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NEW JERSEY DEPARTMENT OF
 ENVIRONMENTAL PROTECTION, and SHAWN
 M. LATOURETTE, COMMISSIONER OF THE
 NEW JERSEY DEPARTMENT OF
 ENVIRONMENTAL PROTECTION,

Plaintiffs,

v.

ESTATE OF HAROLD C. FAULK; PHILIP F.
 MCGOVERN, JR., as co-administrator of the
 Estate of Harold C. Faulk; LEO J. HURLEY, JR.,
 as co-administrator of the Estate of Harold C.
 Faulk; SHARON RIVENSON MARK, as former
 administrator of the Estate of Harold C. Faulk;
 SEAN DEL, and as court-appointed manager of
 the Property; EDWARD FAULK; ANNE
 MARTUCCI; "JOHN AND/OR JANE DOES" 1
 through 10 (FICTITIOUS PERSONS); and "XYZ
 CORPORATIONS" 1 through 10 (FICTITIOUS
 ENTITIES),

Defendants.

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION – HUDSON COUNTY
 DOCKET NO.

CIVIL ACTION

VERIFIED COMPLAINT

Plaintiffs New Jersey Department of Environmental Protection (“DEP”) and Shawn M. LaTourette, Commissioner of the DEP (“Commissioner”) (collectively, “Plaintiffs” or “Department”), by way of this verified complaint against the Estate of Harold Faulk, Philip F. McGovern Jr., Esq., Leo J. Hurley Jr., Esq., Sharon Rivenson-Mark, Esq., Seal Del, Edward Faulk, Anne Martucci, “John and/or Jane Does” 1 through 10 (Fictitious Persons), and “XYZ Corporations” 1 through 10 (Fictitious Entities) (collectively “Defendants”), allege as follows:

STATEMENT OF THE CASE

1. Defendants are, or were at one point, owners of, operators of, and/or legally responsible for property located in Kearny, New Jersey, specifically Block 284, Lots 9.01, 9.03, 10.02, and 11.04, on the Kearny Tax Map (“Property”). The Property is situated within the Passaic River Flood Hazard Area and is operated as an illegal dumping site for multiple companies and individuals, resulting in violations of multiple land use, solid waste, hazardous waste, and water laws and regulations.

2. The Property contains vast amounts of illegally disposed-of solid waste including numerous dilapidated trucks, commercial vehicles, equipment, trailers, sea boxes, containers (potentially containing explosives), barrels with unknown contents, car parts, furniture, electronics, pieces of scrap metal, plastic, tile, wood, thousands of scrap tires (some of which have been burned), and piles of asphalt millings. Because Defendants have failed to properly document what materials are disposed of on the Property, it is unclear how much of the solid waste on the Property is actually hazardous waste that would be subject to strict circumscribed regulations due to its potentially dangerous characteristics. Further, the apparent oil staining observed on the ground, and the spills of unidentified chemicals, are likely impacting the soil, surface water, and/or groundwater at the Property. Defendants’

actions violate the Solid Waste Management Act (“SWMA”), the Water Pollution Control Act (“WPCA”), and related regulations.

3. Additionally, the Property has been altered by the unauthorized placement of fill material in the form of soil, gravel, and asphalt millings; this illegal fill created a storage area for cars, trucks, machinery, shipping containers and dumpsters within the Passaic River Flood Hazard Area, in violation of the Flood Hazard Area Control Act (“FHACA”). For nearly six years, DEP has actively attempted to get Anne Martucci (“Martucci”) and Harold C. Faulk (“Faulk”) in the care of (“c/o”) Sharon Rivenson-Mark (“Rivenson-Mark”) to remove the unauthorized fill from the Property, to no avail. From 2019 to 2020, DEP’s Bureau of Coastal & Land Use Compliance & Enforcement (“CLUE”) issued three Notices of Violation (“NOVs”) to Martucci, and in 2022 issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (“AONOCAPA”) to Faulk c/o Rivenson-Mark to remedy the unauthorized filling on the Property (“CLUE AONOCAPA”). The NOVs and the CLUE AONOCAPA were ignored, and the FHACA violations persist on the Property.

4. The ongoing violations on the Property pose significant health and environmental threats to the local community. The illegal filling on the Property decreases the available floodplain storage capacity and can exacerbate local flooding issues. Solid waste attracts disease-spreading animals, causes respiratory issues, creates toxic smoke when burned (there have been nine fires at the Property since 2003), and contaminates the groundwater, soil, surface water, and air. The apparent hazardous waste on the Property—the petroleum and unknown spills, the unknown substances in unlabeled containers, and the leaking vehicle batteries—likewise poses health and environmental threats upon entering the groundwater, soil, surface water, and the air. Human exposure to hazardous waste can cause dizziness, headaches, lung irritation, nervous system disruptions and even damage to the

liver, kidneys, central nervous system, and eyes. Hazardous contaminants persist in soil for long periods of time, impeding plant growth and threatening birds and mammals with irritation and toxicity.

5. The community surrounding the Property has a significant minority population such that it is considered an “overburdened community” within the meaning of N.J.S.A. 13:1D-158.¹ Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, and accompanying increased negative public health impacts.

6. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health without regard to race, language or income. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018); Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

7. To ensure all contamination at the Property is identified and remediated, and to eliminate the associated environmental, health, and safety risks, the Department seeks an injunction requiring Defendants to retain a Licensed Site Remediation Professional (“LSRP”) to investigate discharges on the Property in accordance with applicable laws and regulations, and to pay civil penalties and costs.

8. Specifically, the Department seeks an order requiring Defendants to: (1) submit a restoration plan to identify, characterize and remove the unauthorized fill in accordance with

¹ “Overburdened community” means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency. N.J.S.A. 13:1D-158. The Site is located within an area of Kearny that is listed as an overburdened community on the Department’s website, pursuant to N.J.S.A. 13:1D-159.

applicable laws and regulations, as well as stabilize and install native, non-invasive plants; (2) submit a plan to identify, characterize, remove, and properly dispose of the solid waste located throughout the Property in accordance with all applicable laws and regulations; (3) determine how much of the solid waste on the Property is hazardous waste in accordance with all applicable laws and regulations; (4) retain a LSRP to begin developing a plan to address discharges including, but not limited to, releases of petroleum materials, acid and lead from damaged batteries, and unidentified substances observed throughout the Property; (5) submit a Corrective Measure Action Plan (“CMAP”), make all storage containers on the Property accessible and open to DEP inspectors, and develop a plan to characterize and dispose of any unknown materials found in the storage containers; and (6) apply for and obtain required New Jersey Pollutant Discharge Elimination System (“NJPDES”) permit(s). The Department also seeks an order imposing civil penalties for Defendants’ violations of the above-mentioned laws and regulations, and to recover the costs associated with bringing this action.

PARTIES

9. DEP is a principal department within the Executive Branch of the New Jersey State government, with its principal offices at 401 East State Street, Trenton, New Jersey.

10. DEP is vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-1 to -19. Pursuant to the DEP’s enabling legislation, *id.*; the Solid Waste Management Act (“SWMA”), N.J.S.A. 13:1E-1 to -48; the Water Pollution Control Act (“WPCA”), N.J.S.A. 58:10A-1 to -35; the Flood Hazard Area Control Act (“FHACA”), N.J.S.A 58:16A-50 to -103; and

related regulations, DEP is authorized to institute legal proceedings to seek injunctive relief, civil penalties, and costs of suit, and to compel remediation in Superior Court.

