

Gurbir S. Grewal, Attorney General  
Hughes Justice Complex  
25 West Market Street  
P.O. Box 080  
Trenton, NJ 08625

Re: Monmouth County Board of Freeholders  
Application of Resource Engineering, LLC to Amend the  
Monmouth County Solid Waste Management Plan to Include  
A New Solid Waste Transfer Station

Dear General Grewal:

As the Mayor and Councilmember in Howell Township, we respectfully request that your office take necessary action on behalf of our municipality to prevent further questionable practices and decision-making by the Monmouth County Board of Freeholders (“Freeholders”) detrimental to the legitimate interests of Howell Township and its residents. We believe that the Freeholders have intentionally ignored the legally mandated process for the approval of a proposed solid transfer waste station (known locally as “the dump”), including our vigorous opposition on behalf of our Township. We have serious concerns that the proposal will be approved without our consent and over our objection, in violation of the clear procedures required by state law. As the chief law enforcement officer in our State, we respectfully request that you take immediate action to stop any action or prospective approvals by the Freeholders.

We have included herein a detailed recitation of the facts underlying our request. We would prefer not to need your assistance, but given the ongoing concerns of our Township residents, along with the indisputable justifications for denying the application, it appears that political influence might be in play. We therefore believe that we have no choice but to seek the assistance of your office to investigate the manner in which the Freeholders are processing and making decisions in this matter.

## **SUMMARY OF ISSUES**

The matter at hand is an application by Resource Engineering (“RE”) for inclusion of a proposed solid waste transfer station (“TS”) in the Monmouth County Solid Waste Management Plan (“SWMP”) at a location in Howell Township. (Exhibit A).

As shown below, in fact, the proposed facility is not needed to manage waste from Monmouth County and its operation would cause significantly adverse traffic and environmental impacts. The request for inclusion in the County’s SWMP has therefore met with justifiable opposition, including strenuous opposition by Howell Township and its residents. Nevertheless, based on actions of the County Solid Waste Advisory Council (SWAC), and the Freeholders, it seems apparent that the Freeholders are intent on granting RE’s application and including the proposed TS in the County’s SWMP.

## **QUESTIONABLE SOLID WASTE PLANNING PROCESS**

The SWMP process is contained in the Solid Waste Management Act. From a summary perspective the process involves an initial submission by an applicant to the SWAC for a proposed solid waste facility to be considered for inclusion in the County SWMP. The SWAC after review of the application decides on whether to recommend to the Board of Freeholders the proposed facilities inclusion in a Plan Amendment. If SWAC acts favorably on the proposed facility’s inclusion in a Plan Amendment the same is forwarded to the Freeholders for consideration. The Freeholders, based on the SWAC recommendation are required to hold a public hearing and receive comments on the proposal orally or in writing. Thereafter, based on the record of the proceedings the Freeholders make a determination to approve or deny plan inclusion of the facility. If approved, the Plan Amendment is forwarded to DEP for their statutory review.

An objector can challenge the Plan Amendment in a Superior Court provided their objection is in writing. In the present situation which has dragged on for years, the SWAC improperly recommended plan inclusion of the proposed facility despite strenuous objections to the same from Howell Township and its residents. Thereafter, the Freeholders scheduled a hearing and vote on the matter but the same was adjourned. Objectors were requested instead to submit their comments in writing. There was no public hearing on the matter in contravention of the Solid Waste Management Act. Presently, to our knowledge no further processing of RE's application has occurred except for the Freeholders conducting a new traffic study and "in need" study (discussed below) regarding the need for the facility in the Plan which have lingered for months.

We understand that numerous OPRA requests have been made to the County seeking copies of the studies which have gone on for almost one year and which have continually been denied based on the fact that the studies are in draft. It is obvious that the Freeholders are bending over backwards to do whatever they can to place the facility in the SWMP. Stories have appeared in the news media alleging that the principals of the project are related the former County Clerk which may explain why the Freeholders are treating the application in this manner. Aside from the questionable Plan Amendment process, there are glaring environmental impacts from the proposed project which are outlined below. The Freeholders in effect have corrupted the solid waste planning process with regard to the present application of RE.

