

NOTICE OF ENVIRONMENTAL COVENANT

This notice is made by MAYOR AND CITY COUNCIL OF OCEAN CITY and is filed in the land records of Worcester County, Maryland pursuant to Section 1-811 of the Environment Article.

This notice and the covenant to which it refers impose significant legal restrictions and obligations with respect to the future use of and activities on the property described below. Those restrictions and obligations are likely to affect all persons having an interest in that property.

A legally sufficient description of the property is attached as Exhibit A to this notice. The address of the property that is subject to the environmental covenant is Lewis Road, West Ocean City, Maryland. The owner of the real estate on the date of this notice is MAYOR AND CITY COUNCIL OF OCEAN CITY, MARYLAND. The address of the owner is City Hall, 301 Baltimore Avenue, P.O. Box 158, Ocean City, Maryland 21843-0158.

The other party to the covenant and its address is:

MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard, Baltimore, Maryland 21230

The environmental covenant regarding the real estate was signed by all the parties on February 1, 2008. The covenant becomes effective for all purposes on the date this notice is recorded on the land records of all jurisdictions in which the property is located. This notice remains effective for all purposes until a release of this notice is signed by the then owner of the property and by the agency and recorded.

The full text of the covenant is on file and available for inspection and copying in the registry maintained for that purpose by the Maryland Department of the Environment at 1800 Washington Boulevard, Baltimore, Maryland. The covenant may be found electronically at www.mde.state.md.us.

Dated at _____, _____ this 1st day of February, 2008.

WITNESS:

MAYOR AND CITY COUNCIL OF OCEAN CITY

Carol L. Jacobs
Carol L. Jacobs, Clerk
as to both

By: Richard W. Meehan
Richard W. Meehan, Mayor

By: Joseph M. Metrecic
Joseph M. Metrecic, President

LAW OFFICES
AYRES, JENKINS,
GORDY & ALMAND, P.A.
SUITE 200
6200 COASTAL HIGHWAY
OCEAN CITY, MD 21842

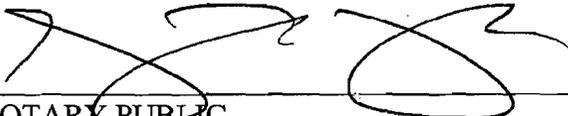
MARYLAND DEPARTMENT OF THE ENVIRONMENT

By: 

STATE OF MARYLAND, COUNTY OF WORCESTER, to wit:

I HEREBY CERTIFY that on this 15th day of January, 2008, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared RICHARD W. MEEHAN, Mayor of the Mayor and City Council of Town of Ocean City and JOSEPH M. METRECIC, President of the City Council of Mayor and City Council of Town of Ocean City, and as such being authorized so to do, they acknowledged they executed the foregoing Notice of Environmental Covenant for the purposes therein contained on behalf of said Mayor and City Council of Ocean City.

AS WITNESS my hand and Notarial Seal.


NOTARY PUBLIC

My Commission Expires: 8/1/11

STATE OF MARYLAND, COUNTY OF WORCESTER, to wit:

I HEREBY CERTIFY that on this ___ day of January, 2008, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, _____, and as such being authorized so to do, he/she acknowledged he/she executed the foregoing Notice of Environmental Covenant for the purposes therein contained on behalf of said Maryland Department of the Environment.

AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires:

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 1st day of February, 2008, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared JAMES CARROLL, _____, and as such being authorized so to do, he/she acknowledged he/she executed the foregoing Notice of Environmental Covenant for the purposes therein contained on behalf of said Maryland Department of the Environment.

AS WITNESS my hand and Notarial Seal.

Nancy P. New
NOTARY PUBLIC

My Commission Expires: 11-1-08



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley
Governor

Anthony G. Brown
Lieutenant Governor

Shari T. Wilson
Secretary

May 16, 2007

Robert M. Summers, Ph.D.
Deputy Secretary

Richard A. Malone
Assistant to the Public Works Director
Town of Ocean City
204 65th Street
Ocean City, MD 21843

Re: West Ocean City Landfill (MD-376)
Lewis Road, Ocean City, MD 21811

Dear Mr. Malone:

The Maryland Department of the Environment's ("the Department") CHS Enforcement Division has completed its review of soil, sediment, surface water and groundwater sampling data collected from the West Ocean City Landfill ("the landfill") between 1992 and 2005. Results of our review confirm that contaminated soil, sediment and groundwater exist at the landfill, but are not migrating to the surrounding residential community and its water supply wells. Based on these findings, we do not consider the landfill to be a threat to human health or the environment under existing conditions. Should conditions at the landfill change in the future due to redevelopment or other on-site activities, the Department may have to re-evaluate its initial findings.

