



## Monmouth County Document Summary Sheet



<b>MONMOUTH COUNTY CLERK</b> PO BOX 1251 MARKET YARD FREEHOLD NJ 07728	<b>Return Name and Address</b> Starkey Kelly Kenneally Cunningham Turnbach & Yannone 2 Hooper Avenue Toms River, NJ 08753
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<b>Official Use Only</b>	<b>Submitting Company</b>	Starkey Kelly		
	<b>Document Type</b>	Deed Notice		
	<b>Document Date</b> <i>(mm/dd/yyyy)</i>			
	<b>No. of Pages of the Original Signed Document</b> <i>(Including the cover sheet)</i>			
	<b>Consideration Amount</b> <i>(If applicable)</i>			1.00
	<b>Official Use Only</b>			

<b>First Party</b> <i>(Grantor or Mortgagor or Assignor)</i> <i>(Enter up to five names)</i>	<b>Name(s)</b> <i>(Last Name First Name Middle Initial Suffix)</i> <i>(or Company Name as written)</i>	<b>Address</b> <i>(Optional)</i>
	Tinton Falls, Borough of	

<b>Second Party</b> <i>(Grantee or Mortgagee or Assignee)</i> <i>(Enter up to five names)</i>	<b>Name(s)</b> <i>(Last Name First Name Middle Initial Suffix)</i> <i>(or Company Name as written)</i>	<b>Address</b> <i>(Optional)</i>
	Tinton Falls, Borough of	

<b>Parcel Information</b> <i>(Enter up to three entries)</i>	<b>Municipality</b>	<b>Block</b>	<b>Lot</b>	<b>Qualifier</b>	<b>Property Address</b>
	Tinton Falls      100      1				

<b>Reference Information</b> <i>(Enter up to three entries)</i>	<b>Book Type</b>	<b>Book</b>	<b>Beginning Page</b>	<b>Instrument No.</b>	<b>Recorded/File Date</b>

\*DO NOT REMOVE THIS PAGE.  
 DOCUMENT SUMMARY SHEET (COVER SHEET) IS PART OF MONMOUTH COUNTY FILING RECORD. RETAIN THIS PAGE FOR FUTURE REFERENCE.

Return Address:  
Starkey, Kelly, Kenneally,  
Cunningham, Turnbach & Yannone  
2 Hooper Avenue  
Toms River, NJ 08753

## DEED NOTICE

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE RECORDED IN THE SAME MANNER AS ARE DEEDS AND OTHER INTERESTS IN REAL PROPERTY.

Prepared by: Kevin N. Starkey, Esq.

## DEED NOTICE

This Deed Notice is made as of the \_\_\_\_ day of August, 2024, by *the Borough of Tinton Falls, 556 Tinton Avenue, Tinton Falls, NJ 07724* (together with his/her/its/their successors and assigns, collectively “Owner”).

1. THE PROPERTY. *The Borough of Tinton Falls, 556 Tinton Avenue, Tinton Falls, NJ 07724*, is the owner in fee simple of certain real property designated as Block 100 Lot 1, on the tax map of the *Borough of Tinton Falls* of *Monmouth County*; the New Jersey Department of Environmental Protection Program Interest Number (Preferred ID) for the contaminated site which includes this property *Preferred ID #013719*; and the property is more particularly described in Exhibit A, which is attached hereto and made a part hereof (the “Property”).

### 2. REMEDIATION.

i. *Pearse Mackle of the Licensed Site Remediation Professional and LSRP License No. 573655* has approved this Deed Notice as an institutional control for the Property, which is part of the remediation of the Property.

ii. N.J.A.C. 7:26C-7 requires the Owner, among other persons, to obtain a soil remedial action permit for the soil remedial action at the Property. That permit will contain the monitoring, maintenance and biennial certification requirements that apply to the Property.

3. SOIL CONTAMINATION. The Borough of Tinton Falls has remediated contaminated soil at the Property, such that soil contamination remains at certain areas of the Property that contains contaminants in concentrations that do not allow for the unrestricted use of the Property. Such soil contamination is described, including the type, concentration and specific location of such contamination, and the existing engineering controls on the site are described, in Exhibit B, which is attached hereto and made a part hereof. As a result, there is a statutory requirement for this Deed Notice in accordance with N.J.S.A. 58:10B-13.

4. CONSIDERATION. In accordance with the remedial action for the site which included the Property, and in consideration of the terms and conditions of that remedial action, and other good and valuable consideration, Owner has agreed to subject the Property to certain statutory and regulatory requirements that impose restrictions upon the use of the Property, to restrict certain uses of the Property, and to provide notice to subsequent owners, lessors, lessees and operators of the Property of the restrictions and the monitoring, maintenance, and biennial certification requirements outlined in this Deed Notice and required by law, as set forth herein.

5A. RESTRICTED AREAS. Due to the presence of contamination remaining at concentrations that do not allow for unrestricted use, the Owner has agreed, as part of the remedial action for the Property, to restrict the use of certain parts of the Property (the "Restricted Areas"); a narrative description of these restrictions is provided in Exhibit C, which is attached hereto and made a part hereof. The Owner has also agreed to maintain a list of these restrictions on site for inspection by governmental officials.

