

RESOLUTION NO. 2025- 179

A RESOLUTION AUTHORIZING EXECUTION OF A
CONSENT DECREE RESOLVING CLAIMS BETWEEN THE
CITY OF VINELAND AND THE UNITED STATES OVER
CONFLICTING LIEN PRIORITIES CONCERNING
THE PROPERTY OF VINELAND ICE, 544 E. PEAR
STREET.

WHEREAS, On March 17, 2022, the City of Vineland filed an in-rem tax foreclosure action in Superior Court of New Jersey, Docket No. F-2390-22 the object of which was to foreclose 544 E. Pear Street (the former site of Vineland Ice and Cold Storage) for non-payment of taxes.

WHEREAS, the Complaint named the United States and sought to foreclose a CERCLA Lien held by the EPA, in the amount of \$981,817.27 arising out of the emergency removal, at the request of the City of Vineland, of the anhydrous ammonia in the property's refrigeration system, which presented an immediate and serious threat to the residents of Vineland.

WHEREAS, the EPA pursuant to USCA § 1441(a) removed Vineland's in rem tax foreclosure action to Federal District Court and filed an answer contesting the priority of Vineland's tax lien.

WHEREAS, during the pendency of this action the EPA's Superfund Redevelopment Program contractor, Skeo Solutions, Inc. issued a Reuse Assessment Report recommending, among other things, that the property be used as a park, left as open space, or used for some other public purpose.

WHEREAS, considering its location, size (.69 acres), its triangular configuration, appraised value (\$75,000) and proximity to active railroad tracks, Skeo's recommendations were consistent with Vineland's intended post foreclosure use of the property.

WHEREAS, the EPA has proposed that the parties enter into the attached consent decree, which will be recorded in the Cumberland County Clerk's Office, and which will result in the dismissal of the EPA's answer but leave the CERCLA undisturbed while prohibiting the EPA from seeking a judicial sale of the property, provided the City does not sell the property or use the property for any income generating purposes, in which event the net proceeds or a portion thereof would be paid to the EPA.

WHEREAS, the Consent Decree allows the City to proceed with the foreclosure of the property, without objection from the EPA, in Superior Court of New Jersey and use the property, post foreclosure, as a park or open space as the City intended, or for a public purpose should the City's intended use of the property change.

NOW, THEREFOR, BE IT RESOLVED by the Council of the City of Vineland, County of Cumberland and State of New Jersey, the governing body of the City of Vineland, and considering that the EPA provided valuable assistance to the City and the protection of City residents by the emergent removal, at the request of the City of Vineland, of the anhydrous ammonia in the property's refrigeration system, the continued close cooperation between the City and EPA at other sites in the City, and that the Consent Decree allows the City to use the property, post foreclosure, as it intended, the Solicitor or Associate Solicitor for the City is hereby authorized to execute, on behalf of the City, the attached Consent Decree and bind the City to the terms thereof.

Adopted: April 8, 2025

President of Council pfs

ATTEST:

City Clerk rgf

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

)	
CITY OF VINELAND,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 22-cv-02444
)	(CPO) (MJS)
VINELAND ICE AND STORAGE, LLC,)	
SUMMIT BANK, ENTERPRISE ZONE)	
DEVELOPMENT CORPORATION OF)	
VINELAND AND MILLVILLE AND THE)	
UNITED STATES OF AMERICA,)	
)	
Defendants.)	
)	

CONSENT DECREE

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I. BACKGROUND

A. This Consent Decree (“Decree”) is entered into under the authority of the Attorney General to compromise and settle claims of the United States of America (“United States”).

B. On March 17, 2022, the City of Vineland (the “City”) filed an action in the Superior Court of New Jersey, Cumberland County, Chancery Division, General Equity Part, Docket No. F-2390-22 (the “State Court Action”), against the United States and other defendants. The State Court Action sought to foreclose on property located at 544 E. Pear Street in the City of Vineland, Cumberland County, New Jersey and identified as Block 3009, Lot 1 on the current tax map of the City of Vineland (the “Property,” generally depicted on the map attached as Appendix A). The City is the holder of tax sale certificates in the amount of \$66,930.51 for unpaid taxes, plus interest and costs, assessed against the Property in 2015, 2016, and 2017.

C. The City named the United States as a defendant in the State Court Action because of its lien, which arose on the Property under Section 107(l)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607(l)(1), and is recorded in the Cumberland County Clerk’s Office in Book 4181 of Mortgages for said County at page 7587 (the “CERCLA Lien”). The CERCLA Lien secures payment to the United States for the response costs incurred by the United States Environmental Protection Agency (“EPA”) in connection with response actions taken to address the release or threatened release of hazardous substances at the South Jersey Ice and Cold Storage Site (the “Site,” defined further below and generally depicted on the map attached as Appendix A). By notice dated April 27, 2022, the United States removed the State Court Action to this Court under 28 U.S.C. §§ 2410 and 1444. (ECF No. 1).

D. The Site is located in a residential neighborhood in the City of Vineland and is comprised of a 25,000 square-foot, three-story former cold storage warehouse and ice block manufacturing facility that operated from approximately 1922 to August 2016. On June 22, 2016, the City of Vineland, through the Vineland Fire Department, requested that EPA investigate the Site facility because of numerous serious concerns about its mechanical integrity and system configuration, including concerns about the threatened release of the refrigerant anhydrous ammonia. Ammonia is a “hazardous substance” within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). Anhydrous ammonia is a toxic, flammable gas and exposure to ammonia vapors can result in immediate and severe damage to human health.

E. In response to the release or threatened release of hazardous substances, including anhydrous ammonia, at or from the Site, EPA undertook response actions at the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, including the removal of approximately 9,700 pounds of anhydrous ammonia from the Site facility’s refrigeration system, and incurred response costs.

F. On August 21, 2020, the United States filed a complaint on behalf of EPA against the Site’s owner (Vineland Ice and Storage, LLC) and former operator (South Jersey Ice and Cold Storage LLC) under Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), seeking a declaratory judgment on liability and reimbursement of response costs

incurred by EPA at the Site. The complaint also sought recovery *in rem* of all costs constituting the United States' CERCLA Lien. (Civ. No. 20-cv-11049 (RMB) (SAK) (D.N.J.), ECF No. 1).

G. On October 18, 2021, the United States District Court for the District of New Jersey entered a Stipulation of Judgment holding Vineland Ice and Storage, LLC and South Jersey Ice and Cold Storage LLC jointly and severally liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for past and future CERCLA response costs at the Site. (Civ. No. 20-cv-11049 (RMB) (SAK), ECF No. 32). The Stipulation of Judgment constituted a final judgment in the amount of unreimbursed CERCLA response costs incurred by EPA as of March 31, 2021 (\$981,871.27), plus interest on unpaid amounts starting on the date of entry of the Stipulation of Judgment. The Stipulation of Judgment also affirmed the CERCLA Lien's validity under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), and its continuation until EPA's response costs are satisfied and the United States executes and files, or causes to be filed, in the Cumberland County Clerk's Office a release of lien for the purpose of releasing the CERCLA Lien and causing the lien to be discharged of record. The Stipulation of Judgment is attached as Appendix B.

H. EPA has determined that Vineland Ice and Storage, LLC and South Jersey Ice and Cold Storage LLC are financially unable to pay the judgment and will continue to be for the foreseeable future. Consequently, to date, the United States has been unable to collect on the judgment for EPA's response costs at the Site.

I. During the pendency of this action before the Court, the United States provided, at no cost to the City, access to EPA's Superfund Redevelopment Program contractor, Skeo Solutions, Inc. ("Skeo"), to explore possible reuse options for the Property. Skeo had several discussions with City staff, prepared a reuse assessment report (the "Reuse Assessment Report"), subcontracted for the preparation of an appraisal report, and presented its findings to the City and the United States at a meeting in May 2024. Skeo prepared the Reuse Assessment Report after reviewing Site-related documents, holding meetings with City staff, and conducting land use analyses. The Reuse Assessment Report is attached as Appendix C.