**THE STATUTORILY REQUIRED NEED FOR ANOTHER  
TRANSFER STATION IN MONMOUTH COUNTY DOES NOT EXIST**

The New Jersey State Solid Waste Management Act requires that Freeholders consider the absence of sufficient existing or available sites for solid waste facilities and develop and implement

a solid waste management plan which meets the needs of every municipality within the County. See N.J.S.A. 13:1E-2(b)(2); N.J.S.A. 13:1E-21.

RE stated in its Request that it will receive Type 13 and Type 13C waste at the proposed transfer station in Howell. In the February 2009 Amendment to the Monmouth County District Solid Waste Management Plan, the Freeholders and the DEP determined that “there remains adequate and excess capacity to continue transferring bulky wastes generated within Monmouth County to out-of-county disposal sites.” (Monmouth County 2009 Plan Amendment at 50, Exhibit B). In 2009 and through the present, there have been four transfer station facilities in Monmouth County which are included in the County Plan to accept Type 13 and 13C waste: Monmouth County Reclamation Center; Freehold Cartage, Inc.; Mazza & Sons, Inc.; and Republic Services (Marpal). As the Freeholders and the DEP have found, the four existing transfer stations in Monmouth County have adequate and excess capacity to handle all bulky waste generated in Monmouth County. The Township of Howell, which has no need for the proposed transfer station, is adamantly opposed to RE’s proposed transfer station.

Absent the need of Monmouth County and the Township of Howell for the proposed transfer station – which need cannot be established – RE’s Request for inclusion of the proposed transfer station in the County Plan should be denied.

**THE PROPOSED TRANSFER STATION SITING IS IN CONFLICT  
THE TOWNSHIP OF HOWELL ZONING ORDINANCES**

RE's Request for Inclusion Into Monmouth County SWMP states: “The subject property is located in the SED (Special Economic Development) Zoning District of the Township of Howell. Please refer to Appendix V for the list of permitted uses for the SED Zone.” (Request at Page 4). RE continued in its Request: “Howell Township does not list a recycling facility or transfer station as a type of use in its ordinance. ...The site has been designed in conformance with the bulk and

dimensional requirements of the zone.” RE’s representations regarding Howell’s zoning are disturbingly misleading.

RE fails to mention in its Request that transfer stations are specifically prohibited in all zones in the Township of Howell. Zoning Ordinance §188-67 of the Township of Howell provides, in pertinent part:

**§ 188-67 Prohibited uses in all zones.**

In addition to and not by way of limitation of any other uses prohibited in this chapter, **the following uses are prohibited throughout the Township:**

**F. Uses which involve the processing, handling, storage, incineration of distribution of solid waste, including landfills, transfer stations,** composting facilities and uses deemed to be similar in character. Nothing herein shall be construed as to prohibit routine solid waste handling and composting as an accessory or appurtenant use to a residential or agricultural use (including such accessory uses for which the owner is compensated); provided, however, that such uses are incidental to a principal permitted use.

(A copy of Township of Howell Zoning Ordinance §188-67 is attached hereto as Exhibit C) (emphasis added).

Township of Howell’s Zoning Ordinance prohibition of transfer stations “throughout the Township” should have certainly been presented to SWAC and to the Freeholders by RE for their consideration of the proposed transfer station.

**SUPPORT OF THE TOWNSHIP OF HOWELL HAS NOT BEEN OBTAINED AND THE TOWNSHIP OF HOWELL STRENUOUSLY OPPOSES THE TRANSFER STATION**

By letter of September 11, 2017, the Board of Chosen Freeholders of the County of Monmouth advised the Project Manager of RE that “it is solely the applicant’s responsibility to gain municipal support for this project. Once this approach is received by your team, in writing, and is forwarded to me for review, I will then forward it on to the SWAC Chairman for his

review. Until said letter is received and properly reviewed, the application will not appear on any SWAC agenda.” (A copy of the September 11, 2017, letter is attached as Exhibit D).

