

PASSAIC COUNTY UTILITIES AUTHORITY

FINANCIAL STATEMENTS

FOR THE YEARS ENDED

DECEMBER 31, 2011 AND 2010

PASSAIC COUNTY UTILITIES AUTHORITY

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Financial Section

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INDEPENDENT AUDITOR'S REPORT

Honorable Commissioners
Passaic County Utilities Authority
Passaic County, New Jersey

We have audited the accompanying statements of net assets of the Passaic County Utilities Authority as of December 31, 2011 and 2010, and the related statements of revenues, expenses and changes in net assets and cash flow for the years then ended. These financial statements are the responsibility of the Authority's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and in accordance with audit requirements prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Passaic County Utilities Authority's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Passaic County Utilities Authority, as of December 31, 2011, and the respective changes in financial position and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the Passaic County Utilities Authority will continue as a going concern. As discussed in Note 11 to the financial statements, the Passaic County Utilities Authority has been affected by the outcome of litigation and/or governmental proceedings relative to waste flow control. The District Court has ruled among other things that New Jersey's Waste Flow Rules are unconstitutional to the extent that they discriminate against interstate commerce. As a result of the elimination of waste flow, the operations of the PCUA have been substantially impeded. Since there is no approved Authority plan directing waste flow and/or there is no Federal and/or State legislative remedy



or State regulatory remedy, it is likely that the PCUA will be unable to meet its debt service repayments and the operations will be further impeded, thus raising substantial doubt about its ability to continue as a going concern. The County of Passaic is currently assisting the Authority with its debt obligation under the County Landfill Agreement described in Note 9. Management's plans in regard to regulatory waste flow are described in Note 13. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

In accordance with *Government Auditing Standards*, we have also issued our report dated March 15, 2012 on our consideration of the Passaic County Utilities Authority's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the score of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or compliance. That report is an integral part of our audit performed in accordance with *Government Auditing Standards* and should be considered in assessing results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board and the Division of Local Government Services, Department of Community Affairs, State of New Jersey, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was performed for the purpose of forming opinions on the financial statements that collectively comprise the Passaic County Utility Authority's basic financial statements. The accompanying supplementary schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements. The supplementary schedules have not been subjected to the auditing procedures applied in the audit of basic financial statements and, accordingly, express no opinion on them.



FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.
Certified Public Accountants

March 15, 2012



Management Discussion and Analysis

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010

As management of the Passaic County Utilities Authority, we offer the Authority's financial statements this narrative overview and analysis of the Authority's financial performance during the fiscal years ended December 31, 2011 and 2010. Please read this analysis in conjunction with the Authority's financial statements, which follow this section.

Financial Highlights

- The Authority's liabilities exceeded its assets by \$61,603,895 (net assets) for the fiscal year reported. This compares to the previous year when liabilities exceeded assets by \$62,987,025.
- Total net assets are comprised of the following:
 - (1) Invested in Capital Assets (net of related debt) of \$(58,741,791).
 - (2) Unrestricted net assets of \$(2,862,104) represent the portion available to maintain the Authority's continuing obligations to citizens and creditors.
- Total liabilities of the Authority decreased by \$1,408,554 to \$62,346,474 during the fiscal year.

Overview of the Financial Statements

This annual report includes this management discussion, the independent auditor's report and the basic financial statements of the Authority. The financial statements also include notes that explain in more detail some of the information in the financial statements.

Required Financial Statements

The financial statements of the Authority report information of the Authority using accounting methods similar to those used by private sector companies. These statements offer short and long-term financial information about its activities. The *Statement of Net Assets* includes all of the Authority's assets and liabilities and provides information about the nature and amounts of investments in resources (assets) and the obligations to Authority creditors (liabilities). It also provides the basis for evaluating the capital structure of the Authority and assessing the liquidity and financial flexibility of the Authority.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

All of the current year's revenues and expenses are accounted for in the *Statement of Revenues, Expenses and Changes in Net Assets*. This statement measures the results of the Authority operations over the past year and can be used to determine whether the Authority has recovered all its costs through its user fees and other charges, operational stability and credit worthiness.

The final required financial statement is the *Statement of Cash Flows*. This statement reports cash receipts and cash payments, and net changes in cash resulting from operations, investing and financing activities and provides answers to such questions as what operational sources provided cash, what was the cash used for, and what was the change in cash balance during the reporting period.

Notes to the Financial Statements

The accompanying notes to the financial statements provide information essential to a full understanding of the financial statements. The notes to the financial statements begin immediately following the basic financial statements.

Other Information

In addition to the basic financial statements and accompanying notes, this report presents certain required supplementary information. This supplementary information follows the notes to the financial statements.

Financial Analysis of the Authority

One of the most important questions asked about the Authority's finances is "Is the Authority as a whole better able to fulfill its mission as a result of this year's activities?" The *Statement of Net Assets* and the *Statement of Revenues, Expenses and Changes in Net Assets* report information about the Authority's activities in a way that will help answer this question. These two statements report net assets of the Authority and the changes in those assets. The reader can think of the Authority's net assets – the difference between assets and liabilities – as one way to measure financial health or financial position. Over time, increases or decreases in the Authority's net assets are one indicator of whether its financial health is improving or deteriorating. However, one will need to consider the non-financial factors such as changes in economic conditions, population growth, development, and new or changed government regulation.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Net Assets

As year-to-year financial information is accumulated on a consistent basis, changes in net assets may be observed and used to discuss the changing financial position of the Authority as a whole.

The Authority's net assets at fiscal year-end are \$(61,603,895). This is a \$1,383,130 increase over last year's net assets of \$(62,987,025). A summary of the Authority's statement of net assets is presented in the following table:

Condensed Statement of Assets
(000's)

	<u>2011</u>	<u>2010</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Current and Other Assets	<u>742</u>	<u>768</u>	<u>(26)</u>	(3.39)%
Total Assets	<u>742</u>	<u>768</u>	<u>(26)</u>	(3.39)%
Long-term Debt Outstanding	57,930	59,388	(1,458)	(2.46)%
Other Liabilities	<u>4,416</u>	<u>4,367</u>	<u>49</u>	1.12%
Total Liabilities	<u>62,346</u>	<u>63,755</u>	<u>(1,409)</u>	(2.21)%
Invested in Capital Assets, Net of Related Debt	(58,742)	(60,129)	1,387	(2.31)%
Unrestricted	<u>(2,862)</u>	<u>(2,858)</u>	<u>(4)</u>	0.14%
Total Net Assets	<u>(61,604)</u>	<u>(62,987)</u>	<u>1,383</u>	(2.20)%

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Net Assets, continued

A summary of the Authority's prior year statement of net assets is presented with comparative FY 2009 balances in the following table:

Condensed Statement of Assets
(000's)

	<u>2010</u>	<u>2009</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Current and Other Assets	<u>768</u>	<u>792</u>	<u>(24)</u>	(3.03)%
Total Assets	<u>768</u>	<u>792</u>	<u>(24)</u>	(3.03)%
Long-term Debt Outstanding	59,388	60,800	(1,412)	(2.32)%
Other Liabilities	<u>4,367</u>	<u>4,328</u>	<u>39</u>	0.90%
Total Liabilities	<u>63,755</u>	<u>65,128</u>	<u>(1,373)</u>	(2.11)%
Invested in Capital Assets, Net of Related Debt	(60,129)	(61,451)	1,322	(2.15)%
Unrestricted	<u>(2,858)</u>	<u>(2,885)</u>	<u>27</u>	(0.94)%
Total Net Assets	<u>(62,987)</u>	<u>(64,336)</u>	<u>1,349</u>	(2.10)%

While the *Statement of Net Assets* shows the change in financial position of nets assets, the *Statement of Revenues, Expenses and Changes in Net Assets* provides answers as to the nature and source of these changes. As can be seen in the following table, net assets increased by \$1,383,130.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Net Assets, continued

**Condensed Statement of Revenues, Expenses
and Changes in Net Assets
(000's)**

	<u>2011</u>	<u>2010</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Non-operating Revenues	4,300	4,321	(21)	(0.49)%
Total Revenues	4,300	4,321	(21)	(0.49)%
Operating Expenses	53	49	4	8.16%
Interest Expense	2,839	2,898	(59)	(2.04)%
Other Nonoperating Expense	<u>25</u>	<u>25</u>	<u>0</u>	0.00%
Total Expenses	<u>2,917</u>	<u>2,972</u>	<u>(55)</u>	(1.85)%
Change in Net Assets	1,383	1,349	34	2.52%
Beginning Net Assets	<u>(62,987)</u>	<u>(64,336)</u>	<u>1,349</u>	(2.10)%
Ending Net Assets	<u>(61,604)</u>	<u>(62,987)</u>	<u>1,383</u>	(2.20)%

The Authority's Nonoperating Revenues decreased by \$20,040 to \$4,300,008 from \$4,320,048 due to the decrease in funds received from the County of Passaic for payment of current principal and interest due on debt and reduced interest expenses.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Net Assets, continued

A summary of the Authority's prior year statement of revenues, expenses and change in net assets is presented with comparative FY 2009 figures in the following table:

**Condensed Statement of Revenues, Expenses
and Changes in Net Assets
(000's)**

	<u>2010</u>	<u>2009</u>	<u>Dollar Change</u>	<u>Percent Change</u>
Non-operating Revenues	4,321	4,422	(101)	(2.28)%
Total Revenues	4,321	4,422	(101)	(2.28)%
Operating Expenses	49	50	(1)	(2.00)%
Interest Expense	2,898	2,946	(48)	(1.63)%
Other Nonoperating Expense	<u>25</u>	<u>26</u>	<u>(1)</u>	(3.85)%
Total Expenses	2,972	3,022	(50)	(1.65)%
Change in Net Assets	1,349	1,400	(51)	(3.64)%
Beginning Net Assets	<u>(64,336)</u>	<u>(65,736)</u>	<u>1,400</u>	(2.13)%
Ending Net Assets	<u>(62,987)</u>	<u>(64,336)</u>	<u>1,349</u>	(2.10)%

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010

Budgetary Highlights

The Authority prepares and submits an annual budget to the State of New Jersey, which approves the budget for adoption by the Authority prior to the beginning of the fiscal year.

