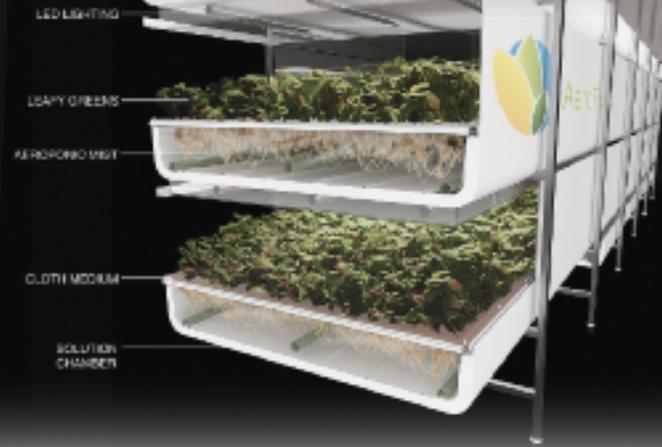


# Urban Farming: Reinventing Agriculture's Supply Chain

AeroFarms CEO David Rosenberg says his innovative Newark firm is addressing the city's need for fresh food, while creating a new business model for feeding the world.



BY SAMANTHA J. HENRY  
CONTRIBUTING EDITOR

**A**EROFARMS, A NEWARK-BASED vertical farming company, grows its produce in an urban warehouse using no sunlight or soil. It uses zero pesticides, herbicides and fungicides, and employs a rigorously monitored, sophisticated system of LED lights, filtration, and HVAC units and pumps.

Its productivity, measured by output per square foot, is 130 times greater than a traditional field farm, while using 95 percent less water. Plans are in the works to open 25 more farms over the next five years in New Jersey and New York.

In this exclusive interview with *COMMERCE*, AeroFarms CEO David Rosenberg discusses urban farming and its potential to change Newark and the world. Here are his key thoughts and insights on his company's innovative business and plans for future growth.

**Vertical Farming.** "It's such a new industry. We are head and shoulders better than anyone else in the space, which is good and bad. The bad is that there is no one to look left and right with and copy. We are paving the way."

**Defining AeroFarms.** "We are a technology company, as well as an operating company. We realized that because the industry is so new, we needed to be farmers and get good data to inform our technology."

**Reinventing the Supply Chain.** "With leafy greens, there is almost 70 percent food spoilage after the product comes off a farm. In traditional farms, leafy greens can be grown in 30 days, but they only have three harvests a year because of seasonality. With AeroFarms,

we can grow and distribute fresh produce year-round—which makes vertical farming so vital."

**Tasting Success.** "People constantly say that what AeroFarms produces—the watercress, the arugula—is the best they've ever tasted. Using plant biology, we can change plant bitterness, softness, hardness, size, height and nutritional density. We create a better-quality plant that also tastes great—and we are USDA-certified. We do not use GMO."

**Making Agriculture Matter.** "Population growth, urbanization and depletion of arable land have consequences. By some estimates, we will need 50 percent more food by 2050 given the rising middle class. AeroFarms and vertical farming is one of the solutions."

**Planning for the Future.** "We are building a company not just to change Newark and expand access to fresh food in this city, but to change the world as well. Our mission is to build farms all over the world so everyone has access to fresh, great-tasting, safe produce."

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## Making U.S. Cities More Sustainable & Resilient



By Dr. Colette Santasieri,  
NJII Director, Policy and  
Planning Innovation for  
Civil Infrastructure and  
Environment

With more than 50 percent of the world's population living in cities, we recognize that the challenges being faced by our civil infrastructure are mounting. This multi-layered system

of transportation, utilities, water and wastewater, and buildings exists in the context of varying and ever-changing social, economic, political and cultural conditions.

The pressures of an increased population, the advanced age of existing infrastructure, fiscal constraints, climate change, and natural and manmade disasters all threaten these societal lifelines. In addition, the natural environment continues to be adversely impacted by past developments and natural disasters. Our goals for the next four years and beyond are to turn those complexities and constraints into opportunities and to think differently, to plan differently, and to be innovative.