J. The Reuse Assessment Report considered information about the Property's characteristics, history, remedial status, and local land use context, as well as stakeholder perspectives and reuse considerations, to determine the following reasonably anticipated future land uses for the Property: residential uses (such as single-family housing, two-family housing, and townhouses, as well as home businesses); neighborhood park or open space uses (such as a dog park, pocket park, or playground); community or municipal services (such as municipal offices, facilities, storage, or infrastructure); and solar electricity generation (such as ground-mounted or roof-mounted solar photovoltaic devices). All reasonably anticipated future land uses were conditioned upon addressing safety risks raised by the active rail line running along the Property's northwestern boundary.

K. The City has expressed a plan to retain ownership of the Property following foreclosure and to convert the Property into a park, maintain it as open space, or use it for some other public purpose consistent with the Reuse Assessment Report. The City does not expect the Property to be used for any income-generating purpose at this time.

L. The City and the United States agree, and this Court by entering this Decree finds, that this Decree has been negotiated by the Parties in good faith and that settlement of this matter

without further litigation and without the admission or adjudication of any issue of fact or law is appropriate and will avoid prolonged and complicated litigation between the Parties.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1442, 1444, and 2410. Venue lies in this District under 28 U.S.C. §§ 1391(b) and 1444, because the Property is located in this judicial district and the State Court Action was filed in a state court within this judicial district. This Court retains jurisdiction over the subject matter of this action and over the Parties for the purpose of resolving disputes arising under this Decree, entering orders modifying this Decree, or effectuating or enforcing compliance with this Decree. The Parties may seek to resolve disputes arising under this Decree, request that the Court enter orders modifying this Decree, or request that the Court effectuate or enforce compliance with this Decree through this existing action; or the United States may file a standalone civil complaint in this court. The City may not challenge the terms of this Decree or this Court's jurisdiction to enter and enforce this Decree.

III. PARTIES BOUND

2. This Decree is binding upon the City and upon the United States. The City's responsibilities under this Decree cannot be assigned except under a modification executed in accordance with ¶ 13.

IV. DEFINITIONS

3. Subject to the next sentence, terms used in this Decree that are defined in CERCLA or the regulations promulgated under CERCLA have the meanings assigned to them in CERCLA and the regulations promulgated under CERCLA. Whenever the terms set forth below are used in this Decree, the following definitions apply:

"City" means the City of Vineland, New Jersey, and any successors-in-interest.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601–9675.

"CERCLA Lien" means the lien which arose on the Property under Section 107(l)(1) of CERCLA, 42 U.S.C. § 9607(l)(1), and which secures payment to the United States for the response costs incurred by EPA in connection with response actions taken at the Site. EPA perfected the CERCLA Lien by filing a Notice of Federal Lien, recorded on June 20, 2019, in the Cumberland County Clerk's Office in Book 4181 of Mortgages for said County at page 7587. As of March 31, 2021, the CERCLA Lien amount totaled \$981,871.27.

"Consent Decree" or "Decree" means this consent decree and the appendices attached hereto. If there is a conflict between Sections I through XIV and a provision in any appendix, the provision in Sections I through XIV controls.

"Day" or "day" means a calendar day. In computing any period under this Decree, the day of the event that triggers the period is not counted and, where the last day is not a working

day, the period runs until the close of business of the next working day. “Working day” means any day other than a Saturday, Sunday, or federal or state holiday.

“DOJ” means the United States Department of Justice.

“Effective Date” means the date upon which the Court’s approval of this Decree is recorded on its docket.

“EPA” means the United States Environmental Protection Agency.

“Fund” means the Hazardous Substance Superfund established under Section 9507 of the Internal Revenue Code, 26 U.S.C. § 9507.

“Including” or “including” means “including but not limited to.”

“Interest” means interest at the rate specified for interest on investments of the Fund, as provided under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), compounded annually on October 1 of each year. The applicable rate of interest will be the rate in effect at the time the interest accrues. As of the date of lodging of this Decree, rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“Paragraph” or “¶” means a portion of this Decree identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” means the City of Vineland and the United States of America.

“Property” means the property currently owned by Vineland Ice and Storage, LLC, located at 544 E. Pear Street in Vineland, Cumberland County, New Jersey and identified as Block 3009, Lot 1 on the current tax map of the City of Vineland. The Property is generally depicted on the map attached as Appendix A.

“Section” means a portion of this Decree identified by a Roman numeral.

“Site” means the South Jersey Ice and Cold Storage Site, encompassing approximately 0.825 acres, located at 544 E. Pear Street in Vineland, Cumberland County, New Jersey and identified as Block 3009, Lot 1 on the current tax map of the City of Vineland. The Site is generally depicted on the map attached as Appendix A.

“Stipulation of Judgment” means the Stipulation of Judgment entered by the U.S. District Court for the District of New Jersey on October 18, 2021, in Civ. No. 20-cv-11049 (RMB) (SAK) as ECF No. 32. The Stipulation of Judgment is attached as Appendix B.

“United States” means the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. STATEMENT OF PURPOSE

4. By entering into this Decree, the mutual objectives of the Parties are to: allow the City to continue seeking a judgment in foreclosure granting it fee simple ownership of the Property; agree the CERCLA Lien will be undisturbed by the City’s foreclosure action; affirm the CERCLA Lien’s continued existence and validity, as outlined below in Section VI, following

the grant of fee simple title to the City; and address potential future resolutions of the CERCLA Lien.

VI. SURVIVAL AND VALIDITY OF CERCLA LIEN

5. The Parties agree that, in accordance with ¶ 5 of the Stipulation of Judgment, the CERCLA Lien is valid under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), and shall continue until EPA's response costs are satisfied and the United States executes and files, or causes to be filed, in the Cumberland County Clerk's Office a release of lien for the purpose of releasing the CERCLA Lien and causing the lien to be discharged of record. The CERCLA Lien shall remain undisturbed following any court's final judgment in foreclosure vesting fee simple title to the Property in the City.

6. As of the Effective Date, the United States will not seek judicial sale of the Property under 28 U.S.C. § 2410(c) or foreclose on the Property under Section 107(l)(4) of CERCLA, 42 U.S.C. § 9607(l)(4).

7. The United States' commitments in Paragraph 6 are conditioned upon the City's satisfactory compliance with this Decree. Nothing in Paragraph 6 shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Decree.

VII. PAYMENT TO RELEASE CERCLA LIEN

8. The City shall make any payment required under this Decree in accordance with instructions provided to the City under ¶ 11 by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the District of New Jersey. The City shall make any such payment at <https://www.pay.gov>, including references to the Consolidated Debt Collection System number provided in the FLU's instructions. The City shall send notices of this payment to DOJ and EPA in accordance with ¶ 11. If the payment required under this Paragraph 8 is late, the City shall pay an additional amount for Interest from the date payment was due until the date of payment.

9. **Deposit of Payment.** EPA will deposit the total amounts paid under ¶ 10 in the Fund.

10. **Payment of Net Proceeds from Sale of Property or of Percentage of Future Earnings**

a. The United States acknowledges the City's present-day intent to retain ownership of the Property after obtaining a judgment in foreclosure granting it fee simple title. The United States also recognizes the City's intent to convert the Property into a park, maintain it as open space, or use it for a public purpose consistent with the Reuse Assessment Report, and the City's expectation not to use the Property for any income-generating purpose. The Parties agree to the following provisions to address the release of the CERCLA Lien if circumstances change and the City either sells the Property or uses it for any income-generating purpose. "Sale of the Property," as used below, includes any conveyance in accordance with the Local Redevelopment and Housing Law, N.J.S.A. § 40A:12A-1 *et seq.* "Income-generating use," as used below, means any use on the Property that would generate a net profit to the City.

b. **Sale of the Property.** The City shall provide to EPA a copy of the proposed contract for sale of the Property and must obtain EPA's written approval before executing the contract. The City shall provide to EPA a copy of any offer to purchase the Property within 48 hours after receipt of such offer in order to give EPA an opportunity to review and object to the offer. If EPA does not object to the offer within 10 days after receipt of a copy of the offer, then the City may execute the contract for sale of the Property. The City shall provide to EPA a copy of the executed contract within 7 days after signing the contract.