At issue are elevated concentrations of arsenic, lead and a number of semi-volatile organic compounds in the soil at the landfill, elevated concentrations of lead, nickel, zinc, benzene and chlorobenzene in the groundwater beneath the landfill, and elevated concentrations of copper, lead, mercury and zinc in surface drainage from the landfill. Provided they remain confined to the landfill, as suggested by the existing data, and the landfill remains undeveloped, the Department does not see the need for further investigation or remediation.

The Department requests that the following institutional controls be recorded on the property deed for the landfill in the form of an environmental covenant pursuant to Section 1-811 of the Environment Article to minimize the potential for contaminant exposure:

- A. *"There shall be no use of the groundwater beneath this property for any purpose"*
- B. *"The owner of the site must submit written notification, to the attention of the Chief of the CHS Enforcement Division a minimum of 30 days prior to*



Richard A. Malone
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constructing any on-site buildings, disturbing the ground surface, and/or performing any future subsurface excavations on the property.”

We also request the abandonment of all the on-site monitoring wells in accordance with Sections C and D of COMAR 26.04.04.11 to prevent them becoming vertical conduits for landfill leachate.

A copy of the Uniform Environmental Covenants Act fact sheet and a template are attached to this letter. Upon receipt of written confirmation that the institutional controls have been recorded and the on-site wells have been properly abandoned, the Department will transfer the landfill to the State's Formerly Investigated Sites List. We will notify you in writing when the transfer has been completed.

Thank you again for your continued efforts on this project. Do not hesitate to contact the project manager (Gifawossen Tefera) or me at 410-537-3493 if you have any questions.

Sincerely,



Arthur O'Connell, Chief
CHS Enforcement Division

AOC: gt

cc: Mr. Horacio Tablada
Mr. James Carroll
Mr. Brian Dietz
Mr. Gifawossen Tefera !



THIS DEED, made this 27th day of December, in the year nine-
teen hundred and fifty-three, by Jacob Atkins and Emma Atkins, his
wife and Bonard B. Timmons and Margaret E. Timmons, his wife, all of
Sussex County, State of Delaware, witnesseth:

THAT in consideration of the sum of Ten Dollars (\$10.00) and
other good and valuable considerations, the receipt whereof is hereby
acknowledged, the said Jacob Atkins and Emma Atkins, his wife and
Bonard B. Timmons and Margaret E. Timmons, his wife, do hereby grant
and convey unto Mayor and City Council of Ocean City, Maryland, a
Maryland Municipal Corporation, its successors and assigns, all that
lot or parcel of land situated in the Tenth Election District of Wor-
cester County, Maryland, on the west side of the county road leading
from Berlin to Ocean City by way of Trappe into Synepuxent Neck; and
being ALL AND THE SAME property which was conveyed to the said Jacob
Atkins and Bonard B. Timmons, as tenants in common, by Charles W.
Brown and Lillian M. Brown, his wife, by deed dated April 24, 1952,
and recorded among the Land Records of Worcester County, Maryland, in
Liber C.W.N. No. 51, folio 230, the property hereby conveyed containing
32 acres of land, more or less.

TOGETHER with all the buildings and improvements thereon
and the rights, roads, ways, waters, privileges, appurtenances and
advantages thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the above described property unto the
said Mayor and City Council of Ocean City, Maryland, its successors
and assigns, forever in fee simple.

AND the grantors herein do hereby covenant that they will
warrant specially the property hereby conveyed and that they will
execute such other and further assurances of the same as may be re-
quisite.

AS WITNESS the hands and seals of the grantors.

WITNESS: (as to all)

Marcus J. Williams

Jacob Atkins (SEAL)
Jacob Atkins

Emma Atkins (SEAL)
Emma Atkins

EXHIBIT A



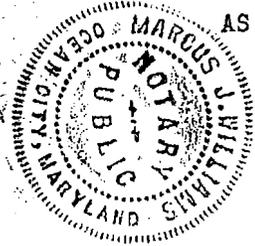
Bonard B. Timmons (SEAL)
Bonard B. Timmons

Margaret E. Timmons (SEAL)
Margaret E. Timmons

STATE OF MARYLAND, WORCESTER COUNTY, TO WIT:

I HEREBY CERTIFY that on this 2nd day of December, 1953, before me, the subscriber, a Notary Public of the State of MARYLAND, in and for WORCESTER County, aforesaid, personally appeared Jacob Atkins and Emma Atkins, his wife, and Bonard B. Timmons and Margaret E. Timmons, his wife, and did each acknowledge the foregoing deed to be their respective act and deed.

AS WITNESS my hand and official seal.



Marcus J. Williams
, Notary Public.

1953, Dec. 21st. The foregoing deed filed for record and is accordingly recorded among the land records of Worcester County, Md., in Liber. E.W.R. No. 69, folios 9.4.10.

E. Wilfred Ross Clerk
Circuit Court, Worcester County, Md.