There has been considerable debate in this country, especially in the political arena, over the issue of climate change. While that debate rages on, the reality is that communities are facing the negative impacts of more frequent and stronger storms, flooding, heat waves and drought conditions. These, as well as other climate change-related impacts threaten our infrastructure, coastlines, natural ecosystems, water supply, agriculture and fisheries, and vulnerable populations.

The challenge lies in our ability to move past the debates and develop innovative ways for communities to become more sustainable and resilient. This challenge presents our thought leaders, policymakers, scientists, planners and engineers with opportunities to not only be innovative and creative, but to transform those innovations into guidance, tools, strategies, processes and technologies

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that are readily available to and implementable by every community in need.

One example of NJII's efforts in creating sustainable and resilient communities involves the transformation of brownfields into community assets. Many of these sites have been abandoned or underutilized for decades. We work hand in hand with individual communities, providing technical assistance, tools and the resources necessary to not only breathe new life into these properties, but also ensure that the redeveloped sites contribute to the sustainability and resilience of those communities.

At NJII, we have assembled great minds in many civil infrastructure and environmental areas of study and business. In addition to our iLab staff and university faculty resources, we work closely with our advisory board comprised of industry leaders and senior officials from engineering and environmental consulting firms, real estate and economic development, utilities, and construction, and environmental advocacy groups.

A core function of the Civil Infrastructure and Environment iLab is to serve as a strategic platform for aligning innovative planners, engineers, scientists, architects, and social scientists with industry and government to solve complex problems. Our mission is to be a resource and conduit for thriving, sustainable, and resilient civil infrastructure systems, communities and regions.

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**Best Practices for New Jersey LSRPs**

As the Licensed Site Remediation Professionals (LSRP) program has



evolved, practitioners have sought to improve their methods of managing remediation work and develop a set of best practices to guide their efforts. *COMMERCE* queried environmental professionals on ways that LSRPs are helping clients comply with environmental laws and carry out cleanups most effectively.



Philip Brilliant

*Utilize Portfolio Management.* Place the project into "baskets" based on degree of liability risk, stage of remediation and timeframe for compliance. Prior to the enactment of the Site

Remediation Reform Act, which led to the creation of the LSRP program, the NJDEP set the same deadline parameters for investigations of each site, regardless of the degree of risk. Now LSRPs have the flexibility to prioritize projects, expediting high-risk sites and extending low-risk sites to their regulatory deadline. "With the LSRP program, we now have

*continued on page 12*

# LOOK WHAT'S HATCHING IN MONMOUTH BEACH.

Many of New Jersey's threatened ospreys are moving to more secure homes with the help of Jersey Central Power & Light's new nest relocation program. Ospreys often build their nests on top of poles and other electrical equipment. We're moving these at-risk nests, installing poles topped with nesting platforms and taking measures to prevent nesting near our equipment.

It's all part of our efforts to protect and sustain the natural resources of Monmouth and Ocean counties.



**Jersey Central**  
Power & Light  
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the ability to balance these sites into different baskets and manage them properly," says Philip Brilliant, LSRP, and owner of Brilliant Environmental Services. For example, an LSRP might write a variance allowing for fewer samples on a site that doesn't require as many as were historically taken. "You can then take money [saved] from that basket and put it in the high-profile basket," Brilliant explains. "This allows the sites to keep progressing along toward remediation, and the client looks at this as a cost benefit."



**Rodger Ferguson**

**Develop a Quality Assurance Project Plan.** Although no longer required for submission to the NJDEP, a quality work plan is essential to chart and explain a project's decision-making rationale from start to finish. "It should

all be documented—which samples are being collected; why they are being collected; what they are being analyzed for; and what will be done when the data comes back from the laboratory," says Rodger Ferguson, LSRP, president, PennJersey Environmental Consulting. "People may sometimes complain about all the pieces of paper we generate, but the paperwork is there for a reason—so every step is documented."