The following tables provides a FY 2011 and FY 2010 budget comparison:

Budget vs. Actual			
FY 2011			
(000's)			
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Revenues:			
Non-Operating	<u>4,400</u>	<u>4,287</u>	<u>(113)</u>
	<u>4,400</u>	<u>4,287</u>	<u>(113)</u>
Expenses:			
Operating	141	53	88
Non-Operating	<u>4,259</u>	<u>4,238</u>	<u>21</u>
	<u>4,400</u>	<u>4,291</u>	<u>109</u>
Income	<u>0</u>	<u>(4)</u>	<u>(4)</u>

Budget vs. Actual			
FY 2010			
(000's)			
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Revenues:			
Non-Operating	<u>4,390</u>	<u>4,309</u>	<u>(81)</u>
	<u>4,390</u>	<u>4,309</u>	<u>(81)</u>
Expenses:			
Operating	141	49	92
Non-Operating	<u>4,249</u>	<u>4,233</u>	<u>16</u>
	<u>4,390</u>	<u>4,282</u>	<u>108</u>
Income	<u>0</u>	<u>27</u>	<u>27</u>

Non-operating revenues consist primarily of money received from the County of Passaic as part of the County Landfill Agreement.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Capital Assets

At the end of 2011, the Authority had no additional investments in capital assets. The Authority's net property, plant and equipment at fiscal year-end was \$-0-. A summary of the Authority's capital assets is presented in the following table:

Capital Assets			
(000's)			
	<u>2011</u>	<u>2010</u>	<u>Dollar</u> <u>Change</u>
Property and Equipment	13,331	13,331	-0-
Less:			
Accumulated Depreciation	<u>(13,331)</u>	<u>(13,331)</u>	<u>-0-</u>
Net Property, Plant and Equipment	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>

Debt Administration

The Authority currently has issued and outstanding the principal amount of \$59,080,000 of solid waste indebtedness that has been issued from time to time for the purpose of financing the costs relating to its Solid Waste system. The May 1, 1997 opinion of the Third Circuit Court of Appeals in Atlantic Coast Demolition and Recycling Co, Inc. v. Board of Chosen Freeholders of Atlantic County, 112 F. 3rd 652 (1997), ultimately resulted in the demise of the County system of regulatory waste flow controls. The Authority subsequently ceased to operate the solid waste system. As a result, all constituent municipalities within the County have independently procured solid waste collection and disposal services. The County of Passaic is currently assisting the Authority with its debt service obligation under the terms of the County Landfill Agreement.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Solid Waste Indebtness Currently Secured by the County Landfill Agreement

The Authority has issued several series of bonds since 1987 that are secured by the County Landfill Agreement on a parity basis with the Bonds, except as set forth below. There is currently outstanding the following debt secured by the County Landfill Agreement:

- \$32,600,000 in aggregate principal amount of its 2004A tax-exempt Solid Waste Disposal Revenue Bonds and \$8,450,000 in aggregate principal amount of its 2004B taxable Solid Waste Disposal Revenue Bonds, as amended and supplemented; and
- \$18,030,000 in aggregate principal amount of its 2008A tax-exempt Solid Waste Disposal Revenue Bonds, as amended and supplemented.

PenPac Settlement

For some time, the Authority has been a party to certain litigation captioned, "In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. to Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services" and "PenPac, Inc. Vs. Passaic County Utilities Authority". The proceedings in this litigation ultimately resulted in a judgment in favor of the Plaintiff ("PenPac") that resulted in the turnover of monies from specifically designated bank accounts and the assignment of all future income from the Passaic Investors mortgage receivable to PenPac. The impact of this judgment is further described inn Note 12 in the Notes to Financial Statements.

PASSAIC COUNTY UTILITIES AUTHORITY
MANAGEMENT'S DISCUSSION AND ANALYSIS
DECEMBER 31, 2011 AND 2010
(continued)

Economic Factors, Future Years' Budgets and Rates

The Commissioners and management of the Authority consider many factors when preparing each years budget. Two of the main factors are payment of the Authority's debt and new regulations issued by the State and Federal governments.

Contacting the Authority

This financial report is designed to provide our customers and creditors with a general overview of the Authority's finances and to demonstrate the Authority's accountability for the revenue it receives. If you have any questions about this report or need additional information, contact the Passaic County Utilities Authority, 401 Grand Street, Paterson, NJ 07505.

Basic Financial Statements

PASSAIC COUNTY UTILITIES AUTHORITY
STATEMENT OF NET ASSETS
DECEMBER 31, 2011 AND 2010

<u>ASSETS</u>	<u>2011</u>	<u>2010</u>
Current Assets		
Cash and Cash Equivalents	93,258	93,258
Accounts Receivable	16,001	16,001
Total Current Assets	<u>109,259</u>	<u>109,259</u>
Non-Current Assets		
Deferred Debits		
Bond Discount	236,791	245,928
Debt Issuance Costs - Net	<u>396,529</u>	<u>412,816</u>
Total Deferred Debits	<u>633,320</u>	<u>658,744</u>
Capital Assets		
Property and Equipment	13,331	13,331
Accumulated Depreciation - Property and Equipment	<u>(13,331)</u>	<u>(13,331)</u>
Total Capital Assets	<u> </u>	<u> </u>
TOTAL ASSETS	<u><u>742,579</u></u>	<u><u>768,003</u></u>

The accompanying "Independent Auditors Report" and "Notes to the Financial Statements" are an integral part of this report.

**PASSAIC COUNTY UTILITIES AUTHORITY
STATEMENT OF NET ASSETS
DECEMBER 31, 2011 AND 2010**

<u>LIABILITIES</u>	<u>2011</u>	<u>2010</u>
Current Liabilities		
Payable from Unrestricted Assets		
Accounts Payable	191,520	167,162
PenPac Settlement	1,776,705	1,776,705
E.R.O. Deposits Payable	60,240	60,240
	<u>2,028,465</u>	<u>2,004,107</u>
Payable from Restricted Assets		
Accrued Interest on Bonds and Notes	942,898	963,244
Revenue and Solid Waste Bonds and Notes Payable - Current Portion	<u>1,445,000</u>	<u>1,400,000</u>
	<u>2,387,898</u>	<u>2,363,244</u>
Long-Term Liabilities		
Revenue and Solid Waste Bonds and Notes Payable - Long-Term Portion	<u>57,930,111</u>	<u>59,387,677</u>
	<u>57,930,111</u>	<u>59,387,677</u>
TOTAL LIABILITIES	<u><u>62,346,474</u></u>	<u><u>63,755,028</u></u>
 <u>NET ASSETS</u>		
Invested in Capital Assets, Net of Related Debt Unrestricted	(58,741,791)	(60,128,933)
	<u>(2,862,104)</u>	<u>(2,858,092)</u>
TOTAL NET ASSETS	<u><u>(61,603,895)</u></u>	<u><u>(62,987,025)</u></u>

The accompanying "Independent Auditors Report" and
"Notes to the Financial Statements" are an integral part of this report.

**PASSAIC COUNTY UTILITIES AUTHORITY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET ASSETS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010**

	<u>2011</u>	<u>2010</u>
Operating Revenues:		
Operating Expenses:		
Salaries and Wages		
Other Expenses	52,587	49,221
	52,587	49,221
Operating Income (Loss)	(52,587)	(49,221)
Nonoperating Revenue (Expenses):		
Interest Expenses	(2,838,867)	(2,897,727)
Amortization of Debt Issuance Costs	(16,287)	(16,287)
Amortization of Original Issue Discount	(9,137)	(9,137)
Amortization of Deferred Loss on Refunding Bonds	12,566	12,566
County of Passaic Agreement	4,287,442	4,307,482
Miscellaneous Income (Expense)	1,302	1,302
	1,435,717	1,398,199
Change in Net Assets	1,383,130	1,348,978
Net Assets, January 1	(62,987,025)	(64,336,003)
Net Assets, December 31	(61,603,895)	(62,987,025)

**PASSAIC COUNTY UTILITIES AUTHORITY
STATEMENT OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31,**

	<u>2011</u>	<u>2010</u>
Cash Flows From Operating Activities:		
Cash Paid to Vendors	(28,229)	(58,767)
Net Cash Provided (Used) by Operating Activities:	<u>(28,229)</u>	<u>(58,767)</u>
Cash Flows From Non-Capital Financing Activities:		
Net Cash Provided (Used) by Non-Capital Financing Activities:		
Cash Flows From Capital and Related Financing Activities:		
Proceeds from County of Passaic Deficiency Agreement	4,287,442	4,307,482
Principal Payments - Bonds and Notes	(1,400,000)	(1,335,000)
Interest Paid	(2,859,213)	(2,913,716)
Net Cash Provided (Used) by Capital and Related Financing Activities:	<u>28,229</u>	<u>58,766</u>
Cash Flows From Investing Activities:		
Miscellaneous Income Received		1,302
Net Cash Provided (Used) by Investing Activities:		<u>1,302</u>
Net Increase (Decrease) in Cash and Cash Equivalents		1,301
Cash, Beginning of Year	<u>93,258</u>	<u>91,957</u>
Cash, End of Year	<u><u>93,258</u></u>	<u><u>93,258</u></u>

PASSAIC COUNTY UTILITIES AUTHORITY
STATEMENT OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31,

	<u>2011</u>	<u>2010</u>
Reconciliation of Operating Income (Loss) to Net Cash Provided (Used) by Operating Activities:		
Operating Income (Loss)	(52,587)	(49,221)
Adjustments to Reconcile Net Income to Net Cash Used by Operating Activities:		
Increase/(Decrease) in Accounts Payable	<u>24,358</u>	<u>(9,546)</u>
Total Adjustments	<u>24,358</u>	<u>(9,546)</u>
Net Cash Used by Operating Activities	<u><u>(28,229)</u></u>	<u><u>(58,767)</u></u>

Notes to Financial Statements

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Description of Reporting Entity

The Passaic County Utilities Authority (the "Authority") was organized by the County of Passaic (the "County") on March 18, 1987 and, by County resolution adopted May 6, 1987, charged it with the responsibility of implementing the disposal strategy set forth in the Passaic County Solid Waste Management District Plan (the "Plan"). Pursuant to the Solid Waste Utility Control Act of 1970, as amended, N.J.S. 48:13A-1, et seq., (the "Act"), the New Jersey Board of Public Utilities (the "BPU") has the authority to grant an exclusive franchise for the disposal of solid waste within a solid waste management district. On May 21, 1987, the BPU awarded (as confirmed and described in its Revised Order dated August 4, 1987) the exclusive franchise for the District (the "Franchise") to the Authority, as the implementing agent under the Plan. By its order dated June 22, 1987, the BPU also has awarded the Authority a Certificate of Public Convenience and Necessity to enable it to engage in solid waste disposal.

Basis of Presentation

The Authority's financial transactions are recorded in accounts that are created by various resolutions adopted by the Authority to meet bond covenant requirements (more fully defined in Note 2).

The financial statements of the Passaic County Utilities Authority have been prepared on the accrual basis of accounting in conformity with generally accepted accounting principles (GAAP) applicable to enterprise funds of state and local governmental units. Enterprise funds are used to account for operations that are financed and operated in a manner similar to private business enterprises - where the intent of the governing body is that the costs (expenses, including depreciation) of providing services to the general public on a continuing basis be financed or recovered primarily through user charges, or where the governing body has decided that the periodic determination of revenues earned, expenses incurred, and or net income is appropriate for capital maintenance, public policy, accountability or other purposes. The Governmental Accounting Standards Board GASB is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The Authority also applies Financial Accounting Standards Board (FASB) statements and interpretations issued on or before November 30, 1989, provided they do not conflict with or contradict GASB pronouncements. The significant Authority's accounting policies are as follows:

On January 1, 2004, the Authority adopted the provision of Governmental Accounting Standards Board Statement No. 34, "Basic Financial Statements - and Management Discussion and Analysis - for State and Local Governments" Statement No. 34 established standards for external financial reporting for all state and local government entities, which includes a statement of net assets, a statement of changes in net assets, and a statement of cash flows. It requires the classification of net assets into three components-invested in capital assets, net of related debt; restricted; and unrestricted. These classifications are defined as follows:

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)

Basis of Presentation, (continued)

- *Invested in capital assets, net of related debt* - This component of net assets consists of capital assets, including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are any significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds are not included in the calculation of invested in capital assets, net of related debt. Rather that portion of the debt is included in the same net assets component as the unspent proceeds.
- *Restricted* - This component of net assets consists of constraints placed on net assets used through external constraints imposed by creditors (such as through debt convents), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.
- *Unrestricted net assets* - This component of net assets consists of net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt."

