

**NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW**

**REQUEST FOR QUALIFICATIONS FOR SPECIAL COUNSEL FOR  
NATURAL RESOURCE DAMAGES LITIGATION, 2018**

**RESPONSE TO QUESTION**

September 6, 2018

QUESTION: Section 8.3 of the Request for Qualifications for Special Counsel for Natural Resource Damages Litigation states, in part: “ In no event will the fee for specific retainer be determined by the firm making a fee application to the court.” How is this requirement reconciled with NJ SEED v Campbell and R. 1:21-7 which require that application to the court be made for recoveries in excess of \$3 million?

ANSWER: Pursuant to Section 8.3 of the Request for Qualifications for Special Counsel for Natural Resource Damages Litigation, once the Attorney General decides to retain a firm, the Attorney General and the firm will negotiate the structure of the retainer fee. It is this negotiated fee that forms the basis of the retained firm’s application, pursuant to NJ SEED v. Campbell and R. 1:21-7, for any fees in excess of \$3 million. The firm is not unilaterally determining the appropriate fee. Rather, the firm, with the approval of the Division of Law, applies to the court for approval of a fee calculated pursuant to the negotiated fee structure.