5B. RESTRICTED LAND USES. The following statutory land use restrictions apply to the Restricted Areas:

- i. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(10), prohibits the conversion of a contaminated site, remediated to non-residential soil remediation standards that require the maintenance of engineering or institutional controls, to a child care facility, or public, private, or charter school without the Department's prior written approval, unless a presumptive remedy is implemented; and
- ii. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(12), prohibits the conversion of a landfill, with gas venting systems and or leachate collection systems, to a single family residence or a child care facility.

6A. CHANGE IN OWNERSHIP AND REZONING.

- i. The Owner and the subsequent owners, lessors, and lessees, shall cause all leases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this Paragraph shall be construed as limiting any obligation of any person to provide any notice required by any law, regulation, or order of any governmental authority.
- ii. The Owner and the subsequent owners shall provide written notice to the Department of Environmental Protection on a form provided by the Department and available at [www.nj.gov/srp/forms](http://www.nj.gov/srp/forms) within 30 calendar days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the Owner's or subsequent owner's interest in the Restricted Area.

iii. The Owner and the subsequent owners shall provide written notice to the Department, on a form available from the Department at [www.nj.gov/srp/forms](http://www.nj.gov/srp/forms), within thirty (30) calendar days after the owner's petition for or filing of any document initiating a rezoning of the Property to residential.

6B. SUCCESSORS AND ASSIGNS. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessors, lessees and operators while each is an owner, lessor, lessee, or operator of the Property.

7A. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES.

i. The Owner and all subsequent owners, lessors, and lessees shall notify any person, including, without limitation, tenants, employees of tenants, and contractors, intending to conduct invasive work or excavate within the Restricted Areas, of the nature and location of contamination in the Restricted Areas, and, of the precautions necessary to minimize potential human exposure to contaminants.

ii. Except as provided in Paragraph 7B, below, no person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property which disturbs any engineering control at the Property without first retaining a licensed site remediation professional. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration.

iii. A soil remedial action permit modification is required for any permanent alteration, improvement, or disturbance and the owner, lessor, lessee or operator shall submit the following within 30 days after the occurrence of the permanent alteration, improvement, or disturbance:

(A) A Remedial Action Workplan or Linear Construction Project notification and Final Report Form, whichever is applicable;

(B) A Remedial Action Report and Termination of Deed Notice Form; and

(C) A revised recorded Deed Notice with revised Exhibits, and Remedial Action Permit Modification or Remedial Action Permit Termination form and Remedial Action Report.

iv. No owner, lessor, lessee or operator shall be required to obtain a Remedial Action Permit Modification for any temporary alteration, improvement, or disturbance, provided that the site is restored to the condition described in the Exhibits to this Deed Notice, and the owner, lessee, or operator complies with the following:

(A) Restores any disturbance of an engineering control to pre-disturbance conditions within 60 calendar days after the initiation of the alteration, improvement or disturbance;

(B) Ensures that all applicable worker health and safety laws and regulations are followed during the alteration, improvement, or disturbance, and during the restoration;

(C) Ensures that human exposure to contamination in excess of the remediation standards does not occur; and

(D) Describes, in the next biennial certification the nature of the temporary alteration, improvement, or disturbance, the dates and duration of the temporary alteration, improvement, or disturbance, the name of key individuals and their affiliations conducting the temporary alteration, improvement, or disturbance, the notice the Owner gave to those persons prior to the disturbance.

7B. EMERGENCIES. In the event of an emergency which presents, or may present, an unacceptable risk to the public health and safety, or to the environment, or an immediate environmental concern, see N.J.S.A. 58:10C-2, any person may temporarily breach an engineering control provided that that person complies with each of the following:

i. Immediately notifies the Department of Environmental Protection of the emergency, by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;

ii. Hires a Licensed Site Remediation Professional (unless the Restricted Areas includes an unregulated heating oil tank) to respond to the emergency;

iii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;

iv. Implements all measures necessary to limit actual or potential, present or future risk of exposure to humans or the environment to the contamination;

v. Notifies the Department of Environmental Protection when the emergency or immediate environmental concern has ended by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337; and

vi. Restores the engineering control to the pre-emergency conditions as soon as possible; and

vii. Submits to the Department of Environmental Protection within 60 calendar days after completion of the restoration of the engineering control, a report including: (a) the nature and likely cause of the emergency; (b) the measures that have been taken to mitigate the effects of the emergency on human health and the environment; (c) the measures completed or implemented to restore the engineering control; and (d) any changes to the engineering control or site operation and maintenance plan to prevent reoccurrence of such conditions in the future.

## 8. TERMINATION OF DEED NOTICE.

i. This Deed Notice may be terminated only upon recording a Department-approved Termination of Deed Notice, available at N.J.A.C. 7:26C Appendix C, with the office of the County Clerk of Monmouth County, New Jersey, expressly terminating this Deed Notice.

ii. Within 30 calendar days after recording a Department-approved Termination of Deed Notice, the owner of the property should apply to the Department for termination of the soil remedial action permit pursuant to N.J.A.C. 7:26C-7.