11. Shawn M. LaTourette is the Commissioner of DEP. In this capacity, the Commissioner is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, the SWMA, the WPCA, and the FHACA.

12. Defendant, the Estate of Harold C. Faulk ("Estate"), holds the assets and liabilities of Faulk, including the Property, and was formed at the time of Faulk's death. See Certification of Division of Law Investigator Todd Caruso ("Caruso Cert.") at ¶¶4. The Estate is the current owner of the Property. Id. During Estate's ownership of the Property, DEP found violations of the SWMA, the WPCA, the FHACA, and related regulations. See Certification of Hazardous Waste Compliance and Enforcement Inspector Maria Erickson ("Erickson Cert.") at ¶¶9-10, 28-29; Certification of Solid Waste Compliance and Enforcement Inspector Peter DeMonte ("DeMonte Cert.") at ¶¶25, 41-44; Certification of Water Compliance and Enforcement Inspector Maria Coppola ("Coppola Cert.") at ¶¶6, 18-20; Certification of Coastal and Land Use Enforcement Inspector Michelle Agnoli ("Agnoli Cert.") at ¶¶18, 20-21.

13. Defendants Philip F. McGovern, Jr., Esq. ("McGovern"), and Leo J. Hurley, Jr., Esq. ("Hurley"), are co-administrators of the Estate (collectively, "Administrators"). See Caruso Cert. at ¶5. McGovern's address is Tenenbaum Keele LLP, Three Gateway Center, 100 Mulberry Street, Suite 1301, Newark, New Jersey 07102. Id. Hurley's address is Connell Foley, Harborside 5, 185 Hudson Street, Suite 2510, Jersey City, New Jersey 07311. Id.

14. Defendant Rivenson-Mark was appointed guardian of the Property on August 2, 2018. Id. at ¶6. On June 1, 2022, due to Faulk's death, Rivenson-Mark's guardianship of the Property was dissolved. Id. Rivenson-Mark was appointed as temporary administrator of the Estate on June 1, 2022, and served in that role until September 1, 2023. Id. Rivenson-Mark's

address is Meyerson, Fox, Conte, One Paragon Drive, Suite 240, Montvale, New Jersey 07645.
Id.

15. Defendant Sean Del (“Del”) is the court-appointed manager of the Property and currently employed by NJ Realty Source. Id. at ¶7. Del manages the Property according to a Management Agreement, which imposes financial, administrative, and supervisory responsibilities on Del. Id. Del’s address is 501 2nd Avenue #1, Lyndhurst, New Jersey 07071.
Id.

16. Defendant Martucci owned the Property at the time of the FHACA violations described below. Id. at ¶8. Martucci’s address is 48 Pleasant Place, Kearny, New Jersey 07032. Id.

17. Defendant Edward Faulk (“Edward”) is Faulk’s son and the owner of E. Faulk Trucking, LLC, a trucking business that operates on the Property. Id. at ¶9. Edward claims he inherited the Property after Faulk’s death. See DeMonte Cert. at ¶10.

18. Defendants John and/or Jane Does 1-10, these names being fictitious, are natural individuals whose identities cannot be ascertained as of the filing of this Verified Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, Defendants, and/or one or more of the XYZ Corporation defendants, and/or are Faulk’s descendants, current and past tenants, owners, and/or operators of the Property.

19. Defendants, XYZ Corporations 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, insurers of, or are otherwise related to, Defendants, and/or current and past tenants, owners, and/or operators of the Property.

FACTUAL ALLEGATIONS

PROPERTY OWNERSHIP THROUGHOUT THE YEARS

20. The Property is located at the Meadows in Kearny, Hudson County, New Jersey, specifically Block 284, Lots 9.01, 9.03, 10.02, and 11.04, on the Kearny Tax Map. See Caruso Cert. at ¶2. The Property is operated as an illegal dumping site and is rented out to individuals and companies for storage and maintenance of construction equipment, vehicles, and materials. See DeMonte Cert. at ¶¶38-44; Agnoli Cert. at ¶8; Coppola Cert. at ¶7. The Property is situated within the Passaic River Flood Hazard Area. See Agnoli Cert. at ¶6.

21. In January of 1982, Erie Lackawanna Railway Company sold the Property for \$50,000 to Harrison Station, a partnership between Faulk and three (3) others. See Caruso Cert. at ¶10. The Property then changed hands from Harrison Station to Faulk in July of 1983. Id.

22. Shortly thereafter, in early-1984, Faulk's personal attorney, Ralph Fucetola, Esq., created Edgar-Charles Realty Corporation ("Edgar-Charles") for Faulk, and named Martucci as the incorporator of Edgar-Charles. Id. at ¶11. Later that year, Faulk transferred the Property to Edgar-Charles for nominal consideration. Id.

23. Two (2) decades passed without any changes in ownership of the Property. Id. at ¶12. Then, in 2005, Edgar-Charles transferred Lots 9.03 and 11.04 to Anne Martucci, Inc. ("Martucci Inc."). Id.

24. In 2014, Faulk suffered a stroke, which rendered him physically and mentally incapacitated. Id. at ¶13. Thereafter, on April 13, 2015, Martucci, on behalf of Edgar-Charles, deeded Lots 9.01 and 10.02 to herself for nominal consideration. Id. at ¶14. That same day, Martucci, Inc., deeded the Lots 9.03 and 11.04 to Martucci for nominal consideration, therefore giving Martucci complete and personal ownership of the Property. Id.

25. On August 2, 2018, Janette Faulk (“Janette”), Faulk’s daughter, sought and was appointed as guardian of Faulk. Id. at ¶15. That same day, Rivenson-Mark was appointed as guardian of the Property. Id.

26. Janette, as guardian of Faulk, filed a complaint on October 10, 2018, seeking to void Martucci’s legal title to the Property. Id. at ¶16. Ultimately, on December 24, 2019, the court awarded a constructive trust in favor of Faulk and ordered Martucci to transfer the Property to Faulk.² Id. The court appointed Del as the manager of the Property and tasked Del with financial, administrative, and supervisory responsibilities on the Property pursuant to a Management Agreement. Id. Pursuant to the court’s order, on June 26, 2020, Martucci quitclaimed the Property to Faulk through the guardianship Rivenson-Mark. Id.

27. Faulk died on May 27, 2022. Id. at ¶17. On June 1, 2022, due to Faulk’s death, Rivenson-Mark was dissolved as guardian of the Property and appointed as temporary administrator of the Estate. Id. at ¶6. Rivenson-Mark served as temporary administrator of the Estate until September 1, 2023. Id. at ¶6. Thereafter, the Administrators (McGovern and Hurley) became, and currently are, co-administrators of the Estate. Id. at ¶17. The Administrators are required to “prioritize the issues surrounding the sale of, continued and/or future use of [Faulk’s] property termed the ‘Meadows’ located in Kearny, New Jersey.” Id.

28. Edward, Faulk’s son and owner of E. Faulk Trucking, LLC, claims he inherited the Property after Faulk’s death. See DeMonte Cert. at ¶10; Caruso Cert. at ¶9. On August 9, 2024, the Court enjoined Edward from “the use of [the Property] for any purpose” and divested Edward of any role or part in management of the Property See Caruso Cert. at ¶19.

