the Goals and Objectives as set forth above.

The minimum standards governing the distribution and intensity of development and land use in the Forest Area are as prescribed in N.J.A.C. 7:50-5.23.

The Township of Ocean is making this submittal in order to have the Commission consider entering into an Intergovernmental Agreement for the re-development of the closed Southern Ocean Landfill as a Solar Photovoltaic Generation System. This is not a permitted use as defined within the regulations. The Township of Ocean is seeking to enter into the aforesaid intergovernmental memoranda of agreement with the Commission for this development activity which is not fully consistent with the provisions of N.J.A.C. 7:50-5 and 6. The Township believes that through its submittal to the Commission, it demonstrates that the variation from the standards of

the CMP will, at a minimum, afford an equivalent level of protection to the resources of the Pinelands than would be provided through a strict application of the standards.

The Township does not believe that it is in the best interest of the Public and Taxpayers to develop low intensity recreational use at the former Landfill. The Township considers the proposed use of the site in the best interest of its residents, taxpayers and visitors from a public health, safety and welfare perspective.

The Township believes that an adequate development standard for the proposed use may be drafted and implemented for the subject property on a site specific basis. The particular standards may be incorporated into the intergovernmental memorandum of agreement with the Commission.

**8. *A description of design measures to be taken to reduce the extent of the project's non-conformity with CMP standards.***

Since the proposed Solar Photovoltaic Generation System design specifies the installation of solar photovoltaic panels atop of the closed landfill with no penetrations of the landfill cap, there are limited instances of non-conformity with the Pinelands Commission Comprehensive Management Plan (CMP).

Listed below are the known and potential non-conformities with the CMP standards along with the design measures contemplated to reduce the extent of non-conformity.

1) Known non-conformity:

The proposed Solar Photovoltaic Generation System is in non-conformity with the Minimum Standards for Land Uses and Intensities (Subchapter 5 Part III). The standard under clause 7:50-5.23-6 of the CMP provides that land in Pinelands Preservation Area can, under specified conditions, be used for "low intensity recreational use". The development of a solar energy system is not specified as a permitted land use and hence the proposed Solar Photovoltaic Generation System is in non-conformity with the Minimum Standards for Land Use.

Design Measures for Mitigation:

The proposed use of the Pinelands area is clearly different than the permitted use and the same cannot be remedied by project design modifications of any fashion. The proposed use of the land fill requires a waiver by the Pinelands Commission to clause 7:50-5.23-6 of the CMP. Pepco Energy Services would work with the Township of Ocean to facilitate the execution of inter governmental agreement between the Pinelands Commission, Ocean County and the NJDEP to obtain waiver to the proposed deviation.



However, despite the deviation in proposed land use, Pepco Energy Services has designed the project to ensure minimum impact on the closed landfill as well as the Pinelands environment. The solar photovoltaic panels will be supported using ballasted panel mounting systems and there will be no penetration of the landfill cap. The project will not require use of motorized transportation except for necessary transportation during project construction phase and for periodic maintenance / inspections of the panels or for trouble shooting purposes. The project does not involve clearing of vegetation or ground cover. Furthermore, the solar system design allows continued growth of vegetation after the installation solar panels.

2) Potential Non-conformity:

The proposed Solar Photovoltaic Generation System could potentially be in non-conformity with the requirement under clause 7:50-5.23-6 (V) of the CMP, which requires that the low intensity recreational use shall not have more than one percent of the parcel covered with impervious surfaces.

As noted earlier, the proposed use of the landfill is entirely different from the recreational use specified in the standard under clause 7:50-5.23-6 of the CMP. The issue is contingent upon whether the Pinelands Commission considers solar photovoltaic panels to be at par with other impermeable surfaces. If solar photovoltaic panels do not fall within the purview of the definition of “Impermeable Surface” given in the CMP, then this potential non-conformity may become a non-issue.

Design Measures for Mitigation:

If deemed necessary by affected parties, Pepco Energy Services would investigate the need for any revisions to the storm water management plan currently implemented and maintained by Ocean County.

3) Potential Non-conformity:

The clause 7:50-5.1 (c) of the CMP, states that “Unless expressly permitted in a certified municipal land use ordinance no more than one principal use shall be located on one lot ...”

The proposed Solar Photovoltaic Generation System is to be located on a closed landfill which has stopped accepting solid wastes since the year 1988. Since the landfill currently has no principal use, the potential use of lot to generate renewable energy via a Solar System would become the lots only principal use.

Design Measures for Mitigation:

Since the landfill has ceased accepting solid wastes for over 21 years, the site is currently not being used for any principal purpose. The only activity currently occurring is the flaring of landfill gas on the 12 acre landfill section. The proposed Solar Photovoltaic Generation System is located a significant distance from the existing flaring system and will no impact the flaring activity whatsoever.

**9. *A detailed listing of other CMP development standards for which insufficient information is currently available to assess the project's conformance.***

As stated in Section 7 and 8 above there are no CMP development standards for the proposed Solar Project and as such there is no conformity to measure.

**10. *A description of project alternatives [other locations for the project and other onsite designs] that were considered and why they weren't pursued.***

The Township in conjunction with its consultant the Atlantic County Utilities Authority had considered the installation of Solar Arrays at the Municipal Complex on the roof and also as an "auto canopy" in parking areas. It was determined that there is not adequate land space to accommodate the project as proposed.

**11. *The specific measures that are proposed to provide an equivalent or better level of protection of the Pinelands than would be achieved if the CMP's standards were strictly followed. These may include one or more environmental initiatives, including the protection of land elsewhere and the remediation of environmental impacts on this tract or elsewhere.***

The only known non-conformity is the proposed utilization of the landfill site for non-permitted use (Clause 7:50-5.22-6 of the CMP). As noted earlier, the proposed renewable energy project would result only in positive environmental and economic benefits and no negative impacts what so ever on the Pinelands environment.

With the proposed subdivision, the State of New Jersey would acquire title to approximately 169 acres of undeveloped forest area. That area will remain undeveloped and vacant with only low intensity recreational uses permitted on the land as per the deed restriction. The Township of Ocean would regain title to the remaining parcel from the control of a private corporation. The Township is requesting to "partner" with the Pinelands Commission in the redevelopment of this parcel by entering into an Intergovernmental Agency Agreement, subject to site specific development regulations.

The project design ensures that the Solar Photovoltaic Generation System does not interfere with the landfill or the Pinelands environment. Since the proposed project would be located on top of a closed landfill, an otherwise useless site, there would be no degradation in the level of protection to the Pinelands. To the contrary, the

renewable energy produced by the proposed Solar Photovoltaic Generation System would have significant environmental benefits in the form of emissions reductions estimated at the levels shown below (kg/year):

Carbon Dioxide CO <sub>2</sub> :	6,363,194
Nitrogen Oxides NO <sub>x</sub> :	2,815
Sulphur Dioxide SO <sub>2</sub> :	3,124
Particulates:	395

Strict adherence to the CMP standards would allow the landfill site to be used only for a low intensity recreation facility. Development and maintenance of such a recreational facility would most likely require a significant financial burden upon the Township and would likely exclude the opportunity of the emissions reductions achievable from the Solar Photovoltaic Generation System. Furthermore, the landfill will continue to release significant amounts of landfill gas (methane and carbon dioxide) in to the atmosphere which will be detrimental to the environment.

In this case, it appears that the proposed deviation from CMP standards is more beneficial to the environment and that there are no negative environmental impacts on the landfill tract that would require remedial actions. However, Pepco Energy Services would be open to take guidelines from the Pinelands Commission regarding any environmental remediation requirements in the event the Pineland's Board of Commissioners determines one is required.



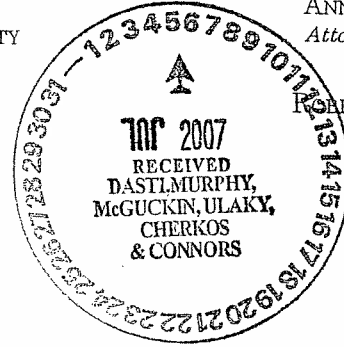
JON S. CORZINE  
Governor

State of New Jersey  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 093  
TRENTON, NJ 08625-0093

ANNE MILGRAM  
Attorney General

ROBERT J. GILSON  
Director

July 3, 2007



ALL COUNSEL OF RECORD ON THE ATTACHED SERVICE LIST

Re: New Jersey Department of Environmental Protection,  
et al. v. Southern Ocean Landfill, Inc., et al.

New Jersey Department of Environmental Protection,  
et al. v. Joseph Caldeira, Jr., et al.

Docket Nos. OCN-L-003965-97 & OCN-L-001329-99

Dear Counsel:

Enclosed please find a conformed copy of the Consent Decree which was filed in the Superior Court of New Jersey on June 25, 2007.

Thank you for your courtesies in this matter.

Sincerely yours,

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By: Richard F. Engel  
Richard F. Engel  
Deputy Attorney General

RFE/ke



SERVICE LIST

New Jersey Department of Environmental Protection, et al.  
v. Southern Ocean Landfill, Inc., et al.

New Jersey Department of Environmental Protection, et al.  
v. Joseph Caldeira, Jr., et al.

