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January 19, 2023

VIA EMAIL

Solid Waste Advisory Council (S.W.A.C.)
David K. Dech, Planning Director
Warren County Planning Department
Wayne Dumont, Jr. Administration Building
165 County Route 519 South
Belvidere, New Jersey 07823

**RE: Continued Opposition to Vivaria Ecologics, LLC / Freedom Group,
LLC's Application; NJLCPA Response to Vivaria Ecologics
December 22, 2022 Letter to Warren County SWAC.**

Dear Mr. Dech:

As you know, I represent the New Jersey Land and Community Preservation Alliance (hereinafter "NJLCPA") with regard to the above-referenced matter. We are writing to you today in response to Vivaria Ecologics' December 22nd, 2022, letter (hereinafter the "Vivaria Letter" and/or the "Letter") and of course in continued opposition to the Vivaria Ecologics, LLC / Freedom Group, LLC's application before the Warren County Solid Waste Advisory Council ("SWAC").

On behalf of the NJLCPA, and the approximately 1,650 constituents who have signed a petition thus far in opposition to Vivaria Ecologics, LLC's proposed Class C Recycling Facility (also hereinafter referred to as "the Dump"), we would like to thank SWAC again for the opportunity to present our opposition on November 3rd. As you may know, the organization is made up of Warren County residents with a range of professional expertise in biology, chemistry, environmental science, healthcare, real estate, and other fields. Plain and simple, NJLCPA's objective is to protect and preserve Warren County communities and habitats from being exploited and destroyed for personal gain.

Contrary to what Vivaria Ecologics, LLC communicated in their Letter, the NJLCPA presented data and facts relevant to the risks of this unprecedented and reckless facility, including several inconsistencies, inaccuracies, and selective omissions from the applicant's application, demonstrating why this proposal is not fit for purpose at the proposed site, nor consistent with the Warren County's Solid Waste Management Plan ("SWMP"). Thus, we would now to re-emphasize several of these previously presented

facts and expand, where necessary, to address the Vivaria Letter as follows.

Not a “Good Neighbor”

Time and time again, the applicant states that they “value the Mansfield community and strive to be good neighbors,” and yet Vivaria Ecologics, LLC is seeking zero approvals from Mansfield Township and is pursuing every possible way to circumvent local ordinances and regulations. Similarly, the applicant states in their application that the “applicant has initiated a significant community outreach program;” however, the applicant only spoke to local residents on one occasion in February of 2022. It is also important to note that more than 50 members of the community attended this outdoor meeting under freezing conditions, despite the applicant not initially disclosing the location to residents. Furthermore, the applicant’s proposal has already hindered local residents’ ability to sell their homes.

Lack of Experience, Precedent, and Environmental Testing/Consideration:

The applicant has zero years of experience owning and operating a facility like this and failed to provide one relevant reference Aerated Static Pile (“ASP”) recycling facility in the country showing precedent for implementing such a facility under similar conditions as at the proposed Mansfield, NJ site (i.e., feet from wetlands, Musconetcong Watershed, residential homes that operate on well water and septic systems, etc.). Mr. DeFeo also deflected from the troubling fact that the applicant failed to adequately consider and present plans to mitigate the environmental and residential risks of operating a facility like this. At the November 2022 SWAC meeting, the NJLCPA President, and the NJLCPA trained environmental scientist, presented on these potential serious risks, emphasizing the risk from the proposed facility’s high-water resource demand in an area that has a history for domestic wells running dry and risk of leachate contaminating the local domestic/potable wells and ecosystem. The NJLCPA environmental scientist also conveyed the health of the current ecosystem, indicated by the thriving local reptile and amphibian populations, as well as the fact that there have been several documented cases of endangered species (e.g., bobcats) within close proximity to the proposed facility location. To that point, the applicant has conducted zero environmental studies or potable well tests to prove there will be no impact to this already sensitive area. These are studies/tests that “good neighbors and stewards of the land” would not have overlooked; yet the applicant continues to demonstrate a cavalier approach to this project, offering only vague reassurances saturated with wishful thinking that the area will not be negatively impacted, rather than procuring scientific data to support these claims.

Recycling Rates and Capacity in Warren County

Per the applicant’s application and own admission during the September 2022 SWAC Meeting, less than 9.375% (9/96) of the waste producing facilities required by law (within 25 miles) to use the proposed Dump are located in Warren County (in fact, 91% are outside Warren County). Considering the population density and therefore greater number of waste generators in surrounding counties, it is therefore logical to

deduce that the associated percent benefit is also likely far less for Warren County. Therefore, Warren County will be taking 100% of the risk and receiving less than 9.375% of the benefit, a number that will only be further reduced when factoring waste generators not required by law as well.