² Martucci unsuccessfully appealed the trial court’s decision. See Caruso Cert. at ¶16. On January 7, 2025, Martucci filed a *lis pendens* on the Property with the United States District Court for the District of New Jersey. Id.

Further, the Court ordered Edward to remove all “equipment, vehicles, storage facilities and things” to which Edward and/or E. Faulk Trucking, LLC, can establish title to, “along with all business or personal property” on the Property, no later than November 8, 2024. Id. Edward filed for Chapter 13 Bankruptcy on November 7, 2024, which automatically stayed all pending litigation concerning Edward and his rights (or lack of rights) and obligations on the Property. Id. at ¶21. On January 21, 2025, the Bankruptcy Court partially lifted the stay to permit the Administrators to “continue the Probate Action in the Superior Court of New Jersey, Hudson Vicinage as to any issue relating to [Edward’s] right to remain on the [Property].” Id.

29. Defendants each are, or were at one point, owners, operators, and/or legally responsible for the Property and the violations that occurred, and continue to occur, thereon.

LAND USE VIOLATIONS ON THE PROPERTY AND THE CLUE AONOCAPA

30. On February 7, 2019, during Martucci’s ownership of the Property, CLUE conducted a site visit in response to an incident complaint alleging that wetlands on the Property, specifically on Lot 9.03, were being illegally filled. See Agnoli Cert. at ¶7.

31. In their February 7, 2019, investigation, CLUE inspectors observed a large portion of Lot 9.03 was being used as a parking, storage, and staging area for cars, trucks, machinery, shipping containers, and dumpsters. Id. at ¶8. Additionally, the area was utilized for the storage and maintenance of construction equipment, vehicles, and materials. Id. CLUE inspectors determined this parking, storage, and staging area was a result of illegal filling with soil, gravel, and asphalt millings. Id. To make this determination, CLUE inspectors studied aerial imagery of the Property from 2003 to 2005 and noticed a large area of Lot 9.03—roughly 64,000 square feet—was once vegetated but had now changed from a vegetated area to a parking, storage, and staging area. Id. Based on the CLUE inspectors’ observations at the Property, CLUE inspectors used a 3-foot average depth calculation, considering the height of

cars, trucks, machinery, shipping containers, and dumpsters situated on soil, gravel, and asphalt millings, to estimate approximately 7,111 cubic yards of fill material was placed within the Passaic River Flood Hazard Area on Lot 9.03. Id.

32. CLUE inspectors concluded Martucci, as the owner of the Property at the time, was in violation of N.J.A.C. 7:13-2.1(a) for engaging in a regulated activity (filling) in a regulated area (the Passaic River Flood Hazard Area)³ without a Flood Hazard Area permit. Id. at ¶9.

33. Given the N.J.A.C. 7:13-2.1(a) violation, CLUE issued Martucci a NOV on August 1, 2019. Id. at ¶10. The NOV advised Martucci to, within thirty (30) days of receipt of the NOV, either:

(1) submit a Flood Hazard Area permit to DEP to legitimize the unauthorized activities; or

(2) submit to DEP a restoration plan for the unauthorized activities.

[Id.]

34. Martucci failed to submit the Flood Hazard Area permit application, or the restoration proposal as set out in the NOV. Id. at ¶11. Accordingly, on November 12, 2019, the DEP issued a follow-up NOV to Martucci. Id. The follow-up NOV advised Martucci to take the same actions as the August 1, 2019, NOV. Id. The follow-up NOV notified Martucci that noncompliance with the NOV may result in further enforcement action, including attachment of the NOVs to the Property deed and/or issuance of an AONOCAPA. Id.

³ The "Flood Hazard Area" includes the 100-year floodplain plus a factor of safety. Generally this area is prone to flooding due to either tidal action or stormwater runoff driven events. Activities within this area are commonly regulated under protections established by the DEP. See Agnoli Cert. at ¶9, n.1; see also [NJDEP | Watershed & Land Management | Flood Hazard Areas](#) (explaining "The Flood Hazard Area is the land, and the space above that land, which lies below the flood hazard area design flood elevation. The flood hazard area design flood elevation is a flood equal to the 100-year flood plus an additional amount of water in fluvial areas to account for possible future increases in flows due to development or other factors.")

35. Martucci again failed to comply with the follow-up NOV. Id. at ¶12. Given her noncompliance, CLUE recorded Martucci's NOVs with the Hudson County Clerk's Office and attached the NOVs to the deed of the Property on March 12, 2020. Id.

36. After CLUE attached the NOVs to the deed of the Property, the Property changed ownership from Martucci to Faulk through the guardianship of Rivenson-Mark, and Del was appointed manager of the Property. Id. at ¶13; Caruso Cert. at ¶16.

37. CLUE issued a Final Warning Notice to Martucci on August 20, 2020. See Agnoli Cert. at ¶14. The Final Warning Notice again advised Martucci to comply with the regulations cited in the previous NOVs within thirty (30) days of receipt, specifically N.J.A.C. 7:13-2.1(a). Id.

38. CLUE conducted a virtual compliance inspection on February 27, 2022, to assess Martucci's compliance (or lack of compliance) with the Final Warning Notice. Id. at ¶15. CLUE used the Nearmap program⁴ to inspect aerial imagery of the Property. Id. The virtual inspection showed the N.J.A.C. 7:13-2.1(a) violation remained on Lot 9.03. Id.

39. Only a few months after CLUE's virtual compliance inspection confirmed the FHACA violation persisted on the Property, on May 27, 2022, Faulk passed away intestate. Id. at ¶16; Caruso Cert. at ¶17. Given Faulk's death, CLUE, on July 20, 2022, served the CLUE AONOCAPA on Rivenson-Mark (the court-appointed temporary administrator of the Estate at the time). See Agnoli Cert. at ¶16; Caruso Cert. at ¶17. The CLUE AONOCAPA advised Faulk to cease all unauthorized activities on Lot 9.03, stabilize all disturbed areas (if necessary), and, again, either submit a Flood Hazard Area permit application or a restoration proposal to

⁴ Nearmap is a geospatial mapping service that provides high-resolution aerial imagery content to various industries, including government entities across local, state, and federal agencies. See [Nearmap Aerial Imagery](#).

CLUE. See Agnoli Cert. at ¶16. Additionally, the CLUE AONOCAPA assessed a civil administrative penalty of \$48,000 against Faulk. Id.

40. On August 18, 2022, Albert I. Telsey, Esq. (“Telsey”), legal counsel for the Estate at the time, timely submitted a hearing request for the CLUE AONOCAPA. Id. at ¶17. DEP granted the hearing request on March 7, 2023. Id. After the hearing request was granted, Telsey requested the matter be referred to the DEP’s Alternative Dispute Resolution (“ADR”) program. Id. Telsey then sought to postpone the ADR due to a change in the administrator of the Estate. Id. DEP contacted Telsey twice to reschedule the ADR, but Telsey was unresponsive. Id. Given Telsey’s unresponsiveness, on January 29, 2025, DEP withdrew the matter from ADR. Id.⁵

41. To date, Martucci has not rectified the violation cited in the NOV, and Rivenson-Mark has not complied with the CLUE AONOCAPA. Id. at ¶20. To date, the illegal fill remains on the Property, which is now under the legal control of the Estate, the Administrators, and Del. Id. at ¶21; Caruso Cert. at ¶22.

