

PUBLIC NOTICES

COMMUNITY AFFAIRS

(a)

GOVERNMENT RECORDS COUNCIL

Notice of Denial of Petition for Rulemaking Motions for Reconsideration; Time for filing N.J.A.C. 5:105-2.10

Petitioner: New Jersey Foundation for Open Government, Inc., John Paff.

Take notice that pursuant to N.J.A.C. 1:30-4.1 and 5:2-2.2, the above petitioners filed a petition for rulemaking with the Department of Community Affairs (Department) on March 2, 2016, requesting that the Department amend N.J.A.C. 5:105-2.10(b) to “provide a separate time period for making requests for reconsideration that are based upon a party’s discovery of new evidence that is material to the decision from which reconsideration is sought and could not, with reasonable diligence, have been previously discovered.” In pertinent part, the petitioners request *inter alia* that the Government Records Council (Council) amend regulations to leave the window for reconsideration open “for one year following receipt of a Council decision and . . . within 10 business days of when the requestor could have discovered the new evidence . . .”

A notice acknowledging receipt of the petition was published in the New Jersey Register at 48 N.J.R. 599(a). In a subsequent notice of action, published in the New Jersey Register on June 20, 2016, at 48 N.J.R. 1319(c), the Department indicated that the matter was under legal review. The petition was duly considered pursuant to law and, upon due deliberation, the Council has determined that the petition should be denied for the reasons below.

The Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., gives the Council broad statutory authority to adjudicate complaints filed by the public concerning denial of access to government records, operate a toll-free information hotline and informational website, prepare guidelines that include an informational pamphlet for the public and a handbook for records custodians, and provide training opportunities regarding access to government records. Fiscal Year 2003 was the GRC’s first year of operation.

The key functions of the Council and staff include the investigation, analysis, and adjudication of complaints filed by individuals who allege unlawful denial of access to government records. Further, the Council works to resolve complaints through mediation, prepares resource materials, updates the Council’s informational website, and provides presentations and training sessions on OPRA. From its inception through December 6, 2016, the Council has received 4,499 complaints and addressed well over 25,000 e-mail, regular mail, and telephone inquiries from the public and records custodians.

The petitioner’s motivation for seeking the amendment is driven by the Council’s ruling in *Paff v. Harrison Township Fire District*, GRC Complaint No. 2014-402 (Gloucester). In that decision, the Council found that Mr. Paff failed to file a timely request for reconsideration. Considering the Council’s nature and quantum of work, the Council finds that the petitioners’ requested amendment would cause an immediate and ongoing delay in adjudications. Moreover, it would hinder the Council’s statutory mandate to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian.” N.J.S.A. 47:1A-7.b. Extending the reconsideration timeframe from 10 business days to one year would cause significant delays in the adjudication process and impede the finality of the Council’s decisions.

For the reasons above, the petition for rulemaking is denied.

A copy of this public notice has been mailed to the petitioner.

ENVIRONMENTAL PROTECTION

(b)

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

Notice to Receive Interested Party Comments on a Proposed Court-Approved Settlement Agreement to Recover Cleanup and Removal Costs on the Property Known as 634/638 Route 46 in Kenil, Morris County

Take notice that the New Jersey Department of Environmental Protection (the Department) hereby gives notice of a proposed Court-Approved Settlement Agreement concerning the recovery of unreimbursed cleanup and removal costs at the property known as the Country Towing site located at 634/638 Route 46, Kenil, Morris County (Property). The site is also known and designated as Block 2403, Lot 5, on the Tax Map of the Township of Roxbury, which the Department has designated as Site Remediation Program Interest No. 011452.

The Department, under the authority of N.J.S.A. 13:1D-1 through 19, and by the authority of the Spill Compensation and Control Act (Spill Act), N.J.S.A. 58:10-23.11 through 23.24, the Site Remediation Reform Act, N.J.S.A. 58:10C-1 through 29, and pursuant to the authority vested in the Administrator of the New Jersey Spill Fund and the authority delegated to the Assistant Director of the Enforcement and Information Support Element within the Site Remediation Program pursuant to N.J.S.A. 13:1B-4, proposes to enter into this Court-Approved Settlement Agreement with Ray Petroleum Company, R.P.C. Inc., Spartan Oil Company, and their insurers.

Under the terms of the proposed Court-Approved Settlement Agreement, Ray Petroleum Company and R.P.C. Inc. would agree to settle their alleged liability to the Department for the Department’s past and future cleanup and removal costs by paying the Department \$55,000. Spartan Oil Company would agree to settle its liability to the Department for the Department’s past and future cleanup and removal costs by paying the Department \$45,000. The Department would, among other things, agree to provide Ray Petroleum Company, R.P.C., Inc. and Spartan Oil Company with a covenant not to sue for all past and future cleanup and removal costs, as well as a covenant not to sue for natural resource damages.

It is the intent of the Department, Ray Petroleum Company, R.P.C. Inc., Spartan Oil Company, and their insurers that the Court-Approved Settlement Agreement constitutes a judicially approved settlement within the meaning of 42 U.S.C. § 9613(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 et seq., and N.J.S.A. 58:10-23.11f.a(2)(b) of the Spill Act for the purpose of providing protection from contribution actions or claims for matters addressed in the Court-Approved Settlement Agreement.

A copy of the proposed Court-Approved Settlement Agreement is available for inspection at the Department’s main office at 401 East State Street, in Trenton, New Jersey and via the Internet at www.nj.gov/dep/srp/settlements. A copy of the Department’s files concerning the Property is available for review by contacting the Office of Record Access, DEP, PO Box 420, Mail Code 401-06Q, Trenton, NJ 08625-0420 or via e-mail at records.custodian@dep.state.nj.us.

Interested persons may submit comments on the entry of the Consent Judgment concerning the remediation of the Property to Kevin F. Kratina, Assistant Director, DEP, Site Remediation Program Assignment and Enforcement Element, 401 East State Street, PO Box 420 - Mail Code 401-06A, Trenton, NJ 08625-0420.

All comments must be submitted within 60 calendar days of the date of this public notice. The Department will consider all comments