Docket Nos. OCN-L-003965-97 & OCN-L-001329-99

As to: Plaintiff DEP & Administrator  
Richard F. Engel, Section Chief  
Cost Recovery & Natural Resource Damages Section  
Department of Law & Public Safety  
Division of Law  
Richard J. Hughes Justice Complex  
P.O. Box 093  
Trenton, NJ 08625-0093  
TEL: (609) 984-4863

As to: Southern Ocean Landfill, Inc.  
Robert E. Swain, Esquire  
3100 Highway 138  
P.O. Box 1380  
Wall Township, NJ 07719

As to: Joseph J. Caldeira, Sr.  
Kevin N. Starkey, Esquire  
Starkey, Kelly, Blaney & White  
459 Jack Martin Blvd., Suite 8  
Brick, NJ 08724

As to: Joseph J. Caldeira Jr.  
Caldeira Brothers, Inc.  
Forcees, Inc.  
David J. Haber, Esquire  
63 Riverside Avenue  
Red Bank, NJ 07701

As to: Ocean Township  
Gregory P. McGuckin, Esquire  
Dasti, Murphy, McGuckin, Ulaky,  
Cherkos & Connors, P.C.  
102 East Bay Avenue  
P.O. Box 580  
Manahawkin, NJ 08050

As to: Ciba Specialty Chemicals Corporation,  
On Behalf of Itself and Novartis Corporation  
Eric Finkelman, Esquire  
General Counsel  
Ciba Specialty Chemicals Corporation  
and Novartis Corporation  
540 White Plains Road  
Tarrytown, NY 10591

As to: Mars, Incorporated  
Ellen Kollar, Esquire  
General Counsel, North America  
Mars, Incorporated  
6885 Elm Street  
McLean, VA 22101

As to: Freehold Cartage, Inc.  
James F. Moscagiuri, Esquire  
825 Highway 33 East  
P.O. Box 5010  
Freehold, NJ 07728-5010

As to: Exxon Mobil Corporation  
Robert Jackmore, Superfund Manager  
Exxon Mobil Corporation  
3225 Gallows Road, Room 8B0217  
Fairfax, VA 22037

As to: Browning-Ferris Industries of New Jersey, Inc.  
Jo Lynn White, Esquire  
15880 N. Greenway-Hayden Loop, Suite 100  
Scottsdale, AZ 85260

As to: Nestle USA, Inc.  
Noelia Marti-Colon, Esquire  
Nestle USA, Inc.  
800 North Brand Boulevard  
Glendale, CA 91203

As to: MedPoint, Inc., On Behalf of Itself  
And as Successor to Certain Liabilities  
of Carter-Wallace, Inc.

Beth P. Hecht, Esquire  
General Counsel & Secretary  
MedPointe, Inc.  
265 Davidson Avenue, Suite 300  
Somerset, NJ 08873

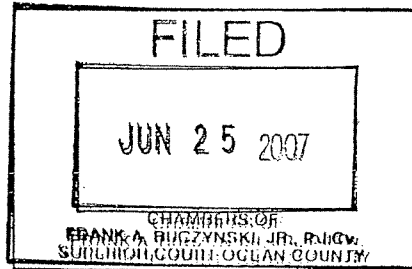
As to: Church & Dwight, Co., Inc., On Behalf of Itself  
And as Successor to Certain Liabilities  
of Carter-Wallace, Inc.

David W. Worrell, Esquire  
Associate General Counsel  
469 North Harrison Street  
Princeton, NJ 08543

As to: The Waste Management Parties  
Stephen T. Joyce, Director  
Closed Site Management Group  
4 Liberty Lane  
4 Hampton, NH 03842

STUART RABNER  
ATTORNEY GENERAL OF NEW JERSEY  
Richard J. Hughes Justice Complex  
25 Market Street  
PO Box 093  
Trenton, NJ 08625-0093  
Attorney for Plaintiffs

By: Jennifer Killough Herrera  
Deputy Attorney General  
(609) 984-6640



SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - OCEAN COUNTY  
DOCKET NOs. OCN-L-003965-97 & OCN-L-001329-99

NEW JERSEY DEPARTMENT OF :  
ENVIRONMENTAL PROTECTION, et al., :

Plaintiffs, :

v. :

SOUTHERN OCEAN LANDFILL, INC., et :  
al., :

Defendants. :

NEW JERSEY DEPARTMENT OF :  
ENVIRONMENTAL PROTECTION, et al., :

Plaintiffs, :

v. :

JOSEPH CALDEIRA, JR., et al., :

Defendants :

Civil Action

CONSENT DECREE



# Exhibit A

## I. BACKGROUND

A. In 1997, plaintiff New Jersey Department of Environmental Protection ("DEP") commenced an action by filing a complaint against landfill owners Joseph Caldeira, Sr. and Southern Ocean Landfill, Inc. ("SOLI") pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 to -116. DEP sought injunctive relief to properly close the Southern Ocean Landfill site located in Ocean Township, New Jersey. In 1998, DEP amended the complaint, naming the former owner of the landfill Ocean Township as a defendant. ("Closure Act Litigation").

B. On December 31, 1998, DEP issued a directive ("Directive") pursuant to the New Jersey Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, specifically, N.J.S.A. 58:10-23.11f.a., to Browning-Ferris Industries of New Jersey, Inc., Exxon Mobil Corporation, Freehold Cartage, Inc., Nestle USA, Inc., Waste Management, Inc. and various affiliated entities, and others, directing these parties to perform, or to fund, DEP's performance of, the remediation of the Southern Ocean Landfill site. Certain recipients subsequently submitted good cause defense responses to DEP pursuant to N.J.A.C. 7:26C-4.2(h), that denied the allegations set forth in the Directive.

C. On April 23, 1999, DEP filed an action against Joseph Caldeira, Jr., Joseph Caldeira, Sr., Forcees, Inc., Caldeira Brothers, Inc., SOLI and U.S.A. Waste Recycling of New Jersey, Inc. ("Waste Management"), pursuant to the Uniform Fraudulent Transfer Act, N.J.S.A. 25:2-20 to -34. ("UFTA Litigation").

D. DEP approved, and owner Joseph Caldeira subsequently implemented, a plan to cap the lined portion of the Southern Ocean Landfill site using recyclable materials.

E. Ocean County subsequently completed the remediation of both the lined and unlined portions of the Southern Ocean Landfill site. This work was funded through a \$15 million grant from the State of New Jersey.

F. DEP and the Administrator of the New Jersey Spill Compensation Fund ("the Administrator") also seek reimbursement of the costs that they have incurred, and will incur, to remediate the Southern Ocean Landfill site, and damages for any natural resource of the State that has been, or may be, injured by the contamination at the Southern Ocean Landfill site.

G. By entering into this Consent Decree, the Settling Parties do not admit the allegations in the complaints or the statements concerning the Site set forth herein, and expressly deny any liability from the transactions or occurrences alleged in the Closure Act Litigation, the UFTA Litigation, or the Directive.

H. From approximately 1965 through 1989, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were not satisfactorily stored or contained at the Southern Ocean Landfill site within the meaning of N.J.S.A. 58:10-23.11f.b.(2), certain of which were "discharged" within the meaning of N.J.S.A. 58:10-23.11b.

I. From approximately 1960 through 1989, DEP and the Administrator allege that "solid wastes," within the meaning of N.J.S.A. 13:1E-3a., were "disposed of" at the Southern Ocean Landfill site, within the meaning of N.J.S.A. 13:1E-3c.

J. DEP and the Administrator allege that certain of the solid wastes disposed of at the Southern Ocean Landfill site were deposited on, or in, the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, thereby creating a "sanitary landfill facility" at the property within the meaning of N.J.S.A. 13:1E-3q.

K. In 1989, the United States Environmental Protection Agency ("EPA") investigated the nature and extent of the contamination at the Southern Ocean Landfill site.

L. EPA interpreted sampling results from the investigation as indicative of the presence of hazardous substances in the ground water and sediments at the Southern Ocean Landfill site.

M. DEP and the Administrator allege that groundwater and sediments are "natural resources" of the State, as defined in N.J.S.A. 58:10-23.11b., which DEP alleges have been, or may be, injured by the discharges of hazardous substances at and from the Site.

N. DEP and the Administrator allege that they have incurred, and will continue to incur, costs to remediate the Southern Ocean Landfill site, and to properly close the sanitary landfill facility located there.

O. DEP and the Administrator allege that they have incurred, will continue to incur, costs and damages, and lost value, which they allege include reasonable assessment costs, for any natural resource of this State that has been, or may be, injured by the discharge of hazardous substances at and from the Southern Ocean Landfill site.

P. DEP and the Administrator allege that the costs and damages DEP and the Administrator have incurred, and will continue to incur, for the Southern Ocean Landfill site are "cleanup and removal costs", within the meaning of N.J.S.A. 58:10-23.11b.

Q. DEP and the Administrator also allege that it has incurred, and will continue to incur, costs and damages, lost value and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the improper closure of the sanitary landfill facility located at the Southern Ocean Landfill site.

R. DEP and the Administrator allege that the costs and damages that it has incurred, and will incur, as a result of the improper closure of the sanitary landfill facility located at the Southern Ocean Landfill are "closing costs" within the meaning of N.J.S.A. 13:1E-102a.

S. The parties to this Consent Decree recognize, and the Court by entering this Consent Decree finds, that the parties have negotiated this Consent Decree in good faith to fully resolve DEP and the Administrator's claims for past and future cleanup and removal costs, natural resource damages for the Southern Ocean Landfill site, and all related claims among the Settling Parties. The parties acknowledge that the implementation of this Consent Decree will expedite the remediation of the Southern Ocean Landfill site, and the proper closure of the sanitary landfill located there. Entry of this Consent Decree will allow the parties to avoid continued, prolonged and complicated litigation among the parties, and this Consent Decree is fair, reasonable, and in the public interest.

**THEREFORE**, with the consent of the parties, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** that:

## II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to the Spill Act and the Sanitary Landfill Act. This Court also has personal jurisdiction over the parties to this Consent Decree solely for the purposes of implementing this Consent Decree and resolving the underlying litigation. The parties waive all objections and defenses they may have to jurisdiction of the Court, or to venue in this County, for purposes of entering and enforcing this Consent Decree.