SOLID WASTE VIOLATIONS ON THE PROPERTY

42. On May 1, 2024, DEP’s Bureau of Solid Waste Compliance & Enforcement (“SWCE”) received a complaint from Edward, alleging an illegal junk yard was operating at the Property. See DeMonte Cert. at ¶5. Edward claimed to be manager of Lot 9.01, and alleged Lot 9.03 was being mismanaged by the Administrators and Del. Id. Edward further claimed Lot 9.03 contained oil and diesel spills, scrap tires, batteries, and other debris that were

⁵ To date, there has been no hearing scheduled for the CLUE AONOCAPA. Due to exigent circumstances present on site, the Department is staying the Office of Administrative Law (“OAL”) proceedings for the Property in order to seek the injunctive relief sought here in Superior Court.

impacting wetlands. Id. The solid waste incident was assigned to SWCE Inspector Peter DeMonte (“SWCE Inspector DeMonte”) on May 1, 2024, to investigate on behalf of SWCE. Id.

43. Concurrent with the incident being assigned to SWCE Inspector DeMonte, DEP’s Bureau of Emergency Response (“BER”) requested that Joren Madsen (“Madsen”) of the Hudson Regional Health Commission (“HRHC”) inspect the Property. Id. at ¶6. Madsen noted he inspected similar allegations at the Property “a few years prior” at DEP’s request and found solid waste violations pertaining to oil contamination. Id.

44. Madsen conducted the requested inspection of the Property on May 13, 2024. Id. at ¶7. Madsen observed Lot 9.03 was in complete disarray. Id. He observed open buckets of oil, numerous oil spills, a large drum with burned wood and garbage (suggesting open burning), truck parts, scrap tire piles, and garbage bag piles strewn about. Id. Madsen also observed trucking companies conducting oil changes with spillage on the ground. Id. A representative of one tenant trucking company on the Property, MG Trucks & Parts LLC (“MG Trucks”), told Madsen that Edward allegedly smashed one of MG Truck’s cameras, committed arson on the Property, and dumped on the Property at night. Id.

45. Based on his inspection, Madsen noted conditions at Lot 9.03 did not appear to have changed since he previously inspected it a few years earlier. Id. at ¶8. As such, Madsen concluded: (1) Lot 9.03 was operating as an illegal solid waste facility; and (2) there were “water pollution issues, solid waste issues, tire issues, and also potential violations of zoning regulations” on Lot 9.03. Id.

46. The SWMA defines “solid waste” as garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities. N.J.S.A. 13:1E-3; DeMonte Cert. at ¶9. “Solid waste” is further defined by N.J.A.C. 7:26-1.6(a) as “any garbage, refuse, sludge, processed or

unprocessed mixed construction and demolition debris, including, but not limited to, wallboard, plastic, wood, or metal, or any other waste material.” See DeMonte Cert. at ¶9. The scrap tire piles, garbage bag piles, truck parts, and the large drum with burned wood and garbage, among other debris observed by Madsen, are “solid waste” under the SWMA and its regulations. Id.

47. The day after Madsen’s inspection, on May 14, 2024, SWCE Inspector DeMonte visited the Property to investigate Edward’s allegations and observed the same types of solid waste identified by Madsen. Id. at ¶10. During the inspection, SWCE Inspector DeMonte interviewed Edward, who explained he inherited the Property after his father’s death, but noted the Property was under the control of the Administrators. Id. Edward estimated the Property was being leased to roughly thirty (30) companies and/or individuals, and claimed the Administrators were responsible for the Property. Id.

48. After speaking with Edward, SWCE Inspector DeMonte surveyed the Property and observed scrap tires, bricks, concrete, metal, plastic pieces from vehicles, municipal waste in severely damaged dumpsters, truck body parts, numerous oil stains on the ground surface, and multiple drums containing unknown contents scattered around the Property. Id. at ¶11. SWCE Inspector DeMonte made particular note of a noticeable petroleum smell on the Property. Id. At the conclusion of SWCE Inspector DeMonte’s investigation, he determined SWMA violations existed for: (1) disposing of solid waste without a Solid Waste Facility (“SWF”) permit in violation of N.J.A.C. 7:26-2.8(e); and (2) operating a SWF without a SWF permit in violation of N.J.A.C. 7:26-2.8(f). Id.

49. On May 29, 2024, Madsen conducted a follow-up inspection of the Property. Id. at ¶12. During the inspection, Madsen spoke with Del, the court-appointed manager of the

Property, who stated he was responsible for overseeing the Property and that Edward was not in charge of any of the Property. Id.

50. Madsen explained to Del that there were environmental violations on the Property and that an enforcement document may be issued. Id. at ¶13. Following Madsen's explanation, Del reversed course on his previous statement and claimed he was not actually the landlord of the Property, and that managing the Property was not part of his legal responsibilities. Id. Rather, Del stated he was merely the court-appointed receiver of the Property and that he collects rent from the tenants. Id. Del told Madsen to contact the Administrators to find out if they are responsible for the Property. Id.

51. Accordingly, on June 19, 2024, Madsen contacted McGovern. Id. at ¶14. McGovern stated Del is merely a receiver of the rent and not responsible for managing the Property. Id. McGovern instructed Madsen to send him any enforcement documents issued for violations on the Property. Id.

52. Madsen inspected the Property again on June 27, 2024, and observed the violations from previous inspections remained ongoing. Id. at ¶15.

53. During an inspection on August 15, 2024, Madsen observed active open-burning violations: a small pile of burning trash and recyclables, and charred 55-gallon metal drums filled with ash. Id. at ¶16.

54. On August 19, 2024, Madsen issued a NOV ("HRHC NOV") to McGovern (in his capacity as co-administrator of the Estate) for violating HRHC Air Pollution Control Code Section 4:1(B) (open burning). Id. at ¶17. The HRHC NOV advised McGovern to cease open burning on the Property. Id.

55. About a week later, on August 23, 2024, Madsen and SWCE inspectors DeMonte and Carole Mercer ("SWCE Inspector Mercer") visited the Property. Id. at ¶18. The

inspectors observed the solid waste violations discovered previously by SWCE Inspector DeMonte were ongoing. Id.

56. During the August 23, 2024, inspection, SWCE Inspectors DeMonte and Mercer observed multiple companies and individuals operating businesses on the Property and again noted the Property was littered with vehicles, equipment, metal, auto parts, drums, containers, scrap tires, roll offs, a broken-down garbage truck full of waste, dumpsters with solid waste, litter, and other debris piled and scattered about. Id. at ¶19. SWCE Inspectors DeMonte and Mercer made particular note of a significant petroleum-like odor on the Property. Id. Based on their observations, SWCE Inspectors DeMonte and Mercer determined that violations of N.J.A.C. 7:26-2.8(e) and N.J.A.C. 7:26-2.8(f) persisted, and that there were potential violations of land use, air, water, and hazardous waste regulations on the Property. Id.

57. To date, the above-mentioned solid waste violations persist on the Property. Id. at ¶44.

RECENT DEP INSPECTIONS REVEAL NEW AND ONGOING VIOLATIONS ON THE PROPERTY

58. On October 16, 2024, and January 30, 2025, two (2) joint-inspections of the Property were conducted by multiple divisions of DEP. Both inspections showed the above-mentioned solid waste violations remained on the Property. Id. at ¶¶21-30.