**Edd Hogan**

The quality of the work product is also being scrutinized by more parties than in the pre-LSRP era, when the NJDEP and the client were the principal audience. As the agent that approves and performs

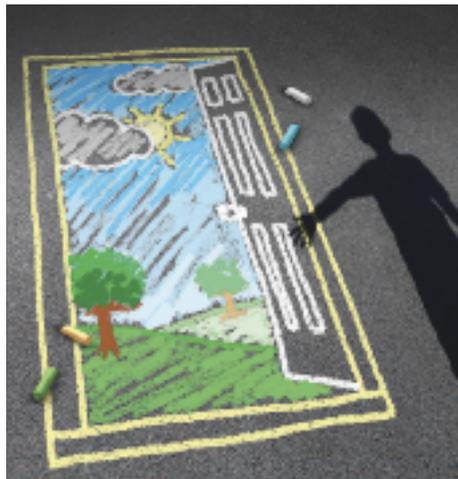
the work, the LSRP is now also subject to the scrutiny of entities, such as the property's purchaser, the purchaser's bank, subsequent owners of the property, potential tenants and the insurance carrier of the party being pursued in cost recovery. This additional oversight places a premium on clearly written, carefully reviewed work documents. "The greatest way to hurt your credibility is to not have a quality work product," says Edd Hogan, Esq., an environmental attorney with Norris McLaughlin & Marcus, P.A., and past chair of the

Licensed Site Remediation Professional Association's (LSRPA's) environmental committee. "It is absolutely critical, because you never know how it is going to be used."



**Sue Boyle**

**Resource Sharing.** The LSRPA offers a free service to members called Sounding Board, a confidential peer-to-peer counseling resource that enables members to tap the collective experience of the association's membership, and associate members such as attorneys and contractors, for guidance on a variety of issues. "One of our members is tasked to reach out to the person who made the inquiry and walk them through the discussions," says LSRPA Executive Director Sue Boyle, an environmental practice leader with GEI Consultants. "It's an incredibly valuable resource, particularly for solo practitioners and small companies" that lack a built-in cohort dedicated to such assistance.



**Responsiveness to Client Expectations.** Since delays in areas such as return of lab samples, document production and municipal permits are commonplace in the remediation process, it is crucial that LSRPs communicate accurate timeframes to clients and hold firm to mandated deadlines. "Clients don't like surprises," says Hogan. "LSRPs need to treat deadlines as deadlines, not goals, and make sure they deliver on their promises. If you are a service provider with multiple clients, everyone's project is the most important to them." —By James G. Kempton, Contributing Editor

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**Environmental Firms: Helping Clients Prevent/Solve Problems**



**ANCO Environmental Services**  
By Mark Annis, LSRP,  
President

ANCO was hired by a Passaic County organic waste recycling center to address a Notice of Violation (NOV) and fine issued by the NJDEP Bureau of Solid Waste. While the facility only received trees and leaves it operated adjacent to and down-gradient from a municipal dump, a routine NJDEP inspection revealed PCB exceedances plus metals in several soil samples. However, sample locations were not precisely noted. Prior to ANCO's involvement, surface soils were scraped and stockpiled. ANCO sampled the stockpiled materials, resampled the approximately noted NJDEP sample locations and then sampled along the municipal dump property line. No PCB exceedances were found in any location, however samples along the dump boundary revealed several anthropogenic contaminants atypical of an organic waste recycling operation. Precision GPS-based sample mapping was the basis of our argument that the NJDEP field inspector had somehow erred by relying on unverifiable data. The NOV was lifted and the fine was reduced.



**Bayshore Family of Companies**  
By Valerie Montecalvo,  
President and CEO

Single-stream recycling is the norm where residents and businesses mix all recyclables in a single container and place them at the curb. Companies such as Bayshore Recycling contract with towns and private businesses to take this mixed material back apart for recycling. We do this through a maze of complex machinery in a fully automated, mechanical process. Bayshore is fortunate to accept all curbside materials collected by our host municipality, Woodbridge Township. To maximize recycling, their experienced Recycling Coordinator,

*continued on page 14*

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Audrey Rozger, reached out to share a list of some 36 “oddball” materials that residents have asked, over time, if they can recycle. The list ranged from deodorant sticks, potato chip canisters, pastry dough tubes, pots and pans, paper ice cream cartons, toothpaste, flower pots and aluminum foil. With this list in hand, Bayshore contacted all of its markets and found that they could accept and recycle 21 of the 36 items. Woodbridge then swung into action with education programs to ensure that the maximum amount of recycling is taking place all across New Jersey’s sixth-largest town with more than 100,000 residents—a great example of a true public/private partnership making a difference in advancing environmental goals.