### III. PARTIES BOUND

2. This Consent Decree is binding upon DEP, the Administrator, and the Settling Parties.

### IV. DEFINITIONS

3. Unless otherwise expressly provided, terms used in this Consent Decree that are defined in the Spill Act, the Sanitary Landfill Act, or in the regulations promulgated under the Spill Act and the Sanitary Landfill Act, shall have their statutory or regulatory meaning. Whenever the terms listed below are used in this Consent Decree or their appendices attached hereto and incorporated herein, the following definitions shall apply:

"Administrator" shall mean the Administrator of the New Jersey Spill Compensation Fund, who is appointed pursuant to N.J.S.A. 58:10-23.11j.

"Consent Decree" shall mean this Consent Decree and any appendices to this Consent Decree.

"Cooperating Group" shall mean Ciba Specialty Chemicals Corporation, on behalf of itself and Novartis Corporation; Mars, Incorporated; Freehold Cartage, Inc.; Exxon Mobil Corporation; Browning-Ferris Industries of New Jersey, Inc.; Nestle USA, Inc.; MedPointe, Inc., on behalf of itself and as successor to certain liabilities of Carter-Wallace, Inc.; Church & Dwight, Co., Inc., on behalf of itself and as successor to certain liabilities of Carter-Wallace, Inc.; and Chemical Waste Management, Inc. on behalf of itself and as successor to certain liabilities of Carl Gulick, Inc., Chemical Waste Management of New Jersey, Inc., SCA Chemical Services Co.-Earthline Division; CWM Chemical Services, LLC on behalf of itself and as successor to certain liabilities of Chem-Trol Pollution Services, Inc., Gaess Environmental Services Corp. and R&R Sanitation Services, Inc.; Waste Management of New Jersey, Inc. on

behalf of itself and as successor to certain liabilities of Interstate Waste Removal Co.; SC Holdings, Inc. on behalf of itself and as successor to certain liabilities of SCA Services, Inc.; Waste Management Recycling of New Jersey, LLC on behalf of itself and as successor to certain liabilities of USA Waste Recycling of New Jersey, Inc. (collectively the "Waste Management Parties"), and their respective subsidiaries, predecessors, successors and assigns, trustees in bankruptcy, or receivers appointed pursuant to a proceeding in law or equity.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or State holiday. In computing time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or State holiday, time shall run until the close of business of the next working day.

"DEP" shall mean the New Jersey Department of Environmental Protection and any successor department or agency of the State.

"Future Cleanup and Removal Costs" shall mean all costs, including direct and indirect costs, that DEP and the Administrator have incurred, or will incur, after the effective date of this Consent Decree, to remediate the Southern Ocean Landfill site, and to properly close the sanitary landfill located there.

"Interest" shall mean interest at the rate established by R. 4:42 of the then current edition of the New Jersey Court Rules.

"Natural Resource Damages" shall mean all cleanup and removal costs and damages, lost use and reasonable assessment costs that DEP and the Administrator have alleged, incurred, and/or will incur, to assess, mitigate, restore or replace any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at and from the

Southern Ocean Landfill site, or for any natural resource of this State that has been, or may be, injured as a result of the operation and closure of the sanitary landfill facility located there.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper case letter.

"Parties" shall mean DEP, the Administrator and the Settling Parties, as they are identified herein.

"Past Cleanup and Removal Costs" shall mean all costs, including direct and indirect costs that DEP and the Administrator incurred on or before the effective date of this Consent Decree to remediate the Site, and to properly close the sanitary landfill located there.

"Remediation" shall mean the remediation of the Southern Ocean Landfill site in accordance with the Spill Act and the regulations promulgated under the Spill Act, including N.J.A.C. 7:26E. Remediation also shall include the assessment, mitigation, restoration or replacement any natural resource of this State that has been, or may be, injured by the discharges of hazardous substances at and from the Southern Ocean Landfill site.

"Sanitary Landfill Act" shall mean the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 to -116.

"Sanitary Landfill Fund" shall mean the Sanitary Landfill Facility Contingency Fund established pursuant to N.J.S.A. 13:1E-105.

"Section" shall mean a portion of this Consent Decree identified by a roman numeral.

"Settling Parties" shall mean Southern Ocean Landfill, Inc., Joseph Caldeira, Jr., Joseph Caldeira, Sr., Caldeira Brothers, Inc., Forcees Inc., Ocean Township, and the "Cooperating Group."



"Site" shall mean the Southern Ocean Landfill property, consisting of approximately 283 acres of real property located north of Routes 611 and 532 in Ocean Township, Ocean County, this property being also known and designated as Block 6, Lot 4.01, Block 7, Lot 1, on the Tax Map of Ocean Township (the "SOLI Property"), and all other areas where any hazardous substance discharged at or from the SOLI Property has become located (collectively "the Site").

"Spill Act" shall mean the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24.

"Spill Fund" shall mean the New Jersey Spill Compensation Fund established pursuant to N.J.S.A. 58:10-23.11i.

#### V. PARTIES' OBJECTIVES

4. The Parties' objectives in entering into this Consent Decree are to protect public health and safety and the environment by the Settling Parties agreeing to the provisions, as set forth herein and, in return, for DEP and the Administrator agreeing to resolve all of their claims against the Settling Parties concerning the Site as stated in this Consent Decree.

#### VI. COMMITMENTS BY THE COOPERATING GROUP

5. Within thirty (30) days of this Consent Decree being entered, the members of the Cooperating Group shall pay DEP and the Spill Fund \$548,100 in reimbursement of DEP and the Spill Fund's Past Cleanup and Removal Costs, Future Cleanup and Removal Costs and Natural Resource Damages that DEP and the Spill Fund have incurred, and will incur, for the Site.

6. The members of the Cooperating Group shall pay the amount specified in Paragraph 5 above by individual certified checks made payable to the "Treasurer, State of New Jersey." The Cooperating Group shall mail or otherwise deliver the payment and payment invoice to Jennifer Killough Herrera, Deputy Attorney General, Cost Recovery & Natural

Resource Damages Section, Department of Law and Public Safety, Division of Law, Richard J. Hughes Justice Complex, 25 Market Street, P.O. Box 093, Trenton, New Jersey 08625-0093.

VII. COMMITMENTS BY SPECIFIED PARTIES

7. SOLI shall complete a restoration project to satisfy the Natural Resource Damages that DEP and the Spill Fund have incurred, and will incur, for the Site. The restoration project shall consist of arranging for the donation of Block 6, Lot 4.01 of the SOLI Property to the State of New Jersey. The details of the restoration project are set forth in the Land Transfer Agreement, appended to and incorporated into this Consent Decree, as Appendix A.

8. Concurrent with the property transfer required in Paragraph 7 above, SOLI shall impose deed restrictions on each parcel of real property that was used for landfill purposes or on which contamination has come to be located prohibiting any use of these properties for recreational, education, or residential purposes; prohibiting use of the ground water under the Site; and requiring appropriate engineering and institutional controls that will prevent any future exposure to, or release of hazardous substances at or from the Site. SOLI shall provide the Cooperating Group and DEP with evidence that the deed restrictions referenced herein have been placed on the subject real properties.

9. Ocean Township will waive the tax lien in the amount of \$155,076.44 that was on Block 6, Lot 4.01 of the SOLI Property, which is the parcel of real property that is being donated to the State of New Jersey pursuant to Paragraph 7 above.

10. Ocean Township shall further remediate the Site in accordance with the Spill Act, the Sanitary Landfill Act and the regulations promulgated under the Spill Act and the Sanitary Landfill Act by conducting certain in-kind work at the Site, the overview of which is described

in the Memorandum of Understanding between Ocean Township and DEP, which is appended and incorporated into this Consent Decree, as Appendix B.

#### VIII. DISPUTE RESOLUTION

11. Any dispute between the Parties arising under Paragraphs 7-10 above shall be resolved in accordance with N.J.A.C. 7:26C-1.4.

#### IX. DEP & THE ADMINISTRATOR'S COVENANTS

12. In consideration of the Cooperating Group's respective payments, SOLI's property donation, and Ocean Township's remediation of the Site pursuant to Paragraphs 5-10 above, and except as otherwise provided in Paragraphs 16-19 below, DEP and the Administrator covenant not to further sue or to take administrative action against the Settling Parties for reimbursement of the Past Cleanup and Removal Costs, Future Cleanup and Removal Costs, and Natural Resource Damages.

13. In consideration of the commitments contained in Paragraphs 5-10 above, Plaintiff DEP agrees to dismiss, with prejudice, the pending Landfill Closure Litigation and the UFTA Litigation.

14. In further consideration of the commitments contained in Paragraphs 5-10 above, DEP and the Administrator agree that the Settling Parties shall have no further performance or funding obligations at the Site pursuant to the Directive.

15. For each Settling Party, the covenants contained in Paragraphs 12-14 above are conditioned upon the individual Settling Party's satisfactory performance of its obligations under this Consent Decree, and extend only to that Settling Party, and not to any other person. No Settling Party shall be denied the benefit of these covenants because of another Settling Party's

failure to comply with the terms of this Consent Decree. Notwithstanding the foregoing, the obligations of the Cooperating Group set forth herein shall be joint and several.