59. The day before DEP's first joint inspection on October 16, 2024, a 2-alarm fire incident with heavy smoke broke out at the Property. See Caruso Cert at ¶20. There were multiple fires on the Property, which burned scrap vehicles, scrap tires, trailers and shipping containers (along with the contents inside), and a pile of truck tires and brush adjacent to operating train tracks. Id. Extinguishing the fire was labor intensive, requiring twenty (20) personnel and overhauling the burning vehicles, cutting open trailers and containers, 700-

gallons of water, and over five (5) hours of pumping water from fire hydrants. Id. This fire, the ninth at the Property since 2003, is suspected to be human-caused. Id. The Fire Report notes a security camera was redirected prior to the fire starting, and that multiple 5-gallon motor oil buckets, motor oil containers, oil filters, hand torch propane/butane fuel canisters, unidentified 55-gallon drums, aerosol cans, and forklift propane cylinders were found at the scene of the fire. Id.

60. Solid waste fires pose significant threats to the public health and environment. See DeMonte Cert. at ¶32. More specifically, these types of fires can cause smoke plumes containing toxic air pollutants such as polycyclic aromatic hydrocarbons, benzene, styrene, and phenols. Id. In addition, they can result in thermal radiation, explosions, projectiles, contaminated firefighting water runoff, and melting scrap tires that cause soil, surface water and groundwater contamination. Id. Finally, there are significant added risks for first responders. Id.

61. On October 16, 2024, inspectors from the DEP's Bureau of Hazardous Waste Compliance and Enforcement ("HWCE"), Bureau of Water Compliance and Enforcement ("WCE"), and SWCE, inspected the Property and observed an active arson crime scene investigation. See DeMonte Cert. at ¶20.

62. During the October 16, 2024, inspection, SWCE inspectors and a HWCE inspector observed and photographed a large metal box labeled "EXPLOSIVES" perched precariously on top of two cargo containers. See DeMonte Cert. at ¶22; Erickson Cert. at ¶7.



63. During this inspection, the SWCE inspectors observed the previously identified waste on the Property: car parts, pieces of metal, plastic, tiles, wood, scrap tire piles, and asphalt millings. See DeMonte Cert. at ¶21 The HWCE team photographed numerous containers, drums, batteries, and buckets, the contents of which are unknown, and possibly hazardous. See Erickson Cert. at ¶8.



64. Additionally, SWCE inspectors observed a ten (10) cubic yard pile of asphalt millings. See DeMonte Cert. at ¶22. This pile appeared to have been built up approximately three (3) feet above the surrounding grade of the Property. Id.

65. Based on their inspection on October 16, 2024, of the Property, SWCE inspectors concluded solid waste violations were still present on the Property. Id. at ¶24.

66. The most recent joint inspection of the Property was conducted on January 30, 2025, with CLUE, SWCE, HWCE, and WCE. CLUE inspectors observed the soil, gravel, and asphalt milling fill was still in place on the Property within the Passaic River Flood Hazard Area,

that the fill had not been removed, and that the area had not been restored. See Agnoli Cert. at ¶18.

67. Inspectors from WCE observed oil staining and remnants of oil-stained vehicle components on the Property that were potentially discharging into the waters of the State of New Jersey (“State”). See Coppola Cert. at ¶6. Additionally, WCE inspectors noted numerous containers on the Property with unknown contents. Id.

68. WCE inspectors spoke with Madsen, who noted he previously conducted multiple inspections of the Property and had witnessed vehicle maintenance activities such as outdoor oil changes and dumping of spent oil on the ground. Id. at ¶7. Madsen stated the trucking company conducting the outdoor oil changes and oil dumping was MG Trucks. Id. WCE inspectors took photos within the vicinity of MG Truck’s area on the Property. Id. at ¶8. WCE inspectors photographed a steel vault in the ground; inside the vault was a sealed opening, suggesting a pipe had been connected and used for the discharge of substances into the vault. Id.

69. Significantly, WCE inspectors photographed two oil-stained pipes on the ground, one of which had oil pooling around it. Id. at ¶9.



70. WCE inspectors noted the oil-stained pipes were evidence of violations of N.J.A.C. 7:14A-2.1(d)—discharging pollutants to the surface and ground waters of the State without a valid NJPDES permit. Id. at ¶11.

71. Inspectors from HWCE observed oil-like spills and chemical spills on the ground, open burning areas, car and truck batteries (at least one of which was damaged and appeared to be leaking), numerous unknown and unlabeled containers, including: containers of vehicle fluids, gas cylinders, drums ranging from 15-55 gallons, totes, cargo tank trailers, straight box trucks, straight cargo tankers, storage tanks, and roll-off containers. See Erickson Cert. at ¶10.

72. HWCE inspectors made particular note of the inaccessibility of the numerous intermodal containers, trailers, box trucks, and tanks due to being closed, locked, or obstructed by other vehicles, equipment, or debris. Id. at ¶¶11-13. Notably, one trailer that was open was observed to be full of containers of flammable dry-gas, corrosive brake fluid, a five (5) gallon carboy (container) used for chemical storage, and three (3) drums of ink. Id. at ¶11. HWCE inspectors emphasized the contents of various containers and trailers found on the Property are unknown. Id. at ¶¶16-18.

73. Finally, during the January 30, 2025, inspection, SWCE inspectors observed car parts, scrap tire piles, asphalt milling piles, furniture, electronics, pieces of scrap metal, plastic, tile, and wood scattered throughout the Property. See DeMonte Cert. at ¶25. Further, large trucks, commercial vehicles and equipment, trailers, sea boxes, and other large containers were stacked, scattered, and dumped throughout the Property. Id.

74. SWCE inspectors made particular note of burnt scrap tires, truck trailers, vehicles, and other solid waste. Id. at ¶26.



75. SWCE inspectors noted asphalt millings were being used to fill in various parts of the Property at depths ranging from a few inches to five (5) feet. Id. at ¶27. Further, SWCE inspectors observed an abandoned truck, trailer, and dumpster, among other solid waste, was improperly stored along a Public Service Electric & Gas Co. (“PSE&G”) natural gas pipeline next to the Property. Id. at ¶¶27, 28.

76. SWCE issued a NOV (“SWCE NOV”) to the Estate c/o Hurley on February 27, 2025, for violating N.J.A.C. 7:26-2.8(e) and (f). Id. at ¶29.

77. The SWCE NOV advised Hurley to:

- a. Within 2 days of your receipt of this NOV, cease the import of any new solid waste onto the subject properties. [N.J.A.C. 7:26-2.8(e)]
- b. Within 30 days of your receipt of this NOV, submit a Solid Waste Corrective Action Workplan (SWCAW) to the Department's Bureau of Solid Waste Compliance and Enforcement. The SWCAW must include timelines for completing each of the following:
 - i. Submittal of the proposed methods to be used to complete an inventory (type, quantity, location) of all the visible solid waste (including, but not limited to,

miscellaneous debris, dilapidated equipment and vehicles, containers, scrap tire piles, asphalt millings in piles and used as fill around property, etc.) located throughout the property.

- ii. Submittal of the completed inventory to the Department for R&A. Anything that is classified as solid waste via the inventory will need to be removed from the property and either disposed of or recycled off-site at Department authorized facilities. The inventory will include specific plans for disposal and/or recycling of each item.
- iii. Completion of the removal of all the materials in #2 above.
- iv. Submittal of a final report to the Department for R&A including photos of the property following removal and copies of all disposal, recycling, sales receipts, etc. demonstrating proper disposition of the materials off the property. [N.J.A.C. 7:26- 2.8(f)].

