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March 25, 2022

Via Certified and Electronic Mail

Hon. Joseph Watters, Mayor
Mansfield Township
100 Port Murray Road
Port Murray, New Jersey 07865

**Re: Vivaria Ecologics, LLC
Proposed Blau Road Composting Facility**

Dear Mayor Watters:

I represent Vivaria Ecologics, LLC, prospective developer of a composting facility on property located on Blau Road. I am writing regarding Township Attorney Lavery's March 15, 2022 letter to the Warren County Board of Commissioners that regrettably contained specious claims regarding permitted uses on parcels in Township industrial zones. Mr. Lavery claims in his letter that the proposed composting facility "would not be permitted under Township ordinances."

The approval process for composting facilities is clearly set forth in the Solid Waste Management Act (N.J.S.A. 13:1E-1, et seq). Pursuant to the Act the Warren County Solid Waste Advisory Council and the New Jersey State Department of Environmental Protection have complete jurisdiction over the siting and permit approval process. Case and statutory law is unequivocal in that local zoning and local planning laws are preempted by regulations set forth by the New Jersey State Department of Environmental protection. See, e.g., Holgate Property Associates v. Township of Howell, 145 N.J. 590 (1996). Notwithstanding the fact that local zoning is pre-empted by State Law, local zoning ordinances and regulations do not prohibit or require conditional use variances for composting facilities. See Township Code §363-58A. Mr. Lavery's letter makes no attempt to address or contest these facts.

Mr. Lavery's letter also creates the wrong impression regarding proximity of the proposed facility to a residential area. The proposed facility would occupy the portion of the property furthest away from residences. Indeed, the proposed operation will be further from residences than other more intensive industrial uses in the area.

The letter in question has the effect of adding to the ample confusion and misinformation about the project, especially as to which governmental agencies have jurisdiction over siting and operational approvals related to the project. This is of particular concern as Mr. Lavery's letter

appears to have had the dual purpose of both communicating with the Board of Commissioners and directly with the public.

We have made numerous attempts to facilitate an open dialogue with the Township but have received little in the way of response. Additionally, we have made good faith efforts to address the concerns of certain members of the public by hosting an information session and answering questions via email on an ongoing basis.

This lack of communication on the part of the Township signals a disappointing lack of good faith. As has been made clear from the outset, my client seeks to continue to be a good neighbor as her family has been since the 1960's. Our expectation is that we will be afforded an opportunity to constructively address any concerns the Township and public may have about this project at the Solid Waste Advisory Council, as permitted by law. We respectfully request that Mr. Lavery and the Township correct the record and withdraw all false claims made within the letter.

Thank you for your attention to this matter, and please do not hesitate to contact me with any questions or concerns.

Very truly yours,

/s/ Mark R. Peck

Mark R. Peck, Esq.

MRP:bms

cc: Michael B. Lavery, Esq.
Monica Orlando, Acting Township Clerk
Christina PioCosta-Lahue, Vivaria Ecologics, LLC