The Township of Howell has adopted an ordinance opposing the proposed transfer station facility. As such, and in accordance with the directive of the Freeholders, RE’s application should not appear on any SWAC agenda. Further, the Township of Howell has made it crystal clear by letters of January 10, 2018 and February 5, 2020, and by strenuous opposition of the officials of Howell voiced at the January 25, 2018, SWAC public hearing, that Howell is opposed to the construction of the proposed transfer station in the Township of Howell. (See Exhibit E). Nevertheless, SWAC moved the application forward to the Freeholders for consideration.

### **SEVERE TRAFFIC IMPACTS**

Traffic impacts from solid waste transfer stations are serious public safety considerations and, as will be discussed below, this proposed transfer station use will cause significant and unacceptable public safety conditions.

According to information provided in the application for inclusion in the County’s SWMP, the facility is to be located on Randolph Road, a two-lane country road of questionable construction for continuous use by heavy garbage trucks and transfer trailers. According to the Master Plan of Howell Township, Randolph Road is designated as a minor collector roadway and is not meant for heavy traffic use. RE has not provided requested confirmation that Randolph Road can support the weight of vehicles which will use the facility. The roadway was not intended or designed to handle this type of use. In fact, the area is zoned for agricultural and residential use, not transfer station use which is prohibited by Howell Township in any zone.

The intersection of Randolph Road and County Road 547 is presently considered “unsafe” for its existing use and needs to be signalized with accompanying road improvements such as

additional dedicated traffic turning lanes on both roads at the intersection regardless of the proposed transfer station as noted by the traffic engineer.

Unfortunately, the application shows a lack of knowledge as to traffic management at a transfer station. The queuing/stacking of trucks is a key component of traffic management at these facilities. The applicant states that 880 truck movements will occur each day, consisting of waste hauling vehicles and transfer trailers which does not include trucks using its Class B Recycling facility. No queuing or stacking analysis has been provided as mandated by the County's own requirements for traffic studies. (See attached County requirements). Needless to say, this is a large capacity facility on 10.2 acres and the design of the facility does not provide for the proper handling of this persistent volume of truck traffic. The proposed site use and capacity requested, not to mention the location on a County road, cannot function on 10.2 acres without substantial adverse public safety and environmental impacts.

Most importantly, the stacking lanes on site for the proposed transfer station building can only handle 11 trucks at a time, which based on 880 truck movements will result in trucks being queued up in line on Randolph Road for a substantial distance and time, probably back to County Road 547 and beyond. There are no deceleration lanes for ingress to the transfer station or acceleration lanes on the north side of Randolph Road which are necessary components for managing traffic. (We understand the applicant has refused to provide these critical road improvements). RE's traffic expert acknowledges that 55 inbound and 55 outbound trucks will be generated in one hour, about one every minute. RE's traffic report is woefully deficient in that it does not deal with the stacking of vehicles on the site and Randolph Road, which is a key element from a public safety perspective and also is non-compliant with County requirements regarding the need for queuing/stacking analysis, amongst other matters. With the average length of inbound

trucks ranging from 40 feet to 69 feet, the short distance to County Road 547 (375 feet) and the number of trucks expected at the facility, a significant unacceptable public safety condition will be created. DEP requirements do not permit the queuing or stacking of trucks on public roads. (Id.).

Consequently, trucks will be backed up on Randolph Road creating a serious public safety hazard for other vehicles using Randolph Road, as they will have to go around idling trucks into oncoming traffic (with limited sight lines), a dangerous condition. Additionally, the idling of this many trucks will contribute to an unacceptable air pollution condition associated with the exhaust fumes from diesel engines (idling of diesel trucks for more than three minutes is not permitted according to DEP requirements), not to mention noise from the trucks. Additional public safety hazards will occur at intersections inasmuch as the turning radii are inadequate for trucks, thereby forcing them to veer into opposite lanes of traffic causing another public safety hazard. (Id.).