On January 1, 2004, the Authority also adopted the provisions of Governmental Accounting Standards Board Statement No. 33, *Accounting and Financial Reporting for Nonexchange Transactions*. This statement requires that capital contributions to the Authority be presented as a change in net assets.

Basis of Accounting

The Passaic County Utility Authority prepares its financial statements on the accrual basis of accounting in accordance with generally accepted accounting principles. Under the accrual basis of accounting, revenues are recognized when they are earned and expenses are recognized when the liability is incurred.

Cash and Cash Equivalents

The Authority considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. For the purposes of the cash flow statements, cash and cash equivalents includes cash in banks, petty cash and money market accounts with a maturity of three months or less.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)

Investments

For purposes of determining the value of any fund or account, investments shall be valued at fair market value. The Authority's investments are limited by the various Landfill Bond, Project Note and Revenue Bond resolutions.

Accounts Receivable

In general, holders of certificates of public convenience and necessity are required to establish a 12 day advance payment amount with the Authority under the terms of the approved Tariff. Municipalities are exempt from advance payments.

Allowance for Doubtful Accounts

There is no allowance for bad debts.

Interfunds Receivable and Payable

During the course of its operations, the Authority has numerous transactions between funds to finance operations and service debts. To the extent that certain transactions between the accounts had not been paid or received as of the balance sheet dates, balances of interfund amounts receivable and payable have been recorded.

At December 31, 2011, there were no interfund balances outstanding between restricted and unrestricted accounts.

Inventory

The Authority does not record inventory on its balance sheets. The costs of inventory items are deemed immaterial and are recognized as expenditures when purchased.

Fixed Assets

All fixed assets acquired or constructed by the Authority are reported as expenditures in the account that finances the acquisition of the assets and are capitalized in the Operating Accounts.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)

Construction costs are charged to cost in progress until such time as they are completed and certified by the Authority's consulting engineers, at which time they are transferred to their respective asset category and are then depreciated over their useful lives.

All fixed assets are valued at historical cost and depreciated on the straight-line method based

<u>Class</u>	<u>Life</u>
Property and Equipment	5 Years

Debt Issuance Costs/Original Issue Premium and Discount

In 2004 and 2008, the Authority issued Refunding Bonds and Notes. The Authority incurred certain legal, accounting, underwriter's discount and miscellaneous costs in connection with the sale. The debt issuance costs relating to the sale of the 2004 and 2008 Refunding Bonds and Notes has been increased by the original issue discount. These expenses are deferred and amortized over the respective lives of the debt. Unamortized debt issuance costs pertaining to the refunded debt have been written off.

Recent Accounting Pronouncements

The Government Accounting Standards Board issued GASB Statement No. 60, Accounting and Financial Reporting for Services Concession Arrangements. This Statement addresses how to account for and report service concession arrangements (SCAs), a type of public-private or private-public partnership that state and local governments are increasingly entering into. The Authority is currently evaluating the affect, if any, this statement will have on current practice. This Statement is effective for periods beginning after December 15, 2011 and will be applied retroactively for all periods presented.

The Government Accounting Standards Board issued GASB Statement No. 61, The Financial Reporting Entity: Omnibus - an amendment to No. 14 and No. 34. This Statement will improve the information presented about the financial reporting entity, which is comprised of a primary government and related entities (component units). The Authority does not believe this Statement will materially affect its current practice. This Statement is effective for periods beginning after June 15, 2012.

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, (continued)

The Government Accounting Standards Board issued GASB Statement No. 62, Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 1989 FASB and AICPA Pronouncements. The objective of this statement is to incorporate into the GASB's authoritative literature certain accounting and financial reporting guidance that is included in the following pronouncements issued on or before November 30, 1989, which does not conflict with or contradict GASB pronouncements:

1. Financial Accounting Standards Board (FASB) Statements and Interpretations
2. Accounting Principles Board Opinions
3. Accounting Research Bulletins or the American Institute of Certified Public Accountants (AICPA) Committee on Accounting Procedure

The Authority acknowledges this codification and has determined that it will have no affect on the financial presentation as of December 31, 2011.

The Government Accounting Standards Board issued GASB Statement No. 63, Financial Reporting of Deferred Outflows of Resources, Inflows of Resources, and Net Position. This Statement provides financial reporting guidance for deferred outflows of resources, inflows of resources, and net position as defined under the provisions of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. Since the Authority reports only business-type activities as a program-specific entity, the provisions of this Statement are not applicable.

The Government Accounting Standards Board issued GASB Statement No. 64, Derivative Instruments: Application of Hedge Accounting Termination Provisions - an amendment of GASB Statement No. 53. The objective of this statement is to clarify whether an effective hedging relationship continues after the replacement of a swap counterparty of swap counterparty's credit support provider. The Authority has determined that this Statement is not applicable for the reporting period ending December 31, 2011.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 2 - CREATION OF FUNDS

The original Revenue Collection and Disbursement Agreement dated September 1, 1987, between the Authority and the Agent and System Trustee has been amended and supplemented at various times. Under the terms of the current Amended Revenue Agreement the following funds and accounts are required to be created and held by the System Trustee:

A) Haulers Escrow Fund, B) Gross Revenue Fund, C) PCUA Fund, D) Resource Recovery Fund, E) Landfill Bond Fund, and F) Transporter Fund

Also, under the terms of the Amended Revenue Agreement and/or DEP Order the Authority was required to create the following accounts:

UNRESTRICTED

Revenue Account
Operating Account
General Surplus Account
Rebate Account
Host Community Fee Account
Transporter Account
Recycling Tax Account
Earnings Account

RESTRICTED

Haulers Escrow Account
Debt Service Accounts:
 Bond Service Interest Account
 Bond Service Principal Account
 Bond Service Sinking Fund Account
Liquidity Reserve Account
Bond Reserve Account
Emergency Redirection Account
Construction Account
Environmental Investment Account

Each of the above accounts is held by a trustee, except for the Operating Account and General Surplus Account.

Only those accounts that are presently required by the Trustee are described herein.

Revenue Account - To account for all revenues received by the Authority. The allocation of portions of Gross Revenue amounts are determined by applying thereto a percentage equal to the tipping fee component for debt resolution charges over the tipping fee, and to each other fund and account established under the revenue agreement an allocable portion of such tipping fees determined by applying thereto a percentage equal to the tipping fee component for such funds or accounts over the tipping fee.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 2 - CREATION OF FUNDS, (continued)

Operating Account - To account for the allocable portion of the tipping fee component to be used for the operating administration and maintenance of the Solid Waste Management System.

Debt Services Accounts - To account for the accumulation of resources for the payment of the principal of, redemption premium, if any, or interest on the general long term debt and Project Notes that are outstanding from time to time.

Construction Accounts - To account for financial resources to be applied to pay project costs or to redeem notes that are consistent with the terms of the grant or loan pursuant to which such moneys were provided. All moneys that are on deposit in the Construction Account are hereby pledged to secure the payment of the principal of, redemption premium, if any, and the interest on the Project Notes.

NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS

The Authority is required by the bond resolutions and note resolutions to maintain each of its investments in the fund (account) in which the investment was made. In all accounts, except the Operating Account, the securities and the underlying collateral are held by the trustee and are within his care, custody and control. The type, quality and length of time of the investment are regulated by the bond resolution (see Note 2).

Under the Authority's Landfill Bond Resolutions and Revenue Bond Resolutions, the following investments are permitted:

1. Obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the United States of America;
2. Obligations issued, or unconditionally guaranteed as to the payment of principal and interest, by the Bank of Cooperatives, the Federal Intermediate Credit Bank, the Federal Home Loan Bank System, the Export-Import Bank of the United States, the Federal Land Banks, the Government National Mortgage Association, the Federal Financing Bank, or any other agency or instrumentality of, or corporation wholly owned by, the United States of America.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 2 - CREATION OF FUNDS, (continued)

3. Time deposits (which may be represented by certificates of deposit) and interest-bearing demand deposits or money-market accounts of any bank, trust company, or financial institution (including the Bond Trustee) which is a member of the Federal Deposit Insurance Corporation (the "FDIC") or the Federal Savings and Loan Insurance Corporation (the "FSLIC"), provided that such time or demand deposits, to the extent not fully and continuously insured by the FDIC or FSLIC, are fully secured by obligations of the type described in items (1) or (2) above, which shall have a market value (exclusive of accrued interest) at all time at least equal to the principal amount plus accrued interest or such deposits so secured, except that such deposits need not be so secured if the long-term debt of the bank, trust company or financial institution, or that of its parent corporation, is rated in either of the two highest credit rating categories of a nationally recognized rating agency;
4. Money-market funds customarily utilized by the corporate trust department of the Board Trustee for the investment of funds held in a fiduciary capacity;
5. Written repurchase contracts with financial institutions described in item (3) above (which may include the Bond Trustee) for obligations described in items (1) and (2) above, provided that the market value of such obligations is, at the time of entering into the contract, at least equal to the purchase price specified in the contract and such obligations are held by the Bond Trustee or by a depository satisfactory to the Bond Trustee in such manner as may be required to provide a perfected security interest in such obligations for the benefit of the Authority;
6. Shares of beneficial interest in an investment fund or trust substantially all of whose assets consist of securities described in items (1) or (2) above;
7. Written repurchase contracts, reverse repurchase contracts or securities lending agreements (collateralized by cash or securities) with any securities dealer that is registered as a dealer under the Securities Exchange Act of 1934, as amended, and is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York, having a net capital of at least \$200,000,000, for obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the United States of America or obligations issued, or unconditionally guaranteed as to the payment of principal and interest by the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Home Loan Bank System, the Export-Import Bank of the United States, the Federal Land Banks, the Farmer's Home Administration, the Government National Mortgage Association, the Federal Financing Bank, Student Loan Marketing Association, Federal National Mortgage Association or any agency or

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 2 - CREATION OF FUNDS, (continued)

instrumentality of, or corporation wholly owned by the United States of America, provided that the time of entering into such contracts or agreements, the market value as determined by such primary dealer (the "market value") of the obligations subject to such repurchase contracts is at least equal to the purchase price specified in such reverse repurchase contracts is at least equal to the market value of the obligations subject to such contracts, or the market value of the collateral for such securities lending agreements is at least equal to the market value of the securities lent, and such obligations or collateral are held by the Bond Trustee or by a third-party depository satisfactory to the Bond Trustee in such manner as may be required to provide a perfected security interest in such obligations or collateral for the benefit of Bondholders;

8. Obligations rated in one of the two highest rating categories by a nationally recognized rating agency the interest on which is excludable from gross income for federal income tax purposes under Section 103 of the Code, or unit investment trusts investing exclusively in such obligations; and
9. The New Jersey Cash Management Fund and any similar trust fund under the administration of the New Jersey State Treasurer.

