

The CHRONICLE

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2020 VOL. 26

The POWERFUL TOOL

*Advancing New Jersey's
Renewable Energy Goals*

Land Use 101

Sustainable Solutions for Your Business

Employer Hiring Dos and Don'ts

The Esports Phenomenon

E N E R G Y & E N V I R O N M E N T E D I T I O N

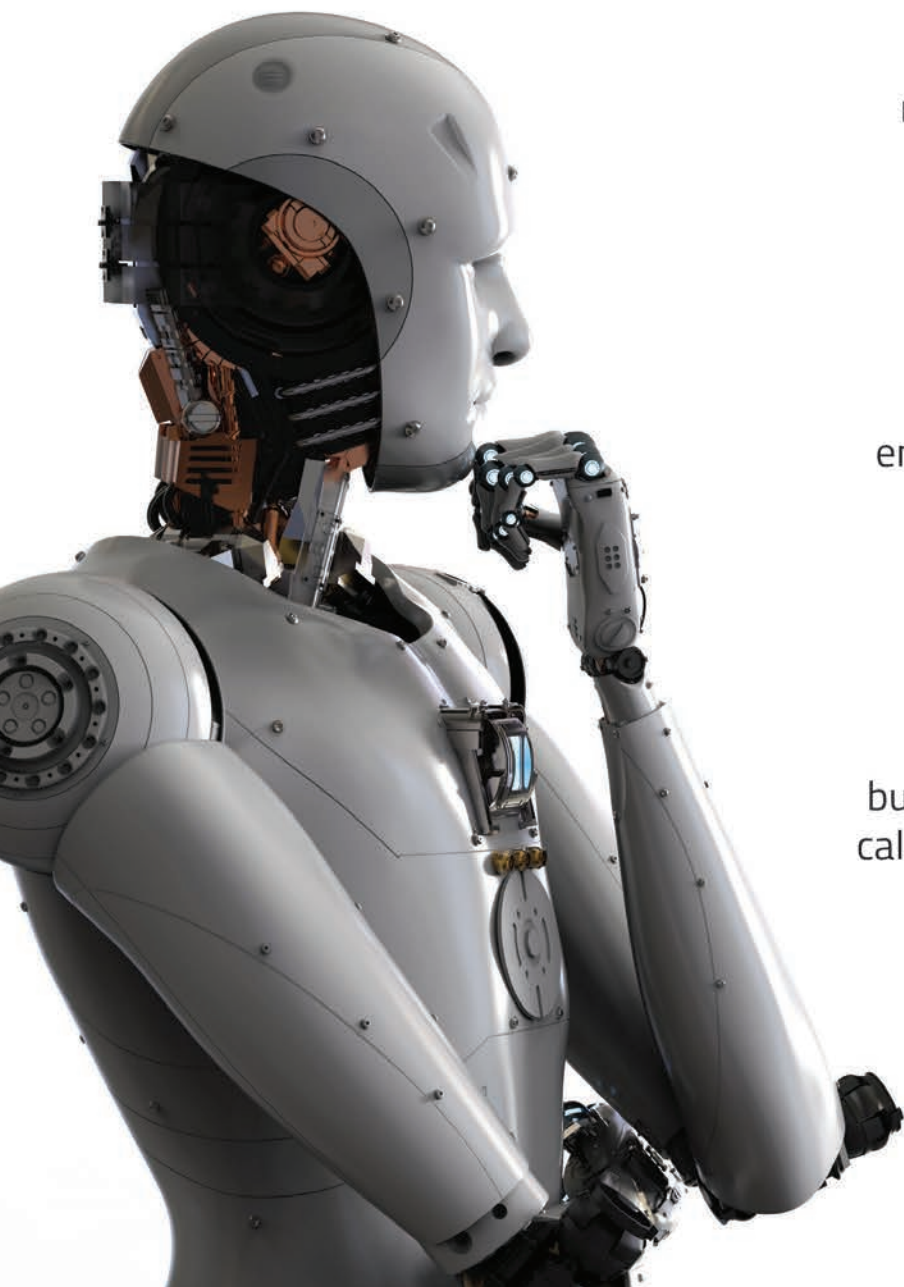


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President's Message

This edition of our quarterly magazine highlights key *Energy & Environment* issues. The Governor's recent release of New Jersey's Energy Master Plan underlines the need for development of varied solutions to meet our energy consumption requirements.

Our cover story: *GIS: The Powerful Tool Advancing New Jersey's Renewable Energy Goals* highlights a critical tool that could enable the advancement of New Jersey's energy goals. The second article on the impact of technological advancements, *Things We Take for Granted – National Security and the Convenience of Consumer Goods*, details the technological improvements that have resulted in increased performance efficiencies to get consumer goods to market.