X. DEP & ADMINISTRATOR'S RESERVATIONS

16. Notwithstanding any other provision of this Consent Decree, if after DEP issues the Settling Parties written notification pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26C that no further action is necessary for the Site, DEP and the Administrator reserve, and this Consent Decree is without prejudice to, DEP and the Administrator's right to take the following actions in the following circumstances:

a. If DEP discovers conditions at the Site, previously unknown to DEP through reasonable investigation and these previously unknown conditions, together with any other relevant information, indicate that the DEP approved Remediation for the Site is not protective of human health and safety, or the environment, then DEP may sue or take administrative action to compel SOLI, Inc., Joseph Caldeira, Jr., Joseph Caldeira, Sr., Caldeira Brothers, Inc., Forcees Inc., and Ocean Township, to further remediate the Site, or to reimburse DEP and the Spill Fund for any additional costs and damages, including Natural Resource Damages;

b. If DEP receives information about any particular party, in whole or in part, that was previously unknown to DEP through reasonable investigation, and this previously unknown information, together with any other relevant information, indicates that the DEP approved Remediation for the Site is not protective of human health and safety, or the environment, then DEP may sue or take administrative action to compel that party to further remediate the Site, or to reimburse DEP and the Spill Fund for any additional costs and damages, including Natural Resource Damages.

17. For the purposes of Paragraph 16, the information and the conditions known to DEP shall include only the information and conditions known to DEP as of the date of this Consent Decree.

18. Notwithstanding any other provision of this Consent Decree, DEP and the Administrator retain all authority, and reserve all rights, to undertake any remediation and/or closure authorized by law concerning the Site.

19. DEP and the Administrator reserve, and this Consent Decree is without prejudice to, all rights against the Settling Parties concerning matters not addressed, including the following:

- a. claims against a Settling Party based on that Settling Party's failure to satisfy its obligations under this Consent Decree;
- b. claims against a Settling Party based on the liability arising from a Settling Party's past, present or future discharge or unsatisfactory storage or containment of any hazardous substance that is unrelated to matters addressed in this Consent Decree;
- c. claims against a particular Settling Party based solely on that Settling Party's actions after the date of this Consent Decree, including disposal of hazardous substances, storage or containment of any hazardous substance at the Site, by that Settling Party, other than as ordered by DEP;
- d. criminal liability, if any;
- e. liability of a particular Settling Party for any violation by that Settling Party of federal or state law that first occurs during or after the remediation of the Site;
- f. liability for each Settling Party for any claim made by that Settling Party against the Spill Fund or the Sanitary Landfill Fund concerning the Site.

## XI. SETTLING PARTIES' COVENANTS

20. The Settling Parties covenant not to oppose entry of this Consent Decree by this Court, or to challenge any provision of this Consent Decree, unless DEP and the Administrator notify the Settling Parties, in writing, that they no longer support entry of the Consent Decree.

21. The Settling Parties further covenant, subject to Paragraphs 23 and 24 below, not to sue or assert any claim or cause of action against the State, including any department, agency or instrumentality of the State, concerning matters addressed in this Consent Decree for as long as DEP and the Administrator's covenants in Paragraphs 12-15 above remain in force, except in the event that DEP and the Administrator exercise their reservation of rights. This covenant shall include the following:

- a. any direct or indirect claim for reimbursement from the Spill Fund or the Sanitary Landfill Fund concerning the Site; and
- b. any claim or cause of action concerning the remediation of the Site, including DEP's selection, performance or oversight of the remediation, or DEP's approval of the plans for the remediation.

22. In consideration for the mutual obligations created by this Consent Decree, and subject to the reservations set forth herein, the Settling Parties hereby covenant not to sue, and fully and forever surrender, release, acquit and discharge each other from all claims arising from or in any way related to the Site, the Landfill Closure Litigation, the UFTA Litigation, and all related claims for contractual indemnification.

## XII. SETTLING PARTIES' RESERVATIONS

23. The Settling Parties reserve, and this Consent Decree is without prejudice to:

a. claims against the State of New Jersey, subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 to -12-3; the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 to 13-10; the New Jersey Constitution, N.J. Const. art. VIII, §2, ¶2; or any other applicable provision of law, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any State employee while acting within the scope of his office or employment under circumstances where the State, if a private person, would be liable to the claimant. Any such claim, however, shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a State employee as that term is defined in N.J.S.A. 59:1-3. The foregoing applies only to claims concerning the Site that the Settling Parties may bring pursuant to any statute other than the Spill Act or Sanitary Landfill Act, and for which the waiver of sovereign immunity is found in a statute other than the Spill Act or Sanitary Landfill Act.

b. third-party tort claims, (excluding such claims against the State of New Jersey), including but not limited to claims for personal injury, medical monitoring, property damage including damage to off-Site property, consequential damages and punitive damages; and

c. the Settling Parties expressly reserve any and all federal and state statutory and common law defenses, claims, counterclaims and set-offs available to them in such actions.

24. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim against the Spill Fund within the meaning of N.J.S.A. 58:10-23.11k. or N.J.A.C. 7:1J, or the Sanitary Landfill Fund within the meaning of N.J.S.A. 13:1E-107 or N.J.A.C. 7:1I.

### XIII. NO FINDINGS OR ADMISSIONS OF LIABILITY

25. By entering into this Consent Decree or otherwise, the Settling Parties do not admit any wrongdoing or liability whatsoever, including, but not limited to, any liability relating to the Site, or any liability relating to the transactions or occurrences alleged in any Directive concerning the Southern Ocean Landfill, or any complaint referred to in this Consent Decree. Nothing in this Consent Decree is or shall be considered an admission by a Settling Party, or a finding by DEP or the Administrator, of any wrongdoing or liability on the Settling Parties' part for anything plaintiff DEP has actual knowledge of having occurred at the Site as of the effective date of this Consent Decree. Neither this Consent Decree nor the fact that it has been signed may be used for any purpose unrelated to the Site.

### XIV. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

26. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Settling Party to this Consent Decree.

27. Each Settling Party expressly reserves all rights, including any right to contribution, defenses, claims, demands, and causes of action that each Settling Party may have concerning any matter, transaction, or occurrence concerning the Site against any person not a Party to this Consent Decree.

28. The Parties agree, and by entering this Consent Decree this Court finds, the Settling Parties are entitled to protection from contribution actions or claims for matters addressed in this Consent Decree pursuant to N.J.S.A. 58:10-23.11f(2)(b). For the purposes of this Consent Decree, "matters addressed" shall include those matters occurring at or related to the Site that would necessitate investigation, removal, cost recovery or Remediation under any federal, state and/or local laws and/or regulations.



29. Each Settling Party further agrees that with respect to any suit or claim for contribution it may bring for matters addressed in this Consent Decree, it shall notify the other Parties, in writing, at least 60 days before initiating the suit or claim. Failure to satisfy any requirement under this Paragraph shall not excuse any Party from any obligation or covenant under this Consent Decree.

30. Each Settling Party also agrees that with respect to any suit or claim for contribution brought against it for matters addressed in this Consent Decree, it will notify the other Parties, in writing, within 20 days of service of the complaint on it. In addition, each Settling Party agrees to notify the other Parties, in writing, within 10 days of service or receipt of any dispositive motion, and within 10 days of receipt of any order from a court setting the case for trial. Failure to satisfy any requirement under this Paragraph shall not excuse any Party from any obligation or covenant under this Consent Decree.

31. In any subsequent administrative or judicial proceeding initiated by DEP and the Administrator for injunctive relief, recovery of costs and damages, or other appropriate relief concerning the Site, each Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine or other defenses based upon any contention that the claims DEP and the Administrator raise in the subsequent proceeding were or should have been brought in this case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants set forth in this Consent Decree.

#### XV. GENERAL PROVISIONS

32. DEP and the Administrator enter into this Consent Decree pursuant to the police powers of the State of New Jersey for the enforcement of the laws of the State and the

protection of the public health and safety and the environment. All obligations imposed upon the Settling Parties by this Consent Decree are continuing regulatory obligations pursuant to these police powers.

33. No payment owed or made pursuant to this Consent Decree is intended to constitute a debt, damage claim, penalty or other claim that may be limited or discharged in a bankruptcy proceeding.

34. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment.

35. Within thirty (30) days after this Consent Decree has been lodged with the Court, DEP shall arrange for the publication of a notice in the New Jersey Register, giving notice to the public that the Parties intend to enter into this Consent Decree, that a copy of this Consent Decree is available for inspection at the offices of DEP, and that objections to the entry of this Consent Decree should be submitted to DEP by a date certain.

36. DEP and the Administrator may withdraw or withhold their consent to the entry of the Consent Decree if comments received disclose facts or considerations which show that the Consent Decree is inappropriate, improper or inadequate. The Settling Parties consent to the entry of this Consent Decree without further notice.

#### XVI. ACCESS TO INFORMATION

37. Following entry of this Consent Decree, a Settling Party, upon receipt of a written request by DEP or the Administrator, shall submit or make available to DEP or the Administrator, all non-privileged information the Settling Party has concerning the Site, including technical records and contractual documents.

38. The Settling Party may assert a claim of confidentiality or privilege for any information requested by DEP or the Administrator pursuant to this Consent Decree. Each Settling Party, however, agrees not to assert any privilege or confidentiality claim concerning data related to Site conditions, sampling, or monitoring.

#### XVII. RETENTION OF RECORDS

39. Each Settling Party shall preserve this Consent Decree and, for 10 years after its effective date, all data and information, including technical records, potential evidentiary documentation and contractual documents, in the Settling Party's possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys, concerning the Site, despite any document retention policy to the contrary.

40. After the 10-year period specified in Paragraph 39 above, each Settling Party may discard all such documents unless, before the expiration of the 10-year period, it receives a written request from DEP or the Administrator to preserve specifically identified documents for a period not to exceed one additional year.