**Boswell Engineering**

*By Stephen T. Boswell, Ph.D., P.E., P.P., LSRP, SECB, President and CEO*

Boswell Engineering was retained by the County of Passaic to provide design, permitting and construction management services associated with the revitalization of an existing historic park in the Borough of Hawthorne locally known as Goffle Brook Park. The 100+ acre linear park, which was originally designed by the Olmstead Brothers, contains large open areas of passive recreation, athletic fields, four County bridges and a two-mile stretch of the Goffle Brook. The project was focused on mitigating the effects of deferred maintenance, bank erosion, sedimentation, high concentrations of fecal coliform, a lack of biodiversity and limited public access. The comprehensive revitalization design was developed in response to feedback from the various regulatory agencies and local stakeholders with the goal of balancing ecological restoration and historic preservation. The final design involved the use of bio-engineering and strategic landscaping to stabilize the channel banks and deter the resident goose population. The project further included the establishment of a park-wide trail system, the replacement of two vehicular bridges and various beautification improvements.

Currently, the riparian corridor is properly stabilized, fecal coliform concentrations have been reduced and the expansive trail network is heavily utilized by area residents of all ages.



**The ELM Group, Inc.**

*By Mark D. Fisher, CHMM, LSRP, Managing Partner*

The project involved one of ELM’s developer clients who acquired a former retail petroleum property in Passaic County that needed to be quickly remediated to facilitate an aggressive redevelopment schedule. Site conditions included contamination issues associated with historical operators and a very recent release. ELM first conducted a streamlined due diligence/remedial design investigation program to quantify contamination conditions and establish an appropriate remediation plan in consideration of the planned commercial redevelopment of the property. ELM then worked closely with the NJDEP to secure the necessary permit approvals in an expedited manner to facilitate the completion of a focused remedial injection program, which then allowed the construction of the new building to occur without any impact to the project schedule. A low-cost, passive vapor mitigation system was designed by ELM and installed as part of the new construction, which served as a preventative measure to alleviate future risk manage-

ment concerns of the new retail tenant. ELM’s streamlined remedial activities allowed the redevelopment to occur on schedule, followed by some post-remedial monitoring. A coordinated effort was also required by ELM’s LSRP and the LSRP for the prior operator that ultimately resulted in the regulatory case closure of all environmental conditions at the property in a timely manner.



**ENVISION Environmental, Inc.**

*By Mark Roman, President*

ENVISION recently managed the closure of a large New Jersey manufacturing facility. Our environmental services to the seller included building decontamination/decommissioning, investigation, remediation, LSRP services and ISRA management. The buyer repurposed the facility as a warehouse. Contaminants in ground water triggered a requirement to investigate for vapor intrusion, a costly issue to address, especially if indoor air (IA) is affected. We collected sub-slab soil gas samples, which showed tetrachloroethene above allowable levels, thus requiring IA sampling. Although tetrachloroethene was not detected, 1,2-dichloroethane exceeded allowable levels in all IA samples, which required additional assessment. ENVISION used “multiple lines of evidence” to prove the 1,2-dichloroethane was not a result of our client’s activities. ENVISION showed it



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to plan  
for the  
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David Winslow, PhD, PG  
973-774-3300 david.winslow@gza.com

**SOUTHERN NEW JERSEY**

Charles Risley  
609-567-9330 charles.risley@gza.com

**PHILADELPHIA AREA**

John Oberer, LSRP  
267-464-3616 john.oberer@gza.com



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was not found in any soil, ground water or soil gas samples. We also conducted an extensive literature review for sources of IA contamination. In fact, we found studies linking elevated levels of 1,2-dichloroethane in IA with off-gassing from plastic products made in China. Among the materials stored in the warehouse were large amounts of plastic housewares manufactured in China. Based on this work, our client did not have to address the IA issue, saving them tens of thousands of dollars in investigation and mitigation efforts.