Increasingly, corporations and businesses are implementing sustainable development goals to address their impact on the environment. *Sustainable Solutions for Your Business* outlines the various options available to businesses to aide in the reduction of their carbon footprint.

What LSRPs Need to Know About the MLUL discusses the complexities that municipalities face in site remediation efforts and outlines the ways to navigate the necessary permitting and land use regulations when considering contaminated properties or environmentally sensitive areas.

In the first of two articles focusing on employer hiring best practices, attorney's at Lauletta Birnbaum explore new regulations businesses and HR departments need to be cognizant of in *Employer Hiring Dos and Don'ts*. Parker McCay describes their recently introduced employee benefit program designed to assist employees facing the burden of student loan debt that inhibit their retirement planning in *Pay off Student Debt or Save for the Future?*

We hope you enjoy the content within this issue and are able to take away some interesting new information and learn more about South Jersey. We welcome your comments at marlene@snjdc.org. To learn more about the SNJDC, contact us at **856-228-7500** or visit our website at **snjdc.org**.

Sincerely,



Marlene Z. Asselta
President
Southern New Jersey Development Council

Sustainable Solutions for Your Business

***Integrating green energy and renewable strategies to
help meet corporate sustainability goals***



By John Fardella

*Vice President Energy Advisory Services,
Concord Engineering*

One of the underlying goals in corporate sustainability strategies is to lower carbon emissions. As a result, companies throughout the US are utilizing multiple renewable energy solutions and strategies to address them. For example, on January 15th, 2020 PepsiCo announced they plan to invest in renewable solutions to help achieve 100% renewable energy for its US direct operations by targeting a portfolio mix of Renewable Energy Credits (RECs), Power Purchase Agreements (PPAs), Virtual Power Purchase Agreements (VPPAs) and on-site solar, companies like Google, Microsoft and Amazon have also previously announced such strategies to achieve their corporate sustainability goals.

“As an industry leader, we have a responsibility to help spur the use of renewable energy in the US, while encouraging the kind of systemic change that can build a more sustainable food system. This is another step forward in that journey.”

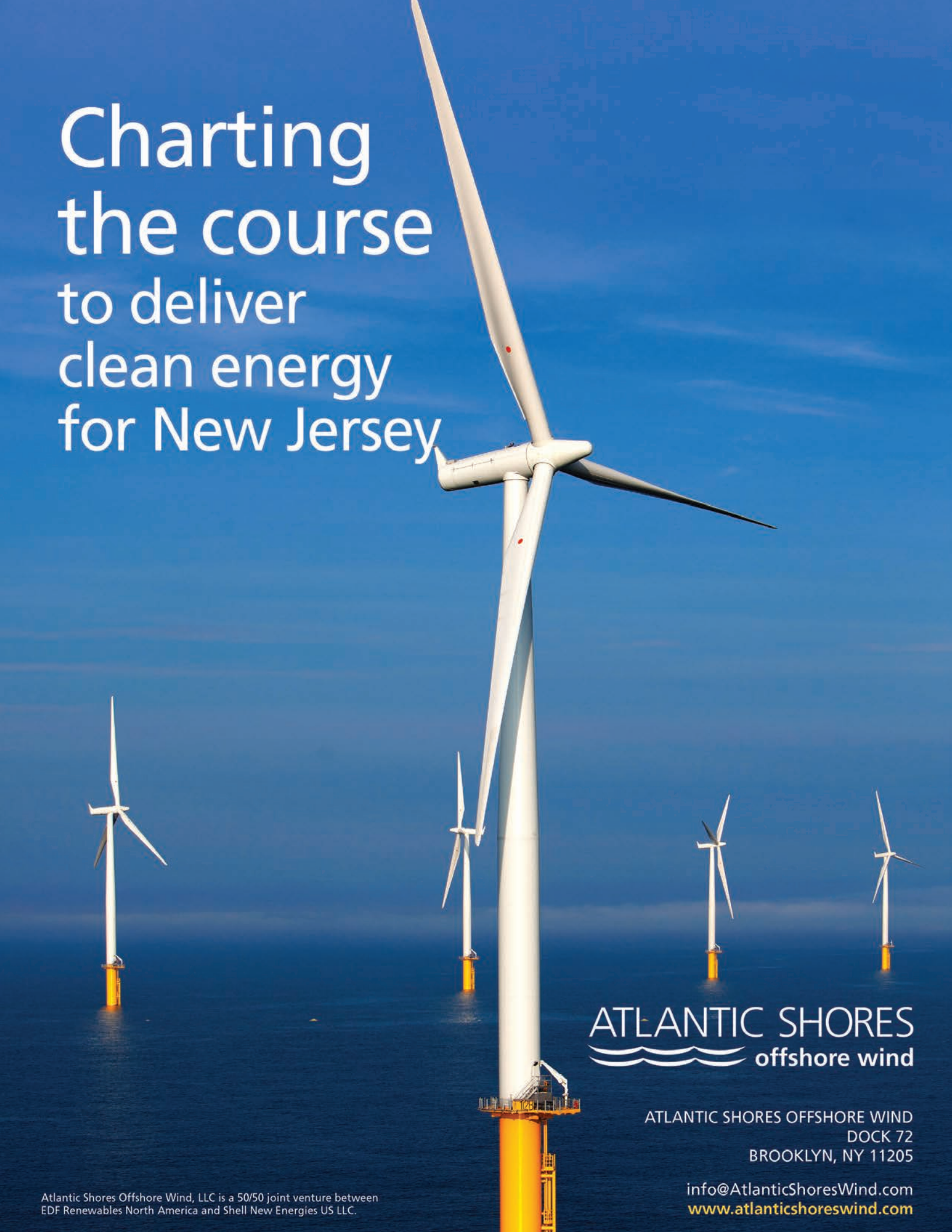
Simon Lowden
Chief Sustainability Officer, PepsiCo.

