EXHIBIT 5

MAINTENANCE AND PROTECTION OF THE CAPPING SYSTEM

During the Cap Enhancement Project, City of Wilmington's designated contractor, as described in the Pigeon Point Landfill Interim Agreement dated December 21, 2005 (**see Appendix 1**), is responsible for the installation of the capping system and is responsible for the maintenance and protection of the work they are performing.

As the Cap Enhancement work is progressing, DSWA periodically inspects the work to ensure it meets the requirements of the 1999 plan prepared by Camp, Dresser, & McKee (CDM) (**See EXHIBIT 12**) and with the Division of Soil and Water's Erosion and Sediment Control Permit (**See EXHIBIT 7, Attachment 3**).

After the Cap Enhancement Project has been completed, DSWA will initially be the caretaker to maintain and protect the cap. The activities will include periodic inspections as required by the Division of Soil and Water.

At the point in time when the City of Wilmington and/or the Diamond State Port Corporation take control and make use of the site, they will then be responsible for maintenance and protection of the capping system.