#### XVIII. NOTICES AND SUBMISSIONS

41. Except as otherwise provided in this Consent Decree, whenever written notice or other documents are required to be submitted by one Party to another, they shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to:  
Plaintiff DEP & Administrator  
Section Chief  
Cost Recovery & Natural Resource Damages Section  
Department of Law & Public Safety  
Division of Law  
Richard J. Hughes Justice Complex  
P.O. Box 093  
Trenton, New Jersey 08625-0093  
609-984-4863

As to:  
Southern Ocean Landfill, Inc.  
Robert E. Swain, Esquire  
3100 Highway 138  
P.O. Box 1380  
Wall Township, NJ 07719

As to:  
Joseph J. Caldeira, Sr.  
Kevin N. Starkey, Esquire  
Starkey, Kelly, Blaney & White  
459 Jack Martin Blvd., Suite 8  
Brick, NJ 08724

As to:  
Joseph J. Caldeira, Jr.  
David J. Haber, Esquire  
63 Riverside Avenue  
Red Bank, NJ 07701

As to:  
Caldeira Brothers, Inc.  
David J. Haber, Esquire  
63 Riverside Avenue  
Red Bank, NJ 07701

As to:  
Forcees, Inc.  
David J. Haber, Esquire  
63 Riverside Avenue  
Red Bank, NJ 07701

As to:  
Ocean Township  
Gregory P. McGuckin, Esquire  
Dasti, Murphy, McGuckin, Ulaky, Cherkos & Connors, P.C.  
102 East Bay Avenue  
P.O. Box 580  
Manahawkin, NJ 08050

As to:  
Ciba Specialty Chemicals Corporation, on behalf of  
itself and Novartis Corporation  
540 White Plains Road  
Tarrytown, NY 10591  
Attn: Eric Finkelman, Esquire  
General Counsel

As to:  
Mars, Incorporated  
6885 Elm Street  
McLean, VA 22101  
Attn: Ellen Kollar, Esquire  
General Counsel - North America

As to:  
Freehold Cartage, Inc.  
825 Highway 33 East  
P. O. Box 5010  
Freehold, NJ 07728-5010  
Attn: James F. Moscagiuri, Esquire

As to:  
Exxon Mobil Corporation  
3225 Gallows Road  
Room 8B0217  
Fairfax, VA 22037  
Attn: Robert Jackmore  
Superfund Manager

As to:  
Browning-Ferris Industries of New Jersey, Inc.  
15880 N. Greenway-Hayden Loop Suite 100  
Scottsdale, AZ 85260  
Attn: Jo Lynn White, Esquire

As to:  
Nestle USA, Inc.  
800 North Brand Boulevard  
Glendale, CA 91203  
Attn: Noelia Marti-Colon

As to:  
MedPointe, Inc., on behalf of itself and as successor  
to certain liabilities of Carter-Wallace, Inc.  
265 Davidson Avenue, Suite 300  
Somerset, NJ 08873  
Attn: Beth P. Hecht, Esquire  
General Counsel & Secretary

As to:  
Church & Dwight, Co., Inc., on behalf of itself and  
as successor to certain liabilities of Carter-Wallace, Inc.  
469 North Harrison Street  
Princeton, NJ 08543  
Attn: David W. Worrell, Esquire  
Associate General Counsel

As to:  
The Waste Management Parties  
4 Liberty Lane  
Hampton, NH 03842  
Attn: Stephen T. Joyce  
Director, Closed Site Management Group

42. All submissions shall be considered effective upon receipt, unless otherwise provided in this Consent Decree.

43. The Settling Parties shall not construe any informal advice, guidance, suggestions, or comments by DEP, the Administrator, or by persons acting for DEP or the Administrator, as relieving the Settling Parties of their obligations to obtain written approvals or modifications as required by this Consent Decree.

#### XIX. EFFECTIVE DATE

44. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

## XX. RETENTION OF JURISDICTION

45. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Parties for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes, including any appeal from an administrative determination of a dispute between the parties.

## XXI. MODIFICATION

46. This Consent Decree represents the entire integrated agreement between DEP, the Administrator, and the Settling Parties concerning the Site, and supersedes all prior negotiations, representations or agreements, either written or oral, unless otherwise specifically provided.

47. Any notices or other documents specified in this Consent Decree may only be modified by agreement of the Parties. All such modifications shall be made in writing.

48. All notices or other documents any Settling Party is required to submit to DEP or the Administrator under this Consent Decree shall, upon approval or modification by DEP or the Administrator, be enforceable under this Consent Decree. All such approvals or modifications shall be in writing.

49. In the event DEP or the Administrator approves or modifies a portion of a notice or other document the Settling Party is required to submit under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

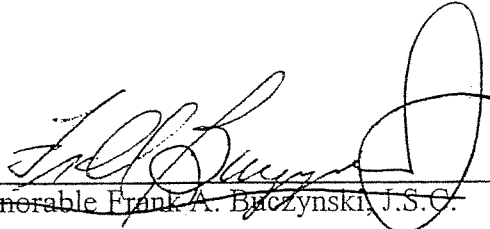
50. Nothing in this Consent Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

XXII. SIGNATORIES/SERVICE

51. Each undersigned representative of the Parties to this Consent Decree certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree, and to execute and legally bind such party to this Consent Decree.

52. This Consent Decree may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Consent Decree. Each Settling Party shall identify on the attached signature pages, the name, address and telephone number of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. The Settling Parties agree to accept service in this manner and to waive the formal service requirements set forth in R. 4:4-4, including service of a summons.


SO ORDERED this <sup>25<sup>th</sup></sup> day of *June*, 2007.

  
\_\_\_\_\_  
Honorable Frank A. Buczynski, J.S.C.

FRANK A. BUCZYNSKI JR. P.J. CV

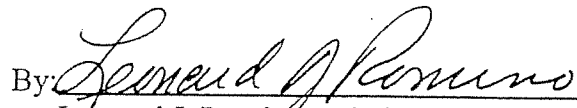


NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:   
Irene Kropp, Assistant Commissioner  
Site Remediation & Waste Management

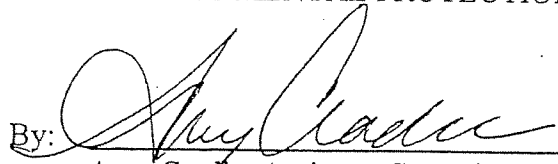
Dated: ~~4/11/07~~ 4/17/07

NEW JERSEY SPILL COMPENSATION FUND

By:   
Leonard J. Romino, Administrator  
New Jersey Spill Compensation Fund

Dated: 4/13/07

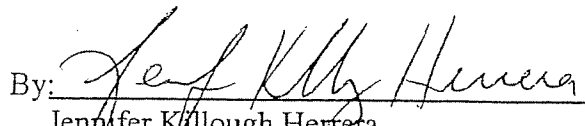
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:   
Amy Cradic, Assistant Commissioner  
Natural & Historic Resources

4/19/07


Dated:

STUART RABNER  
ATTORNEY GENERAL OF NEW JERSEY

By:   
Jennifer Killough Hertera  
Deputy Attorney General

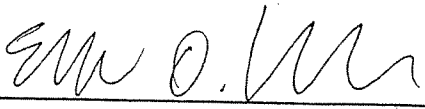
Dated: 4/20/07

CIBA SPECIALTY CHEMICALS  
CORPORATION, on behalf of itself and  
NOVARTIS CORPORATION

By:   
Eric Finkelman, General Counsel

Dated: 16 April 2007

MARS INCORPORATED

By:   
Ellen Kollar, Esquire  
General Counsel - North America

Dated: April 17, 2007

FREEHOLD CARTAGE, INC.

A handwritten signature in cursive script, reading "Thomas J. Blanchet, II". The signature is written in black ink and is positioned above a horizontal line.

By:

Thomas J. Blanchet, II,  
Office of the President

Dated: 4-13-07

EXXON MOBIL CORPORATION

By: Robert W. Jackmore  
Robert Jackmore

Dated: 4/13/07

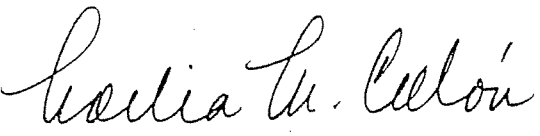
Superintendent Area Manager

BROWNING-FERRIS INDUSTRIES OF  
NEW JERSEY, INC.

By: Jo Lynn White  
Jo Lynn White, Esquire

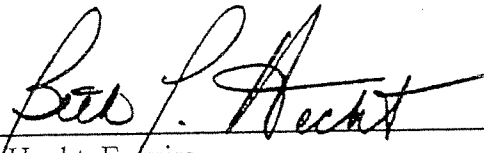
Dated: 4-13-07

NESTLE USA, INC.

By:   
Noelia Marti-Colon

Dated: April 17, 2007

MEDPOINTE INC. on behalf of itself and  
as successor to certain liabilities of  
CARTER-WALLACE, INC.

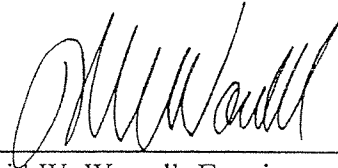
By:   
Beth P. Hecht, Esquire  
General Counsel & Secretary

Dated: 4/12/07



CHURCH & DWIGHT, CO., INC., on  
behalf of itself and as successor to certain  
liabilities of CARTER-WALLACE, INC.