PPAs or VPPAs are contracts between energy buyers and developers of renewable energy projects that have yet to be built. In the contract, the buyer guarantees that the developer will receive a fixed price for their energy, and in exchange, the buyer receives renewable energy credits (RECs) for every megawatt-hour of clean energy that is generated and sold. VPPAs have similar characteristics of a PPA, however, the VPPA does not provide direct title of the physical energy to the corporation's energy account. Rather, this renewable energy asset is developed off-site or outside of the corporation's facilities boundaries. Both types of contracts are typically 15-20 years in length and usually require long-term financing that could easily exceed \$50-\$100 million dollars.

On-site solar generation, a common easily understood way to procure renewable energy involves installing equipment to generate renewable energy at the location where it is consumed. Depending on the size and scope of a project it may require a lot of capital as well as large parcels of land, large amount of rooftop coverage or a big parking lot area if carports are being considered.

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<https://www.smart-energy.com/industry-sectors/business-finance-regulation/pepsico-announces-2020-renewables-only-goal-for-us-operations/>



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What LSRPs Need to Know About the MLUL



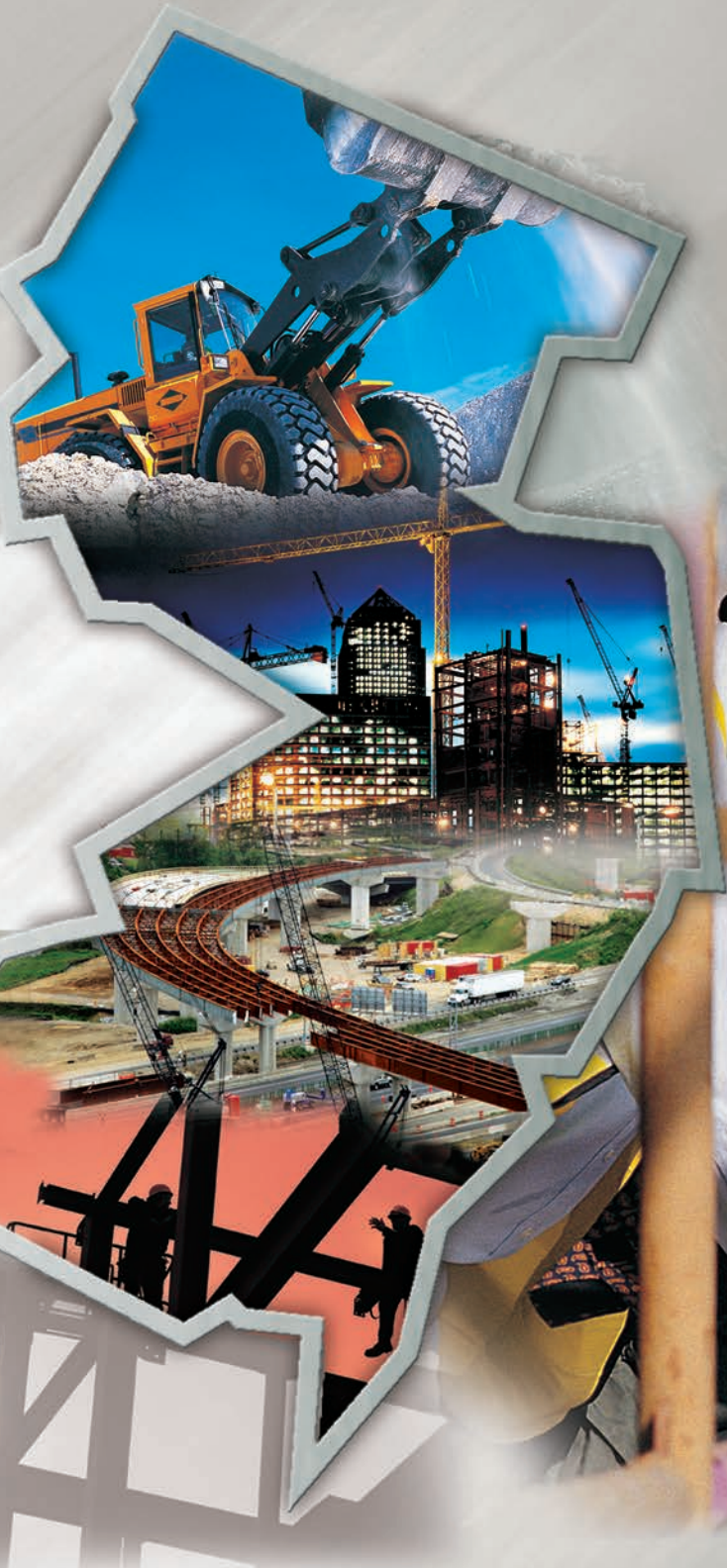
By Robert S. Baranowski, Jr.
Hyland Levin Shapiro, LLP

