



## THE TOWNSHIP OF MILLBURN

375 MILLBURN AVENUE  
MILLBURN, NEW JERSEY 07041

April 23, 2020

Catherine McCabe, Commissioner  
New Jersey Department of Environmental Protection  
Mail Code 401-07  
401 East State Street  
PO Box 402  
Trenton, New Jersey 08625-0420

Mark Pedersen, Assistant Commissioner  
Site Remediation and Waste Management  
New Jersey Department of Environmental Protection  
Mail Code 401-07  
401 East State Street  
PO Box 402  
Trenton, New Jersey 08625-0420

**Re: Rolling Knolls Landfill Superfund Site, Chatham Township, New Jersey**

Dear Commissioner McCabe and Assistant Commissioner Pedersen:

Please accept this letter on behalf of the Township of Millburn ("Millburn") with regard to the Rolling Knolls Landfill Superfund Site located in Chatham Township ("Chatham"), New Jersey (the "Landfill" or the "Rolling Knolls Landfill").

Millburn understands that the Landfill is a Superfund Site which was listed on the National Priorities List ("NPL") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq. ("CERCLA") in 2003. The Township was recently made aware that the Landfill has been fully investigated under a Remedial Investigation/Feasibility Study ("RI/FS"), a draft of which is currently being reviewed and commented upon by the United States Environmental Protection Agency ("EPA"). Millburn has been advised that the EPA is anticipated to issue a Record on Decision ("ROD") later this year thereby establishing the permanent environmental remedy to be implemented. That remedy may comprise Alternative #3 described in the RI/FS. Millburn has reviewed Chatham's correspondences to both EPA and to the Department regarding the adequacy of this proposed remedy as well as the legal question of whether the Legacy Landfill Act, N.J.S.A. 13:1E-125.1 (the "Act") applies to the remediation of the Rolling Knolls Landfill, respectively.

As it regards the adequacy of Alternative #3, Millburn has not completed an independent technical review of the available information. However, Millburn recognizes that the Landfill's host community supports Alternative #3 and has advocated same to the EPA stating that this alternative will both meet the applicable requirements and reduce negative impacts to the community caused by extensive remedial activities. While Millburn certainly has an independent interest in not only the overall protection of human health and the environment, but also, the

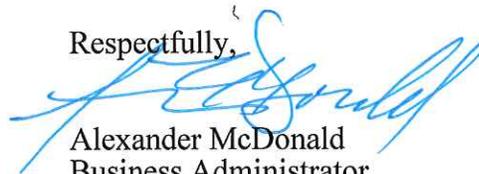
implementation of effective and efficient remedies in response to environmental conditions within the neighboring communities, Millburn will defer to Chatham in this regard at this time.

As it regards the legal question of whether the Act applies to the Rolling Knolls Landfill, the Township understands that the Department may be of the opinion that the Act applies and that as such, a remedy that includes a much more extensive capping component may ultimately be required. Implementing more extensive capping would not only have a more significant impact on the infrastructure within and about the host community and its neighboring communities, but would also substantially drive up the potential liability of Millburn and the various other municipalities that are alleged to have utilized the Landfill for solid waste disposal during the 1930s through the 1960s. Millburn's legal counsel has reviewed the Act and has concluded that the Rolling Knolls Landfill, and any other landfill that has been listed on the NPL for that matter, is exempt from the Act. Therefore, Millburn would urge the Department to consider all relevant factors pertaining to the Landfill, including the notion that the remediation will be required to be implemented in compliance with CERCLA requirements and with the supervision and oversight of the EPA.

Finally, it must also be noted that while the outcome of this legal question may have a direct impact on the Rolling Knolls Landfill, Millburn's interest in the applicability of the Act to NPL sites, and the interest of other similarly situated municipalities, transcends this one particular site. This issue has the potential to significantly impact the treatment of other landfill sites that may exist and thus, alleged municipal liability. Both the implementation of effective and efficient remedies and the exemption of NPL sites from the Act advance the mitigation of potential alleged municipal liability.

Thank you for your consideration. If you wish to discuss further, please do not hesitate to contact me.

Respectfully,



Alexander McDonald  
Business Administrator

cc: Peter Lopez, Regional Administrator, USEPA  
Walter Mugdan, Deputy Regional Administrator, USEPA  
Stephanie Vaughn, Regional Project Manager, USEPA  
Juan M. Fajardo, Esq., Assistant Regional Counsel, USEPA  
Joanne Vos, Esq., Counsel, Millburn Township  
Carl R. Woodward, III, Esq., Special Environmental Counsel, Chatham Township  
Albert Cruz, Esq., Township Attorney, Chatham Township  
Richard F. Ricci, Esq., Lowenstein Sandler