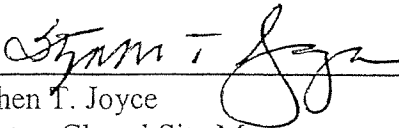
By:



David W. Worrell, Esquire  
Associate General Counsel

Dated: 4-16-07

CHEMICAL WASTE MANAGEMENT,  
INC., on behalf of itself and as successor to  
certain liabilities of CARL GULICK, INC.,  
CHEMICAL WASTE MANAGEMENT OF  
NEW JERSEY, INC., SCA CHEMICAL  
SERVICES CO.-EARTHLINE DIVISION

By:   
\_\_\_\_\_  
Stephen T. Joyce  
Director, Closed Site Management Group

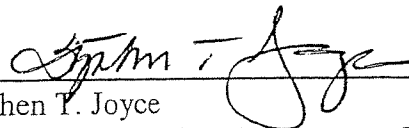
Dated: 4/19/07

CSW CHEMICAL SERVICES, LLC, on  
behalf of itself and as successor to certain  
liabilities of CHEM-TROL POLLUTION  
SERVICES, INC., GAESS  
ENVIRONMENTAL SERVICES CORP.  
AND R&R SANITATION SERVICES,  
INC.

By:   
Stephen T. Joyce  
Director, Closed Site Management Group

Dated: 4/19/07

WASTE MANAGEMENT OF NEW  
JERSEY, INC., on behalf of itself and as  
successor to certain liabilities of  
INTERSTATE WASTE REMOVAL CO.

By:   
\_\_\_\_\_  
Stephen T. Joyce  
Director, Closed Site Management Group

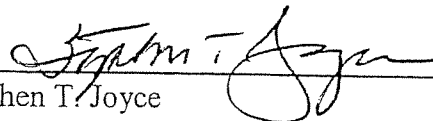
Dated: 4/19/07

SC HOLDINGS, INC., on behalf of itself  
and as successor to certain liabilities of SCA  
SERVICES, INC.

By:   
\_\_\_\_\_  
Stephen T. Joyce  
Director, Closed Site Management Group


Dated: 4/19/07

WASTE MANAGEMENT RECYCLING  
OF NEW JERSEY, LLC, on behalf of itself  
and as successor to certain liabilities of USA  
WASTE RECYCLING OF NEW JERSEY,  
INC.

By:   
Stephen T. Joyce  
Director, Closed Site Management Group

Dated: 4/19/07


SOUTHERN OCEAN LANDFILL, INC.

By:   
\_\_\_\_\_  
Robert E. Swain, Esquire  
Counsel for Southern Ocean Landfill, Inc.

Dated: March 29, 2007

JOSEPH J. CALDEIRA, SR.

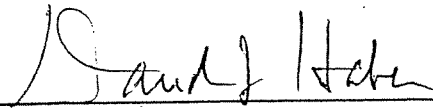
By:

  
\_\_\_\_\_  
Kevin N. Starkey, Esquire  
Counsel for Joseph J. Caldeira, Sr.

Dated: 3-26-07



JOSEPH J. CALDEIRA, JR.

By:   
David J. Haber, Esquire  
Counsel for Joseph J. Caldeira, Jr.

Dated: 4/2/07

CALDEIRA BROTHERS, INC.

By: David J. Haber  
David J. Haber, Esquire  
Counsel for Caldeira Brothers, Inc.

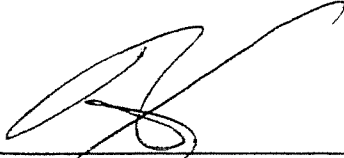
Dated: 4/2/07

FORCEES INC.

By: David J. Haber  
David J. Haber, Esquire  
Counsel for Forcees, Inc.

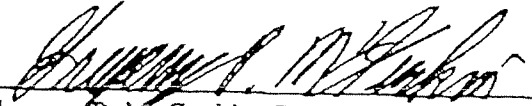
Dated: 4/2/07

OCEAN TOWNSHIP

By:   
\_\_\_\_\_  
Michael J. McKenna, Esquire

Dated: 7/24/87

OCEAN TOWNSHIP

By:   
Gregory P. McGuckin, Esquire

Dated: 5-10-07

## Appendix A

## Land Transfer Agreement

Pursuant to the Consent Decree, Southern Ocean Landfill, Inc. ("SOLI") shall complete a restoration project to satisfy the "Natural Resource Damages" as defined in the Consent Decree, that plaintiff DEP and the Spill Fund have incurred, and will incur, for the "Site" as defined in the Consent Decree. The restoration project shall consist of arranging for the donation of Block 6, Lot 4.01 of the SOLI Property to the State of New Jersey.

In order to complete the restoration project, SOLI shall comply with the State of New Jersey, Green Acres' requirements for land transfers, including the following:

- a. Within 30 days of this Consent Decree being entered, SOLI shall complete an Application for Land Transfer of Block 6, Lot 4.01 of the SOLI Property.
- b. Within 180 days of this Consent Decree being entered, SOLI shall complete a Preliminary Assessment/Site Investigation of Block 6, Lot 4.01 of the SOLI Property pursuant to the Technical requirements for Site Remediation, N.J.A.C. 7:26E.
- c. Within 270 days of this Consent Decree being entered, SOLI, shall complete a title search and a survey of Block 6, Lot 4.01 of the SOLI Property.
- d. Within 365 days of this Consent Decree being entered, the land donation by SOLI to the State of New Jersey shall be completed.

All correspondence and the documents outlined above shall be sent to:

Benjamin Trotter  
Office of Natural Resource Restoration  
501 East State Street  
P.O. Box 404  
Trenton, NJ 08625

The timeframes outlined above may only be extended, for not more than 90 days, by consent of plaintiff DEP.

## Appendix B



ERNEST J. KUHLWEIN, JR., P.E., P.F.  
DIRECTOR  
JOHN G. SAMRADNIK  
COUNSEL  
JOHN HAAS  
DISTRICT RECYCLING COORDINATOR



OCEAN COUNTY  
DEPARTMENT OF SOLID WASTE MANAGEMENT

129 Hooper Avenue  
P.O. Box 2191  
Toms River, New Jersey 08754-2191  
Telephone (732) 506-5047  
FAX (732) 244-8396

JOHN C. BARTLETT, JR.  
FREDHOLDER - UNION

JAMES F. LACEY  
FREDHOLDER - UNION

SOLID WASTE ADVISORY COUNCIL  
THERESA LETTMAN, CHAIRPERSON  
JAMES M. BOEKHOFF, JR., VICE CHAIRPERSON

February 22, 2006


Mr. Bruce Witkowski  
New Jersey Department of Environmental Protection  
Division of Solid and Hazardous Waste  
Site Remediation  
P. O. Box 414  
401 East State Street, Floor 4  
Trenton, NJ 08625-0414

Re: Post-Closure Care Responsibilities for Southern Ocean Landfill

Dear Mr. Witkowski:

As you requested, I have prepared an outline of the post-closure care responsibilities for the Southern Ocean Landfill. Attached is a copy of the post-closure financial plan detailing the work necessary during the post-closure period. The County in accordance with the Local Environmental Performance Partnership Agreement with the New Jersey Department of Environmental Protection will retain overall post-closure care responsibility for the facility. It should be noted that the post-closure financial plan includes manpower and equipment cost to maintain the facility. The County at this time does not intend to charge back manpower or County equipment costs to the post-closure fund. All other items will be paid for through the post-closure escrow fund. The County will provide for contracting of ground water monitoring, leachate disposal, and site engineering for the gas flare, leachate pump stations and erosion control. Ocean Township has offered to offset some of the County's manpower and equipment costs. The Township will be assisting the County in the following items: final cover/vegetation maintenance; run-on/run-off control maintenance; facility access control maintenance and inspection; pump station inspections; mowing; and snow plowing. A letter from the Township is attached confirming their commitment.

Recycled Paper

 SPECIAL ASSISTANCE/ACCOMMODATIONS available, please call (732) 506-5047

Page 2

To: Mr. Bruce Witkowski,  
New Jersey Department of Environmental Protection  
Date: February 22, 2006

Basically, the County with the assistance of Ocean Township will provide for the proper post-closure care and maintenance of the Southern Ocean Landfill facility. Should you require anything further or wish to discuss this, please do not hesitate to contact me.

Very truly yours,



Ernest J. Kuhlwein, Jr.  
Director

EJK:ic

Attachments

C: Gregbry P. McGuckin, Esq.  
Daniel M. Van Pelt, Mayor of Ocean Township

Southern Ocean Landfill  
Post-Closure Plan

Baseline Costs (2004)  
Including County Major Power Costs

Item	16 2004	17 2005	18 2006	19 2007	20 2008	21 2009	22 2010	23 2011	24 2012	25 2013
1 Final Cover/Vegetation Maintenance*	\$0	\$40,000	\$40,000	\$40,000	\$40,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
2 Run On/Run Off Control Maintenance*	\$0	\$4,000	\$4,000	\$4,000	\$4,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000
3 Monitoring Well Maintenance	\$0	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200
4 Drainage Pipe Cleaning yearly	\$0	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
5 Groundwater Monitoring Program**	\$0	\$12,500	\$8,130	\$8,130	\$8,130	\$8,130	\$8,130	\$8,130	\$8,130	\$8,130
6 Methane Gas Venting Monitoring/Maintenance	\$0	\$32,960	\$21,460	\$21,460	\$11,460	\$6,960	\$6,960	\$6,960	\$6,960	\$6,960
7 Leachate Disposal	\$0	\$60,000	\$60,000	\$60,000	\$40,000	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000
8 Site Containment Measures	\$0	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000
9 Facility Access Controls Maintenance (fences)**	\$0	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000
10 Gas Consumption, Propane	\$0	\$10,000	\$10,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
11 Gas Flare Major Part Replacement	\$0	\$0	\$0	\$60,000	\$80,000	\$0	\$0	\$0	\$60,000	\$60,000
12 Gas Flare Misc. Parts / O&M Requirements	\$0	\$70,000	\$70,000	\$70,000	\$140,000	\$140,000	\$140,000	\$140,000	\$140,000	\$140,000
13 Pump Station Inspection by County	\$0	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900
14 Pump Station Misc. Parts/Maintenance	\$0	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
15 Pump Replacement	\$0	\$0	\$0	\$0	\$5,000	\$0	\$0	\$0	\$0	\$5,000
16 Mowing Twice a Year by County	\$0	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295
17 Snow Plowing*	\$0	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700
18 Electric	\$0	\$8,500	\$8,500	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000
19 Roadway Maintenance*	\$0	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500
Miscellaneous @ 5%	\$0	\$13,228	\$12,434	\$36,109	\$18,359	\$12,559	\$12,334	\$12,334	\$15,334	\$15,364
Engineering (site inspection & field reports)	\$0	\$15,000	\$15,000	\$15,000	\$15,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Contingencies	\$0	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
<b>TOTAL COSTS 2004 \$</b>	<b>\$0</b>	<b>\$302,763</b>	<b>\$286,119</b>	<b>\$823,294</b>	<b>\$410,544</b>	<b>\$283,744</b>	<b>\$279,019</b>	<b>\$279,019</b>	<b>\$342,019</b>	<b>\$347,269</b>