9. ACCESS. The Owner, and the subsequent owners, lessors, lessees, and operators agree to allow the Department, its agents and representatives access to the Property to inspect and evaluate the continued protectiveness of the remedial action that includes this Deed Notice and to conduct additional remediation to ensure the protection of the public health and safety and of the environment if the subsequent owners, lessors, lessees, and operators, during their ownership, tenancy, or operation, and the Owner fail to conduct such remediation pursuant to this Deed Notice as required by law. The Owner, and the subsequent owners, lessors, and lessees, shall also cause all leases, subleases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring that all holders thereof provide such access to the Department.

#### 10. ENFORCEMENT OF VIOLATIONS.

i. This Deed Notice itself is not intended to create any interest in real estate in favor of the Department of Environmental Protection, nor to create a lien against the Property, but merely is intended to provide notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a conditional remedial action for this site.

ii. The restrictions provided herein may be enforceable solely by the Department against any person who violates this Deed Notice. To enforce violations of this Deed Notice, the Department may initiate one or more enforcement actions pursuant to N.J.S.A. 58:10-23.11, and N.J.S.A. 58:10C, and require additional remediation and assess damages pursuant to N.J.S.A. 58:10-23.11, and N.J.S.A. 58:10C.

11. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Deed Notice requires modification, such provision shall be deemed to have been modified automatically to conform to such requirements. If a court of competent jurisdiction determines that any provision of this Deed Notice is invalid or unenforceable and the provision is of such a nature that it cannot be modified, the provision shall be deemed deleted from this instrument as though the provision had never been included herein. In either case, the remaining provisions of this Deed Notice shall remain in full force and effect.

12A. EXHIBIT A. Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map - A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, USGS Quad map, Hagstrom County Maps);

ii. Exhibit A-2: Metes and Bounds Description - A tax map of lots and blocks as well as metes and bounds description of the Property, including reference to tax lot and block numbers for the Property;

iii. Exhibit A-3: Property Map - A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

12B. EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:

i. Exhibit B-1: Restricted Area Map -- A separate map for each restricted area that includes:

(A) As-built diagrams of each engineering control, including caps, fences, slurry walls, (and, if any) ground water monitoring wells, extent of the ground water classification exception area, pumping and treatment systems that may be required as part of a ground water engineering control in addition to the deed notice;

(B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and

(C) Designation of all soil and all upland sediment sample locations within the restricted areas that exceed any soil standard that are keyed into one of the tables described in the following paragraph.

ii. Exhibit B-2: Restricted Area Data Table - A separate table for each restricted area that includes either (A) or (B) through (F):

(A) Only for historic fill extending over the entire site or a portion of the site and for which analytical data are limited or do not exist, a narrative that states that historic fill is present at the site, a description of the fill material (e.g., ash, cinders, brick, dredge material), and a statement that such material may include, but is not limited to, contaminants such as PAHs and metals;

(B) Sample location designation from Restricted Area map (Exhibit B-1);

(C) Sample elevation based upon mean sea level;

(D) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;

(E) The restricted and unrestricted use standards for each contaminant in the table; and

(F) The remaining concentration of each contaminant at each sample location at each elevation.

12C. EXHIBIT C. Exhibit C includes narrative descriptions of the institutional controls as follows:

i. Exhibit C-1: Deed Notice as Institutional Control: Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those described above, as follows:

(A) Description and estimated size of the Restricted Areas as described above;

(B) Description of the restrictions on the Property by operation of this Deed Notice;  
and

(C) The objective of the restrictions.

This Deed Notice is signed and attested to by Michelle Hutchinson, Borough Clerk, and Mayor Vito Perillo, the proper corporate officers as of the date at the top of the first page. Its corporate seal is affixed.

ATTESTED BY:

BOROUGH OF TINTON FALLS

\_\_\_\_\_  
MICHELLE HUTCHINSON  
Borough Clerk

By: \_\_\_\_\_  
Mayor Vito Perillo



STATE OF NEW JERSEY :  
 : ss.  
COUNTY OF MONMOUTH:

I certify that on August \_\_\_\_\_, 2024, Michelle Hutchinson Personally came before me, the subscriber, a Notary Public of the State of New Jersey, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Borough Clerk of the Borough of Tinton Falls, the municipality named in this document;
- (b) this person is the attesting witness to the signing of this Deed by the proper corporate officer, who is the Mayor of the municipality;
- (c) this Deed Notice was signed and delivered by the municipality as its voluntary act duly authorized by a proper resolution of its governing body;
- (d) this person knows the proper seal of the municipality which was affixed to this Deed Notice;
- (e) this person signed this proof to attest to the truth of these facts; and
- (f) the full and actual consideration paid or to be paid for the transfer is \$1.00 (such consideration is defined in N.J.S.A. 46:15-5).

\_\_\_\_\_  
MICHELLE HUTCHINSON  
Borough Clerk