[Id.]

78. Hurley acknowledged receipt of the SW NOV via email on March 3, 2025. See DeMonte Cert. at ¶31. To date, the Estate and the Administrators have failed to fully comply with the SWCE NOV. Id. at ¶42.

79. To date, the violations observed by the various programs who performed joint inspections on October 16, 2024, and January 30, 2025, including, but not limited to those noted in the SWCE NOV issued to the Estate c/o Hurley on February 27, 2025, persist on the Property. See DeMonte Cert. at ¶44; Erickson Cert. at ¶21; Coppola Cert. at ¶20; Agnoli Cert. at ¶21.

COUNT I

Flood Hazard Area Control Act Violations (As to the Estate, Administrators, Rivenson-Mark, Del, and Martucci)

80. The Department repeats and incorporates each of the foregoing paragraphs as if set forth in their entirety herein.

81. Pursuant to N.J.A.C. 7:13-2.1(a), no person shall engage in a regulated activity in a regulated area under the FHACA without a Flood Hazard Area permit as required by [the FHACA].

82. In 2019, CLUE inspectors found Martucci, as the owner of the Property at the time, violated the FHACA by placing approximately 7,111 cubic yards of fill material within the Passaic River Flood Hazard Area without a Flood Hazard Area permit to do so.

83. From August of 2019 to August 20, 2020, CLUE issued three (3) NOVs to Martucci for the above violation and advised Martucci that either a Flood Hazard Area permit or a restoration plan were to be submitted to CLUE to remedy the violation.

84. To date, Martucci has failed to submit either a Flood Hazard Area permit or a restoration plan to CLUE.

85. As a result, on July 20, 2022, CLUE issued the CLUE AONOCAPA to Faulk c/o Rivenson-Mark, who was the owner of the Property at the time. The CLUE AONOCAPA informed Faulk that either a Flood Hazard Area permit or a restoration plan were to be submitted to CLUE.

86. To date, CLUE has not received either a Flood Hazard Area permit application or a restoration plan from Rivenson-Mark (the temporary administrator of the Estate at the time of the CLUE AONOCAPA).

87. To date, Martucci has not complied with the NOVs, and Rivenson-Mark has not complied with the CLUE AONOCAPA. To date, the illegal fill on the Property, which is now under the legal control of the Estate, the Administrators, and Del, has not been removed or restored.

88. Pursuant to N.J.A.C. 7:13-24.8(a), the Department may “institute an action or proceeding in the Superior Court for injunctive or other relief . . . for any violation of [the FHACA], or any regulation, rule, permit, or order adopted or issued by the Department pursuant

to [the FHACA], and the court may proceed in the action in a summary manner. Such relief may include, singly or in combination: (1) a temporary or permanent injunction; (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection[.]”

89. Pursuant to N.J.A.C. 7:13-24.7(a) any person who “violates the provisions of [the FHACA], any regulation, rule, permit, order, or court order issued pursuant to thereto, . . . shall be subject, upon order of a court, to a civil penalty of not more than \$25,000 for each violation, and each calendar day during which a violation continues shall constitute an additional, separate, and distinct offense. In addition to any penalties, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation.”

90. Pursuant to N.J.A.C. 7:13-24.7(b), any penalty established pursuant to this section [i.e., N.J.A.C. 7:13-24.7, “Civil Penalties”] may be imposed and collected with costs in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq. The Superior Court shall have jurisdiction to enforce the provisions of the Penalty Enforcement Law of 1999 in connection with [the FHACA]”

WHEREFORE, the Department demands judgment against the Estate, the Administrators, Rivenson-Mark, Del, and Martucci:

- a) Finding the Estate, the Administrators, Rivenson-Mark, Del, and Martucci in violation of the FHACA and its regulations;
- b) Ordering the Estate, the Administrators, Rivenson-Mark, Del, and Martucci to comply with the FHACA and its regulations;

- c) Ordering the Estate, the Administrators, Rivenson-Mark, Del, and Martucci to submit to DEP (attention to CLUE), and to implement immediately after DEP approval, a restoration plan that depicts and describes the restoration of the unauthorized activities to their pre-disturbance conditions. The restoration plan shall include the following:
- i. Removal of the unauthorized fill;
 - ii. The DEP Approved Solid Waste facility receiving location for the fill;
 - iii. Final grading of the restoration area;
 - iv. Stabilization and re-vegetation measures to be implemented upon removal of the unauthorized fill;
 - v. Proposed schedule for the commencement and completion of the restoration work;
 - vi. The restoration proposal must ensure 85% survival and 85% vegetative coverage of the plantings after 3 complete growing seasons. Should the restoration proposal, as implemented, fail to achieve this requirement, the Estate, the Administrators, Del, Rivenson-Mark, and/or Martucci may be required to implement corrective actions at CLUE's direction;
 - vii. The Estate, the Administrators, Del, Rivenson-Mark, and/or Martucci shall retain and submit all receipts from transporters and Solid Waste facility and submit them with the final restoration report;
- d) Ordering the Estate, the Administrators, Rivenson-Mark, Del, and Martucci to pay civil penalties in an amount the Court deems appropriate pursuant to the FHACA. N.J.S.A. 58:16A-63(e);

- e) Awarding the Department all costs incurred in relation to this action pursuant to N.J.S.A. 58:16A-63(c); and
- f) Awarding such other relief as the Court deems just and proper.

COUNT II

Solid Waste Management Act Violations (As to the Estate, the Administrators, Del, and Edward)

91. The Department repeats and incorporates each of the foregoing paragraphs as if set forth in their entirety herein.

92. The SWMA allows the Commissioner to institute an action in Superior Court to enforce its provisions. The Department may specifically seek injunctive relief and civil penalties, including reasonable costs associated with litigating this case, in a summary manner. N.J.S.A. 13:1E-9(d).

93. The SWMA prohibits any person from engaging in the disposal of solid waste or operating a SWF without a SWF permit. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-2.8(e), (f).

94. The SWMA defines “solid waste” as garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids. N.J.S.A. 13:1E-3.

95. The SWMA defines “disposal” as the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste into or on any land or water, so that the solid or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters. N.J.S.A. 13:1E-3.

96. A SWF is any system, site, equipment or building which is used for the storage, collection, processing, transfer, separation, recycling, recovering or disposal of solid waste. N.J.A.C. 7:26-1.4.

97. The SWMA defines a “person” as “an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), corporate official, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.” N.J.A.C. 7:26-1.4. The Estate, the Administrators, Del, and Edward are all “persons” under SWMA. N.J.A.C. 7:26-1.4.

98. Here, repeated SWCE inspections of the Property confirm that, among other debris, there are vehicle parts, scrap tires, asphalt millings, furniture, electronics, pieces of scrap metal, plastic, tile, wood, dilapidated trucks, commercial vehicles and equipment on the Property—this is all “solid waste” under the SWMA.

99. Repeated DEP inspections of the Property make clear that solid waste is disposed of on the Property, as it is openly stored and placed on the Property. The Property is therefore operating as a SWF, and the Estate, the Administrators, Del, and Edward are required to obtain a SWF Permit.