Since the enactment of the Site Remediation Reform Act (“SRRRA”) over ten years ago, our State’s Licensed Site Remediation Professionals (“LSRPs”) have been standing in the shoes of the New Jersey Department of Environmental Protection (“NJDEP”) when it comes to selecting and implementing remedial actions on most contaminated properties. NJDEP still oversees many aspects of site remediation including direct oversight cases, and a plethora of NJDEP permitting requirements still apply for remedial actions being conducted in environmentally sensitive areas such as freshwater wetlands, but denizens of the site remediation world have generally become accustomed to a certain level of autonomy. However, the LSRP community should also be aware of the need to consider whether local land use approval may be required for remediation activities being conducted on a property.

The Municipal Land Use Law (“MLUL”) at N.J.S.A. 40:55D-4 defines “development” as including “the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any... landfill, and any use or change in the use of... land or extension of use of land, for which permission may be required under the MLUL.” The law delegates authority to municipalities to regulate “development” within their communities, and to determine whether and when approval is required for such development activities. Where the development at issue does not strictly conform with the local ordinances, it may be necessary to obtain waivers or variances in order to perform the work, and only a local Planning or Zoning Board has the authority to grant such relief. Therefore, those involved with remediation of a site should review the local ordinances to determine whether performance of the remedial activity could trigger a review of such action as a “development,” or if such activity would require waiver or variance relief.

In connection with this analysis, it bears noting that the MLUL does expressly exempt from site plan review the siting of “a structure or equipment required for a groundwater remedial action,” which often entails the use of soil vapor extraction (“SVE”) trailer units and similar equipment. See N.J.S.A. 40:55D-66.8. Many local ordinances strictly regulate the placement

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Employer Hiring Dos and Don'ts

Finding and hiring good people to work for your business is one of the most important aspects of building a successful enterprise. The process can be a long and expensive one and unfortunately, rife with potential legal issues that your business should address before it even advertises for an open position.

Among the many considerations a business should consider, are what questions can be asked of potential hires during the hiring process. While there are a host of historical regulations that most employers already know limit certain interview and applications questions - such as inquiries into an applicants' race, ethnicity, disability, sexual orientation, religion, credit history and so forth - New Jersey has recently passed two laws restricting an employer's ability to inquire into a job applicants' criminal and salary history. A process that does run afoul of these regulations can help to avoid accusations of unfair hiring practices and prevent lawsuits and hefty government fines.

Most recently, New Jersey joined a host of other states by prohibiting employers from asking applicants about their current or past salary, wages, commissions, or benefits. The new law, which took effect on January 1, 2020, amends the New Jersey Law Against Discrimination and is designed "to strengthen protections against employment discrimination and thereby promote equal pay for women." In order to ensure that businesses take this latest restriction seriously, the law allows for a private individual to sue and imposes civil penalties from \$1,000-\$10,000 for each violation.