\*refer to Tab entitled "Estimates" for cost breakdown  
\*\*refer to Attached documents for cost breakdown  
\*\*\* Cost Provided by County

Southern Ocean Landfill  
Post-Closure Plan

Baseline Costs (2004)  
Including County Manpower Costs

Item	26 2014	27 2015	28 2016	29 2017	30 2018	31 2019	32 2020	33 2021	34 2022	35 2023
1 Final Cover/Vegetation Maintenance*	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$0	\$0	\$0	\$0	\$0
2 Run On/Run Off Control Maintenance*	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$0	\$0	\$0	\$0	\$0
3 Monitoring Well Maintenance	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$0	\$0	\$0	\$0	\$0
4 Drainage Pipe Cleaning yearly	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$0	\$0	\$0	\$0	\$0
5 Groundwater Monitoring Program***	\$4,318	\$4,318	\$4,318	\$4,318	\$4,318	\$0	\$0	\$0	\$0	\$0
6 Methane Gas Venting Monitoring/Maintenance	\$5,980	\$3,760	\$3,760	\$3,760	\$3,760	\$0	\$0	\$0	\$0	\$0
7 Leachate Disposal**	\$11,000	\$11,000	\$11,000	\$11,000	\$11,000	\$0	\$0	\$0	\$0	\$0
8 Facility Access Controls Maintenance (Permit)	\$4,000	\$4,000	\$4,000	\$4,000	\$4,000	\$0	\$0	\$0	\$0	\$0
9 Site Conformance Measures	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000	\$0	\$0	\$0	\$0	\$0
10 Gas Consumption, Propane	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$0	\$0	\$0	\$0	\$0
11 Gas Flare Major Part Replacement	\$0	\$0	\$0	\$80,000	\$80,000	\$0	\$0	\$0	\$0	\$0
12 Gas Flare Misc. Parts / O&M Requirements	\$140,000	\$140,000	\$140,000	\$140,000	\$140,000	\$0	\$0	\$0	\$0	\$0
13 Pump Station Inspection by County	\$1,900	\$1,900	\$1,900	\$1,900	\$1,900	\$0	\$0	\$0	\$0	\$0
14 Pump Station Misc. Parts/Maintenance	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$0	\$0	\$0	\$0	\$0
15 Pump Replacement	\$0	\$0	\$0	\$0	\$5,000	\$0	\$0	\$0	\$0	\$0
16 Mowing Twice a Year by County	\$4,295	\$4,295	\$4,295	\$4,295	\$4,295	\$0	\$0	\$0	\$0	\$0
17 Snow Plowing	\$3,700	\$3,700	\$3,700	\$3,700	\$3,700	\$0	\$0	\$0	\$0	\$0
18 Electric	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000	\$0	\$0	\$0	\$0	\$0
19 Roadway Maintenance*	\$5,500	\$5,500	\$5,500	\$5,500	\$5,500	\$0	\$0	\$0	\$0	\$0
Miscellaneous @ 5%	\$12,144	\$11,984	\$11,984	\$14,964	\$15,234	\$0	\$0	\$0	\$0	\$0
Engineering (site inspection & field reports)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$0	\$0	\$0	\$0	\$0
Contingencies	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$0	\$0	\$0	\$0	\$0
<b>TOTAL COSTS 2004 \$</b>	<b>\$275,017</b>	<b>\$271,657</b>	<b>\$271,657</b>	<b>\$334,657</b>	<b>\$338,967</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*refer to Tab entitled "Estimates" for cost breakdown  
 \*\*refer to Attached documents for cost breakdown  
 \*\*\* Cost P provided by County



Southern Ocean Landfill  
Post-Closure Financial Plan

Running Balance  
Including County Manpower Costs

Year	Invested Present Dollar Amount	Interest Earned 4.5%	Future Annual Cost	Current Balance
17 2005	\$3,900,000	\$161,625	\$308,324	\$3,753,302
18 2006	\$3,753,302	\$155,548	\$296,687	\$3,612,162
19 2007	\$3,612,162	\$123,333	\$871,437	\$2,864,058
20 2008	\$2,864,058	\$109,018	\$441,431	\$2,531,645
21 2009	\$2,531,645	\$99,944	\$310,675	\$2,320,914
22 2010	\$2,320,914	\$90,442	\$311,092	\$2,100,264
23 2011	\$2,100,264	\$80,257	\$316,785	\$1,863,736
24 2012	\$1,863,736	\$66,074	\$395,418	\$1,534,392
25 2013	\$1,534,392	\$50,850	\$408,835	\$1,176,207
26 2014	\$1,176,207	\$38,093	\$329,698	\$884,602
27 2015	\$884,602	\$24,884	\$331,630	\$577,856
28 2016	\$577,856	\$10,807	\$337,688	\$250,964
29 2017	\$250,964	-\$7,770	\$423,628	-\$180,433
30 2018	-\$180,433	-\$27,836	\$438,147	-\$646,416
16 2019	-\$646,416	\$0	\$0	-\$646,416
17 2020	-\$646,416	\$0	\$0	-\$646,416
18 2021	-\$646,416	\$0	\$0	-\$646,416
19 2022	-\$646,416	\$0	\$0	-\$646,416
20 2023	-\$646,416	\$0	\$0	-\$646,416
21 2024	-\$646,416	\$0	\$0	-\$646,416
22 2025	-\$646,416	\$0	\$0	-\$646,416
23 2026	-\$646,416	\$0	\$0	-\$646,416
24 2027	-\$646,416	\$0	\$0	-\$646,416
25 2028	-\$646,416	\$0	\$0	-\$646,416
26 2029	-\$646,416	\$0	\$0	-\$646,416
27 2030	-\$646,416	\$0	\$0	-\$646,416
28 2031	-\$646,416	\$0	\$0	-\$646,416
29 2032	-\$646,416	\$0	\$0	-\$646,416
30 2033	-\$646,416	\$0	\$0	-\$646,416
		Total Interest \$975,088	Total Cost \$5,521,485	

DASTI, MURPHY, McGUICKIN, ULAKY,  
CHERKOS & CONNORS

A Professional Corporation  
COUNSELLORS AT LAW  
THE CLOCK TOWER BUILDING  
610 WEST LACEY ROAD  
POST OFFICE BOX 1057  
FORKED RIVER, NEW JERSEY 08731

TELEPHONE NUMBERS

(609) 971-1010  
(732) 349-2446  
(609) 693-4100

FACSIMILE NUMBERS

(609) 971-7093  
Real Estate: (609) 971-6176

Fed I.D. #27-3450668

MANAHAWKEN OFFICE

102 EAST BAY AVENUE  
SUITE A - P.O. BOX 580  
MANAHAWKEN, NJ 08050

TELEPHONE

(609) 483-0101

FACSIMILE

(609) 483-0102

GEORGE F. MURPHY, JR. † ‡  
JERRY J. DASTI  
GREGORY P. McGUICKIN  
ROBERT E. ULAKY † ‡  
RUSSELL P. CHERKOS  
CHRISTOPHER J. CONNORS  
O. NICHOLAS MONACO †  
CHRISTOPHER K. KOUTSOURIS \*

† CERTIFIED CIVIL TRIAL ATTY.  
‡ MEMBER, NATIONAL ACADEMY OF  
ELDER LAW ATTORNEYS, INC  
+ MEMBER NJ AND FLA BAR  
§ MEMBER NJ AND PA BAR  
\* MEMBER NJ AND NY BAR

REPLY TO FORKED RIVER

PLEASE REFER TO:

February 16, 2006

Southern Ocean Landfill  
Post-Closure Care  
Responsibilities

Mr. Bruce Witkowski  
New Jersey Dept. of Environmental Protection and Energy  
Div. of Solid and Hazardous Waste Site Remediation  
P.O. Box 414  
401 East State Street, Floor 4  
Trenton, NJ 08625-0414

Dear Mr. Witkowski:

Pursuant to various discussions between the Department, the Township of Ocean and the County of Ocean, please accept this correspondence as an outline of the Township's Post-Closure Care Responsibilities for the Southern Ocean Landfill.

As you are aware, the Township has offered to assist the County of Ocean for certain post-closure care responsibilities.

These responsibilities will include assisting the County with both manpower and equipment costs. The Township will specifically assist the County in the final cover/vegetation maintenance; run-on/run-off control maintenance, facility access control maintenance and inspection; pump station inspections, mowing and snow plowing. The Township at this time does not intend to charge back manpower or Township equipment cost to the post-closure fund for the services.