c. The City shall submit to EPA, at least 30 days prior to the date of any sale of the Property, a notice of the sale, a calculation of the net sales proceeds, and all documentation regarding the values used in the calculation, including: (i) copies of all documents to be executed regarding the sale; (ii) documentation of the amounts to be retained by the City as payment for the liens listed as Permitted Encumbrances in Appendix D; (iii) documentation of the amounts of closing costs to be paid; (iv) documentation of any fees regarding the sale, including administrative fees and non-residential development fees under the Statewide Non-residential Development Fee Act, N.J.S.A. § 40:55D-8.1 *et seq.*; and (v) documentation of the amounts of state and/or municipal transfer taxes to be paid regarding the sale. The City may request that EPA approve the calculation of net sales proceeds prior to the sale. In that event, EPA's approval shall be binding in any subsequent dispute between the City and the United States regarding whether the City has complied with ¶ 10.d.

d. At the time of the sale, the City shall pay to the United States 100% of the net sales proceeds of the sale of the Property or \$981,871.27, whichever is less. "Net sales proceeds" shall mean, for purposes of this Paragraph 10, all consideration received by the City from the sale of the Property, not including: (i) payment for the liens listed as Permitted Encumbrances in Appendix D; (ii) reasonable closing costs paid regarding the sale; (iii) reasonable fees regarding the sale; and (iv) state and/or municipal transfer taxes regarding the sale. Unpaid municipal charges, including water, sewer, and property taxes, as well as interest and costs, that have accrued for the Property and are not specifically listed as a Permitted Encumbrance in Appendix D shall not be subtracted from the amount of consideration received by the City for the sale of the Property. Provided that the amount of net sales proceeds is acceptable, EPA shall arrange for the execution and delivery, at the time of the sale, of a release of the CERCLA Lien.

e. **Property Used for Any Income-Generating Purpose.** In the event the City, as fee simple owner of the Property, considers implementing an income-generating use for the Property (including any use operated under a lease agreement), the City shall provide EPA notice of any draft resolution approving the use at least 48 hours in advance of the City Council meeting at which the draft resolution will be considered. Should the City Council adopt the resolution and the City implement an income-generating use at the Property, EPA shall be entitled to a percentage of the future income earned by the City at the Property until EPA's costs secured by the CERCLA Lien are satisfied. The percentage of future income to which EPA is entitled, the frequency of the payments, and any other terms which the Parties agree to negotiate will be determined by the Parties within 60 days after the City Council adopts a resolution approving an income-generating use. These terms will be considered material modifications in accordance with ¶ 13.

f. The City shall not be required to comply with this Paragraph 10 with respect to the Property or a portion of the Property in the event that, following any court's final judgment in foreclosure vesting fee simple title to the Property in the City, the Property or such portion thereof is subsequently transferred involuntarily by operation of law, including foreclosure or its equivalent, or is transferred by deed or other assignment in lieu of foreclosure due to a default on indebtedness secured by the Property or such portion thereof.

VIII. NOTICES AND SUBMISSIONS

11. All modifications, notices, proposals, and requests specified in this Decree must be in writing unless otherwise specified. Whenever a notice is required to be given or a document is required to be sent by one Party to another under this Decree, it must be sent as specified below. All notices under this Section are effective upon receipt, unless otherwise specified. In the case of emailed notices, there is a rebuttable presumption that such notices are received on the same day that they are sent. Any Party may change the method, person, or address applicable to it by providing notice of such change to all Parties.

As to DOJ: *via email to:*
eescdcopy.enrd@usdoj.gov
Re: DJ # 90-11-3-12363

and

John F. Basiak Jr.
Assistant United States Attorney
john.basiak@usdoj.gov

As to EPA: *via email to:*
Pat Evangelista
Director, Superfund and Emergency Management
Division
evangelista.pat@epa.gov

and

Krista E. Yacovone
Assistant Regional Counsel
yacovone.krista@epa.gov

Re: Site/Spill ID # A26W

**As to the Regional
Financial Management
Officer:** *via regular mail to:*
Chief, Resource Management/Cost Recovery Section
Superfund and Emergency Management Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 18th Floor
New York, NY 10007
Re: Site/Spill ID # A26W

As to the EPA *via email to:*
Cincinnati cinwd_acctsreceivable@epa.gov
Finance Re: Site/Spill ID # A26W
Center:

As to the City: *via email to:*
Alan Giebner
Associate Solicitor
agiebner@vinelandcity.org

and

Sandy Forosisky
Director, Department of Economic Development
sforosisky@vinelandcity.org

and

Robert E. Dickenson, Jr.
Business Administrator
bdickenson@vinelandcity.org

IX. APPENDICES

12. The following appendices are attached to and incorporated into this Decree:

“Appendix A” is a map of the Site and the Property.

“Appendix B” is the Stipulation of Judgment entered by the U.S. District Court for the District of New Jersey on October 18, 2021, in Civ. No. 20-cv-11049 (RMB) (SAK) as ECF No. 32.

“Appendix C” is the Reuse Assessment Report.

“Appendix D” is a list of the Permitted Encumbrances at the Property.

X. MODIFICATIONS TO DECREE

13. Nonmaterial modifications to Sections I through XIV must be in writing and are effective when signed (including electronically signed) by the Parties. Material modifications to Sections I through XIV must be in writing, signed (which may include electronically signed) by the Parties, and are effective upon approval by the Court.

XI. SIGNATORIES

14. The undersigned representative of the United States and the undersigned representative of the City certifies that he or she is fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind such Party to this document.

XII. PRE-ENTRY PROVISIONS

15. If for any reason the Court should decline to approve this Decree in the form presented, this agreement, except for ¶¶ 16 and 17, is voidable at the sole discretion of any Party and its terms may not be used as evidence in any litigation between the Parties.

16. This Decree will be lodged with the Court for at least 30 days for public notice and comment. The United States may withdraw or withhold its consent if the comments regarding the Decree disclose facts or considerations that indicate that the Decree is inappropriate, improper, or inadequate.

17. The City agrees not to oppose or appeal the entry of this Decree.

XIII. INTEGRATION

18. This Decree constitutes the entire agreement among the Parties regarding the subject matter of the Decree and supersedes all prior representations, agreements, and understandings, whether oral or written, regarding the subject matter of the Decree.

XIV. FINAL JUDGMENT

19. Upon entry of this Decree by the Court, this Decree constitutes a final judgment under Fed. R. Civ. P. 54 and 58 among the Parties. The answer and separate defenses filed by the United States in this action (ECF No. 3) shall be deemed withdrawn without prejudice to the United States' rights under this Decree, and this matter shall be remanded to the Superior Court of New Jersey, Cumberland County, Chancery Division, General Equity Part, for disposition, without the United States as defendant, in the normal course as to the remaining parties. The remand order and any related filings made by the City to the Superior Court of New Jersey shall include notice of this Decree and its terms.

20. Within 60 days after entry of this Decree by the Court, the United States will record the Decree in the Cumberland County Clerk's Office. The City shall not seek final judgment in foreclosure from the Superior Court of New Jersey until after the United States has recorded the Decree.

SO ORDERED THIS _____ DAY OF _____, 20____.

United States District Judge

FOR THE UNITED STATES OF AMERICA:

VIKAS KHANNA
Acting United States Attorney
District of New Jersey

Dated

JOHN F. BASIAK JR.
Assistant United States Attorney
District of New Jersey
United States Attorney's Office
402 East State Street, Room 430
Trenton, NJ 08608
(609) 858-0309
john.basiak@usdoj.gov

FOR THE CITY OF VINELAND:

Dated

Name (print):

Title:

Address:

Email:

APPENDIX A



SCALE
1:500

LEGEND

- Amherst Twp Location
- Site Boundary
- Parcel Boundary
- Site Location



Notes:
• The parcel data was taken from the latest aerial photograph.
• The parcel data was taken from the latest aerial photograph.
• The parcel data was taken from the latest aerial photograph.

Figure 1:
Site Map

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
REMEDIATION DIVISION
CONTRACT # 93-21401

Weston
SOLUTIONS

APPENDIX B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

V.

Civil Action No. 1:20-cv-11049

VINELAND ICE AND STORAGE, LLC,
and SOUTH JERSEY ICE AND COLD
STORAGE, LLC, and 544 E. PEAR STREET,
BLOCK 3009, LOT 1, CITY OF VINELAND,
CUMBERLAND COUNTY, NEW JERSEY,

Defendants.