Investments - Under the Authority's Project Note Resolution, the following investments are permitted:

1. Any direct and general obligation of, or any obligation fully and unconditionally guaranteed by, the United States of America or the State of New Jersey;
2. Any bond, debenture, note or participation certificate issued by any of the following Federal agencies: Bank for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Bank System, Federal Land Banks, Export-Import Bank of the United States, Tennessee Valley Authority, Federal National Mortgage Association, Government National Mortgage Association, Farmers Home Administration;
3. Negotiable or non-negotiable certificates of deposit issued by any bank, trust company or national banking association, which certificates of deposit except in the case of certificates of deposit issued by a bank, trust company or national banking association located in New Jersey or if located outside of New Jersey having a capital stock and surplus of more than \$50,000,000 shall be continuously secured by direct obligations of the United States of America or the State of New Jersey which shall have at least equal to the principal amount of such certificates of deposit and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association issuing such certificates of deposit;

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)

4. Full faith and credit obligations of any State, provided that at the time of purchase such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;
5. Any repurchase agreements with any bank, trust company of national banking association located in New Jersey or if located outside New Jersey, having a capital stock and surplus of more than \$50,000,000 with respect to any of the obligations described in subparagraphs (1) or (2) above; provided that such repurchase agreement is continuously secured or collateralized by obligations described in subparagraphs (1) or (2) above that shall have, on the date of the repurchase agreement, a fair market value equal to at least 100% of the amount of the repurchase obligation of the bank, the trust company or the national banking association;
- 6.
7. Deposits in interest-bearing accounts in any bank, trust company or national banking association located in New Jersey or if located outside New Jersey, having a capital stock and surplus of more than \$50,000,000;
7. Money-market funds consisting of the investment obligations described in this Section;
8. Interests in the State of New Jersey Cash Management Fund or other similar common trust fund for which the New Jersey State Treasurer is the custodian.

Deposits are carried at cost and investments are valued at fair market value, and are included on the balance sheet as "Cash and Investments." Accrued interest is separately stated on the balance sheet.

The Authority had no outstanding investments at December 31, 2011 and 2010.

The Authority held the following deposits which include cash on deposit, money-market accounts and certificates of deposit.

	<u>December 31, 2011</u>		<u>December 31, 2010</u>	
	<u>Carrying Amount</u>	<u>Bank Balance</u>	<u>Carrying Amount</u>	<u>Bank Balance</u>
Insured:				
Unrestricted Accounts (FDIC)	<u>\$93,258</u>	<u>\$93,258</u>	<u>\$93,258</u>	<u>\$93,258</u>

The New Jersey Governmental Unit Deposit Protection Act requires all banks doing business in the State of New Jersey to maintain additional collateral in the amount of 5% of the average public deposits and deposit these amounts with the Federal Reserve Bank for all deposits not covered by either FDIC or FSLIC.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 3 - CASH, CASH EQUIVALENTS AND INVESTMENTS, (continued)

Custodial Credit Risk – Deposits

Custodial credit risk is the risk that in the event of a bank failure, the government's deposit may not be returned to it. The Authority's policy is based on New Jersey statutes requiring cash be deposited only in New Jersey based on banking institutions that participate in New Jersey Governmental Depository Protection Act (GUDPA) or in a qualified investment established in New Jersey Statutes 40A:5-15.1(a) that are treated as cash equivalents. As of December 31, 2011, \$-0- of the Authority's bank balance of \$93,258 was exposed to custodial risk.

Interest Rate Risk

The Authority does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. However, New Jersey Statutes 40A:5-15.1(a) limits the length of time for most investments to 397 days.

Credit Risk

New Jersey Statutes 40A:5-15.1(a) limits municipal investment maturities to those specified in the Statutes. The type of allowance investments are Bonds of the United States of America or the local unit or school districts of which the local unit is part of: obligations of federal agencies not exceeding 397 days; government money market mutual funds; the State of New Jersey Cash Management Plan; local government investment pools; or repurchase of fully collateralized securities.

Concentration of Credit Risk

The Authority places no limit on the amount it may invest in any one issuer.

NOTE 4 - RESTRICTED ASSETS

Bond covenants of the Authority require portions of the debt proceeds as well as other resources to be set aside for various purposes. These amounts are reported as restricted assets. The "revenue bond construction" account segregates cash and investments that are restricted for use in construction. Cash and investments restricted for debt service payment on bonds and notes are segregated in "current debt service" accounts. Cash and investments reserved to meet future debt service contingencies are segregated in "liquidity and bond reserve accounts. The haulers escrow account reflects cash from prepaid Tariff charges that will eventually be recognized as revenue or returned to customers.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 5 - FIXED ASSETS

The following is a summary of fixed assets:

	<u>Balance Dec.31, 2010</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance Dec. 31, 2011</u>
Property and Equipment	\$13,331	\$-0-	\$-0-	\$13,331
Less Accumulated Depreciation and Amortization	<u>13,331</u>	<u>-0-</u>	<u>-0-</u>	<u>13,331</u>
Net	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>

NOTE 6 - LONG-TERM DEBT

Outstanding debt obligations consisted of the following:

	<u>Dec. 31, 2010</u>	<u>Issued/ Accreted</u>	<u>Refunded/ Retired</u>	<u>Dec. 31, 2011</u>
Solid Waste Disposal Revenue Refunding, Series 2004A Due March 31, 2034 4.50%-5.00%	\$33,415,000	\$	\$815,000	\$32,600,000
Solid Waste Disposal Revenue Refunding, Series 2004B Due March 1, 2034 5.75%-6.00%	8,635,000		185,000	8,450,000
Solid Waste System Project Notes, Refunding Series 2008A Due March 1, 2037 3.00-5.00%	<u>18,430,000</u>	_____	<u>400,000</u>	<u>18,030,000</u>
Total	<u>60,480,000</u>	<u>0</u>	<u>1,400,000</u>	<u>59,080,000</u>
Less Current Portion of Debt	1,400,000			1,445,000
Unamortized Gain on Refunding	<u>307,677</u>			<u>295,111</u>
Net Long Term Debt Payable	<u>\$59,387,677</u>			<u>\$57,930,111</u>

The Bonds were authorized and issued under and pursuant to the Act, the resolution adopted by the Authority on August 12, 1987 entitled "General Bond Resolution Authorizing the Issuance of Solid Waste Disposal Revenue Bonds" (the "General Bond Resolution") and the Series 1987 Resolution adopted on September 11, 1987 (the "Series Resolution"). The General Bond Resolution and the Series Resolution are hereinafter referred to collectively as the "Resolutions".

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 6 - LONG-TERM DEBT, (continued)

On February 26, 2004 the Authority issued \$44,825,000 of Solid Waste Disposal Revenue Bonds, Refunding Series 2004. The proceeds of the Bonds will be used to, among other things: (I) currently refund the March 1, 2004 maturity of the Solid Waste Disposal Revenue Bonds, Refunding Series 1996 (Capital Appreciation Bonds) (the "1996 Refunding Bonds") in the accreted principal amount at maturity of \$5,885,000 accreted; (ii) currently refund the March 1, 2004 payments of principal in the amount of \$100,000 and interest in the amount of \$129,525 on the Solid Waste Disposal Revenue Bonds, Refunding Series 1998 (the "1998 Refunding Bonds"); (iii) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$87,491.25 on the Solid Waste System Project Notes, Refunding Series 1999 (the "1999 Refunding Notes"); (iv) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$182,022.50 on the Solid Waste System Revenue Bonds (Tax-Exempt Series 1999A) (Current Interest Bonds) (the "1999A CIBs"); (v) currently refund the February 27, 2004 payments of principal in the amount of \$20,815,000 and interest in the amount of \$464,434.69 on the Solid Waste Disposal Revenue Bonds, Refunding Series 2003A (the "2003A Refunding Bonds"); (vi) currently refund the March 1, 2004 payments of principal in the amount of \$50,000 and interest in the amount of \$225,843.75 on the Solid Waste System Revenue Bonds (Taxable Series 1999B) (the "1999B Bonds"); (vii) currently refund the February 27, 2004 payments of principal in the amount of \$2,815,000 and interest in the amount of \$61,413.92 on the Solid Waste Disposal Revenue Bonds, Refunding Series 2003B (the "2003B Refunding Bonds"); (viii) redeem on March 1, 2004 \$7,775,000 aggregate principal amount of 1999A CIBs at a redemption premium of 101%; (ix) redeem on March 1, 2004 \$6,405,000 aggregate principal amount of 1999B Bonds at a redemption premium of 101%; (x) advance refund the September 1, 2004 interest payment in the amount of \$127,375 on the 1998 Refunding Bonds and (xi) advance refund the September 1, 2004 interest payment in the amount of \$86,491.25 on the 1999 Refunding Notes (all of which payments are collectively referred to as the "Prior Obligations"); and (xii) pay the costs of issuance of the Bonds. At December 31, 2011, the amount of principal outstanding for the 2004A and 2004B Bonds were \$32,600,000 and \$8,450,000, respectively.

On February 20, 2008, the Authority issued \$19,720,000 of Solid Waste System Project Bonds and Notes, Refunding Series 2008. The proceeds of the 2008 Bonds were used to, among other things: (i) currently refund \$19,077,166.11 principal and interest payments of the Prior Obligations due on February 21, 2008 and March 1, 2008; (ii) pay the costs of issuance of the 2008 Bonds. The proceeds of the 2008 Notes were used to, among other things: (i) currently refund \$121,307.43 principal and interest payments of Prior Obligations due on February 21, 2008; and (ii) pay the costs of issuance of the 2008 Notes. At December 31, 2011, the amount of principal outstanding for the 2008A was \$18,030,000.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 6 - LONG-TERM DEBT, (continued)

The Authority had the following debt service due and payable as of December 31, 2011:

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2012	\$1,445,000	\$2,804,847	\$4,249,847
2013	1,500,000	2,755,136	4,255,136
2014	1,545,000	2,701,436	4,246,436
2015	1,600,000	2,643,730	4,243,730
2016	1,665,000	2,581,998	4,246,998
2017	1,730,000	2,516,309	4,246,309
2018	1,795,000	2,439,407	4,234,407
2019	1,880,000	2,350,550	4,230,550
2020	1,975,000	2,256,293	4,231,293
2021	2,070,000	2,156,659	4,226,659
2022	2,170,000	2,051,863	4,221,863
2023	2,280,000	1,941,463	4,221,463
2024	2,390,000	1,825,175	4,215,175
2025	2,510,000	1,702,713	4,212,713
2026	2,640,000	1,573,119	4,213,119
2027	2,770,000	1,435,987	4,205,987
2028	2,910,000	1,291,456	4,201,456
2029	3,060,000	1,139,488	4,199,488
2030	3,220,000	979,563	4,199,563
2031	3,385,000	810,225	4,195,225
2032	3,550,000	631,300	4,181,300
2033	3,740,000	448,613	4,188,613
2034	3,920,000	262,013	4,182,013
2035	1,055,000	140,125	1,195,125
2036	1,110,000	86,000	1,196,000
2037	<u>1,165,000</u>	<u>29,125</u>	<u>1,194,125</u>
	<u>\$59,080,000</u>	<u>\$41,554,593</u>	<u>\$100,634,593</u>

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 7 - COUNTY LANDFILL AGREEMENT

The County and the Authority have entered into an agreement dated as of September 1, 1987 entitled the "1987 County Landfill Agreement", as amended and restated by the May 1, 1996 Amended and Restated 1987 County Landfill Agreement, as further amended and supplemented (collectively the "County Landfill Agreement"). Pursuant to the County Landfill Agreement, the County has agreed to pay to the Authority such sums of money as may be required to provide for monetary deficits of the Authority relating to: (a) the debt service on the Bonds, (b) maintaining reserve requirements under the Landfill Bond Resolution and the System Revenue Bond Resolution, and (c) paying the Authority's administrative expenses pertaining to the Project (as defined in the County Landfill Agreement).