Bruce Witkowski  
Ocean Township-Southern Ocean Landfill Post Closure  
Page 2  
February 16, 2006

If there is anything further you might require, please do not hesitate to contact me.

Very truly yours,

GREGORY P. MCGUCKIN

GPM/js

cc: Ernest J. Kuhlwein, Director  
Daniel M. Van Belt, Mayor  
Robert Kraft, Deputy Mayor  
Tony Fonacca, Committeeman

DASTI, MURPHY, MCGUCKIN, ULAKY,  
CHERKOS & CONNORS  
COUNSELLORS AT LAW



## Exhibit B

SWAIN & WESTREICH, LLC  
ATTORNEYS AT LAW

BRINLEY PLAZA - BUILDING 2  
3100 HIGHWAY 138  
WALL, NEW JERSEY 07719

Robert E. Swain Jr.\*  
Kenneth P. Westreich  
\*New York Bar Also

(732) 681-7272  
Telefax (732) 681-0924

VIA FACSIMILE & REGULAR MAIL  
(732-505-4813)

July 30, 2009

James J. Gluck, Esq.  
Gluck & Allen, LLC  
217 Washington Street  
Toms River, New Jersey 08753

5002 8 0 909

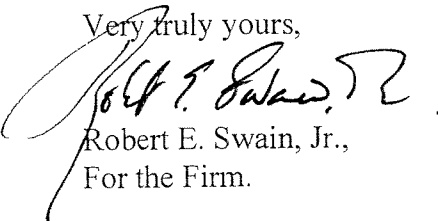
RE: *SOUTHERN OCEAN LANDFILL, INC.*  
*SUBDIVISION.*

Dear Mr. Gluck:

By this letter we advise that we have confirmed with the legal representative of the sole shareholder of our Client, Southern Ocean Landfill, Inc., that your Client is authorized to proceed with all steps necessary and with all due expediency to effect the subdivision of property owned by our Client in accordance with our recent discussion.

Should you require anything further from us in the assistance of your efforts, please feel free to contact me. I remain,

Very truly yours,



Robert E. Swain, Jr.,  
For the Firm.

c: Joseph Caldeira, Jr.

Exhibit C

RESOLUTION OF THE TOWNSHIP COMMITTEE FOR THE TOWNSHIP OF OCEAN  
ACCEPTING A RECOMMENDATION OF THE OCEAN TOWNSHIP LAND USE BOARD TO  
DESIGNATE CERTAIN AREAS OF THE MUNICIPALITY AS "AREAS IN NEED OF  
REDEVELOPMENT"

WHEREAS, N.J.S.A. 40A:12A-1, The New Jersey Local Redevelopment and Housing Law is designed to assist the various communities of this State in promoting a physical development of those communities in a manner which is most conducive to the social and economic improvement of both the municipality and the state as a whole; and

WHEREAS, there exists within the Township of Ocean various areas of the community which are in need of such rehabilitation and which are amenable to correction and amelioration provided a concerted effort of the responsible public bodies is undertaken; and

WHEREAS, a delineated area of any municipality may be determined to be in need of redevelopment if, after investigation, notice and public hearings as required by law, the governing body of the municipality concludes by resolution that within the delineated area, any of the following conditions are found.

A. The generality of buildings are substandard, unsafe, unsanitary, delapidated or obsolescent, etc.

B. The discontinuance of the use of various buildings previously used for commercial manufacturing or industrial purposes, the abandonment of any such buildings or allowing same to fall into a great state of disrepair.

C. Land that is owned by the municipality, the County or other public agencies is unimproved vacant land which has remained so for a period of at least 10 years prior to the adoption of this resolution and that by reason of its location, remoteness, lack of means of access to developed sections of the municipality, it is not likely to be developed through the instrumentality of private capital.

D. Areas which buildings or improvements by reason of their current condition, faulty arrangement or design, excessive land coverage, deleterious land use, etc. or any combination of these or other factors, are detrimental to the safety, health, morals and welfare of the community.

E. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions which has resulted in a stagnant and not fully productive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare in areas in excess of five contiguous acres wherein buildings or improvements have been destroyed, demolished or altered such that their aggregate assessed value has materially depreciated.

F. In any municipality in which an urban enterprise zone has been designated.

WHEREAS, in accordance with the statutory framework, the Township Committee of the Township of Ocean has previously authorized the Township's Land Use Board to conduct a preliminary investigation to be made pursuant to N.J.S.A. 40A:12A-4(a)(1) resulting in a report dated March 1, 1998 of Schoor DePalma, Inc. entitled "The Township of Ocean Redevelopment Project, Preliminary Investigation for Environmental Constraints"; and

WHEREAS, in 1998 the Township's Land Use Board made a recommendation to the Township Committee of the Township of Ocean to designate certain areas of the municipality as areas in need of rehabilitation and redevelopment in accordance with N.J.S.A. 40A:12A-1, et seq.; and

WHEREAS, the Township Committee in 1998 failed to take any action with respect to such recommendation; and

WHEREAS, the Township Committee of the Township of Ocean in 1999 requested and directed the Township's Land Use Board, as part of its update of the Township's currently existing Master Plan, to include therein the optional economic plan element for the purposes of including same in the Master Plan update; and

WHEREAS, in accordance with the Master Plan update, the economic element plan was reviewed by the Township's Land Use Board, public notifications were provided pursuant to statute and public hearings were held thereon; and

WHEREAS, the following areas have been determined by the Township's Land Use Board to be recommended areas in need of redevelopment in the municipality

1. The I-1 and I-2 Districts
2. The Edgemont Tract
3. The C-1 and C-2 Districts
4. The Southern Ocean Landfill facility area
5. The marina and waterfront development districts.

WHEREAS, the reasons for inclusion of same as areas in need of redevelopment within the municipality are set forth in further detail in the economic plan element of the Township's 1999 Master Plan Update; and

WHEREAS, the Township's Land Use Board has clearly conducted a thorough and complete investigation and hearing into this matter and the Township Committee having reviewed the recommendations of said Board, the Township Committee of the Township of Ocean has determined it is in full agreement with the recommendations of the Township's Land Use Board as to the five specific areas determined by that Board to be in need of redevelopment in the municipality; and

WHEREAS, the Township Committee of the Township of Ocean is satisfied that a complete investigation, proper notifications and hearings have been conducted both in 1998 and 1999 as required by statute.

NOW, THEREFORE BE IT RESOLVED this 10<sup>th</sup> day of February, 2000, that the following areas be and hereby are designated as "areas in need of redevelopment within the Township of Ocean, County of Ocean, State of New Jersey":

1. The I-1 and I-2 Districts
2. The "Edgemont Tract Properties"
3. The C-1-C-2 zones (entire)
4. The Southern Ocean Landfill facility area
5. All marina and waterfront development districts.

BE IT FURTHER RESOLVED that the Township Committee of the Township of Ocean has determined and concluded that within these delineated areas, some or all of the following conditions may be found in each of these areas:

A. The generality of buildings are substandard, unsafe, unsanitary, delapidated or obsolescent, etc.

B. The discontinuance of the use of various buildings previously used for commercial manufacturing or industrial purposes, the abandonment of any such buildings or allowing same to fall into a great state of disrepair.

C. Land that is owned by the municipality, the County or other public agencies is unimproved vacant land which has remained so for a period of at least 10 years prior to the adoption of this resolution and that by reason of its location, remoteness, lack of means of access to develop sections of the municipality, it is not likely to be developed through the instrumentality of private capital.

D. Areas which buildings or improvements which by reason of their current condition, faulty arrangement or design, excessive land coverage, ~~deteriorious~~ <sup>poor</sup> land use, etc. or any combination of these or other factors, are detrimental to the safety, health, morals and welfare of the community.

E. A growing lack or total lack of property utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions which has resulted in a stagnant and not fully productive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare in areas in excess of five contiguous acres wherein buildings or improvements have been destroyed, demolished or altered such that their aggregate assessed value has materially depreciated.

The Township has not been designated as an enterprise zone and consequently this criteria is not met, however, same is not needed for the purposes of this designation.

BE IT FURTHER RESOLVED that in support of this Resolution, the Township Committee of the Township of Ocean hereby adopts and incorporates herein as if set forth more fully herein at length, the various findings and recommendations of the Township's Land Use Board as set forth in Resolution 1998-8 and the Economic Plan Element of the 1999 Master Plan Update of the Township's Land Use Board.

*del let for*

DASTI MURPHY  
WELLERSON P.C.  
COUNSELLORS AT LAW  
420 WEST LACEY ROAD  
P. O. BOX 1097  
ORANGE RIVER N.J. 08711

BE IT FURTHER RESOLVED that in accordance with N.J.S.A. 40A:12A-7(c) those areas set forth hereinabove are hereby determined to be "blighted areas" for the purposes of Article VII, Section 3, Paragraph 1 of the Constitution of the State of New Jersey.


BE IT FURTHER RESOLVED that the Township Committee and it's professional staff be authorized to commence the planning for a redevelopment project for the areas set forth hereinabove.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. The Ocean Township Land Use Board
2. Michael Vena, P.E.
3. James Gulnac
4. Richard Haines, Esq.
5. Gregory P. McGuckin, Esq.

#### CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey at a regular meeting held on the 10 day of Feb. 2000, quorum being present and voting in the majority.

  
Dorothy Horner, Township Clerk

Prepared by:

DASTI, MURPHY, WELERSON & MCGUCKIN

#### Certification

I hereby certify that the foregoing resolution/ordinance to be a true copy duly adopted by the Township Committee of the Township of Ocean at a meeting held on the 10<sup>th</sup> day of February, 2000