STIPULATION OF JUDGMENT

I. BACKGROUND

A. The United States of America (“United States”), on behalf of the Administrator of the U.S. Environmental Protection Agency (“EPA”), filed a complaint in this matter against Vineland Ice and Storage, LLC and South Jersey Ice and Cold Storage LLC (collectively, “Defendants”) under Sections 107(a) and 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9607(a) and 9613(b), seeking a declaratory judgment and reimbursement of response costs incurred or to be incurred for response actions taken or to be taken at or in connection with the release or threatened release of hazardous substances at the South Jersey Ice and Cold Storage Superfund Site (the “Site,” as defined below). The complaint also sought recovery *in rem* of all costs constituting the lien of the United States under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), against 544 E. Pear Street, identified as Block 3009, Lot 1 on the current tax map of the City of Vineland, Cumberland County, New Jersey.

B. The Site is located in a residential neighborhood in the City of Vineland, New Jersey and is comprised of a 25,000 square-foot, three-story cold storage warehouse and ice block manufacturing facility that operated from approximately 1922 to approximately 2016.

C. The Site facility used anhydrous ammonia as a refrigerant. Ammonia is a “hazardous substance” within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

D. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and may undertake additional response actions in the future.

E. In performing response actions at the Site, EPA has incurred response costs and may incur additional response costs in the future.

F. The United States alleges that Defendants are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for response costs incurred and to be incurred at the Site.

G. Defendants have entered into this Stipulation of Judgment because they no longer contest liability to the United States arising out of the transactions or occurrences alleged in the complaint.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Defendants. Solely for the purposes of this Stipulation of Judgment and the underlying complaint, Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Defendants shall not challenge entry of this Stipulation of Judgment or this Court’s jurisdiction to enter and enforce this Stipulation of Judgment.

III. PARTIES BOUND

2. This Stipulation of Judgment is binding upon the United States and upon Defendants and their successors. Any change in ownership or corporate or other legal status, including but not limited to any Transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Defendants under this Stipulation of Judgment. Mark DiMeo, individually, and Hilda DiMeo, individually, shall not be considered successors for the purposes of this Stipulation of Judgment.

IV. DEFINITIONS

3. Unless otherwise expressly provided in this Stipulation of Judgment, terms used in this Stipulation of Judgment that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Stipulation of Judgment, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601–9675.

“CERCLA Lien” shall mean the lien which arose on the Real Property under Section 107(l)(1) of CERCLA, 42 U.S.C. § 9607(l)(1), and which is intended to secure payment to the United States for the response costs for which Defendants are liable pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). EPA perfected the CERCLA Lien by filing a Notice of Federal Lien, recorded on June 20, 2019, in the Cumberland County Clerk’s Office in Book 4181 of Mortgages for said County at page 7587. As of March 31, 2021, the CERCLA Lien amount totaled \$981,871.27.

“Defendants” shall mean Vineland Ice and Storage, LLC and South Jersey Ice and Cold Storage LLC.

“EPA” shall mean the U.S. Environmental Protection Agency.

“Insurance Policies” shall mean any liability insurance policies that were issued to or for the benefit of Defendants, including but not limited to liability insurance policies for which Defendants, their respective predecessors in interest, or their respective affiliates are an “insured,” “named insured,” or “additional insured.” Insurance Policies include but are not limited to primary, excess, and umbrella comprehensive general liability, environmental impairment, and pollution liability policies, and any other policies, effective at any time, that may provide coverage for all or part of the claims that the United States has asserted or is asserting against Defendants.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Paragraph” shall mean a portion of this Stipulation of Judgment identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” shall mean the United States and Defendants.

“Property” shall mean the combined real and personal property currently owned by Defendants, located at 544 E. Pear Street, identified as Block 3009, Lot 1 on the current tax map of the City of Vineland, Cumberland County, New Jersey.

“Real Property” shall mean the real property currently owned by Defendant Vineland Ice and Storage, LLC, located at 544 E. Pear Street, identified as Block 3009, Lot 1 on the current tax map of the City of Vineland, Cumberland County, New Jersey.

“Site” shall mean the South Jersey Ice and Cold Storage Superfund Site, encompassing approximately 0.825 acres, located at 544 E. Pear Street, identified as Block 3009, Lot 1 on the current tax map of the City of Vineland, Cumberland County, New Jersey.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. MONETARY JUDGMENT

4. The Parties stipulate that Defendants are jointly and severally liable for CERCLA response costs incurred and to be incurred at the Site and that this Stipulation of Judgment constitutes a final judgment against Defendants in the amount of \$981,871.27 for CERCLA response costs incurred by the United States for which Defendants are liable pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), plus Interest on any unpaid amount of such final judgment beginning on the date of entry of this Stipulation of Judgment.

VI. VALIDITY OF CERCLA LIEN

5. The Parties agree that the CERCLA Lien is valid under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), and shall continue until the liability for response costs is satisfied and the United States executes and files, or causes to be filed, in the Cumberland County Clerk’s Office a release of lien for the purpose of releasing the CERCLA Lien and causing the lien to be discharged of record.

6. The Parties agree that the *in rem* claim of the United States under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l) (Complaint, Third Claim for Relief, paragraphs 52-56), shall be dismissed without prejudice, and the United States expressly reserves its right to seek judicial sale of the Property as authorized by Section 107(l)(4) of CERCLA, 42 U.S.C. § 9604(l)(4).

VII. INSURANCE PROCEEDS

7. Defendants assign to the United States, on behalf of EPA, any and all rights to insurance proceeds under the Insurance Policies, including all rights to insurance proceeds relating to the final judgment in Paragraph 4 and all rights to insurance proceeds relating to amounts incurred or to be incurred in connection with the Site by Defendants. Upon request by the United States, Defendants agree to execute any and all additional documents necessary to effectuate the assignment provided for in this Paragraph and to allow and facilitate the pursuit and collection by the United States or its designees of any insurance claims and insurance proceeds under the Insurance Policies.

VIII. CONTRIBUTION

8. The Parties agree, and by entering this Stipulation of Judgment this Court finds, that the complaint filed by the United States in this action is a civil action within the meaning of Section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f)(1).

IX. PROPERTY REQUIREMENTS

9. **Agreements Regarding Access and Non-Interference.** Defendants shall provide the United States and its representatives, contractors, and subcontractors with access at all reasonable times to the Property to conduct any activity relating to response actions at the Site, including but not limited to the following activities:

- (1) Verifying any data or information submitted to the United States;
- (2) Conducting investigations regarding contamination at or near the Site;
- (3) Obtaining samples;
- (4) Assessing the need for, planning, implementing, or monitoring response actions;
- (5) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Defendants or their agents;
- (6) Determining whether the Property is being used in a manner that is prohibited or restricted under CERCLA; and
- (7) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the Real Property.

10. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed regarding the Property, Defendants shall cooperate with EPA's efforts to secure and ensure compliance with such institutional controls.

X. SIGNATORIES/SERVICE

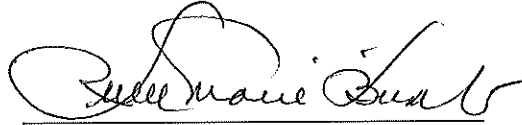
11. Each undersigned representative of Defendants and the Deputy Section Chief, U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section certifies that he or she is authorized to enter into the terms and conditions of this Stipulation of Judgment and to execute and bind legally such Party to this document.

12. Defendants shall identify, on the attached signature page, the name and address of agents who are authorized to accept service of process by mail on their behalf with respect to all matters arising under or relating to this Stipulation of Judgment. Defendants agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to service of a summons.

XI. FINAL JUDGMENT

13. Upon entry of this Stipulation of Judgment by the Court, this Stipulation of Judgment shall constitute the final judgment between the United States and Defendants. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS 18th DAY OF October, 2021.