100. To date, the Estate, the Administrators, Del, and Edward have failed to obtain a SWF permit, and the Estate and the Administrators have not fully complied with the SWCE NOV.

101. Pursuant to N.J.S.A. 13:1E-9(f), any person who violates the provisions of [the SWMA], or any code, rule or regulation adopted thereto shall be liable to a penalty of not more than \$50,000 per day, to be collected in a civil action commenced by the . . . commissioner.

102. The Department may bring an action in Superior Court seeking the imposition of these penalties, which, along with costs, may be recovered in a summary proceeding

pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12. N.J.S.A. 13:1E-9(f).

WHEREFORE, the Commissioner demands judgment against the Estate, the Administrators, Del, and Edward:

- a) Finding the Estate, the Administrators, Del, and Edward in violation of the SWMA;
- b) Ordering the Estate, the Administrators, Del, and Edward to submit to SWCE (for SWCE's approval) a plan to complete an inventory (type, quantity, location) of all solid waste on the Property, including imported fill material that has not been subject to discharge of a hazardous substance after its placement on the Property;
- c) Ordering the Estate, the Administrators, Del, and Edward to submit the completed inventory of the Property for review and approval by SWCE. Anything that is classified as solid waste via the inventory will need to be either disposed of or recycled off-site at DEP authorized facilities. The inventory must include specific plans for disposal and/or recycling of each item. For areas of imported fill materials not otherwise being investigated by a LSRP pursuant to N.J.A.C. 7:26C via sampling and analyses, or not included in the CLUE AONOCAPA for removal, the Estate, the Administrators, Del, and Edward shall provide a Sampling and Analyses Plan for the review and approval of SWCE;
- d) Ordering the Estate, the Administrators, Del, and Edward to remove from the Property all the solid waste set forth in the inventory reviewed and approved by SWCE to an approved Solid Waste or Recycling Facility;

- e) Ordering the Estate, the Administrators, Del, and Edward to submit a final report to SWCE for review and approval, including photos of the Property following removal and copies of all disposal, recycling, sales receipts, etc., demonstrating proper disposition of the materials off the property;
- f) Ordering the Estate, the Administrators, Del, and Edward to pay a civil penalty pursuant to N.J.S.A. 13:1E-9(f) in an amount the court deems just and proper;
- g) Awarding the Department all costs incurred in relation to this action pursuant to N.J.S.A. 13:1E-9(d);
- h) Awarding such other relief as the Court deems just and proper;
- i) Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances and pollutants at the Property; and
- j) Reserving the right to bring a Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, or other site remediation related statutory claims against Defendants in the future arising out of the discharge of hazardous substances and pollutants at the Property.

COUNT III

Hazardous Waste Regulatory Violations (As to the Estate, the Administrators, Del, and Edward)

103. The Department repeats and incorporates each of the foregoing paragraphs as if set forth in their entirety herein.

104. Subchapter 6 of the Hazardous Waste regulations under the SWMA sets out standards applicable to generators of hazardous waste. N.J.A.C. 7:26G-6.1 to -6.3. Specifically, N.J.A.C. 7:26-6.1(a) relies on federal regulations for its standards, stating N.J.A.C.

7:26-6.1(a) “incorporates by reference . . . 40 [Code of Federal Regulations (“CFR”)] Part 262, Federal regulations on the standards applicable to generators of hazardous waste . . . ”

105. Accordingly, under 40 CFR Part 262.11, titled “Hazardous waste determination and recordkeeping,” the regulations state: “A person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.”

106. Under 40 CFR 261.2, a solid waste is defined as “any discarded material that is not excluded under [inapplicable regulations].”

107. A “discarded material” is any material which is:

- (A) Abandoned, as explained in paragraph (b) of this section; or
- (B) Recycled, as explained in paragraph (c) of this section; or
- (C) Considered inherently waste-like, as explained in paragraph (d) of this section; or
- (D) A military munition identified as a solid waste in § 266.202.

[40 CFR § 262.2(2)(i)(A)-(D)].

108. “Abandoned” is defined as “disposed of; or burned or incinerated; or accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated. . . ” 40 CFR § 261.2(b)(1)-(b)(3).

109. The Estate, the Administrators, Del, and Edward are solid waste generators subject to 40 CFR § 262.11—the Property is filled with scrap tires, vehicle parts, unknown drums and containers, gas cylinders, tanks, roll-off containers, and various other debris. Further, the solid waste on the Property is abandoned: it is being accumulated, stored, disposed of, and even burned on the Property. Accordingly, the Estate, the Administrators, Del, and Edward are required to make an “accurate determination” as to how much of the solid waste on the Property is hazardous waste.

110. An “accurate determination” requires knowledge of the waste, including “waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information.” 40 CFR § 262.11(c). Further, acceptable knowledge for this determination includes “process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents.” 40 CFR § 262.11(d)(1).

111. When there is no adequate knowledge to determine whether a solid waste is a hazardous waste, the waste must be tested. 40 CFR § 262.11(2).

112. Records must be kept as to hazardous waste determinations, “including records that identify whether a solid waste is a hazardous waste.” 40 CFR § 262.11(f). The records must “include, but are not limited to, the following types of information: The results of any tests, sampling, waste analyses, or other determinations made in accordance with this section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination.” Id.

113. To date, the Estate, the Administrators, Del, and Edward have failed to determine whether the solid waste on the Property, including numerous unlabeled containers,

gas cylinders, drums, tanks, car batteries, and cargo trailers, among other solid waste, is hazardous wastes.

114. Pursuant to N.J.S.A. 13:1E-9(d)(2), the Commissioner may “institute an action or proceeding in the Superior Court for injunctive relief and other relief, . . . for any violation of [the SWMA] or of any code, rule or regulation adopted . . . pursuant to [the SWMA] and the court may proceed in the action in a summary manner. . . Such relief may include, singly or in combination: . . . (1) A temporary or permanent injunction; (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for reasonable costs of preparing and litigating the case under this subsection[.]”

115. Pursuant to N.J.S.A. 13:1E-9(f), any person who violates the provisions of [the SWMA], or any code, rule or regulation adopted thereto shall be liable to a penalty of not more than \$50,000 per day, to be collected in a civil action commenced by the . . . commissioner.

116. The Department may bring an action in Superior Court seeking the imposition of these penalties, which, along with costs, may be recovered in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12. N.J.S.A. 13:1E-9(f).