The County and the Authority have determined that the County Landfill Agreement is in the best interest of County taxpayers, residents and ratepayers to assure the payment of debt service on the Authority's bonds.

The following is a summary of certain provisions of the County Landfill Agreement that relate to the Bonds and is not a complete restatement of the County Landfill Agreement as it currently exists. Such information is qualified in its entirety by reference to the County Landfill Agreement, as amended, copies of which are on file with the Authority and the Trustee and which should be read in full for a complete understanding of all terms and provisions thereof.

The County entered into the County Landfill Agreement in order to provide financial assistance to the Authority. Such assistance will be rendered upon the Authority's inability to pay debt service on the Bonds, in amounts designed to assure the Authority will have sufficient moneys to, among other things, meet its obligations to pay the principal of and interest on the Bonds.

The County Landfill Agreement provides that if the Authority has insufficient funds to meet its financial obligations during the next year, the Authority will make and deliver to the County a certificate (the "Certificate") stating: (a) the Authority will be unable to provide for the payments due of principal and interest on the Bonds; and (b) the amount of the Authority's expected shortfall (the "Annual Charges"). The Certificate must be delivered by the Authority or the Trustee to the County on or before December 15 of each fiscal year. The County shall pay the amount of annual charges set forth in such Certificate on or before the subsequent February 15.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 7 - COUNTY LANDFILL AGREEMENT (continued)

The County will make all budgetary and other provisions or appropriations necessary to provide for and authorize the payment by the County to the Authority of the amount stated in the Certificate delivered by the Authority as described above.

The County Landfill Agreement provides that failure on the part of the Authority in any instance or under any circumstance to observe or fully perform any obligation assumed by or imposed on it by the County Landfill Agreement or by law, shall not relieve the County from making any payment or fully performing any other obligation required of it under the County Landfill Agreement, nor make the Authority liable in damages to the County, but the County may have and pursue any and all other remedies provided by law for compelling performance by the Authority of said obligation assumed by or imposed upon the Authority.

The County may not delegate its duties under the County Landfill Agreement.

Every obligation assumed by or imposed upon the County by the County Landfill Agreement shall be enforceable by the Authority by appropriate action or proceeding, and the Authority may have and pursue any and all remedies provided by law for the enforcement of such obligation, including the remedies and processes provided by the Act.

The County agreed in the County Landfill Agreement that its obligation to pay to the Authority the deficiency in the debt service on the Bonds as and when due is an unconditional and unqualified obligation of the County independent of any other obligation of the County.

The County did make payments in 2011 and 2010 in the amount of \$4,287,442 and \$4,307,482, respectively, to fulfill its obligation under the County Landfill Agreement.

NOTE 8 - SOLID WASTE MANAGEMENT PLAN

Pursuant to and in accordance with the provisions of the Solid Waste Management Act, constituting Chapter 39 of the Pamphlet Laws of 1970 of the State of New Jersey and the acts amendatory thereof and supplemental thereto (the "Solid Waste Act"), the County has been designated as a "solid waste management district." As such, it was required, among other things, to develop and formulate a Solid Waste Management Plan (the "Plan") providing for the disposal of solid waste generated within the Passaic County Solid Waste Management District (the "Passaic County District"). The County ultimately designated the Authority to supervise the implementation of the Plan.

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)

Pursuant to the provisions of the Solid Waste Act, the Plan and a franchise granted to the Authority by the New Jersey Board of Public Utilities (“BPU”) and under the authority of the New Jersey Department of Environmental Protection (“DEP”) pursuant to the Solid Waste Utilities Control Act, N.J.S.A. 48:13A-1 et seq. (the “Franchise”), the Authority had the power and authority to control the flow of solid waste through the County solid waste system (the “Solid Waste System”). In order to secure the repayment of its debt obligations and its administrative and operational expenses, the Authority relied primarily on a system of waste flow controls consisting of waste flow rules promulgated by the DEP pursuant to *N.J.A.C. 7:26-6.5* and the Franchise granted by the DEP to the Authority, which waste flow rules were declared unconstitutional by the Third Circuit Court of Appeals in Atlantic Coast Demolition and Recycling Co., Inc. v. Board of Chosen Freeholders of Atlantic County, 112 F. 3rd 652 (1997) (certiorari denied by the Supreme Court on November 10, 1997).

As a result of concerns regarding the validity and enforceability of the DEP waste flow rules and the Franchise due to the decisions in C&A Carbone v. Town of Clarkstown, 113 U.S. 2411 (1993), and an early unfavorable decision in Atlantic Coast in 1995, and the Authority’s resulting inability to direct certain classifications of solid waste through its Solid Waste System, the Authority was unable to collect the tipping fees necessary to satisfy its contractual obligations, including debt service, and to meet its administrative and operating expenses. On March 3, 1995, the Authority filed with the DEP a verified petition seeking to unbundle its solid waste rate in order to segregate the debt service component of that rate in a manner that would permit it to be paid from a separate stand-by assessment or user charge (referred to herein as the “Environmental Investment Charge” or “EIC”). The Authority applied to the Local Finance Board for approval of a Financial Plan to authorize, among other things, the assessment of an EIC. Following hearings in December, 1997, the LFB approved and ordered the implementation of a Financial Plan that included, among other things, the assessment, billing and collection of an EIC.

Prior to the implementation of the EIC, the City of Paterson filed three (3) lawsuits, challenging, among other things, the Authority’s legal authority to implement the Financial Plan, including the imposition and collection of the EIC. The Appellate Division of the New Jersey Superior Court found the EIC to be a valid charge under existing law in a decision issued on May 13, 1999. The City of Paterson filed a Notice of Petition for Certification with the New Jersey Supreme Court, which accepted the petition and reversed the decision of the Appellate Division, holding that the EIC was not authorized by the Act and its imposition and collection are unconstitutional and violative of the Commerce Clause. U.S.C.A. Const. Art. I, §8, cl. 3; City of Paterson v. Passaic County Board of Chosen Freeholders and Passaic County Utilities Authority, 164 N.J. 270 (2000).

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)

As a result of the City of Paterson decision, the Authority worked with representatives of the governor's office and the Department of Treasury to discuss restructuring plans based upon a proposed legislative initiative. On January 7, 2002, this initiative became the Debt Restructuring Act. The State canceled its plans to go forward with the issuance of bonds by the EDA under the Debt Restructuring Act in response to the Supreme Court's decision in the matter of Lonegan v. State of New Jersey, supra. The Supreme Court directed that additional issues be briefed and argued, which, depending upon the Court's final decision in this matter, may enable the State to go forward with its proposed refinancing.

In response to the Third Circuit Court of Appeals Order and Judgment in Atlantic Coast, the State of New Jersey established the Solid Waste Partnership Program (the "Partnership Program"). Under the Partnership Program, in State budget language, the State has acknowledged the need to "subsidize county and county authority debt service payments for environmental investments incurred as of June 30, 1997 . . . in accordance with criteria and program guidelines established by the Commissioners of DEP, DCA and the State Treasurer" Under the 1998 State Budget Appropriations Act, the New Jersey Legislature appropriated not to exceed \$20,000,000 for these purposes. The expenditure of State moneys pursuant to the Partnership Program for such purposes is conditioned upon the State Treasurer having conducted, or contracted for, an operational audit of the county or county authority (the "Audit"), and the county or county authority having implemented the audit recommendations to the satisfaction of the State Treasurer. In late 1997 or early 1998, the Authority issued a request to the State Treasurer to conduct an audit in order that the Authority could benefit from the Partnership Program. The State audit review team, consisting of representatives from the New Jersey Department of Treasury, the New Jersey Department of Community Affairs and the DEP completed the review and issued audit findings and recommendations in October, 1998.

The Authority has taken all appropriate steps to comply with the recommendations contained in the Audit report, including implementation of recommendations to effectuate operational savings to the Authority. The Authority next made application to the New Jersey Department of Treasury for financial assistance to subsidize a shortfall on its November 15, 1998 debt service payment on the System Revenue Bonds. On November 16, 1998, the State Treasurer and representatives of the Authority and the County executed a grant agreement (the "Grant Agreement") awarding the Authority \$950,000 to pay, together with other Authority moneys on hand, the November 15, 1998 debt service payment on the System Revenue Bonds. In May, 1999, the Grant Agreement was amended to provide an additional grant award in the amount of \$809,680.98 for debt service payments. In November 1999, the Grant Agreement

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 8 - SOLID WASTE MANAGEMENT PLAN, (continued)

was further amended to provide an additional grant of \$3,065,450 to pay the November 15, 1999 debt service payment on the System Revenue Bonds. During 2000, an additional grant of \$3,680,600 was provided by the State to pay the May, 2000 and November, 2000 payments of principal and interest due on the System Revenue Bonds. The Grant Agreement was again amended in 2001 and 2002 to provide an additional grant of \$3,683,900 from the State to pay the May, 2001 and November, 2001 payments of principal and interest due on the System Revenue Bonds, an additional grant of \$3,680,650 to pay the May, 2002 and November, 2002, an additional \$3,680,650 to pay the May 2003 and November 2003 payments of principal and interest due on the System Revenue Bonds, \$3,682,400 to pay the May 2004 and November 2004 payments of principal and interest on the System Revenue Bonds, an additional grant of \$3,680,300 to pay the May 2005 and November 2005 payments of principal and interest due on System Revenue Bonds and an additional \$3,262,648 to pay the 2006 principal and interest payments. The conditions of the Grant Agreement remain the same. The Grant Agreement amended certain of the recommendations in the audit including the recommendation:

(i) regarding the adoption of Plan Amendment 2-1998; and (ii) regarding mandatory negotiations with the Bergen County Utilities Authority and American Ref-Fuel of Essex County. The Grant Agreement also provides that nothing in the Grant Agreement precludes the County from proposing to the State recommendations or plan amendments, inconsistent with the recommendations of the Audit, which may be adopted and implemented upon approval by the State. The failure of the Authority and/or the County to implement the recommendations contained in the Audit constitutes an event of default under the Grant Agreement. Upon the occurrence of an event of default the Authority is obligated to reimburse the grant amount.