The new law also makes it unlawful for employers to consider past salary information even where the information is learned inadvertently during a background check, in which case the law requires the employer to destroy the salary information and not consider it in the hiring decision. That being said, employers are still permitted to consider salary

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Encouraging participation in our 401k savings plan has always been Parker McCay's strategy. We provide financial wellness and education sessions to increase participation in our 401k savings plan and help tie individual savings goals to this firm's benefit. However, over the last several years, we found ourselves wondering why more of our attorneys were not fully participating in our 401k savings plan and taking advantage of our matching bonus. Feedback from our sessions revealed that many attorneys were struggling with large student loan payments that rival mortgage payments; making saving for the future virtually impossible.

Understanding the challenges being faced by our next generation of attorneys, we decided to launch a Student Loan Repayment Program. As of January 1, 2020, attorneys paying off student debt are now receiving \$1,200 per year paid directly to the loan servicer. In many instances, this principal payment will reduce years off of their loan. This benefit continues through employment until satisfaction of the debt obligation.

"We are sympathetic to young attorneys dealing with the burdens of significant student debt from law school," says Philip Norcross, CEO and managing

partner of Parker McCay. "By offering this assistance, we are reducing financial stress and creating a positive work environment. We consider this a starting point and hope to enhance this benefit in the future."

Our attorneys appreciate the effort the firm is making to support its attorneys. "When the firm introduced this program, it showed that it really understands our issues and cares about helping us save for the future," said Associate Dana Stefanoni. "This is a truly meaningful benefit and another great reason to work at Parker McCay."





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Things We Take for Granted - National Security and the Convenience of Consumer Goods

Contributed by Ken Spahn, Dewberry

Black Friday, Cyber Monday and another holiday season has come and gone. This past holiday season was a bit more intense than usual, given that Thanksgiving happened on the latest day possible in the calendar year. The Port of New York and New Jersey is humming along like a fine-tuned machine with another record set for the volume of containers handled in 2019. In the last year, the port's total container volume jumped from the third highest in the U.S. to second behind Los Angeles. This is the result of many things, but today, the focus is on "things we take for granted," which ties into the holiday season and follows up on a project Dewberry recently participated in at Maher Terminals in Elizabeth, New Jersey, as the engineer of record.

Getting to Know Port Terminology

Maher operates one of the world's largest multi-user container terminals. The highly efficient container terminal operation is located within the Port of New York and New Jersey, which is the gateway to one of the most concentrated consumer markets in the

world and the busiest container port on the east coast of the U.S.

Most imported goods that eventually end up in malls or delivered to your doorstep in Amazon boxes are shipped thousands of miles in intermodal containers on huge ocean-going vessels that are capable of handling upwards of 14,000 containers or TEUs. Containers are mostly 20 or 40 feet long, and the container volumes are measured in "twenty-foot equivalent units," thus TEUs. Containers are discharged by enormous ship-to-shore cranes into container terminals and then transferred to trucks or trains for distribution across the U.S.

Today's modern container terminals can vary in levels of automation, but all employ specialized computer systems that utilize geospatial information systems (GIS) and artificial intelligence (AI) to maximize operational efficiency and reduce the time it takes to process and move containers off the terminal. At Maher Terminal, straddle carriers are used to

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GIS: The Powerful Tool Advancing New Jersey's Renewable Energy Goals



By Christopher Nourry, GISP
Manager of GIS Services, French & Parrello Associates

With the unveiling of New Jersey's Energy Master Plan and the signing of Executive Order 100 on January 27th, Governor Phil Murphy has set the Garden State on a path to produce 100% clean energy by the year 2050. The Energy Master Plan - which defines 100% clean energy as 100% carbon neutral electrical generation and maximum electrification of the transportation and building sectors - outlines several strategies on how to achieve this ambitious goal within the allotted 30-year time frame. These range from accelerating the deployment of renewable energy, to modernizing the existing energy infrastructure. While many of these initiatives are well underway and at the forefront of discussions statewide, one critical and perhaps lesser known tool assisting with the advancement of New Jersey's energy goals is Geographic Information Systems (GIS). GIS is being used for everything from infrastructure asset management to bring more efficiency into everyday operations and maintenance, to assisting with the siting of new renewable energy facilities. GIS is even used in environmental management to mitigate the risk of the environmental impact of energy projects.

To act on the state's Energy Master Plan, utility and energy suppliers will need to rely on up-to-date and accurate data, and many large utility suppliers have made major investments in GIS over the last several



decades to meet that goal. These systems are typically comprised of interactive maps encompassing network infrastructure and associated data, such as construction type, age of assets, current conditions, and maintenance records, all in one platform. GIS is widely used in the operation and maintenance of energy infrastructure, allowing for quicker, more accurate decision making, effectively optimizing asset management and the use of field personnel to prioritize repairs, general maintenance, and upgrades.