United States District Judge

Signature Page for Stipulation of Judgment Regarding South Jersey Ice and Cold Storage
Superfund Site

FOR THE UNITED STATES OF AMERICA:

September 27, 2021
Dated

NATHANIEL DOUGLAS
Deputy Section Chief
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611

s/ Steven A. Keller
STEVEN A. KELLER
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044-7611
202-532-3309
steve.keller@usdoj.gov

RACHAEL A. HONIG
Acting United States Attorney
District of New Jersey

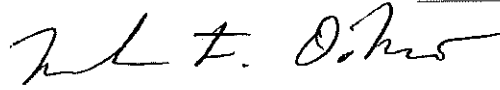
ELIZABETH PASCAL
Assistant United States Attorney
U.S. Attorney's Office
Camden Federal Building & U.S. Courthouse
P.O. Box 2098
401 Market Street, 4th Floor
Camden, NJ 08101
856-757-5105

Signature Page for Stipulation of Judgment Regarding South Jersey Ice and Cold Storage
Superfund Site

FOR VINELAND ICE AND STORAGE, LLC:

9/21/21

Dated



Name (print): Mark F. DiMeo

Title: Member

Address: 19 Pebble Beach Dr.
Egg Harbor Township, NJ 08234

Agent Authorized to Accept Service on Behalf of Above-signed Party:

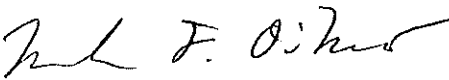
Name (print):	<u>Mark F. DiMeo</u>
Title:	<u>Member</u>
Company:	<u>Vineland Ice and Storage, LLC</u>
Address:	<u>19 Pebble Beach Drive</u> <u>Egg Harbor Township, NJ 08234</u>
Phone:	<u>856-364-4027</u>
Email:	<u>mfdimeo@gmail.com</u>

Signature Page for Stipulation of Judgment Regarding South Jersey Ice and Cold Storage
Superfund Site

**FOR SOUTH JERSEY ICE AND COLD STORAGE
LLC:**

9/21/21

Dated



Name (print): Mark F. DiMeo

Title: Member

Address: 19 Pebble Beach Drive
Egg Harbor Township, NJ 08234

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print):	<u>Mark F. DiMeo</u>
Title:	<u>Member</u>
Company:	<u>South Jersey Ice and Cold Storage LLC</u>
Address:	<u>19 Pebble Beach Drive</u> <u>Egg Harbor Township, NJ 08234</u>
Phone:	<u>856-364-4027</u>
Email:	<u>mfdimeo@gmail.com</u>

APPENDIX C

Reuse Assessment

South Jersey Ice and Cold Storage Superfund Site (FINAL)

Vineland, Cumberland County, New Jersey

Introduction

The U.S. Environmental Protection Agency's (EPA) Superfund Redevelopment Program and EPA Region 2 developed this Reuse Assessment Report for the property identified as Block 3009, Lot 1 on the current tax map of the City of Vineland, Cumberland County, New Jersey (the Site property), where the South Jersey Ice and Cold Storage Superfund Site (the Site) is located. To support EPA during the reuse assessment process, consultants Skeo conducted a Site document review, stakeholder discussions with municipal staff, and land use analyses.

This report presents the reuse assessment's findings to assist the City of Vineland (the City), federal agencies, and other parties in evaluating future land use options for the Site property. It shares information on the Site property's characteristics and history, remedy status, land use context, stakeholder reuse goals, and reasonably anticipated future land uses to help inform planning efforts for the Site property's reuse.

Overview

The Site property is located at 544 East Pear Street in Vineland, New Jersey. The 0.69-acre property is located on the northeast side of downtown Vineland. The Site property includes a three-story, 25,000-square-foot building, which was used as a cold storage warehouse and ice block manufacturing facility from 1922 until 2016. Vineland Ice and Storage, LLC (Vineland Ice) purchased the property in 1998. South Jersey Ice and Cold Storage LLC (South Jersey Ice) took over operation of the facility from the previous operator in 2013.

Removal Response and Enforcement Actions

In June 2016, the City inspected the facility and issued a Notice of Unsafe Structure to Vineland Ice, which stated that the building at the Site property was in unsafe condition because the floors, roof, and walls were not stable. Later that month, an ammonia refrigeration mechanical and compliance consultant with the City's Fire Department inspected the facility and identified numerous serious concerns with the facility's mechanical integrity and system configuration. The City then requested that EPA investigate the conditions at the Site.

EPA's initial assessment of the facility confirmed the City's observations and concerns and documented the presence of strong odors of ammonia vapors in the machinery room at a time when the facility's ammonia detectors were inoperable. Anhydrous ammonia, a flammable, highly toxic gas, is a hazardous substance that was used in the facility's refrigeration system.

EPA conducted a second assessment and inspection of the facility, which again confirmed the City's observations and concerns, including dangerous ice buildup on refrigeration coils and throughout the building, which put stress on the refrigeration system and the building's integrity, severely corroded and inoperable pressure process control and relief safety valves, and uninspected piping and vessels. EPA's refrigeration mechanical consultant also found that the building's configuration of emergency relief valves for the high-pressure vessels discharged directly into the surrounding neighborhood. These conditions meant the surrounding neighborhood, which is primarily residential, was at risk of being exposed to a release of toxic anhydrous ammonia. An off-site consequence analysis by EPA determined that a worst-case release of ammonia from the facility would impact approximately 15,208 residents.

In July 2016, EPA initiated 24-hour air monitoring for anhydrous ammonia on- and off-site. EPA also temporarily relocated people from seven homes within a 500-foot radius of the Site and led emergency response activities on-site until August 23, 2016. An aqueous scrubber was installed to contain potential discharge from the refrigeration system's high-pressure emergency relief vents. EPA removed 9,700 pounds of anhydrous ammonia from the facility's refrigeration system and vented the emptied system to the atmosphere. EPA also removed about 33,000 gallons of brine solution from a tank in the facility's ice block manufacturing process area, as well as about 3,700 gallons of meltwater, 18,000 gallons of fluid from the scrubber unit, and three 55-gallon drums of waste oil collected from the refrigeration system's compressor units. After EPA completed its response action, the facility permanently ceased operations. Today, the Site property remains vacant. The building is in poor condition.

In July 2016, Vineland Ice appealed the Notice of Unsafe Structure issued for the Site building to the Cumberland County Construction Board of Appeals, which affirmed the City's determination that the building was unsafe. The Construction Board of Appeals' decision was affirmed on appeal by both the Superior Court of New Jersey, Cumberland County, Law Division, and the New Jersey Appellate Division. In September 2022, the City held a hearing to determine whether the building should be demolished, and in October 2022, the City issued an Order to Demolish or Renovate, which determined that the building remains vacant, is in a blighted condition, constitutes a nuisance, contributes to the homeless situation in the City, is unfit for human habitation, occupancy, and use, and continues to be dilapidated, unclean, in disrepair, and structurally defective, to the point that major renovations or demolition is required. The City plans to demolish the building in accordance with the order.

In August 2020, EPA filed a complaint in federal district court requesting that Vineland Ice and South Jersey Ice be found liable for EPA's emergency response costs, which are secured by a lien on the Site property, and that the court order the sale of the Site property with disbursement of proceeds to EPA. EPA's claims were resolved in a Stipulation of Judgment, agreed to by the parties and entered by the court, that held Vineland Ice and South Jersey Ice jointly and severally liable for EPA's response costs incurred and to be incurred at the Site, plus interest. The Stipulation of Judgment also affirmed the validity of EPA's lien on the Site property in the amount of EPA's

response costs incurred and to be incurred until liability for the costs is satisfied. Vineland Ice and South Jersey Ice are now defunct and insolvent and have not satisfied their liability to EPA for its response costs.

The City holds a lien on the Site property for unpaid taxes and the City's economic development authority, the Enterprise Zone Development Corporation of Vineland and Millville, holds a lien on the Site property for the amount of a judgment obtained against Vineland Ice and related parties due to a defaulted business loan. If the City acts to abate unsafe conditions at the Site property and/or demolishes the building, the costs of abatement and/or demolition may be secured by another lien on the Site property.