**Fennelly Environmental Associates, LLC**

*By Brian R. Fennelly, P.E., LSRP, Principal*

Fennelly Environmental Associates, LLC (FEA) was retained by a tenant operating at a large industrial property. Following the discovery of a petroleum release related to my client's operations, another consultant conducted investigation activities and determined that a sizable area of petroleum-impacted soil was present at the property. Our client was very concerned that they would be responsible for conducting a large-scale remediation project. FEA recommended additional characterization testing, which included environmental forensics soil analysis. Using results from this testing, we proved that most of the site contamination had been present for several years and was not related to our client's operations. This vastly reduced the scope of the remediation for my client and resulted in tremendous cost savings.



**LAN Associates**

*By Ron Panicucci, P.E., Owner and CEO*

LAN Associates recently assisted a northern New Jersey Board of Education (BOE) with a 20-year-old, lingering NJDEP ground water spill case. We reviewed 20 years of information that was collected from various consulting firms working on the site, performing traditional investigations, sampling and monitoring. However, the results did not provide a well-defined, conceptual site model. Gerrit Visscher, LSRP, and LAN's Director of Environmental Services, along with Edmund Knyfd, P.G., LSRP, worked with S2C2, Inc. of Raritan, New Jersey, to reevaluate the traditional conceptual site model by advancing direct sensing tools to acquire continuous data profiling of subsurface conditions. The probes were capable of collecting detailed soil characteristics using Electrical Conductivity (EC), Hydraulic Profiling Tool (HPT) and Membrane Interface Probe (MIP) to reexamine subsurface conditions at the site. Data collected from the direct sensing investigations provided more information than the past 20 years of investigations, including extensive background and understanding of the subsurface conditions. Results helped pinpoint the zones requiring

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remediation, which lowered remedial cost estimates by 30 percent. The information gathered from the direct sensing investigations will be input into a 3D model to assist in lowering remedial costs in the future.



**Najarian Associates, Inc.**  
By Tavitt O. Najarian, Sc.D.,  
President

FEMA recently prepared Preliminary Flood Insurance Rate Maps (PFIRMs) for coastal New Jersey. Generally, the PFIRMs displayed larger flood hazard areas, and resulted in more stringent building standards—an outcome supported by many planners and environmentalists. However, Najarian Associates was contacted by homeowners, municipalities and developers questioning overly conservative mapping. FEMA's mapping uses state-of-the-art methods, with some data limitations. For example, FEMA cannot field survey every property in New Jersey.

Instead, FEMA utilizes USGS elevation data from remote sensing. Recognizing this and other limitations, FEMA provided the public an opportunity to appeal the PFIRMs. Najarian Associates seized this opportunity by collecting local topography data (including features like bulkheads) and applying sophisticated modeling techniques. Following FEMA's guidelines, our modelers applied these data to refine FEMA's wave model to



determine new flood zones and elevations, and used GIS to revise digital map data. FEMA accepted all proposed revisions, which removed properties from either wave-action (VE) zones or a 100-year coastal floodplain. Our clients obtained significantly lower construction costs/insurance rates. Also, as an alternative to FEMA's models, our oceanographers/marine scientists developed unique and defensible base flood elevations by conducting extreme value statistical analyses on long-term tidal records.



**Panther Technologies, Inc.**  
By Peter J. Palko, P.E.,  
CHMM, LSRP, President  
and CEO

We assisted a *Fortune 500* client with streamlining remediation of a New Jersey operation that was USEPA-lead for a cleanup estimated at \$25M over five years. We developed an expedited approach to a Responsible Party lead to remediate hexavalent chromium

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contaminated soils at a \$10M cost savings from the USEPA ROD estimate. We formulated a design/construct approach, retaining an environmental consultant for preliminary activities, while Panther focused on implementation. This contractor-led concept allowed concurrent activities, which reduced the time to closure. Preliminary design work included bench-scale testing to prove the technology while field collection of post-excavation equivalency samples pre-delineated the remedial boundary. Remediation included ex-situ reduction of 110,000 tons of contaminated soils to 40 feet deep across 5.5 acres using calcium polysulfide. Panther designed, procured, constructed, and operated a batch plant processing 1,200 tons/day. The plant was automated to ensure uniform dosing and streamline support data collection. We utilized GPS-equipped excavators to ensure adherence to pre-delineated boundaries. Post-treatment confirmation sampling met performance standards for reuse of the treated soil onsite. Panther

successfully completed the project in less than three years, and received full approval from the USEPA and a proposal to delist the project from the NPL.