When trucks are exiting the facility, the sight distances referenced in the RE's site plans are inadequate. The sight distances referenced in the application are for passenger cars not trucks. The AASHTO standards, as referenced in RE's traffic report, are the controlling design provisions which state that 850 feet site distances are required for trucks using the facility and at the intersection, not the stated distance of 450-550 feet as stated by the applicant, which is the standard for passenger cars. (Id.).

RE's application is similar to the application in Gary Walker d/b/a Omega Material Recovery v. Board of Chosen Freeholders of the County of Burlington, Docket No. A-027-96-12T4, Appellate Division, April 27, 2015, 2014 WL8726306. One of the critical points of contention in the Omega case was the issue of traffic. The Burlington County Freeholders found the increased truck traffic to be an issue, and rejected the proposed plan amendment to include a



transfer station. The Appellate Division affirmed the Freeholders' rejection of the proposed plan amendment. Here, the proposed RE facility will be at least three times the volume of the proposed facility in Omega, and will consequently result in significantly more truck traffic than in the Omega application. The Warrant Analysis included in the record associated with the RE application shows the intersection at Randolph Road and Route 547 already operates at a Level of Service "F" - the worst rating an intersection can receive. The resulting truck traffic will be too burdensome on the Township of Howell, and is reason alone for rejecting the proposed plan amendment.

### **NEGATIVE ENVIRONMENTAL IMPACTS**

#### **NOISE**

In the Omega case, there was concern, as here, for the amount of noise associated with a solid waste transfer station. The applicant in Omega proposed to erect a sixteen-foot high wall along the perimeter of the property to block noise from the facility. The Appellate Division upheld the rejection of the application despite a noise study and the proposed wall. Here, RE has not provided any information regarding airborne noise levels anticipated to be generated during its proposed transfer station operations, despite a request from the Township of Howell.

#### **ODOR AND DUST**

Monmouth County SWMP procedure to include a new solid waste facility into the Plan requires all applicants to address odor and dust. The requirement reads:

Considering both construction and regular operations, describe the potential of this business to impact the surrounding environment with noise, odor, traffic, dust, or other air contamination, fire hazard or visual concerns and to impact water supplies, waste disposal systems or any other aspect of the local and regional community. Discuss how each potential impact will be mitigated so as to minimize negative effects on the natural environment or the

community. If there are no anticipated impacts, the applicant must so indicate and also specify the reason why no impacts are expected.

RE's application is silent with respect to odors or dust to be emitted from the proposed transfer station. The application offers no information concerning any protocols and procedures that would necessarily be instituted to address malodorous waste loads that be inadvertently brought to the transfer station or generated from trucks queued up awaiting entry into the facility to tip their loads.

### **STORMWATER**

RE again fails to respond to the Township engineer's specific request to be provided with details regarding RE's stormwater management strategy, specifically concerning stormwater quantity, quality and recharge, as well as for design calculations. Instead, InSite Engineering simply reiterates that RE will comply with NJDEP stormwater regulations (N.J.A.C. 7:8-1.1 et seq.) and contends that the "Township [stormwater] ordinance mimics NJAC 7:8." However, the Township ordinance's design standards and requirements are far more specific and detailed in scope, making this ordinance arguably more stringent than NJDEP's stormwater rules. Absent a detailed and comprehensive response on RE's behalf, there is no way at this stage to informedly review and comprehensively comment upon the proposed facility's as yet undisclosed plan to address stormwater.

Given that likelihood the facility plan will require at least 70% impervious cover -- and quite possibly greater than that percentage in order to meet NJDEP solid waste facility design requirements for internal roadway areas, which must be paved as opposed to the use of crushed stone as proposed by RE, it is apparent that the proposed transfer station operations will generate a significant amount of stormwater runoff. RE has provided no information whatsoever on how it

intends to adequately control surface stormwater runoff and prevent significant precipitation events from causing flooding of roads adjacent to the proposed facility and soil erosion to surrounding non-impervious surface areas. Moreover, stormwater discharging to subsurface areas of the site may also potentially impact nearby streams.

