

STATEMENT OF THE CASE

1. The Department brings this summary action to compel the Defendants to remove and properly dispose of both hazardous waste and solid waste that are improperly stored on their site, pursuant to the Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1D-1 to -48, the Flood Hazard Area Control Act ("FHACA"), N.J.S.A. 58:16A-50 to -103, and their implementing regulations.

2. This action concerns a former warehouse building located at 533 Whitehead Road, Hamilton Township, New Jersey, operated by defendant HITM and owned by defendant Hakim Enterprises. For almost four years, following a flood and major fire, Defendants have unlawfully stored solid waste consisting of demolition debris contaminated with asbestos on the property located at 533 Whitehead Road in Hamilton Township ("Site"). They have also stored ignitable hazardous waste at the Site. Despite enforcement actions taken against Defendants both by Hamilton Township and the DEP, Defendants have continued their unlawful operation of the solid waste facility created by their storage of solid waste and exposed the residents of the Township to ongoing risks of fire and of pollution from asbestos-contaminated wastes.

3. Defendants have stored this solid waste as unsecured material in flood hazard areas, including both floodway and flood fringe, as well as the riparian zone of the Assunpink Creek. The storage of unsecured material, here asbestos-containing materials, that may become buoyant, mobile, or lifted by water during a flood, creates a present risk of injury to people and property in the neighboring area. This risk is particularly significant in the floodway,

which is the land adjacent to the channel and characterized by faster and deeper flows of water.

4. Defendants have stored approximately 5,930 gallons of highly ignitable waste hand sanitizer at the Site without obtaining appropriate permits for the storage of hazardous waste. This is a fire hazard in an area adjacent to many homes and public parks. In addition, asbestos contamination threatens public health and the environment. Among other health and environmental impacts, exposure to asbestos fibers can lead to chronic, often deadly, respiratory diseases such as asbestosis, lung cancer, and Mesothelioma.

5. The community surrounding the Defendants' site has a significant minority and low-income 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), N.J.A.C. 7:1C-1.1 to 10.3; Environmental Justice Law, N.J.S.A. 13:1D-157 to -161

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 Hamilton Township that is listed as an overburdened community on the Department's website, pursuant to N.J.S.A. § 13:1D-159.

7. The Department issued two Administrative Orders and Notices of Civil Penalty Assessment (“AONOCAPAs”), and one Notice of Violation (“NOV”) following discovery of the Defendants’ violations. On December 27, 2023, the Department issued the first AONOCAPA, which required the Defendants to remove and properly dispose of hazardous waste stored on the Property. On February 24, 2025, the Department issued the second AONOCAPA, which required the Defendants to remove and properly dispose of asbestos-containing materials on the Property. On March 6, 2025, the Department issued the NOV, which notified the Defendants of their FHACA violation and required the Defendants to provide a written response to the Department and submit a restoration plan to correct the violations. To date, Defendants have not taken action to comply with either the AONOCAPA or the NOV.

8. Accordingly, the Department brings this action to compel the Defendants to comply with the SWMA and the FHACA, and to immediately remove and properly dispose of the hazardous waste and solid waste on the property.

THE PARTIES

9. The Department is a principal department within the executive branch of the New Jersey State government, established pursuant to the Department’s enabling legislation, N.J.S.A. 13:1D-1 to -19. The Department maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. The SWMA, N.J.S.A. 13:1E-1 through -48, and the FHACA, N.J.S.A. 58-16A-50 to -103, empower the Department to institute legal proceedings seeking injunctive relief and pursuing civil penalties in the Superior Court.

10. The Commissioner is the Commissioner of the Department and maintains his principal office at 401 East State Street, Trenton, Mercer County, New Jersey. The

Commissioner is authorized by law to commence a civil action for violations of the SWMA and FHACA and their implementing regulations. N.J.S.A. 13:1E-9(d); N.J.S.A. 58:16A-63.

11. Defendant HITM is a New Jersey registered corporation, with a main business address at 31 Portland Avenue, Bergenfield, New Jersey. HITM operated a warehouse facility located at the subject property, namely 533 Whitehead Road, Hamilton Township, New Jersey, Block 1573 and Lot 1.02.

12. Defendant Hakim Enterprises is a New Jersey registered corporation, with a main business address at 31 Portland Avenue, Bergenfield, New Jersey. Hakim Enterprises has its principal address at the Property.

13. Defendant Hakim is an individual who resides at 37 Huntting Drive, Dumont, New Jersey. Hakim is the sole officer and president of HITM and Hakim Enterprises. Upon information and belief, Hakim is the individual in charge of the day-to-day activities of HITM and Hakim Enterprises, with the authority to make decisions for the corporations and to correct violations of applicable laws and regulations.