WHEREFORE, the Commissioner demands judgment against the Estate, the Administrators, Del, and Edward:

- a) Finding the Estate, the Administrators, Del, and Edward are in violation of the SWMA, N.J.A.C. 7:26-6.1(a), and 40 CFR § 261.11;
- b) Ordering the Estate, the Administrators, Del, and Edward to make an accurate determination as to how much of the solid waste on the Property is hazardous waste in accordance with N.J.A.C. 7:26-6.1(a) and 40 CFR § 261.11;

- c) Ordering all hazardous waste material to be identified, characterized, properly packaged, and shipped to an authorized disposal facility;
- d) Ordering all trailers and cargo tanks to be opened and inspected by the Estate, the Administrators, Del, and Edward (or the Estate, the Administrators, Del, and Edward's contractor(s)) in the presence of DEP staff;
- e) Ordering the Estate, the Administrators, Del, and Edward to create a secure central staging area on the Property for their waste materials, preferably on a non-porous area of the Property;
- f) Ordering the Estate, the Administrators, Del, and Edward to retain a LSRP to investigate discharges including, but not limited to, the releases of petroleum materials, acid and lead releases from damaged batteries, and unidentified substances observed throughout the Property;
- g) Ordering the Estate, the Administrators, Del, and Edward to submit a CMAP to DEP for DEP's review and approval prior to implementation. The CMAP must ensure:
 - i. Property access is restricted to only those who have a right to enter the Property, including owners, tenants, contractors (including LSRPs), and DEP;
 - ii. All storage containers on the Property are accessible and open to DEP inspectors;
 - iii. A plan is prepared to characterize and dispose of any unknown materials found in the storage containers;
 - iv. All hazardous waste must be identified and properly characterized in accordance with applicable laws and regulations;

- v. Product materials must be stored within a building or under cover, identified with legible markings, inventoried, and managed like a product that has value in accordance with applicable laws and regulations;
- h) Ordering the Estate, the Administrators, Del, and Edward to pay a civil penalty pursuant to N.J.S.A. 13:1E-9(f) in an amount the court deems just and proper;
- i) Awarding the Department all costs incurred in relation to this action pursuant to N.J.S.A. 13:1E-9(d)(2);
- j) Awarding such other relief as the Court deems just and proper;
- k) Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances and pollutants at the Property; and
- l) Reserving the right to bring a Spill Act claim against Defendants in the future arising out of the discharge of hazardous substances and pollutants at the Property.

COUNT IV

Water Pollution Control Act Violations (As to the Estate, the Administrators, and Del)

117. The Department repeats and incorporates each of the foregoing paragraphs as if set forth in their entirety herein.

118. Pursuant to N.J.S.A. 58:10A-10(c)(1),(2), the Commissioner is authorized to “commence a civil action in Superior Court for appropriate relief for any violation of [the WPCA] . . . Such relief may include, singly or in combination: (1) A temporary or permanent injunction [.]”

119. The WPCA states that no person shall discharge any pollutant except in conformity with a valid NJPDES permit. N.J.S.A. 58:10A-6(a).

120. A “pollutant” means:

[A]ny dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials . . . wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and construction waste or runoff or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a Domestic Treatment Works. ‘Pollutant’ includes both hazardous and nonhazardous pollutants.

[N.J.S.A. 58:10A-3(n).]

121. A “discharge” means:

[A]n intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which it might flow or drain into said waters or into waters or onto lands outside the jurisdiction of the State, which pollutant enters the waters of the State. ‘Discharge’ includes the release of any pollutant into a municipal treatment works;

[N.J.S.A. 58:10A-3(e).]

122. “Waters of the State” means “the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.”

123. The solid waste, oil, garbage, rock, and chemical wastes on the Property constitute “pollutants” under the WPCA.

124. The pollutants on the Property were discharged by the Estate, the Administrators, and Del because the pollutants were dumped, spilled, leaked, and/or poured onto the Property. Further, the discharged pollutants “might flow or drain” into groundwater, surface water, or onto land.

125. The pollutants discharged at the Property “might flow or drain” into springs, streams and bodies of surface or ground water, whether natural or artificial, within New Jersey.

126. The Estate, the Administrators, and Del are required to have a NJPDES permit to discharge pollutants into the waters of New Jersey.

127. To date, the Estate, the Administrators, and Del have not applied for or obtained required NJPDES permit(s) to discharge pollutants into the waters of New Jersey.

128. WCE observed the Estate, the Administrators, and Del’s violations on January 30, 2025. See WCE Cert. To date, the Estate, the Administrators, and/or Del have been in violation of the WPCA for 90 days.

129. Any person who violates the WPCA . . . shall be subject upon order of a court to a civil penalty not to exceed \$50,000 per day for such violation, and each day’s continuance of the violation shall constitute a separate violation of the Act. N.J.S.A. 58:10A-10(e).

130. The Commissioner may bring an action in Superior Court seeking the imposition of these penalties, which, along with costs, may be recovered in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12. N.J.S.A. 58:10A-10(a), (e).

131. In addition to any civil penalties, costs or interest charges, the court . . . may assess against a violator the amount of any actual economic benefits accruing to the violator from the violation. N.J.S.A. 58:10A-10(e).

132. Pursuant to N.J.S.A. 58:10A-10(c)(1),(2), the Commissioner is authorized to “commence a civil action in Superior Court for appropriate relief for any violation of [the WPCA] Such relief may include, singly or in combination: . . . (2) Assessment of the violator for the reasonable costs of any investigation, inspection, or monitoring survey which led to the

establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection[.]”

WHEREFORE, the Commissioner demands judgment against the Estate, the Administrators, and Del:

- a) Finding the Estate, the Administrators, and Del, in violation of the WPCA;
- b) Ordering the Estate, the Administrators, and Del, to apply for and obtain required NJPDES permit(s) for discharges at the Property;
- c) Awarding the Department all costs incurred in relation to this action pursuant to N.J.S.A. 58:10A-10(c)(2);
- d) Ordering the Estate, the Administrators, and Del, to pay a civil penalty pursuant to N.J.S.A. 58:10A-10(e) in an amount the Court deems just and proper;
- e) Awarding such other relief as the Court deems just and proper; and
- f) Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances and pollutants at the Property.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: s/Billy O’Brien
Billy O’Brien
Deputy Attorney General

DATED: April 29, 2025.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Billy O'Brien, Deputy Attorney General, is hereby designated as trial counsel for the Department in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to the Plaintiff at this time, nor is any non-party known to the Plaintiff at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiff, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: s/Billy O'Brien
Billy O'Brien
Deputy Attorney General

DATED: April 29, 2025

CERTIFICATION OF COMPLIANCE WITH R. 1:38-7(c)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: s/Billy O'Brien
Billy O'Brien
Deputy Attorney General

DATED: April 29, 2025

VERIFICATION

I, Michelle Agnoli, by way of certification, state that:

1. I am an Environmental Specialist 4 within the Department of Environmental Protection's Bureau of Coastal and Land Use Compliance and Enforcement.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.



Michelle Agnoli
Environmental Specialist 4

DATED: April 25, 2025

VERIFICATION

I, Peter DeMonte, by way of certification, state that:

1. I am an Environmental Specialist 1 in the Department of Environmental Protection's Bureau of Solid Waste Compliance and Enforcement.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

Peter DeMonte

Peter DeMonte
Environmental Specialist 1

DATED: April 25, 2025

VERIFICATION

I, Maria Erickson, by way of certification, state that:

1. I am an Environmental Specialist in the Department of Environmental Protection's Bureau of Hazardous Waste Compliance and Enforcement.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

DATED: April 23, 2025

Maria Erickson

Maria Erickson
Environmental Specialist 3

VERIFICATION

I, Maria Coppola, by way of certification, state that:

1. I am an Environmental Specialist 3 in the Department of Environmental Protection's Northern Bureau of Water Compliance and Enforcement.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

Maria Coppola

Maria Coppola
Environmental Specialist 3

DATED: April 25, 2025

VERIFICATION

I, Todd Caruso, by way of certification, state that:

1. I am an Investigator II within the New Jersey Attorney General's Office, Division of Law, Environmental and Clean Energy Practice Group.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

Todd Caruso

Todd Caruso
Investigator II

DATED: April 25, 2025