As utility and energy suppliers plan for network upgrades and the construction of clean energy generating facilities to meet the state's clean energy

goal, GIS will play a critical role in the siting of these facilities, transmission, and distribution routes. Suppliers will be able to use GIS to identify potential locations for the construction of solar and wind farms by harnessing existing data sources, such as tax and property ownership data, weather information, as well as land use and zoning information, in conjunction with planned and existing energy distribution infrastructure to identify suitable candidates for development. GIS will also be able to easily identify critical parts of their distribution networks which are, or would be, candidates for upgrades to meet the demand for renewable energy distribution.

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Sustainable Solutions for Your Business

(continued from page 2)

As more and more companies begin to formulate their short and long-term sustainability goals many are realizing it may be difficult to achieve or implement one of those strategies and are looking for alternative solutions, including looking at their energy supply options. The retail and wholesale marketplace has developed innovative options and solutions that are transforming traditional energy procurement methods by integrating renewable energy into their portfolio. For example, corporations can now incorporate into their energy supply contracts the purchase of various types of Renewable Energy Credits (RECs) and/or specific renewable energy projects to boost their corporate sustainability strategies.

The purchase of RECs is not equivalent to buying electricity, however, RECs represent the clean energy attributes of renewable energy. RECs enable individuals and businesses to reduce the environmental impact of their energy use and support renewable energy projects. RECs can be sourced from renewable energy projects that matter to them based on generation type, region of origin, and cost basis. Once purchased, they can be integrated directly into retail and wholesale energy supply contracts.

Another innovative solution being developed in the marketplace for organizations targeting a more robust renewable option that is gaining momentum is the integration of PPAs or VPPAs into retail and wholesale energy supply contracts. This type of integrated solution allows a corporation to take title of both the RECs and the physical energy output enabling them to procure renewable energy from an offsite renewable resource cost-effectively with much shorter terms as traditional PPAs.

Most businesses and individuals are concerned with the impact they have on the environment. There are many paths one could take to try and address this. The integration of the renewable energy certificates and/or renewable energy projects is one that is allowing businesses and individuals the ability to offset their greenhouse gas emissions, reduce their carbon footprint and help support the claim that they are supporting clean energy.



“The other arm of Concord is our energy agent on all our renewable energy procurements. They assisted us with procuring 100 percent renewable energy for municipal facilities. And they are currently helping us develop our renewable energy purchasing program for residents.”

Jennifer Gonzalez
Director of Environmental Services
and Chief Sustainability Office

https://concord-engineering.com/pdf/Business%20View%20Magazine_Hoboken%20Profile.pdf

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Employer Hiring Dos and Don'ts

(continued from page 6)

history under limited circumstances -- for example, if a potential hire volunteers salary information without "prompting or coercion" or if the application is for internal consideration or promotion of an existing employee. Applicants may provide salary history information to employment agencies, but the employment agency cannot reveal the information to potential employers unless the applicant gives express written consent - and refusal by the applicant to give such consent cannot be used against the applicant in the hiring process.

It is worth mentioning that employers are prohibited from asking about an applicant's criminal history in connection with consideration of an applicant. Passed in March of 2015, New Jersey's Opportunity to Compete Act, known commonly as the "Ban-the-Box Law", explicitly prevents employers from asking potential hires about his or her criminal history during the selection process, including on an application. The law also makes it a violation to state in a job posting that persons with criminal records need not apply. Importantly, however, the law only applies before an offer has been made. In other words, employers are free to inquire into a potential hire's criminal history after a formal offer has been extended. At that point, employers are free to decline to hire the applicant based on arrest or conviction records, unless the conviction has been expunged.

Clearly, there are a host of considerations employers must take into account when making hiring decisions - many of which have nothing to do with finding an individual who best meets your business' needs. In order to avoid the minefield that is the hiring process and preempt the inevitable lawsuit by asking what may seem like an innocuous question, contact Dan Blanchard or Randy Ford to help guide you through the process and mitigate your risks accordingly.

Dan Blanchard and Randy Ford, attorneys with Lauletta Birnbaum, LLC (Lauletta.com)



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The Esports Phenomenon

Bringing the Esports Gaming Phenomenon to South Jersey

While most people think video games are a kid's hobby, the video game industry far surpasses that of the motion pictures, television, and music industries combined. The average age of a video game player is 31 and going up as gaming becomes integrated into our everyday lives through computers, gaming consoles and mobile phones. Esports, the name given to highly skilled video game competitions, is an economic and cultural powerhouse that will drive entertainment and tourism for generations to come.