FACTUAL ALLEGATIONS

14. Defendant Hakim Enterprises purchased the Site, located at 533 Whitehead Road, Hamilton Township, New Jersey, on July 1, 2022. Since the purchase, Defendants have owned and/or operated a warehouse facility at the Site, which stored, among other items, approximately 39,079 pounds, or 5,930 gallons, of hand sanitizer.

15. Defendant Hakim is the president and the sole officer of HITM and Hakim Enterprises. On information and belief, Hakim is the individual in charge of day-to-day activities of HITM and Hakim Enterprises, is the primary decision maker for HITM and Hakim Enterprises and has the authority to correct violations of applicable laws and regulations.

16. Prior to September 1, 2021, the Defendants stored large quantities of hand sanitizer, a highly ignitable material, at the warehouse facility at the Site. Certification of Samuel Getty ("Getty Cert."), Exhibit A.

17. The hand sanitizer sustained water damage from Hurricane Ida on September 1, 2021. Defendants stored the hand sanitizer in two buildings, as well as outdoors on the Site. Defendants filed an insurance claim regarding the hand sanitizer, which was still pending on January 26, 2022. Getty Cert., Exhibit A.

18. On May 18, 2023, the Mercer County Communication Center notified the Department that a structural fire occurred at the Site. The fire destroyed an unknown quantity of hand sanitizer stored in the building formerly located on the Site and outdoors on the Site, and the warehouse building collapsed due to the fire. Getty Cert., Exhibit B.

19. Thermal system insulation and surfacing material in buildings constructed prior to 1981 are Presumed Asbestos Containing Materials ("PACM"). 29 C.F.R. 1926.1101. This presumption may be rebutted by a comprehensive inspection of the building. See 29 C.F.R. 1926.1101(k)(5).

20. Because no comprehensive asbestos survey was conducted prior to the fire, the New Jersey Department of Health ("DOH") determined and informed the Department that all building debris on the Site should be assumed to include asbestos-containing materials on February 18, 2025. Certification of Robert Gomez ("Gomez Cert."), Exhibit A.

21. On April 12, 2024, Defendants' attorney sent DOH an email containing a document named "240699R- ACM Survey Report 4-3-24.pdf." The report states that Criterion Laboratories, Inc. ("Criterion") was retained by Hakim of HITM to perform an asbestos survey of the Site. Criterion collected samples of the debris on March 20, 2024 (Criterion Project Number 240699). A number of the samples collected contained greater than 1% asbestos.

Certification of James Vermeychuk (“Vermeychuk Cert.”), Exhibit A. As a result, the material is regulated as asbestos-containing material. See 29 C.F.R. 1926.1101(k)(5).

22. DEP conducted a site visit on May 31, 2023, and determined that flood-damaged hand sanitizer was being stored at the Site. The buildings collapsed as a result of the fire, and all the hand sanitizer previously stored inside the buildings was destroyed by the fire. Broken and intact bottles of hand sanitizer moved outdoors prior to the fire remained outside the building on the Site in the area where the hand sanitizer was stored. Getty Cert., ¶5.

23. The hand sanitizer contains 75% ethanol, making it a hazardous waste due to its ignitability pursuant to 40 C.F.R. 261.11(a).

24. SWMA regulations require a generator of solid waste to determine whether the waste is hazardous, obtain an Environmental Protection Agency (“EPA”) identification number before storing hazardous waste, and submit a Resource Conservation and Recovery Act (“RCRA”) permit application according to the relevant federal regulations. N.J.A.C. 7:26G-6.1(a); 40 C.F.R. 270.10(e-f).

25. SWMA regulations require a solid waste facility (“SWF”) permit from the Department to store or dispose of solid waste. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-1.6; N.J.A.C. 7:26-2.8(e)-(f).

26. Debris from the structural fire was deposited across the Site, including within a Flood Hazard Area adjacent to the Assunpink Creek, as defined by N.J.A.C. 7:13-2.3. This debris remains on the Site to this day. Certification of Maite Whitley (“Whitley Cert.”), ¶8; Certification of Samuel Getty (“Getty Cert.”), Exhibit C.

27. Shortly after the Department's May 31, 2023 site visit, the Department informed Defendant Joseph Hakim of the site visit in a telephone conversation. Getty Cert., ¶6.

28. On June 14, 2023, the Department conducted another site visit with Defendant Hakim present during the visit. Broken and intact hand sanitizer bottles remained on the Property. Getty Cert., ¶7.