Although the Authority received the grant to pay the debt service shortfall on the System Revenue Bonds, there is no assurance that the Authority will receive additional grant or loan funds under the Partnership Program.

NOTE 9 - LITIGATION

A discussion of certain pending litigation that could have an adverse impact on the financial condition of the Authority is set forth below and has been provided by DeCotiis, Fitzpatrick, Cole & Wisler, LLP, General Counsel to the Authority and by McManimon & Scotland LLC, Bound Counsel to the Authority.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 9 - LITIGATION, (continued)

In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. To Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services, DEP Docket No. SR92101003J and OAL Docket No. 00788-93N; and,

PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-L-2040-05 (Superior Court of New Jersey, Law Division — Passaic County) (Appellate Docket No. A-3861-06T3) (Certification Denied, New Jersey Supreme Court Docket No. 62,832); and,

PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division — Passaic County).

Determination of Underrecovery

From December 12, 1992 to approximately November 11, 1997, PenPac, Inc. (“PenPac”) provided solid waste transfer station services to the Authority pursuant to an interim rate, which was subject to eventual adjustment to account for over recovery by the Authority, or under recovery by PenPac. A Verified Petition in the administrative matter, which is the first case captioned above, was filed by the Authority on or about October 12, 1992 to establish the rates in question. Essentially, the Authority claimed that it was entitled to an over recovery in excess of \$5,000,000 from PenPac. PenPac in turn claimed that it was entitled to an under recovery in excess of \$20,000,000 (inclusive of interest) from the Authority. The administrative proceedings sought to establish a final rate for the transfer services in question for the years 1993, 1994, 1995 and 1996.

Hearings before an administrative law judge commenced in November, 1996 and concluded at the end of May, 1997. On April 12, 1999, the administrative law judge hearing the matter issued her Initial Decision, awarding approximately \$8,000,000 to PenPac as an under recovery for services rendered. The Initial Decision was recommended decision, which was submitted to the Commissioner of the NJDEP for consideration and the issuance of a Final Decision.

On July 5, 2000, the Commissioner of the NJDEP issued his Summary Order memorializing the decision of the NJDEP. The Summary Order reduced the award to PenPac from the recommended award of \$8,000,000 to \$3,238,792. The Summary Order further provided that there would be no further rate proceedings for years after 1996. The Summary Order did not include a full list of findings of fact and conclusions of law, which were set forth in the Commissioner’s Final Decision. The Final Decision was appealed to the Appellate Division of the Superior Court by the Authority.

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 9 - LITIGATION, (continued)

The Appellate Division entered a decision affirming the NJDEP Commissioner's Summary Order awarding PenPac \$3,238,792, plus interest in the amount of \$256,313.00. The Appellate Division also remanded the matter to the NJDEP for a determination of rate underrecovery for that portion of calendar year 1997 during which PenPac provided transfer station services, and for a determination of the overall rate of interest on the entire award¹. Certification of that decision was sought to the New Jersey Supreme Court, and ultimately denied.

Entry of August 2005 Judgment and Post-Collection Efforts (1st of 2 PenPac Judgments)

PenPac thereafter filed a Complaint in Superior Court, captioned PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-1-2040-05 (Superior Court of New Jersey, Law Division - Passaic County), seeking to have the administrative underrecovery decision, as affirmed by the Appellate Division, reduced to a judgment in the Superior Court. On August 15, 2005, the Passaic County Superior Court entered a judgment against the Authority in the amount of the Commissioner's Decision, as affirmed, plus interest (total judgment amount of \$3,495,105).

Since the entry of the August 15, 2005 judgment in PenPac's favor, PenPac has engaged in various efforts to enforce the judgment and collect upon it from the Authority. As a result of the Authority's financial condition, including the amount of outstanding debt, its inability to generate operating revenues in the wake of the Atlantic Coast rulings and its obligations to the Authority's bondholders, the Authority has consistently opined that its limited monetary assets are pledged to the bondholders and should be applied to reduce debt service and that, therefore, PenPac's judgment for underrecovery may not be satisfied out of the Authority's monetary assets. The Authority has argued consistently in the State court litigation that State law is clear that the assets of a county or municipal utilities authority are exempt from levy and execution, and are otherwise pledged to its bondholders in either event and are not available to satisfy unsecured judgment creditors. Stated simply, the Authority has argued that its assets are pledged pursuant to the superior priority of the bondholders, and are not subject to seizure by an unsecured judgment creditor such as PenPac. These arguments were ultimately rejected by the New Jersey state courts, as noted below.

¹ Footnote 1: On remand, the NJDEP determined that PenPac was entitled to an additional \$1.3 million of underrecovery for services rendered for portions of calendar year 1997, as well as for interest on the overall award (the "Remand Award"). The Remand Award was reduced to judgment on March 5, 2009 in the third matter listed above, PenPac, Inc. v. Passaic County Utilities Authority, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division - Passaic County). Post-judgment efforts are ongoing on that matter and continued in 2011, and will be discussed below.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 9 - LITIGATION, (continued)

PenPac, as part of its collection efforts, in the Fall of 2006 made an application to the Superior Court for mandamus relief to compel the Authority to pay the judgment from its monetary assets, or to otherwise provide for payment. The Authority resisted that application and opposed it for the reasons set forth in the previous paragraph, focusing largely on the pledge of monetary assets first and foremost to the Authority's bondholders. The Court granted the relief sought by PenPac as a threshold matter, and thereafter held a plenary hearing on January 3-4, 2007 to establish the extent of the Authority's assets, and the degree to which they are pledged to bondholders as argued by the Authority, or otherwise potentially available to pay PenPac's 2005 Judgment. The Authority argued that PenPac is precluded from levying against the assets of the Authority, or otherwise obtaining an order to compel payment of the August, 2005 judgment from those assets. After the January hearing during which evidence and testimony were taken with respect to the Authority's assets and financial condition, the Court reserved decision.

March 12, 2007 Order Directing Turnover and Assignment of Assets to PenPac

On March 2, 2007, the Court issued a written opinion, which ordered the implementation of mandamus relief by way of ordering the Authority to 1) turnover \$701,230.41 in bondholder restricted Bank of New York accounts to PenPac; 2) to turnover \$1,702,220.84 in allegedly unrestricted accounts to PenPac; and 3) to assign all future income derived from the Passaic Investors mortgage receivable, held by the Authority, to PenPac. That decision was memorialized by Order entered on March 12, 2007. The March 12, 2007 Order effectively transferred all of the Authority's monetary assets to PenPac, excepting only Bank of New York accounts associated with the 1999 and 2004 Series Bonds (as well as any account associated with an active bond issue, such as the 2008 Bonds), which the trial court found were validly pledged to the bondholders. The rest of the assets were found to be free, unencumbered and thus available to satisfy PenPac's Judgment.

The Authority authorized an appeal, to the Superior Court of New Jersey - Appellate Division, from the March 12, 2007, and accordingly, the Notice of Appeal and associated documentation were filed with the Appellate Division shortly thereafter. A motion to stay the March 12, 2007 Order was also contemporaneously made in accordance with the Rules of Court.

On April 3, 2007, by written decision, the trial court granted a stay of its March 12, 2007 Order pending the outcome of this appeal. That decision was memorialized by Order dated April 13, 2007. It did not make provision, however, for the Authority to pay bills and expenses from the monies subject to the Court's March 2, 2007 Order.

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 9 - LITIGATION, (continued)

The substantive appeal was fully briefed by both PenPac and the Authority before the Appellate Division, and was orally argued before the Appellate Division on April 29, 2008, at which time the Appellate Division reserved decision. In a twelve (12) page written decision issued on May 23, 2008, the Appellate Division affirmed the trial court's March 12, 2007 Order directing the turnover of Authority funds to PenPac, and continued the stay granted to allow the Authority to seek Certification to the State Supreme Court, if desired.

In June of 2008, the Authority Commissioners authorized the filing of Petition for Certification with the Supreme Court of New Jersey, seeking leave of that Court to hear an appeal from the Appellate Division's May 23, 2008 decision. The Petition was made, and the matter again fully briefed by both sides. Unfortunately, on September 5, 2008, the Supreme Court of New Jersey denied Certification, effectively rendering the March 12, 2007 Order of the trial court final, and dissolving the stay granted pending the outcome of the appeal.

Compliance with the March 12, 2007 Order of the Trial Court: Turnover of Assets and Assignment of Mortgage Receivable Income

As a result of the finality of the March 12, 2007 Mandamus Order by exhaustion of available appellate review, the Authority adopted a resolution at a special meeting held on September 25, 2008 to comply with its terms, and; 1) turned over \$701,230.41 in bondholder restricted Bank of New York accounts to PenPac; 2) turned over \$1,702,220.84 in allegedly unrestricted accounts to PenPac; and, 3) assigned all future income derived from the Passaic Investors mortgage receivable, held by the Authority, to PenPac².

Future of PenPac Litigation - Collection Efforts in 2011 directly against County of Passaic, and Beyond

As noted above, the Remand Award was also reduced to judgment in the amount of approximately \$1.3 million on March 5, 2009 in the third matter listed above, **PenPac, Inc. v. Passaic County Utilities Authority**, Docket No. PAS-L-2615-08 (Superior Court of New Jersey, Law Division — Passaic County). Thus, PenPac, despite seizing Authority assets, is still owed payment by the Authority with respect to the balance due on the 2005 Judgment, and the entire 2009 Remand Award Judgment. Since outstanding balances are still due and owing, it is anticipated that further PenPac collection activities will be taken. And indeed, they have, both against the Authority and the County of Passaic as its creating entity.

² Footnote 2: The Mortgage has not been paid in full.

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 9 - LITIGATION, (continued)

In 2010, PenPac undertook some additional post-judgment discovery against the Authority itself, which apparently satisfied it that no additional, available assets were in the Authority's possession to justify continued post-judgment proceedings against it directly. As a result, since the Fall of 2010, no additional post-judgment activity has been taken against the Authority itself, and presently none is anticipated.

The County of Passaic, however, as the entity which created the Authority, is a different matter. It had been long anticipated that PenPac collection efforts on the Judgments would focus upon the County of Passaic once efforts against the Authority were exhausted. Indeed 2011 saw additional collection efforts undertaken by PenPac on these Judgments against the County directly through suit. Since the Authority effectively has no assets left to seize, PenPac's collection efforts have not turned to the County of Passaic itself, as had been long anticipated.