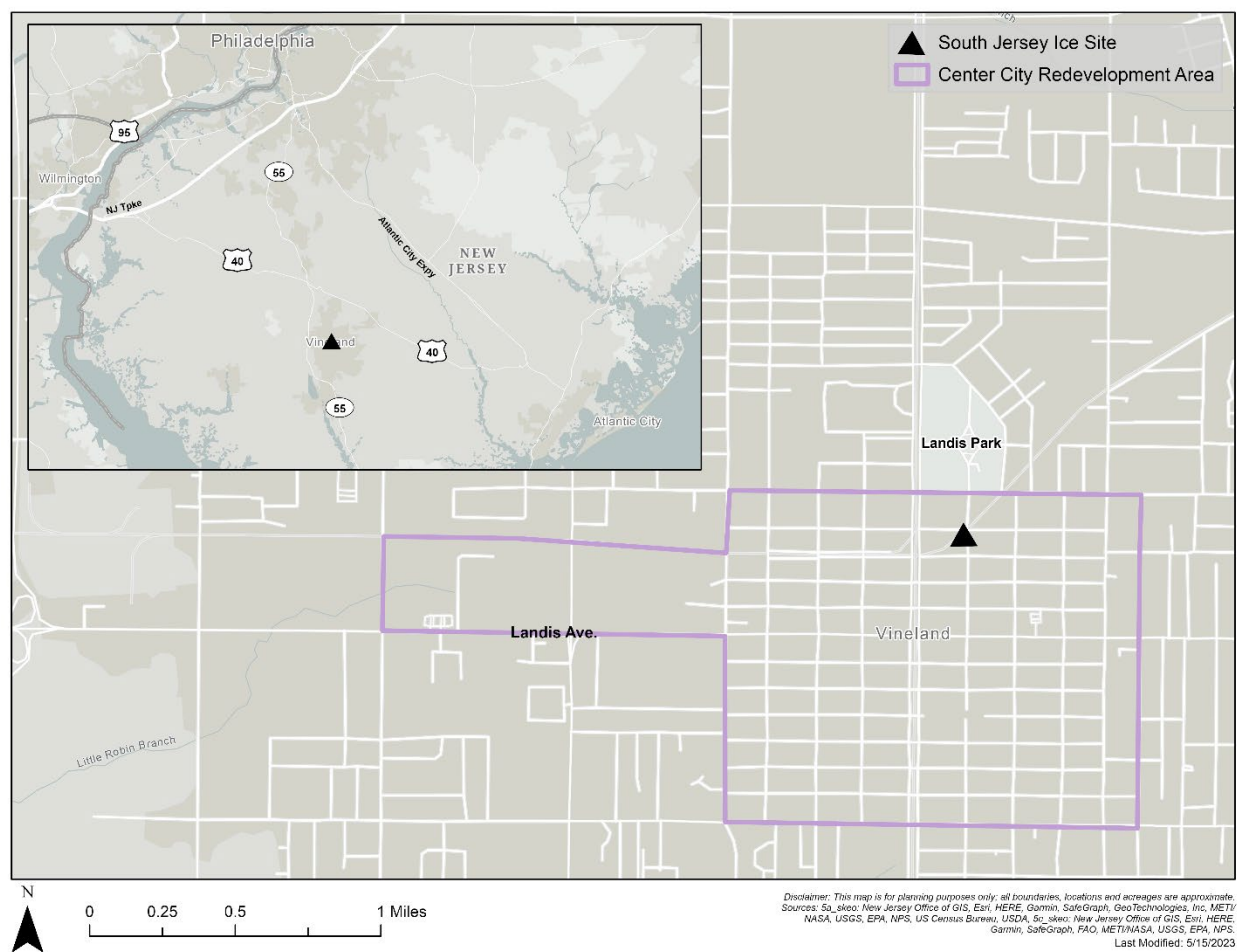


Figure 1. Site Property and Community Location Map, Including the Center City Redevelopment Area

Land Use Considerations

Community Context

Vineland is 40 miles south of Philadelphia and 35 miles west of Atlantic City. It is part of Cumberland County and is the largest city in New Jersey in terms of land area, encompassing 69 square miles. Primary transportation routes serving the community are state highways 47 and 55. Vineland is seven miles from U.S. Route 40, the nearest major highway.

In the 1800s, Vineland grew as a regional population and economic center. It prospered as the region's agricultural economy grew, supporting food-related industries, including production, manufacturing, packaging, processing, warehousing, and storage. Vineland's grid pattern centers on Landis Avenue and the community's downtown district. Since the 1960s, commerce in the downtown district has declined steadily, resulting in many vacant buildings. The City has been working to revitalize the downtown district for years. In 2000, as part of these efforts, it established the Center City Redevelopment Area (Figure 1 below).

Location and Physical Setting

The Site property is in the northwest part of the Center City Redevelopment Area. It is in a neighborhood that is bisected by freight rail lines. It includes vacant properties, municipal facilities, community uses, and single-family and multi-family homes.

Population and Demographic Trends

Vineland (population 61,156) is in the heart of south-central New Jersey. Its overall population has remained constant since 2010. The median household income (based on 2017-2021 estimates) is \$60,018. Per-capita income is \$30,229. About 13% of Vineland's residents live below the poverty line. The population living within a 1-mile radius of the Site property has a higher percentage of lower income people (50%) and a larger percentage of people of color (81%) compared to the state average (45%).

Access and Infrastructure

The Site property is located at 544 East Pear Street, which is three blocks north of Landis Avenue. Primary access to the Site property includes frontage on East Pear Street and North 6th Street. Gas, water, sewer, electric, and telephone services are available nearby. A municipal water tower is located across East Pear Street from the Site property. An electric substation is located several hundred feet west of the Site property.

Utility service providers include:

- Electric – Vineland Electric
- Natural Gas – South Jersey Gas Company
- Telephone – Verizon
- Water and Sewer – City of Vineland (Vineland Municipal Utility)

Freight rail lines owned by Conrail, Inc. (Conrail) and utilized by CSX Corp. (CSX) and the Southern Railroad of New Jersey (SRNJ) border it to the northwest. There are no railroad access points or rights-of-way at the Site property. The rail line is located at grade with the Site property, and there are currently no physical barriers between the rail line and the Site property.

Site Property Features and Current Land Use

The Site property is irregular in shape. It covers a total area of 0.69 acres, or 30,056 square feet. It has about 263 feet of frontage along North 6th Street and 157 feet of frontage along East Pear Street. As stated above, railroad tracks extend along the northern boundary of the Site property. The Site property remains vacant. The original building, built in 1922, consisted of an office, an ice manufacturing area, and a three-story freezer/cold storage building. The rear part of the freezer area was added in 1936. Gravel covers most of the Site property.



Figure 2. Site Property Features Map

Site Property Ownership

Vineland Ice still owns the Site property, but both Vineland Ice and South Jersey Ice are defunct and insolvent. The City plans to acquire the property, and in March 2022, commenced a tax foreclosure proceeding in the Superior Court of New Jersey, Cumberland County, Chancery

Division, seeking fee simple title to the Site property. In April 2022, the United States removed the foreclosure proceeding to federal district court, where it is still pending.

Surrounding property ownership includes private owners and the City. Freight rail lines, owned by Conrail and utilized by CSX and SRNJ, bisect the block. Conrail also owns an adjacent property to the west. The City owns several properties further west of the Site property, along Eastern Boulevard, including an electric substation. Two vacant properties owned by Sasdelli Oil Company are north of the Site property, across the railroad tracks. Other property owners in the area include homeowners, churches, and utilities.

Site Property Building

In July 2016, EPA's contractor conducted a structural assessment on the Site property's building to evaluate visible structural deficiencies and the potential for building collapse during thawing and decommissioning of the building's refrigeration system. According to the Structural Assessment Report, the building was maintained at, or below, zero degrees Fahrenheit temperatures using multiple cooling systems, including an ammonia refrigerant system. The refrigeration system used a combination of pipes and blowers located throughout the building. The report noted that the building appeared to be in a poor state of repair and presented multiple safety concerns. The report also discussed ice buildup throughout the refrigerated portions of the building such that the ice appeared to be loading the structure.

The report identified the following structural concerns:

- Floors and systems were damaged, with only minimal measures taken to maintain functionality. Slippery metal plating covered damaged floors in several locations.
- Timber roof joists in the freezer/ice room were damaged, apparently from the load of an active cooling pipe encased in ice loading them at mid-span.
- In the basement, the infill beams showed signs of severe steel corrosion and the south basement wall bulged about 1 foot to 1.5 feet into the room.
- Floors sloped toward the south wall of the building, which appeared to be caused by deterioration and possible separation of the timber structure from its exterior walls and steel framing.
- In the southeast corner of the building's first floor, the concrete slab had cracked and displaced, which could have had several causes, including settlement of the subgrade, overloading of the slab with stacked product, or overloading of the slab by pipe columns installed previously to address the floor sloping issues.
- In the west room on the building's third floor, there were large brown ice formations on the east and west walls.