This shift in entertainment offerings has already begun in Atlantic City, thanks to an innovative pilot program spearheaded by the Casino Reinvestment Development Authority (CRDA) and the Gaud-Hammer Gaming Group (G3).

"Atlantic City, in conjunction with the CRDA, Meet AC and the Atlantic County Economic Alliance have been pioneers in driving esports forward in the region," says Anthony Gaud, CEO of G3.

Gaud has been instrumental in developing esports in the area, positioning Atlantic City on Marketwatch's Top Ten Esports Cities in 2019 and supporting the New Jersey State Assembly in their efforts to legalize esports gambling in Atlantic City.

"In many ways esports works similarly to traditional sports and entertainment businesses, but it's also a complex, dynamic ecosystem of its own," adds Jim Hammerstedt, G3 Co-Founder.

G3 approaches the space with a multi-disciplinary strategy, bringing a select team of industry executives, SMEs, and corporate partners together to offer integrated esports services including data and analytics, venue design, tournament and league creation, programming content, and live gaming events.

It's a strategy that's reaping benefits as G3 has developed key partnerships with South Jersey business stalwarts like Calvi Electric and SOSH Architects and will soon announce partnerships with high profile esports and retail organizations.

Nationally, Anthony Gaud serves as the inaugural Chair of the American Heart Association's Gaming and Youth Task Force and is spearheading their 'Heart of a Champion' gaming and health initiative. This initiative will focus on exercise and wellness programs for kids of all ages, especially middle school, high school and colleges where esports teams are common. Bridging fitness and gaming together helps educators and parents get excited about students participating in esports.

"The AHA's goal in entering this space is to help players learn healthier habits that simultaneously help them become better, more able gamers," Gaud says. "Tying health regimens into gaming provides opportunities to get fit to doing something you already love."

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What LSRPs Need to Know About the MLUL *(continued from page 4)*

of trailers on properties for purposes such as temporary construction and sales management offices, so when a local zoning or code enforcement officer spots an SVE trailer on a site, the reaction might be to order the property owner or LSRP to seek approval from the local land use board. The MLUL anticipates this and has provided not only a site plan exemption but a provision that such use is deemed a permitted accessory use or structure, which “shall be a permitted use in all zoning or use districts of a municipality,” and therefore shall not require a use variance pursuant to N.J.S.A. 40:55D-70(d). This is an express recognition that remediation of a property must be allowed to proceed in the manner determined by the LSRP. While the statute speaks in terms of a remedial action that has been “approved by [NJDEP],” the LSRP now acts in such capacity and it would be expected that municipal authorities would recognize that.

While a municipality is permitted to adopt “reasonable standards” for the siting of groundwater remediation equipment or structures, i.e. regulating the placement of such equipment so that it would respect setback requirements, the MLUL also provides that variance relief from any such regulations must be granted if necessary, upon “reasonable conditions.” See N.J.S.A. 40:55D-66.9. Such relief is also to be expeditiously considered and granted by the Board, within 20 days of an application for same. So, if a groundwater remediation structure must be located in a side or rear yard setback area, for example, the local ordinance might require the party conducting the remediation to obtain a variance, but the MLUL requires the Board to grant it.

LSRPs should be mindful of the foregoing provisions when conducting groundwater remediation activities involving trailers or structures, and in general should be aware of local land use ordinances so that such regulations can be addressed as needed in connection with any remediation project.

Robert S. Baranowski, Jr., partner at Hyland Levin Shapiro, LLP, concentrates his practice on environmental and land use matters.



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The Esports Phenomenon *(continued from page 16)*

G3 plans to host a national kickoff to the AHA's 'Heart of a Champion' initiative in the fall of 2020. The two-day Fortnite event will focus on gaming, physical wellness and mental well-being, supporting the AHA's healthy gamer mission.

As they develop the programming for the event, G3 is working to draw on South Jersey's network of business and non-profit relationships.

“It's truly amazing,” says Ali Robinson, G3's SVP of Programming and Production. “Everyone we've spoken to - from Stockton University, to Atlantic City officials, local businesses, and even organizations such as the Hero Campaign and local farm-to-table initiatives - has been extremely generous and instrumental in helping us develop this premiere event. They have brought ideas and passion and commitment on a corporate and personal level.”

“When they first approached me with the idea of helping establish esports in South Jersey, I thought they were crazy,” said G3 Senior Advisor, Steve Batzer. “But after looking at the economic and social impact that esports brings, I'd be crazy not to get involved!”