In 2011, PenPac filed suit directly against the County of Passaic, asserting various theories under which it maintained the County was responsible for the Judgments, contractual debts of the Authority, despite the absence of direct contractual privity. The suit is captioned PenPac, Inc. v. County of Passaic, Docket No. PAS-L-2635-11, and is presently pending in the Superior Court in Passaic County. The County has retained outside, separate counsel to defend against that action. We have, however, continued to assist with this matter, providing the County's assigned defense counsel with whatever discovery and/or information we can in order to assist in helping the County successfully defend against the 2011 PenPac suit.

Initial County efforts to have the PenPac suit dismissed have, unfortunately, failed, and therefore, discovery is ongoing at this time against the County in that action. We will continue to assist with County efforts to defend against the 2011 PenPac litigation as requested, and as needed, as discovery and the case progresses.

NOTE 10 - OTHER MATTERS

For the last several years, the Authority has utilized a series of repetitive, short-term financings to meet its debt service obligations. This strategy began as the result of the post-Atlantic Coast uncertainty surrounding the revenues securing payment on the Authority's outstanding debt. In late 1998, the State completed an audit of the Authority (the "Audit"). In the Audit, the State recommended that, upon passage of the relevant State legislation, the Authority should consider refinancing its debt. Accordingly, in reliance upon the progression of such legislation, the Authority continued the strategy of repetitive refundings. On July 15, 2002, the Authority filed an application (the "Application") with the New Jersey Economic Development Authority

**PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)**

NOTE 10 - OTHER MATTERS, (continued)

(the "NJEDA") pursuant to an act entitled "An Act Concerning the Restructuring of Certain Solid Waste Facility Bonds, and Providing for the Financing Thereof Through the New Jersey Economic Development Authority," P.L. 2001, C.401 (the "Restructuring Act"). Pursuant to the Restructuring Act, the NJEDA was authorized to make loans, through the purchase of bonds issued by eligible counties or public authorities, to effect the refunding or rescheduling of outstanding solid waste disposal bonds of such participants. However, the Restructuring Act expired on December 31, 2002, without any action being taken by the NJEDA.

The Authority has taken numerous other efforts to ensure it would have sufficient revenues to meet its debt service obligations. Such effects have included: (i) instituting legal challenges to the repeal of the Solid Waste Act, (ii) imposing an 'environmental investment charge' on municipalities within the County, (iii) complying with all State orders, (iv) participating in the State's Solid Waste Partnership Program and complying with the audit requirements and recommendations thereunder, (v) advocating, and participating in the drafting of, the relevant legislation and (vi) the filing of the Application pursuant to the Restructuring Act.

Despite the Authority's actions, the Authority has no operations and no system revenues with which to meet its debt service obligations. Accordingly, based upon the Authority's lack of any revenues, all of the Authority's outstanding solid waste bonds constitute stranded debt, incapable of being repaid without State assistance (except to the extent such debt is insured or secured by the County).

In light of these developments, the Authority has developed a plan (the "Refinancing Plan") to permanently retire its outstanding indebtedness secured by the Landfill Agreement. The Refinancing Plan involves: (i) the issuance of the Bonds; (ii) the issuance of short-term notes in 2005, 2006 and 2007 (the "Notes") to refund those obligations coming due in such years with respect to the Prior Bonds and the Notes; and (iii) the issuance of bonds in 2008 to refund those obligations coming due in 2008 with respect to the Prior Bonds and the Notes.

NOTE 11 - RISK MANAGEMENT

The Passaic County Utilities Authority is exposed to various risks of loss related to torts; theft of damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. During the course of our audit we noted no evidence of insurance on behalf of the Authority.

PASSAIC COUNTY UTILITIES AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(continued)

NOTE 12 - PENPAC SETTLEMENT

For some time, the Authority has been a party to certain litigation captioned, “In the Matter of the Petition of the Passaic County Utilities Authority for a Ruling Regarding the Continuing Obligation of PenPac, Inc. To Provide Transfer Station Services and for the Establishment of Rates for Such Transfer Station Services” and “PenPac, Inc. Vs. Passaic County Utilities Authority”. The proceedings in this litigation ultimately resulted in a judgment in favor of the Plaintiff (“PenPac”) against the Authority on August 15, 2005 in the amount of \$3,495,105 for certain solid waste underrecovery (the “Initial Judgment”). PenPac, in seeking to enforce payment of the Initial Judgment, obtained a Mandamus Order from the Superior Court of New Jersey, Passaic County - Law Division on March 12 2007, which ordered the Authority to (1) turn over monies in specifically designated accounts held by the Bank of New York to PenPac, (2) turn over monies in specifically designated accounts held by the Bank of America to PenPac and (3) to assign all future income which the Authority derived from the Passaic Investors mortgage receivable to PenPac (the “Turnover Order”). In order to fulfill its obligations to its bondholders, the Authority challenged the Turnover Order by way of an appeal to the Superior Court of New Jersey, Appellate Division. Upon affirmation of the Turnover Order by that Court, the Authority sought Certification from the Supreme Court of the State of New Jersey to review the Turnover Order. On September 5, 2008, the Supreme Court of the State of New Jersey denied Certification to review the decision of the Appellate Division affirming the Turnover Order, effectively rendering the Turnover Order of March 12, 2007 a final order which must be complied with by the Authority as a matter of law. At that time, the Authority realized that it was constrained to comply with the Turnover Order as a final order of the Superior Court of New Jersey and turned over all specified assets accordingly in the 2008 fiscal year.

On March 19, 2009, a supplemental judgment was awarded to PenPac with respect to the Appellate Division’s 2004 remand to the NJDEP, and the underrecovery award to PenPac for services rendered for the balance of calendar year 1997, along with NJDEP’s award of interest on the entire underrecovery to PenPac for services rendered from 1993 to 1997. The total amount of this supplemental judgment is \$1,336,580.

Supplementary Schedules

SCHEDULE 1

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF REVENUES, EXPENSES AND CHANGES IN
NET ASSETS - RESERVED AND UNRESERVED
FOR THE YEAR ENDED DECEMBER 31,**

	Invested in Capital Assets, Net of Related Debt	Unrestricted	Total (Memo)
	2011	2010	2010
Operating Revenues:			
Total Operating Revenues			
Operating Expenses:			
Salaries and Wages			
Other Expenses	52,587		49,221
Total Operating Expenses	52,587		49,221
Operating Income (Loss)	<u>(52,587)</u>		<u>(49,221)</u>
Non-Operating Revenue (Expenses):			
Interest Expense	(2,838,867)		(2,897,727)
Amortization of Debt Issuance Costs	(16,287)		(16,287)
Amortization of Original Issue Discount	(9,137)		(9,137)
Amortization of Loss on Refunding	12,566		12,566
County of Passaic Agreement	4,287,442		4,307,482
Miscellaneous Income			1,302
Total Non-Operating Revenues and (Expenses)	<u>1,435,717</u>		<u>1,398,199</u>
Net Income (Loss) Before Transfers	1,383,130		1,348,978
Transfers:			
To / (From) Restricted Assets	<u>1,387,142</u>		
Increase/(Decrease) in Net Assets	1,387,142	(4,012)	1,383,130
Net Assets - January 1,	<u>(60,128,933)</u>	<u>(2,858,092)</u>	<u>(64,336,003)</u>
Net Assets - December 31,	<u>(58,741,791)</u>	<u>(2,862,104)</u>	<u>(62,987,025)</u>

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF CASH RECEIPTS, CASH DISBURSEMENTS AND
CHANGES IN CASH AND INVESTMENTS
FOR THE YEAR ENDED DECEMBER 31, 2011**

	Revenue Debt Service Account	2004 Project Account	2004A Cost of Issuance	2004B Cost of Issuance	2004A Debt Service
Cash, Cash Equivalents and Investments - January 1, 2011	22,782	10,197	47,119	8	26
Cash Receipts:					
County of Passaic					3,582,035
Total Cash and Cash Equivalents Available					3,582,035
Cash Disbursements:					
Bond Principal					1,215,000
Interest on Bonds					2,367,035
Total Cash Disbursements					3,582,035
Cash, Cash Equivalents and Investments - December 31, 2011	22,782	10,197	47,119	8	26
Balance Comprised of:					
Cash and Cash Equivalents	22,782	10,197	47,119	8	26
Cash and Investments - December 31, 2011	22,782	10,197	47,119	8	26
Unrestricted					
Restricted					

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF CASH RECEIPTS, CASH DISBURSEMENTS AND
CHANGES IN CASH AND INVESTMENTS
FOR THE YEAR ENDED DECEMBER 31, 2011**

	2004B Escrow Fund	2004B Debt Service	2008 Working Capital Expense Account	2008A Cost of Issuance	2008B Cost of Issuance	Total
Cash, Cash Equivalents and Investments - January 1, 2011	1,047	7	2,909	6,158	3,005	93,258
Cash Receipts:						
County of Passaic		677,178				4,259,213
Total Cash and Cash Equivalents Available		677,178				4,259,213
Cash Disbursements:						
Bond Principal		185,000				1,400,000
Interest on Bonds		492,178				2,859,213
Total Cash Disbursements		677,178				4,259,213
Cash, Cash Equivalents and Investments - December 31, 2011	1,047	7	2,909	6,158	3,005	93,258
Balance Comprised of:						
Cash and Cash Equivalents	1,047	7	2,909	6,158	3,005	93,258
Cash and Investments - December 31, 2011	1,047	7	2,909	6,158	3,005	93,258
Unrestricted						
Restricted	1,047	7	2,909	6,158	3,005	93,258

**PASSAIC COUNTY UTILITIES AUTHORITY
 SCHEDULE OF OPERATING REVENUE COMPARED TO BUDGET
 FOR THE YEAR ENDED DECEMBER 31, 2011 WITH
 COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED DECEMBER 31, 2010**

	<u>2011 Budget</u>	<u>2011 Budget After Modification</u>	<u>2011 Actual</u>	<u>2010 Actual</u>
Non-Operating Revenues:				
County of Passaic Agreement	4,400,000	4,400,000	4,287,442	4,307,482
Miscellaneous Income				1,302
Total Revenues	<u>4,400,000</u>	<u>4,400,000</u>	<u>4,287,442</u>	<u>4,308,784</u>

PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF OPERATING EXPENSES COMPARED TO BUDGET
FOR THE YEAR ENDED DECEMBER 31, 2011 WITH
COMPARATIVE ACTUAL AMOUNTS FOR THE YEAR ENDED DECEMBER 31, 2010