The report also noted several potential issues which could not be confirmed through visual observation, such as possible water/ice damage to the connection between the building's steel framing and brick perimeter walls.

An appraisal report, prepared at Vineland Ice's request and finalized in March 2020, noted that renovating or retrofitting the building for future use or redevelopment would be cost prohibitive.

Zoning

Key land use regulations relevant to future use at the Site property include the City's zoning ordinance. The Site property is in the City's Residential Redevelopment District. This District recognizes and preserves the character of older, established residential neighborhoods in Vineland. The Site property's past use as an industrial warehouse and storage facility was considered a permitted non-conforming use in the District. Zoning requirements and permitted uses in the Residential Redevelopment District are listed below.

Permitted Uses

- Single-family dwellings
- Two-family dwellings
- Townhouses
- Professional buildings
- Home occupations
- Public purpose uses, including schools, child-care centers, and governmental or public utility facilities and offices
- Community residences and community shelters

Conditional Uses

- Boardinghouses and rooming houses
- Hospitals, medical centers, and convalescent homes
- Churches and congregations
- Funeral homes
- Recreation facilities
- Home-based businesses (permitted as an accessory use)

Adjacent Zoning Districts

Within a 2-block radius of the Site property, there are areas that are part of three different zoning districts. These areas include a Parks and Open Space District to the north, a Civic and Professional Office District to the south, and a Neighborhood Commercial Zoning District to the west (see Figure 3 above).



Figure 3. Zoning Districts at and Near the Site Property

(Source: City of Vineland Interactive Map with Zoning Districts, accessed 3/25/23 online at

<https://gisportal.vinelandcity.org/portal/apps/webappviewer/index.html?id=89c744a0065e45a288fa2cb935bd41c3>.)

Community Future Land Use Plans

In New Jersey, land use regulations require that future land use plans and zoning ordinances are consistent. The City established several special planning districts to help address future changes in land use policies and regulations. The City's 2008 Master Plan and a 2018 Master Plan Re-Examination provide policy recommendations that underpin the City's land use ordinance and zoning designations. Part of the 2008 Master Plan includes key recommendations from a 2004 Center City Redevelopment Plan. Key recommendations from this plan and policy guidelines from the 2018 Master Plan Re-Examination relevant to the Site property are listed below. To access the City's planning documents and ordinances, visit <https://www.vinelandcity.org/planning>.

Center City Redevelopment Plan (2004)

The plan describes existing conditions and uses that are envisioned in the future for business, housing, civic, entertainment, and recreational uses. The Site property is within a residential district as described below.

Residential Redevelopment District

The Center City Redevelopment Plan clarifies the purposes of the Residential Redevelopment District:

- To stabilize and reclaim core residential neighborhoods in center-city Vineland.
- To foster a return to single- and two-family owner-occupied homes.
- To encourage the construction of new owner-occupied houses and renovation of older homes as single-family housing.
- To return area streets to a traditional two-way grid pattern, with traffic-calming measures that are safe for children and other pedestrians.

The plan outlines four traditional neighborhoods within the Center City Redevelopment Area, arranged in quadrants around the Landis Street corridor. It also identifies several challenges facing neighborhood stability: single-family homes converted to multi-family housing, prevalence of unoccupied homes and vacant lots, businesses infiltrating neighborhoods, and unsafe traffic speeds. Strategies recommended by the plan to restore single- and two-family housing in the District include eliminating businesses in residential areas and encouraging development of new single- and two-family housing and rehabilitation of older structures.

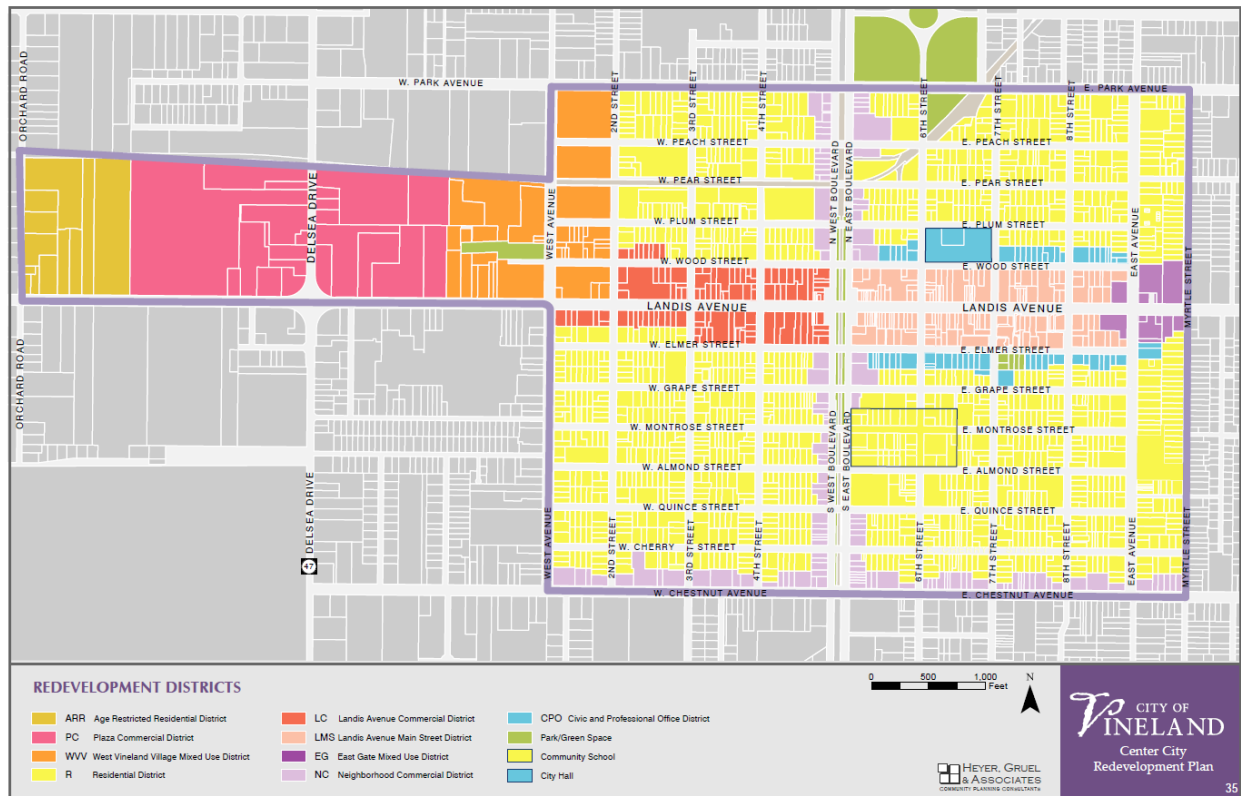


Figure 4. Vineland Center City Redevelopment Districts
(Source: Center City Redevelopment Plan, City of Vineland, 2004)

2018 Master Plan Re-Examination

The City undertook a 10-year re-examination of its 2008 Master Plan in 2018. It altered assumptions about appropriate land use policies for the Residential Redevelopment District. The 2018 plan notes limited redevelopment in center-city Vineland, disinvestment, and lots and structures remaining vacant over time. To address these challenges, the plan recommends bringing a greater diversity of housing development to center-city Vineland. Specifically, it recommends attracting younger residents and older residents, as well as building new multi-family apartment buildings to increase housing choice. It also questions the necessity of one-family and two-family housing policies in the Residential Redevelopment District and recommends encouraging business as well as residential growth in the area, in addition to encouraging a wider range of housing types.

City of Vineland Reuse Goals for the Site Property

In fall 2022 and winter 2023, EPA held reuse discussions with municipal staff regarding the future use of the Site property. The purpose of these discussions was to identify potential reuse opportunities and key parties likely to be involved in next steps. Meetings with municipal staff took place between September and December 2022 and in January 2023. Findings from these meetings are summarized below.

Current City Plans

Vineland Ice still owns the Site property. The City is seeking to acquire the Site property in foreclosure and intends to demolish and remove the building, slab, and debris according to the 2022 Order to Demolish or Renovate. The City has represented it would then regrade the Site property and turn it into a dog park. City staff noted that it would need to install safety precautions and a barrier to prevent trespassing on the railroad property to enable public access to a park at the Site property, as the City anticipates that CSX and SRNJ will continue to use the rail lines for freight transportation. This would present safety concerns for a dog park, as well as for residential uses permitted under the Site property's current zoning. City staff also noted that there are sports facilities at Landis Park, which is located north of the Site property, but that area neighborhoods have limited access to smaller, neighborhood-scale parks, making a dog park an attractive option.