The application does not even provide information regarding natural drainage flow within a mile of the proposed site. Specifically of concern due to this omission is the fact that Haystack Brook, a tributary of the Metedeconk River and a source of drinking water for Brick Township and other towns located in Monmouth and Ocean County, is located approximately 1,400 ft. or 0.25 miles from the proposed transfer station site. The Metedeconk River and its tributaries are important to local wildlife and surrounding populations, providing a place for recreation as it winds through numerous towns. It is the primary source of drinking water for Brick MUA, Brick, Point Pleasant Beach and Point Pleasant Borough. As such, it is classified as a Category 1 (C1) River, the highest level of protection afforded a river by the State of New Jersey. Without safeguards to assure that stormwater flow will be sufficiently contained on site, hazardous substances from the proposed facility -- which are acknowledged by NJDEP to often be present in certain types of construction and demolition waste materials -- pose a threat to reach the drinking water source for a significant number of County residents via stormwater surface runoff.

Information regarding stormwater runoff and drainage are each among the explicit requirements of Monmouth County Division of Solid Waste and Recycling and SWAC for any request for inclusion in the County SWMP. Yet neither of these two critical informational components has been provided. Without such information, the SWAC/Freeholders are unable to properly consider the suitability of RE's proposed transfer station for inclusion in the County SWMP.

Moreover, according to verbal information offered by RE's engineer at a SWAC public hearing held in the Township of Howell, the facility apparently intends to manage stormwater by the use of onsite permeable subsurface detention basins. Given that RE has not determined groundwater flow direction from beneath the site, or whether seasonal groundwater table elevation at the site is less than 3 ft. below ground surface (each of which are also required information for submittal under Monmouth County procedures for applications seeking inclusion in Solid Waste Plans), the potential for shallow groundwater to serve as a pathway for contamination from the facility to reach the nearby tributary to the Metedeconk River cannot be eliminated and thus remains a potentially significant public health concern for Monmouth and Ocean County residents for whom the Metedeconk is a potable water source.

### **WASTEWATER**

Because the facility will generate more than 2,000 gallons per day of wastewater (based on NJDEP rules for calculating wastewater flow), it will need to install an on-site treatment system to manage wastewater generated from the proposed facility's operations. According to the Application, the facility's wastewater discharge will go to a septic field to be constructed on site for disposal. However, notwithstanding the Township Engineer's request, RE has failed to provide wastewater flow calculations, data regarding soil permeability testing for the proposed septic discharge, or any basic information about plans for management of wastewater.

Likewise, no information has been provided to date concerning whether seasonal groundwater table elevations at the site are less than 3 ft. below ground surface, which would clearly constrain if not preclude the use of septic to manage wastewater disposal at the site. Such information requested is clearly within the Township's jurisdictional scope and directly relevant to the Township's consideration of the proposed site, inasmuch as the authority to approve the

installation of individual subsurface sewage disposal systems lies strictly with the local health officer. Moreover, Monmouth County SWAC requirements outlining the specific information that must be submitted for inclusion in a solid waste plan specifically reference identifying whether seasonal depth to groundwater at a proposed site is less than 3 feet. (See “Procedure to Include Solid Waste Facility in Solid Waste Plan” at A-49, ¶ B.7.) Without such information, the feasibility of the site soils for septic disposal use cannot be determined. Further, groundwater impacts to nearby streams are unable to be determined. Additionally, a shallow groundwater table at the site would adversely affect any determination as to the site’s suitability for use as a solid waste transfer station.

### **FLOOD PLAIN DELINEATION/FLOOD HAZARD AREA VERIFICATION**

Contrary to the County’s requirements for submittals associated with applications for inclusion in the Solid Waste Plan, the author of this report did not perform drainage calculations for the proposed site and consequently did not provide an assessment to verify whether the subject property is located within a flood hazard area. Without information verifying that the site is not within a flood hazard area, the application leaves the Freeholders lacking another key criteria for determining whether the proposed location is suitable or not for siting a solid waste transfer station.