29. On August 7, 2023, the Department issued an NOV, effective August 28, 2023, to Defendant HITM for the failure to obtain an EPA identification number, 40 C.F.R. 262.18(a), incorporated into the Solid Waste Rules by N.J.A.C. 7:26G-6.1(a); failure to determine that the damaged hand sanitizer was hazardous waste, N.J.A.C. 7:26G-6.1(a); and failure to submit a RCRA part A/part B permit application or to remove the waste from the site, 40 C.F.R. 270.10(e-f). Getty Cert., ¶12.

30. The Department conducted two compliance reviews on October 16 and November 7, 2023, and confirmed that Defendant HITM subsequently complied with the waste determination and EPA identification number requirements.

31. On a follow-up site visit on December 7, 2023, the Department determined that hazardous waste remained on the Site without a properly issued RCRA permit and required Defendant HITM to submit a detailed workplan for the hazardous waste removal. Getty Cert., Exhibit B.

32. Specifically, approximately seven gaylord boxes containing bottles of hand sanitizer were found on the Site. Some bottles were empty, while others were full or partially full. All bottles appeared to be damaged as a result of the fire. Getty Cert., ¶14.

33. On December 27, 2023, the Department issued an AONOCAPA to Defendant HITM requiring the removal of the waste hand sanitizer, the submission of a written workplan,

and the payment of a civil administrative penalty of \$ 25,000.² Certification of Nicholas Baier (“Baier Cert.”), ¶10.

34. On January 23, 2024, Defendant HITM timely submitted a hearing request to the Office of Administrative Law (“OAL”) for the December 27, 2023 AONOCAPA.

35. On April 3, 2024, Defendants conducted a limited asbestos survey on the Site, which confirmed that asbestos-containing material was present on Site. Certification of Robert Gomez (“Gomez Cert.”), Exhibit A.

36. On April 12, 2024, the New Jersey Department of Health (“DOH”) reviewed the limited asbestos survey submitted by Defendants. Certification of James Vermeychuk, ¶5.

37. On December 19, 2024, the Department conducted a site visit with representatives from the New Jersey Department of Labor and Workplace Development (“DOL”), the New Jersey DOH, and Hamilton Township. Getty Cert., ¶16.

38. At the December 19, 2024 site visit, the Department determined that the asbestos-containing solid waste remained on the Site. Specifically, at least one gaylord box of full hand sanitizer containers remained on the Property, in addition to eight 55-gallon drums with “flammable liquid” markings. Getty Cert. ¶16.

39. On February 24, 2025, the Department issued a second AONOCAPA to Defendant HITM requiring the submission for a site remedial plan to remove the asbestos-containing materials, and the removal of the asbestos-containing materials in compliance with the relevant DOL and DOH regulations. Gomez Cert., Exhibit C.

² This AONOCAPA is currently the subject of an ongoing Office of Administrative Law hearing, OAL Docket Number PEA230002-NJR000089912. The AONOCAPA has been stayed pending the resolution of the current action for injunctive relief.

40. As of April 24, 2025, Defendants do not have a SWF permit, and have not submitted a site remedial plan or an SWF permit application. Getty Cert., ¶17-18.

41. On March 6, 2025, the Department issued an NOV to Defendant Hakim Enterprises, notifying them that they were storing unsecured material within the Flood Hazard Area and Riparian Zone of the Assunpink Creek. Whitley Cert., Exhibit C. The NOV required a written response within 10 calendar days and the submission of either a restoration plan or permit application within 30 calendar days. As of April 24, 2025, Hakim Enterprises has not submitted a written response, restoration plan, or permit application. Id., ¶9.

42. As of April 29, 2025, Defendants have not obtained, or submitted an application to obtain, RCRA or solid waste permits for the storage of hazardous waste and asbestos-containing materials on the Site. Getty Cert., ¶10.

43. As of April 29, 2025, Defendants have not removed the waste hand sanitizer, and did not submit a written workplan for the removal of hazardous waste or a site remedial plan for the removal of asbestos-containing materials on the Site. Getty Cert., ¶18.

COUNT I

VIOLATION OF THE SOLID WASTE MANAGEMENT ACT

(Against Hakim International Trading and Marketing; Hakim Enterprises)

44. Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if set forth in their entirety herein.

45. 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.

46. A solid waste constitutes hazardous waste when it, among other criteria, exhibits ignitability, corrosivity, or reactivity. 40 C.F.R. 261.11(a); N.J.A.C. 7:26G-6.1(a). A solid waste is ignitable if a representative sample is “a liquid . . . that has a flash point less than 60°C.” 40 C.F.R. 261.21(a)(1).