Gaud-Hammer Gaming Group (G3)
www.g3esports.gg
anthony@g3esports.gg

GIS: The Powerful Tool Advancing New Jersey's Renewable Energy Goals

(continued from page 13)

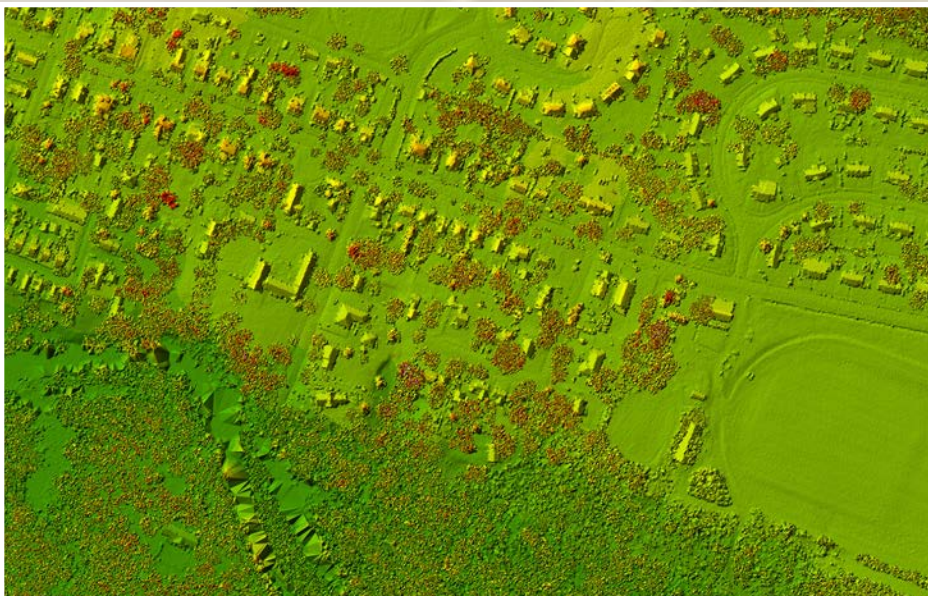
GIS is also relied upon for environmental management and to mitigate environmental risk within existing and planned network footprints. Data, such as endangered species habitats, land use constraints, and flood mapping, are fully incorporated into a supplier's GIS. This then allows individuals across multiple business units and operational departments to quickly and easily identify the parts of their infrastructure that feature these sensitive environmental habitats and how to best prevent potential impacts to both these areas and the infrastructure itself. Power distribution grids, which typically feature substations and overhead powerline easements, use this technology regularly during routine vegetation maintenance tasks. These systems allow for proper planning and identification of sensitive areas that potentially feature threatened or endangered species within planned maintenance areas.



Utility Easement



As New Jersey begins a new decade and looks forward to the ushering in of a new era of clean and renewable energy, suppliers and companies alike will look to GIS as an integral part of their current and future operations.



Vegetation Analysis Map



Things We Take for Granted - National Security and the Convenience of Consumer Goods

(continued from page 10)

transport containers from the ships to nearby trains for cross-country delivery. A straddle carrier is a large, fast moving, eight-wheeled piece of equipment—like something out of a Star Wars movie—that carries containers without the need for a truck chassis. In effect, a straddle carrier “straddles” over the container and picks it up for transport within the container terminal.

National Security

Not too long after September 11, 2001, all imported containers were required to be scanned for the presence of radioactive material before leaving the port. Manual individual searches of the literally tens of thousands of containers imported into the U.S. on a daily basis are simply not feasible, so the Department of Homeland Security (DHS)—partnering with other intelligence agencies, shippers, and terminal operators—developed Radiation Portal Monitors (RPMs) that are capable of quickly scanning containers for the presence of radioactive material when they leave the port facilities by truck.

Creating an Efficient Process

Until recently, there wasn’t a similarly seamless process for scanning containers transferred by straddle carriers to be loaded onto trains. Traditional RPMs are unable to scan containers being moved by a straddle carrier due to the size and design of the equipment. All containers being transferred to rail cars needed to be staged in an area on the terminal so they could be manually scanned by a mobile RPM unit. This created inefficiencies, such as double handling and loss of precious terminal space to allow for container scanning.



This successful modification of a relatively new technology onto an existing straddle carrier operating system helped achieve the secure, seamless flow of containerized goods in time for the holidays. Security and convenience of consumer goods — things we take for granted.

The newly installed straddle carrier RPM scanning system at Maher Terminal has vastly improved the flow and efficiency of the shipment of imported containers from vessel to train, while also freeing up operating space on the terminal.

Photo courtesy of Dewberry





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