**PennJersey  
Environmental Consulting**

*By Rodger A. Ferguson, Jr.,  
LSRP, President*

The John A. Delaney Homes site was acquired by the Perth Amboy Board of Education (PABOE) for a new high school in 2016. The site served as housing for returning WWII veterans. The New Jersey Schools Development Authority (NJSDA) is funding the new \$224 million high school, representing the largest facility ever constructed by the NJSDA. We conducted a due diligence preliminary assessment/site investigation (PA/SI) in 2014-2015. Historic demolition debris/fill was found in areas of previous building demolitions. The SI identified 23,000 cubic yards of fill to be removed to achieve an unrestricted

use remediation. During the followup remedial investigation in 2016, we determined that 85,000 cubic yards of historic fill was graded over most of the site, outside of the previously demolished building footprints. Since this was too much fill to excavate and remove, we revised the remedial action to a restricted use (capping) scenario. This approach realized a savings to the PABOE from \$1 million to \$5.7 million. The revised remedial action will allow the school construction to proceed in a safe, protective and cost-efficient manner.



**Ramboll Environ**

*By Jeffrey G. Entin, LSRP,  
Principal*

One business mainstay at Ramboll Environ is the assistance we provide to commercial and industrial real estate clients as they manage and transact properties. With the complexity of New Jersey's environmental programs, there is always excitement

*continued on page 22*

## ***PennJersey Environmental Consulting***

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and activity around transactions. As the parties complete due diligence and the deal principals, attorneys, consultants, and brokers go back and forth, we often will remind our clients to incorporate the transfer of NJDEP permits and approvals into the P&S agreement and deal timelines. Working closely with lead real estate counsel for the seller of a redeveloped landfill property in the Meadowlands, Ramboll Environ helped complete the necessary permit and approval transfers and resolve the many questions posed by the buyer—par for the course when acquiring a redeveloped landfill. Through communication with the deal parties, we helped secure transfer of the NJDEP solid waste, site remediation, and air permits and approvals associated with the property—resolving concerns and ensuring a timely closing. Clearly, this success depended upon the key role played by the NJDEP, and particularly of the Site Remediation group, which acted decisively and quickly to meet the project timeline.



**Tetra Tech**  
By Derek Amidon,  
President

Tetra Tech was retained to provide technical and LSRP services on a site in Newark that had been in the NJDEP regulatory program for almost 30 years. The site had an active ground water pump-and-treat system in place since the 1980s to remove chlorinated solvents from a low permeability glacial till unit. The LSRP worked with the project team to re-evaluate a solution for ground water



closure that included discontinuing active ground water extraction based on the results of strategic data collection that focused on demonstrating a stable plume. A Membrane Interface Probe investigation was performed using a Hydraulic Profiling Tool to create detailed vertical hydraulic profiles that provided multiple lines of evidence to support plume stability. Based on the extent of mass removal to-date, low rate of mass removal, asymptotic concentration gradients, demonstrated stable plume and no human or ecological receptors, the Tetra Tech team presented the justification for transitioning the ground water remedy to a CEA and ground water monitoring only approach. The closure approach was presented to the NJDEP in a technical consultation. Following the NJDEP's concurrence with the conclusion to discontinue active ground water extraction and treatment, the system was shut down and decommissioned after almost 30 years of pumping.

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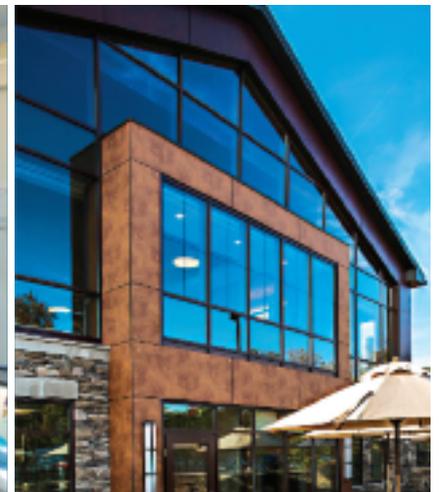
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**Law Firms: Assisting Clients with Environmental and NJDEP Issues**