47. Defendants stored flood damaged hand sanitizer on the Site following the September 1, 2021 flood.

48. The flood-damaged hand sanitizer contained 75% ethanol and constitutes hazardous waste due to its ignitability. 40 C.F.R. 261.11(a); N.J.A.C. 7:26G-6.1(a).

49. A generator of solid waste must make an accurate determination as to whether the waste is a hazardous waste. N.J.A.C. 7:26G-6.1(a).

50. A generator of hazardous waste may not store or dispose of hazardous waste without reporting the materials and obtaining an EPA identification number. N.J.A.C. 7:26G-6.1(a); 40 C.F.R. 262.18(a). “Disposal” includes the “discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.” 40 C.F.R. 260.10.

51. A hazardous waste management facility (“HWMF”) includes “all contiguous land, and structures . . . used for treating, storing, or disposing of hazardous waste.” 40 C.F.R. 270.2. A person must submit Parts A and B of a RCRA permit application prior to operating a HWMF. 40 C.F.R. 270.10(e-f).

52. Defendants failed to obtain an EPA identification number prior to storing hazardous waste in violation of the SWMA.

53. Defendants operated and continue to operate a hazardous waste management facility without submitting a Part A or Part B RCRA permit application in violation of the SWMA. N.J.A.C. 7:26G-12.1(a).

54. The SWMA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the SWMA or its implementing regulations. N.J.S.A. 13:1E-9(d).

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Finding Defendants HITM and Hakim Enterprises in violation of the SWMA for failing to determine that the waste hand sanitizer constituted hazardous waste;
- b. Finding Defendants HITM and Hakim Enterprises in violation of the SWMA for operating a hazardous waste management facility without submitting a Part A or Part B RCRA permit application;
- c. Ordering Defendants HITM and Hakim Enterprises to submit to the Department, within 15 days, a written workplan to properly segregate, identify, and remove any hazardous materials on the Site;
- d. Ordering Defendants HITM and Hakim Enterprises to properly remove all hazardous waste on the Site;
- e. Reserving the Department's right to bring a claim against Defendants in the future for Defendants failure to remediate any discharge of hazardous substances at the Property under the Spill Act, N.J.S.A. 58:10-23.11 to -23.24, the Brownfield Act, N.J.S.A. 58:10B-1 to -20, and all other applicable site remediation related statutes, regulations, or the Department's directives;

- f. Reserving the Department's right to bring a claim against Defendants in the future for natural resource damages arising out of any discharge of hazardous substances at the Site; and
- g. Awarding the Department any other relief the Court deems just and proper.

COUNT II

VIOLATION OF SOLID WASTE MANAGEMENT ACT

(Against Hakim International Trading and Marketing; Hakim Enterprises)

55. Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if set forth in their entirety herein.

56. 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.

57. The Department's solid waste rules apply to abandoned materials that "are . . . deposited [in New Jersey] for any period exceeding six months," N.J.A.C. 7:26A-1.1(d), including asbestos containing materials. See N.J.A.C. 7:26-2.13.

58. A solid waste facility ("SWF") is "any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, recycling, recovering or disposing of solid waste." N.J.A.C. 7:26-1.4.

59. Defendants HITM and Hakim Enterprises stored asbestos-containing materials from the collapsed building on the Site for a period exceeding six months, following the May 18, 2023 fire.

60. The SWMA prohibits any person from operating a SWF without a permit or authorization from the Department. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-2.8(e)-(f).

61. Implementing regulations for the SWMA provide that “[n]o person shall begin construction or operation of a solid waste facility without obtaining a solid waste facility permit.” N.J.A.C. 7:26-2.8(f).

62. Defendants HITM and Hakim Enterprises are persons within the definition of N.J.A.C. 7:26-1.4.

63. Defendants HITM and Hakim Enterprises do not have, and have not applied for, a SWF permit.

64. Consequently, Defendants HITM and Hakim Enterprises have operated, and are operating, a SWF without a SWF permit, in violation of the SWMA and implementing regulations. N.J.A.C. 7:26-2.8(f); N.J.S.A. 13:1E-9.

65. Generators of asbestos-containing waste materials are required to comply with reporting requirements of the DOL and DOH, in addition to the Department’s solid waste rules. N.J.A.C. 7:26-2.12.

66. The SWMA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the SWMA or its implementing regulations. N.J.S.A. 13:1E-9(d).