### **WETLANDS**

RE's 2011 Land Use Report notes that "areas of ponded water were observed". According to RE's consultant, no wetland areas exist on the site. However, neither this report nor any other submission to date by RE makes any determination as to whether the ponded areas were actually man-made wetlands subject to NJDEP regulation. Historically, based on 2012 GIS mapping, wetlands were once present at the site, but were destroyed during the operations of previous owners and/or operators of the property. NJDEP may yet seek from the present site owner some

compensation for the destruction of wetlands – either in the form of wetlands restoration (on- or off-site) or contribution to a wetlands mitigation bank.

### **AIR POLLUTION**

As discussed in the section contained herein on Traffic Impacts posed by the contemplated transfer station, a significant number of trucks with idling engines would be queued up awaiting entry into RE's facility on a daily basis throughout a substantial portion of the day. Subject to limited exceptions, NJDEP air pollution regulation prohibits diesel trucks from idling for more than three minutes. These idling trucks will inevitably generate significant amounts of carbon dioxide, nitrogen oxides and particulate matter into the atmosphere at levels that could potentially exceed NJDEP regulatory limits for such types of air emissions. Moreover, frequent and repeated emissions of air pollutants could result in unhealthy ambient conditions that could have short- and long-term adverse impacts on sensitive populations residing or working nearby, especially those most vulnerable, such as the elderly, the chronically ill and very young members of the nearby local community.

### **RE HAS NO SOLID WASTE EXPERIENCE**

The Monmouth County SWMP requires that any applicant seeking to include a solid waste facility in the County Plan must include: “prior company experience and related solid waste management activities.” (Monmouth County 2009 Plan Appendix at A-49). RE’s application makes no mention of any prior company experience or any related solid waste management activities or any knowledge about operating a solid waste transfer station. RE has no experience in operating a TS.

### **THE REQUEST IS MISLEADING AS TO TONNAGE AND WASTE TYPES**

The Notice of the proposed amendment indicates that the “proposed transfer station will accept 1,200 tons per day of waste Types ID13 and ID13C material.” But RE’s Request states that it is seeking approval for 1,500 tons per day. (Exhibit A, Request at 2, 3). Contrary to its Request, RE told SWAC at the January 25, 2018 public hearing that the proposed transfer station will accept only Type 13C waste.

**TRANSFER STATION/MATERIAL RECOVERY FACILITY**

The Notice of the proposed amendment to the County Plan states that RE is proposing to build a “solid waste transfer station facility.” RE’s Request also indicates its request for inclusion of a “proposed solid waste transfer station.” (Exhibit A, Request at 2, 3). Thereafter, however, RE states that “the site will operate as a Material Recovery Facility (MRF).” (Exhibit A, Request at 4). There are marked differences between the two operations.

Based on the foregoing, it is respectfully requested that your office take action to prevent the Monmouth County Board of Freeholders from amending the Monmouth County Solid Waste Management Plan to include the proposed RE transfer station in the Township of Howell.

Respectfully yours,



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Theresa Berger  
Mayor, Howell Township



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John Bonevich  
Councilman, Howell Township

cc: Senator Robert W. Singer  
Assemblyman Sean T. Kean  
Assemblyman Edward H. Thomson  
Senator Vin Gopal

Assemblywoman Joann Downey  
Assemblyman Eric Houghtaling  
Senator Samuel D. Thompson  
Assemblyman Robert D. Clifton  
Assemblyman Ronald S. Dancer  
Senator Declan J. O'Scanlon  
Assemblyman Gerard Scharfenberger, Ph.D.  
Assemblywoman Serena DiMaso  
Monmouth County Freeholder Patrick Impreveduto  
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Monmouth County Freeholder Thomas A. Arnone  
Monmouth County Freeholder Lillian G. Burry  
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