**Capehart Scatchard**

*By Anthony T. Drollas, Jr., Esq., Shareholder, Regulatory and Governmental Affairs Group*

Our client, a municipality, is upgrading its public water distribution infrastructure, and in recent years it has also been a leader in testing for and implementing treatment technologies for UCMR contaminants, for which the USEPA and the NJDEP have not yet developed an MCL. During ongoing system upgrades, we negotiated an Administrative Consent Order with the NJDEP that provides for a reasonable treatment system permitting and implementation process, and that provides for a regulatory oversight process that gives the municipality sufficient flexibility to account for existing

and anticipated new contaminant treatment technologies. We also interacted with NJDEP officials, with whom we have developed a productive working relationship, in order to help the municipality achieve a cooperative and useful rapport with its regulators, so that the municipal-

ity's clean water goals can be achieved in a timely and cost-effective manner.



**Chiesa Shahinian & Giantomasi PC**

*By Dennis M. Toft, Esq., Partner, Environmental Group*

Our firm handles many sophisticated environmental issues, involving private parties and the NJDEP. These include remediation issues, permitting, enforcement and transactions. A number of problems became more complicated after Hurricane Sandy as parties worked to rebuild while complying with new NJDEP regulations and updated flood elevations established by FEMA. In this post-Sandy environment, one of our clients was seeking to convert an office building on the waterfront into a residential project. To assist this client, we undertook an analysis of NJDEP regulations to determine how the project could proceed without triggering limitations in

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NJDEP rules. We demonstrated to the NJDEP that a waterfront development permit was not required for the project and obtained a letter from the NJDEP confirming this. Subsequently, when a determination was made that additional excavation was needed on the project site to address structural issues, flood hazard permitting requirements became applicable. Based upon the updated regulations, we determined and obtained NJDEP concurrence that the work was covered by a permit-by-rule, which avoided a full permitting process.



**Connell Foley LLP**  
*By Agnes Antonian, Chair,  
Environmental Law Group*

The Site Remediation Reform Act (SRRA)/Licensed Site Remediation Professional (LSRP) regime established sweeping changes in the site remediation process in New Jersey. Older remediation sites (pre-1999) were required to complete site Remedial Investigation (RI) by May 7, 2014 (or, if an extension was applied for, by May 7, 2016). Sites that failed to meet the RI deadline became subject to mandatory direct oversight by the NJDEP. While under direct oversight, a responsible party and site LSRP lose flexibility and control over remediation decision-making, and scheduled submissions are required to be submitted to the NJDEP for approval, including the ultimate remedy selection. Connell Foley LLP is working with a party that is subject to mandatory NJDEP direct oversight. In coordination with the LSRP

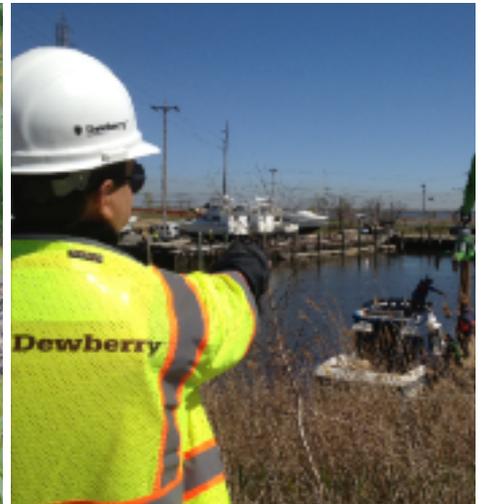
and NJDEP, our efforts have guided the process, including timely implementation of a Public Participation Plan, development of proposed cost and remediation estimates and establishment of a remediation funding source. These efforts were successful in gaining early flexibility for the client in the required form of the Remediation Funding Source. We will work on behalf of the client to continue to gain greater autonomy and flexibility in forthcoming remediation submissions and activities.