	<u>2011 Budget</u>	<u>2011 Budget After Modification</u>	<u>2011 Actual</u>	<u>2010 Actual</u>
Administrative and General:				
Office Supplies	2,000	2,000		
Communications	1,000	1,000		
County of Passaic - Administration Fees	<u>21,000</u>	<u>21,000</u>	<u>12,918</u>	<u>12,918</u>
Sub-total Administrative and General	<u>24,000</u>	<u>24,000</u>	<u>12,918</u>	<u>12,918</u>
Cost of Providing Services:				
Trustee and Fiscal Agent Agreement	30,000	30,000		
Legal Fees	36,787	36,787	7,169	8,767
Financial Advisory Services	50,000	50,000	32,500	27,500
Miscellaneous				36
Sub-total Cost of Providing Services	<u>116,787</u>	<u>116,787</u>	<u>39,669</u>	<u>36,303</u>
Debt Service:				
Bond Principal	1,400,000	1,400,000	1,400,000	1,335,000
Bond Interest	<u>2,859,213</u>	<u>2,859,213</u>	<u>2,838,867</u>	<u>2,897,727</u>
Sub-total Debt Service	<u>4,259,213</u>	<u>4,259,213</u>	<u>4,238,867</u>	<u>4,232,727</u>
Total Appropriations	<u><u>4,400,000</u></u>	<u><u>4,400,000</u></u>	<u><u>4,291,454</u></u>	<u><u>4,281,948</u></u>
Excess of Revenues Over Expenses:	-	-	(4,012)	26,836
Reconciliation of Budgetary Basis to GAAP:				
Amortization of Debt Issuance Costs			(16,287)	(16,287)
Amortization of Original Issue Discount			(9,137)	(9,137)
Amortization of Deferred Loss on Refunding Bonds			12,566	12,566
Bond Principal			<u>1,400,000</u>	<u>1,335,000</u>
Total Adjustments			<u>1,387,142</u>	<u>1,322,142</u>
Change in Net Assets			<u><u>1,383,130</u></u>	<u><u>1,348,978</u></u>

PASSAIC COUNTY UTILITIES AUTHORITY
 SCHEDULE OF BONDS AND NOTES PAYABLE
 FOR THE YEAR ENDED DECEMBER 31, 2011

Bond Issue	Date Issued	Amount	Rate	Balance December 31, 2010	Increase	Decrease	Balance December 31, 2011
Solid Waste System Revenue Bonds:							
Solid Waste Disposal Revenue Ref. Series 2004A-Tax-Exempt	03/01/2004	35,680,000	4.50-5.00%	33,415,000		815,000	32,600,000
Solid Waste Disposal Revenue Ref. Series 2004B-Taxable	03/01/2004	9,145,000	5.75-6.00%	8,635,000		185,000	8,450,000
Solid Waste Disposal Revenue Ref. Series 2008A-Tax-Exempt	02/20/2008	19,145,000	3.00-5.00%	18,430,000		400,000	18,030,000
Total Debt				<u>60,480,000</u>		<u>1,400,000</u>	<u>59,080,000</u>
Less: Current Portion of Long Term Debt							
Solid Waste System Revenue Bonds:							
Solid Waste Disposal Revenue Ref. Series 2004A-Tax-Exempt				815,000			855,000
Solid Waste Disposal Revenue Ref. Series 2004B-Taxable				185,000			190,000
Solid Waste Disposal Revenue Ref. Series 2008A-Tax-Exempt				400,000			400,000
Total Current Portion				<u>1,400,000</u>			<u>1,445,000</u>
Less: Unamortized Loss on Refunding				<u>(307,677)</u>			<u>(295,111)</u>
Total Long Term Portion				<u>59,387,677</u>			<u>57,930,111</u>

PASSAIC COUNTY UTILITIES AUTHORITY

ROSTER OF OFFICIALS

DECEMBER 31, 2011

Member

John Nigro
Joseph Wenzel
Michael Hanrahan
Gerald Volpe
Pasquale Lepore
William Farkas
Samir Goow
Charles Pettiford
Albert Kahwaty

Chairman
Vice Chairperson
Secretary/Treasurer
Commissioner
Commissioner
Commissioner
Commissioner
Commissioner
Commissioner

DeCotiis, FitzPatrick, Cole & Wisler
McManimon & Scotland
Ferraioli, Wielkotz, Cerullo & Cuva, P.A.

General Counsel
Bond Counsel
Auditor

PASSAIC COUNTY UTILITIES AUTHORITY

PART II

**LETTER ON INTERNAL CONTROL OVER FINANCIAL
REPORTING AND ON COMPLIANCE AND OTHER MATTERS**

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

COMMENTS AND RECOMMENDATIONS

YEAR ENDED DECEMBER 31, 2011

Ferraioli, Wielkotz, Cerullo & Cuva, P.A.

Charles J. Ferraioli, Jr., MBA, CPA, RMA
Steven D. Wielkotz, CPA, RMA
James J. Cerullo, CPA, RMA
Paul J. Cuva, CPA, RMA
Thomas M. Ferry, CPA, RMA

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Fax 973-579-7128

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

Honorable Chairman
Passaic County Utilities Authority
County of Passaic, New Jersey

We have audited the financial statements of the Passaic County Utilities Authority as of and for the years ended December 31, 2011 and 2010, and have issued our report thereon dated March 15, 2012. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; audit requirements as prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey; and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Passaic County Utilities Authority's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Passaic County Utilities Authority's internal control over financial reporting. Accordingly, we do not express an opinion on the effective of the Passaic County Utilities Authority's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting, described in the accompanying schedule of findings and questioned costs that we consider to be significant deficiencies in internal control over financial reporting.

- Inadequate procedures for appropriately assessing and applying accounting principles.
- Evidence of failure to perform tasks that are part of internal control, such as reconciliations not prepared or not timely prepared.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Passaic County Utilities Authority's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information of governing body, management, the Division of Local Government Services, Department of Community Affairs, State of New Jersey, Federal Awarding Agencies and Pass Through Entities and is not intended to be and should not be used by anyone other than these specified parties.


FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.
Certified Public Accountants

March 15, 2012

Comments and Recommendations

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2011**

This section identifies the reportable conditions, material weaknesses, and instances of noncompliance related to the general-purpose financial statements that are required to be reported in accordance with Chapter 5.18 of *Government Auditing Standards*.

FINDING: 2011-1*

STATEMENT OF CONDITION

Inadequate procedures for appropriately assessing and applying accounting principles.

CRITERIA

Procedures for assessing and applying accounting principles should be established in order to ensure the financial statements are presented fairly and in accordance with generally accepted accounting principles.

EFFECT

Transactions are often subject to risk of misclassification (e.g. assets, liabilities, net assets, revenues, expenditures).

CAUSE

Unknown.

RECOMMENDATION

The proper classification of expenditures should be carefully reviewed prior to entering into the check register.

MANAGEMENT'S RESPONSE

Management plans to review and connect it's procedures for assessment and applying accounting principles.

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2011
(continued)**

FINDING: 2011-2*

STATEMENT OF CONDITION

Evidence of failure to perform tasks that are part of internal control, such as reconciliations not prepared or not timely prepared.

CRITERIA

Transactions of all Authority bank accounts should be properly recorded and reconciled on a timely basis. Additionally, the records and customer payment histories should be recorded and maintained throughout the year.

EFFECT

Transactions in the Authority's bank accounts not being properly recorded and identified during the fiscal year.

CAUSE

Unknown.

RECOMMENDATION

That transactions of the Authority bank accounts be properly recorded on a timely basis.

MANAGEMENT'S RESPONSE

Management recognizes the importance of properly recording transactions on a timely basis and is working to resolve this finding in the 2012 fiscal year.

**PASSAIC COUNTY UTILITIES AUTHORITY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2011
(continued)**

FINDING: 2011-3

STATEMENT OF CONDITION

The Authority has old accounts receivable and account payable balances on their system that have not been reviewed for accuracy by management.

CRITERIA

Account receivables should represent obligations due to the Authority while account payables should represent obligations due from the Authority at the closing date of a financial statement.

EFFECT

Assets and liabilities are possibly overstated.

CAUSE

Unknown.

RECOMMENDATION

The Authority should review all old accounts receivable and account payable balances.

MANAGEMENT'S RESPONSE

Management will review and correct old account receivable and account payable balances.

**PASSAIC COUNTY UTILITIES AUTHORITY
SUMMARY SCHEDULE OF PRIOR YEAR AUDIT FINDINGS
AND QUESTIONED COSTS AS PREPARED BY MANAGEMENT
FOR THE YEAR ENDED DECEMBER 31, 2011**

This section identifies the status of prior-year findings related to the general-purpose financial statements and federal state awards that are required to be reported in accordance with Chapter 6.12 of *Government Auditing Standards*.

Status of Prior Year Findings

A review was performed on prior year's recommendations and corrective action was taken on all items, except those noted with an asterisk "*".

**PASSAIC COUNTY UTILITIES AUTHORITY
GENERAL COMMENTS**

Contracts and Agreements

N.J.S.A. 40A:11-4 states “Every contract awarded by the contracting agent for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the governing body of the contracting unit to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this act or specifically by any other law.”

Effective July 1, 2010 and thereafter the bid thresholds in accordance with N.J.S.A. 40A:11-3 (as amended) is \$36,000.

N.J.S.A. 40A:11-2 contains definitions for terms used throughout N.J.S.A. 40A:11-1 et seq. and was amended under P.L. 1999, c.440. It includes as subsection (23) the term ‘competitive contracting’, which is defined as “the method described in sections 1 through 5 of P.L. 1999, c.440 (C.40:11-4.1 through C.40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors’ formal proposals are evaluated by the purchasing agent or counsel; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.”

N.J.S.A. 40A:11-3 was amended with P.L. 1999, c.440 to raise the bid threshold and require award by governing body resolution. “When the cost or price of any contract awarded by the purchasing agent in the aggregate does not exceed in a contract year the total sum of \$36,000, the contract may be awarded by a purchasing agent when so authorized by ordinance or resolution as appropriate to the contracting unit, of the governing body of the contracting unit without public advertising for bids and bidding therefore, except that the governing body may adopt an ordinance or resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations.”

N.J.S.A. 40A:11-15 was amended with P.L. 1999, c.440 to extend the base contract period. “Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection (a) of N.J.S.A. 40A:11-5 may be awarded for a period not exceeding 12 consecutive months.”

The governing body has the responsibility of determining whether the expenditures in any category will exceed the statutory thresholds within the contract year. Where question arises as to whether any contract or agreement might result in violation of the statute, the opinion of the Authority’s attorney should be sought before a commitment is made.

Inasmuch as the system of records did not provide for an accumulation of payments for categories for the performance of any work or the furnishing or hiring of any materials or supplies, the results of such an accumulation could not reasonably be ascertained. Disbursements were reviewed, however, to determine whether any clear-cut violations existed.

**PASSAIC COUNTY UTILITIES AUTHORITY
GENERAL COMMENTS, (CONTINUED)**

Contracts and Agreements, (continued)

Our examination of expenditures did not reveal any individual payments, contracts, or agreements "for the performance of any work or the furnishing or hiring of any materials or supplies," in excess of the statutory thresholds other than those where bids had been previously sought by public advertisement or where a resolution had previously been adopted under the provisions of N.J.S.A. 40A:11-6.

Our review of the Authority's minutes indicated that resolutions were adopted authorizing the awarding of contracts or agreements for "Professional Services" per N.J.S.A. 40A:11-5.

Resolutions were adopted authorizing the awarding of contract or agreements for "Professional Services" per N.J.S.A. 40A:11-5.

Appreciation

We desire to express our appreciation of the assistance of the Authority staff during the course of our audit.

Respectfully submitted,



FERRAIOLI, WIELKOTZ, CERULLO & CUVA, P.A.
Certified Public Accountants