Traffic Impacts

Again, Mr. DeFeo and Vivaria Ecologics, LLC are cherry picking and selectively omitting critical facts and conclusions from the Shropshire Associates LLC traffic study report and testimony given by traffic study expert, Nathan Mosley, PE, CME. The fact is that the traffic study performed on behalf of Vivaria Ecologics, LLC was flawed by not being conducted during the school year (so it under-represents actual traffic impact, fails to account for a train that stops multiple times a day on Blau Rd. during the proposed designated trucking hours - indicated by the applicant in their application), Blau Rd. is currently not wide enough and fit for this purpose, and most importantly the surrounding roadways leading to and from the proposed Dump site are not adequate or safe to accommodate the size of trucks the Dump demands (i.e., turning radius of the trucks is too great for roadways, site lines will be impeded by idle trucks at turns, not ample line of site for adequate stopping by law on roadways, etc.). Even Mr. DeFeo acknowledges that 53-foot tractor trailers may be used “very rarely,” while the applicant’s application indicates “it is more than likely that a certain number of vehicles delivering material and a certain number removing material will be of larger capacity, thus reducing the total number of vehicles accessing the property.” Contrary to what Mr. DeFeo conveyed in the Letter, trucks of this size and volume do not consistently navigate these roadways, and as conveyed by the NJLCPA traffic study expert, these trucks would pose a threat to public safety. This concern is magnified by the 67 bus stops and 52 buses, for Mansfield Elementary alone, that share the truck route to be used by this proposed facility. For this reason, and as you are acutely aware, three Boards of Education in Warren County have already passed resolutions in opposition to The Dump.

Relevant Information

As a point of clarification to the Letter, NJLCPA provided examples during the November 2022 SWAC presentation demonstrating the lack of responsiveness by New Jersey Department of Environmental Protection (NJDEP) to properly regulate, oversee, and facilitate remediation efforts. Hence, making it “clear” that the mechanisms for corrective action and oversight are flawed and have been proven as such time and time again. This gives little assurance to County residents that odors, leachates contaminating waterways and potable wells, and other potential issues are adequately mitigated, proactively overseen, or remediated in a timely manner.

The Dump is not consistent with the Warren County SWMP

First, as indicated in the SWMP, Warren County is not a large food waste producer compared to the rest of the state, further supporting the argument above that the

vast majority of the waste to be composted would originate from outside Warren County (See SWMP Section 1 – Existing and Future Solid Waste Generation). The SWMP even goes on to state that “Because Warren County is generating less MSW and total waste per person than the state average, it appears that Warren County residents may be reducing the waste stream through source reduction and reuse.” According to the SWMP, this is also the case for local businesses as well.

Second, there have been previous instances cited within the SWMP where private recycling and waste management facilities failed, and in some instances resulted in litigation. In the instance of the High Point closing, “the Warren County Board of Chosen Freeholders determined that, in the County's best interest, a landfill within the county, and under public control, was essential to the success of the proposed resource recovery facilities.” Also, “due to the rural and small-town nature of Warren County, the onus to improve recycling must take a cooperative approach with the County taking the lead on many programs (SWMP Pg 68).” For these reasons, it would not be appropriate to allow the applicant to run such a recycling facility in Warren County, especially considering the many past examples of the NJDEP’s failure to properly oversee and administer corrective actions in a timely manner.

Third, when Warren County was evaluating sites for a future district landfill, “the entire county was studied for suitability in terms of distance from occupied structures, accessibility, hydrogeology, slope, water table, flood hazard, availability of water, existing land use, zoning preference of the host community, ease of acquisition, and other criteria, both technical and sociological.” As mentioned above, this logical established criteria has been ignored by Vivaria Ecologics, LLC when planning this project.

Fourth, food waste is currently not designated for source separated recycling under the Warren County SWMP (Pg 56 of SWMP).

Fifth, the SWMP states that for Class C recycling centers, “the County encourages trucks to use Interstate, U.S. and state highways for deliveries to the greatest extent possible.” Yet, the trucks for The Dump will need to travel through surrounding County and town roads before ultimately reaching their destination in Mansfield. Vivaria Ecologics did absolutely nothing to study the feasibility of the Warren County roadway system outside of Mansfield Township, per their expert traffic witness.

Conclusion

Thus, based on the Vivaria Ecologics’ grossly flawed application, lack of due diligence, and inability to adequately address community concerns during the September and November 2022 SWAC meetings, this project poses unnecessary and *bona fide* risks to the Warren County environment and its residents. Mr. DeFeo even admitted during the September 2022 SWAC Meeting, such risks are inevitably to be actualized given that “mistakes will happen.” Finally, we cannot overstate the obvious that it would be exceedingly reckless for SWAC to approve of Vivaria Ecologics’ Dump in the SWMP given the fact that its sole owner, Christina PioCosta, has absolutely no experience in

operating such a facility and neither do any of her family members.

In sum, due to the aforementioned facts, this project is not consistent with the Warren County SWMP. For these reasons, we feel Vivaria Ecologics, LLC's application for inclusion into the Warren County SWMP should be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel G.P. Marchese". The signature is written in a cursive, flowing style.

Daniel G.P. Marchese, Esq.
Attorney ID: 004291998

DGPM/dm

cc: NJLCPA Board Membership
Matthew Moench, Esq. (via email)
Michael Lavery, Esq. (via email)