**Gibbons P.C.**  
*By Camille V. Otero, Esq.,  
Director, Real Property &  
Environmental Department*

A chemical manufacturing client received a notice letter from a developer/prospective purchaser of property in New Jersey claiming our client was responsible for contamination discovered during due diligence. A letter from the NJDEP followed, identifying

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**Ileana Ivanciu, Ph.D.**  
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our client as a responsible party—stemming from its acquisition of a company that had owned and leased the property—and directing it to conduct an investigation and remediation. Gibbons helped the client defend against several complex environmental and contractual issues raised by its landlord/current property owner, the developer/prospective purchaser and the NJDEP. After reviewing documents, analyzing lease terms and evaluating information provided by the developer, Gibbons successfully persuaded the property owner and developer of their potential liability, and exposed the weaknesses in their positions. Gibbons negotiated a satisfactory global settlement wherein the developer agreed to accept all environmental liability and provided our client with indemnification and a covenant not to sue; the lease was terminated; and our client’s name was removed from the NJDEP’s files as the responsible party and replaced with the developer. For a settlement amount less than what

remained due under the lease, Gibbons resolved its client’s potential future environmental liability, while averting litigation and transaction costs.



**Greenbaum, Rowe, Smith & Davis LLP**

*By David A. Roth, Esq.,  
Partner, Environmental  
Department*

Our firm represented a municipal client seeking to return a contaminated property that had been abandoned by the owner to productive use. The NJDEP conducted a publicly funded environmental cleanup and filed “super liens” against title (as authorized by the Spill Compensation and Control Act) or cleanup costs that exceeded the property value. We assisted the client with a tax lien foreclosure; however, the Spill Act super liens could not be foreclosed. We worked with the NJDEP and its attorneys to structure a creative solution that will facilitate the sale of the property for

redevelopment. The NJDEP agreed to release its super liens and extend assurances to the client and a future buyer in exchange for sharing in the sale proceeds, and certain other conditions. The client also agreed to undertake periodic monitoring to confirm the effectiveness of the NJDEP cleanup until the property is sold. The property should be attractive to a buyer because it was the subject of state-endorsed cleanup, will come with “built-in” liability protections and is a candidate for a Response Action Outcome that, by statute, will afford a covenant not to sue from the NJDEP.



**NPZ Law Group, P.C.**

*By David H. Nachman, Esq.,  
U.S. Managing Attorney*

NPZ Law Group, P.C. assisted an environmental project engineer from Indonesia to obtain an H-1B work visa for the construction, operation and maintenance of a ground water and soil remediation

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Mark P. Roman  
[markroman@envisionenvironmental.com](mailto:markroman@envisionenvironmental.com)

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project in New Jersey. Ordinarily, an H-1B work visa can be extended for up to six years by the employer. Six years, however, was an insufficient amount of time to complete this particular construction project, so the employer agreed to sponsor the engineer for a Green Card/Permanent Resident Card, thus enabling the applicant to petition for an unlimited number of H-1B extensions until the U.S. Citizenship & Immigration Services (USCIS) made a final determination to issue a Green Card/Permanent Residency Card. Green Card sponsorship allowed this employer to keep a technically advanced and experienced engineer on-site to complete an important project on budget and on time. The engineer was ultimately granted a Green Card, which allows him to live and work in the United States on a fulltime and permanent basis, with an option to remain with the sponsoring employer or to seek employment elsewhere. After five years, he can also apply to become a naturalized U.S. citizen.



**Scarinci Hollenbeck**  
By Todd W. Terhune, Esq.,  
Partner, Member,  
Environmental & Land  
Use Law Group

In 2016, after several years of procedure, we were victorious in our efforts to assist an educational institution in Mercer County to reclaim its ability to develop an approximately 23-acre parcel within its campus. This parcel previously was rendered undevelopable as a result of the NJDEP's actions to remove approximately six of the 23 acres from the Sewer Service Area (SSA). The NJDEP had delineated the six-acre area based on the presence of alleged Barred Owl habitat, which authorized the NJDEP to remove the six acres from the SSA. We solved this problem by demonstrating to the NJDEP that the six-acre area at issue was arbitrarily delineated. We then provided an alternative area to be excluded from the SSA that more closely aligned to the alleged Barred Owl habitat,

thereby restoring the ability to develop the 23-acre parcel. In so doing, an additional benefit arose—we provided a supplemental buffer to delineated wetlands in the parcel. Our efforts were a win-win for the environment and our client, since the result not only preserved the ability for our client to develop the property, but it preserved the most environmentally sensitive areas on the property. ■



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