City staff expressed concern that vacant properties north of the Site have become an attractive nuisance due to overgrown vegetation, trespassers, and frequent use of the area as a homeless encampment. The City plans to acquire these vacant properties in addition to the Site property. City staff has also expressed concern that the Site property itself has become a homeless encampment and is frequented by trespassers. The 2022 Order to Demolish or Renovate included testimony from a concerned resident about the negative impact of the Site property on the neighborhood.

Related Key Considerations

Diverse Housing Types and Higher Density

Given that the Site property is in the Center City Redevelopment Area, this property, and vacant properties like it could potentially benefit from infill housing priorities that aim to bring higher-density housing and a wider range of housing options to downtown Vineland. For example, the 2018 Master Plan Re-Examination includes housing policy recommendations that encourage infill housing in the Center City Redevelopment Area, including 2-to-4-story apartment-style housing, which is not currently permitted in the Residential Redevelopment District. Given the Site property's small size and proximity to a rail line, infill housing opportunities may be better suited to larger vacant properties in areas near the Site property.

Vineland Urban Enterprise Zone

The Site property is also in the Vineland Urban Enterprise Zone. The program, created in 1983, fosters new economic development by encouraging businesses to create private-sector jobs through public and private investment. Businesses benefit from low-interest loans, reduced sales tax, tax-free purchases, financial assistance, and subsidized unemployment insurance. A combination of housing and home businesses would be permitted by-right in the Residential Redevelopment District and are potential future uses for the Site property.

Proximity to the Civic Professional Office District

The Site property is one block away from the Civic Professional Office Redevelopment District. Immediately adjacent properties are in use as municipal facilities (a water tower, an electric

substation, and a police station). The City permits municipal facilities in all districts. However, the combination of utilities, municipal buildings, and infrastructure within a block of the Site property emerges as a defined cluster of uses that provides essential municipal services. The City could consider using the Site property to address other municipal facility needs, such as parking, storage, office space, or other community facility needs. As with other potential uses, safety precautions, including barriers, to prevent unauthorized railroad access would be warranted.

Solar Electricity Generation

The City's land use ordinance includes specific provisions for solar and wind power generation and electric vehicles. This section of the ordinance recognizes the City's own interest and the interest of residents and businesses in sustainable energy resources. It also notes the objectives of the New Jersey Energy Master Plan in broadening the number of providers and methods for producing energy. The ordinance clarifies that solar power generation, heating, and net metering electricity generation are permitted accessory uses to any principal building in the municipality, provided they are installed and operated in accordance with provisions in the ordinance and state and federal law.

Under the ordinance, solar photovoltaic (PV) systems greater than 1,000 square feet may be permitted as ground-mounted facilities. Such solar PV systems would need to follow the siting requirements outlined below.

- Surface cover beneath panels can include meadow grass, cultivated agriculture land, or parking spaces.
- Mounting shall minimize impervious surface coverage.
- A solid screen of evergreen plantings and/or fence is required along property lines abutting a residential use or right-of-way (in event of reverse frontage lot). Planting screen minimum height is 6 feet when planted or installed.
- Existing vegetation is to be maintained to the extent practical.
- Solar facilities are not included in the maximum lot coverage or impervious cover unless area under the system is impervious material.

For more information, the City's solar, wind, and electric vehicle ordinance is available at <https://ecode360.com/36128956>.

Municipalities and community facilities increasingly combine parking and solar electricity generation through the use of solar arrays that double as covered parking structures. As the City completes acquisition of the Site property and considers feasible reuse alternatives, it could explore ways to combine facility and energy efficiency goals at the Site property. For example, municipal facilities often have vehicle fleet parking needs. Increasingly, electric vehicle charging stations are co-located at fleet storage locations and alongside solar PV systems.

Reasonably Anticipated Future Land Uses

At Superfund sites, including facilities and properties addressed under EPA's emergency removal authority, EPA considers reasonably anticipated future land uses when removing or remediating contaminants that pose a risk to human health and the environment. Based on the findings of this reuse assessment, reasonably anticipated future land uses and key reuse considerations for the Site property are outlined below.

- EPA responded to the release and threatened release of hazardous substances at the facility to protect human health and the environment. No further federal cleanup activities are anticipated at this time. EPA has not required any land or resource use restrictions at the Site property that would limit potential future uses.
- Vineland Ice owns the Site property. EPA has a lien secured by the Site property for unrecovered response costs incurred and to be incurred at the Site. The City holds a lien on the Site property for unpaid taxes, and another lien may arise if the City abates and/or demolishes the building on the Site property. The City's economic development authority also holds a lien on the Site property for the amount of a judgment obtained against Vineland Ice and related parties due to a defaulted business loan. The City has stated that it plans to acquire the Site property for future public use and has commenced foreclosure proceedings, which are pending.
- The Site property includes an inactive cold storage warehouse and ice manufacturing facility housed in a building that is in poor structural condition.
- The facility operated as a permitted non-conforming industrial use in a residential zoning district. The City does not anticipate that commercial or industrial uses will be permitted at this location in the future, based on zoning and land use policy goals.
- Conrail owns an active freight rail line next to the Site property to the north. The Site property's proximity to the rail line poses a potential safety risk for users that may trespass or cross the track at public rights-of-way and may limit potential for residential uses, or park uses such as a dog park, that are permitted by-right. Any future use of the Site property would likely need to include the construction of physical barriers (e.g., fencing) to address rail safety risks.
- The Site property is in a residential area in the Center City Redevelopment Area. Surrounding properties include a mix of housing, public facilities, civic uses, municipal uses, vacant land, and utilities.
- The City owns and operates several community and public facility uses in the immediate vicinity of the Site property, including a police station, a water tower, and an electric substation.
- Single-family residential uses are located across East Pear Street to the south. Multi-family homes are north of the Site property.
- Parks and open space are also located north of the Site property.

- The City plans to acquire the Site property and demolish the building, then regrade the Site property and convert it into a dog park.

Potential Future Uses

Based on Site information, land use analyses, stakeholder perspectives, and reuse considerations highlighted in this report, reasonably anticipated future land uses for the Site property are outlined below.

- Residential uses – single-family housing, two-family housing, townhouses, as well as home businesses – provided railroad safety issues could be addressed.
- Neighborhood park or open space uses (dog park, pocket park, playground) provided railroad safety issues could be addressed.
- Community or municipal services (municipal offices, facilities, storage, or infrastructure) provided railroad safety issues could be addressed.
- Solar electricity generation (ground-mounted or roof-mounted solar PV) provided railroad safety issues could be addressed.

The future use(s) of the Site property will be determined by future property owner(s) and the City as the local land use authority. EPA's mission is to protect human health and the environment, and does not have any local land use decision-making authority. EPA considers the range of potential future uses that may be possible, now and in the future, at cleanup sites to help inform ongoing planning, inter-agency discussions, community members and interested parties, and prospective purchaser inquiries.

Contacts | Additional Information

For more information about the Site, EPA's cleanup process, and resources to support Superfund redevelopment, please contact the EPA representatives listed below.

Krista E. Yacovone, Assistant Regional Counsel, EPA Region 2
yacovone.krista@epa.gov | 212-637-3095

Alexis Rourk, Superfund Redevelopment Program Manager, OLEM/OSRTI
rourk.alexis@epa.gov | 202-564-3179

APPENDIX D

Permitted Encumbrances

Lienholder	Recording Information	Filing Date	Lien Amount
City of Vineland	Instrument No. 569545; Book 04175, Page 9703, in the Cumberland County Clerk's Office	January 22, 2019	\$66,930.51
Enterprise Zone Development Corporation of Vineland and Millville	Judgment J11073417, Docket No. CUM-L-670-16, Superior Court of New Jersey, Cumberland County Law Division, as modified by <i>In re Mark Frederick DiMeo, et al.</i> , Case No. 18-bk-10947 (JNP) (Bankr. D.N.J)	July 13, 2017	\$276,940.42