



State of New Jersey

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MEMORANDUM

To: Gene Feyl, Margaret Nordstrom, Chris Danis, and Carole Dicton
From: Chris Ross
Subject: Fenimore Landfill Project – Comments Raised at Council Meeting
Date: August 8, 2012

Dave Peifer (ANJEC) provided comments at the last Highlands Council meeting regarding the referenced project and I see that there is increasing press coverage with respect to the on-going remediation at the site. I brought this project up at our recent staff meeting and I have discussed briefly with both Chris and Carole. I wanted to take this opportunity to summarize Mr. Peifer's comments and to review the action taken by the Highlands Council on October 13, 2011 in order to place the issues in context for all of you, particularly as questions/press inquiries may be coming in.

Brief Summary of Dave Peifer's Comments

Mr. Peifer noted that the Highlands Council had previously approved a Highlands Redevelopment Area Designation for the former landfill, for a project to install solar panels. Mr. Peifer noted that during the requisite remediation of the landfill prior to any redevelopment, the NJDEP sought to revoke the consent order it had issued to allow remediation because of additional pollutants discovered and non-compliance issues with the applicant (Strategic Environmental Partners). He also noted Roxbury Township complaints regarding truck traffic and safety with regard to on-going remediation. Mr. Peifer urged the Council to withdraw the Redevelopment Area Designation until these issues were satisfactorily resolved.

Highlands Council Resolution 2011-35 – October 13, 2011

On October 13, 2011 the Highlands Council approved the former Fenimore Sanitary Landfill Highlands Redevelopment Area Designation ([NJDEP Submittal Oct 2011\2011-35.pdf](#)) with conditions as set forth in the Final Recommendation Report ([NJDEP Submittal Oct 2011\Fenimore Staff Recommendation Report.pdf](#)).

As stated in the Highlands Council Final Recommendation Report, the proposed solar energy project will be preceded by the proper closure of the landfill (which did not occur in 1979 when operations ceased). The closure of the landfill qualifies for Exemption #15 under the Highlands Act (project is located in the Preservation Area and NJDEP is the regulatory authority to issue Exemption #15, which is for the remediation of contaminated sites). Thus, the landfill closure is not addressed by the Highlands Council Consistency Determination and Final Recommendation Report. Following the proper closure of the landfill in various phases, the applicant proposes to redevelop the landfill by placing photovoltaic panels on top of the constructed landfill cap. The Highlands Council Consistency Determination/Final Recommendation Report review is only for the proposed redevelopment on top of the constructed landfill cap. **Thus, the “initial condition” for the Highlands Council review is the closed and capped landfill.** The verification that the landfill has been properly closed and capped will occur through NJDEP Landfill Closure approval and the HPAA process. Redevelopment activities in any area so designated by the Highlands Council as a Highlands Redevelopment Area and subject to any approvals required by the municipality pursuant to MLUL may only commence upon issuance of an HPAA. [Note: the Landfill Closure approval and issuance of the HPAA has yet to occur.]

Summary/Conclusion

The issues raised by Mr. Peifer at the most recent Highlands Council meeting and that are appearing in the press at this time are all related to the remediation activities at the landfill, which are regulated by the NJDEP (Exemption #15 and Landfill Closure approval). The issues raised have nothing to do with the Highlands Council approved Highlands Redevelopment Area Designation, which is for the proposed redevelopment (solar panels) on top of the properly closed and capped landfill. Thus, there is no need for the Highlands Council to withdraw the Highlands Redevelopment Area Designation at this time. The proposed redevelopment project can only commence when the remediation activities (the cause of the issues that Mr. Peifer raises) are properly completed.