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Finding defendants HITM and Hakim Enterprises in violation of the SWMA for operating a solid waste facility without a SWF permit;
- b. Ordering Defendants HITM and Hakim Enterprises to submit to the Department, DOL, and DOH, within 30 days, a comprehensive site remedial plan to remove the asbestos-containing materials from the Site, in accordance with the requirements set forth in N.J.A.C. 7:26-2.12;

- c. Ordering Defendants HITM and Hakim Enterprises to comply with the plan within 30 days of approval from DOL and DOH;
- d. Reserving the Department's right to bring a claim against Defendants in the future for Defendants failure to remediate any discharge of hazardous substances at the Site under the Spill Act, N.J.S.A. 58:10-23.11 to -23.24, the Brownfield Act, N.J.S.A. 58:10B-1 to -20, and all other applicable site remediation related statutes, regulations, or the Department's directives;
- e. Reserving the Department's right to bring a claim against Defendants in the future for natural resource damages arising out of any discharge of hazardous substances at the Site; and
- f. Awarding the Department any other relief the Court deems just and proper.

COUNT III

VIOLATION OF FLOOD HAZARD AREA CONTROL ACT

(Against Hakim International Trading and Marketing; Hakim Enterprises)

67. The Department repeats and incorporates by reference each and every allegation set forth in the preceding paragraphs as if set forth in their entirety herein.

68. A floodway is the channel of a natural stream and portions of the flood hazard area adjoining the channel, that are reasonably required to carry and discharge the flood water or flood flow of any natural stream. N.J.S.A. 58:16A-51(b). A flood fringe is that portion of a flood hazard area that is outside the floodway. N.J.S.A. 58:16A-51(e).

69. A riparian zone is the land and vegetation within and adjacent to a regulated water that exists along both sides of every regulated water. N.J.A.C. 7:13-1.2; N.J.A.C. 7:13-2.3(c); N.J.A.C. 7:13-4.1.

70. The Department is authorized to identify flood hazard areas adjacent to a natural stream. N.J.S.A. 58:16A-51(c). The flood hazard area is the land, and the space above that land, which lies below the flood hazard area design flood elevation. N.J.A.C. 7:13-1.2. The flood hazard area design flood elevation was established by utilizing the FEMA 100 year floodplain elevation and adding one foot, pursuant to N.J.A.C. 7:13-3.4(e).

71. The Site includes a flood hazard area, including both floodway and flood fringe, and a riparian zone identified by the Department. See Whitley Cert., ¶3; N.J.A.C. 7:13-3.4(e).

72. It is a violation of the FHACA to engage in a FHACA regulated activity, as defined in N.J.A.C. 7:13-2-4, in a regulated area without a flood hazard area permit. N.J.A.C. 7:13-2.1(a).

73. The flood hazard area is a regulated area under the FHACA. N.J.A.C. 7:13-2.3(b).

74. The riparian zone is a regulated area under the FHACA. N.J.A.C. 7:13-2.3(c).

75. The storage of unsecured materials is a regulated activity under the FHACA if undertaken in a regulated area. N.J.A.C. 7:13-2.4(a).

76. Defendants have stored, and continue to store, unsecured debris in a flood hazard area including both the floodway and flood fringe, as well as the riparian zone of the Assunpink Creek, without a permit. Whitley Cert. at ¶8.

77. The Department may not issue an individual permit for the storage of unsecured material in a floodway. N.J.A.C. 7:13-12.16(c).

78. The Department may only issue an individual permit for the storage of unsecured material in a regulated area outside a floodway if the unsecured material is stored as part of a business or facility, the primary function of which is to store and distribute material, N.J.A.C. 7:13-12.16(d)(1), and the applicant demonstrates that the unsecured

material cannot feasibly be stored outside the flood hazard area and riparian zone onsite.
N.J.A.C. 7:13-12.16(d)(2).

79. Defendants' storage of unsecured debris on the Site is not part of a business or facility to store and distribute the debris.

80. The FHACA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the FHACA and its implementing regulations. N.J.S.A. 58:16A-63(c).

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Finding Defendants HITM and Hakim Enterprises in violation of the FHACA for the storage of unsecured material in a regulated area;
- b. Ordering Defendants HITM and Hakim Enterprises to submit to the Department, within 30 days, a restoration plan for the flood hazard area including the removal of unsecured material and the receiving location for the material; and
- c. Awarding the Department any other relief the Court deems just and proper.

COUNT IV

VIOLATION OF THE SOLID WASTE MANAGEMENT ACT

(Against Hakim (Individually))

81. The Department repeats and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

82. Defendant Hakim is the sole officer and the president of HITM and of Hakim Enterprises.

83. On information and belief, Defendant Hakim is the individual in charge of day-to-day activities of HITM and Hakim Enterprises, is the primary decision maker for HITM and

Hakim Enterprises and has the authority to correct violations of applicable laws and regulations.

84. Since the September 1, 2021 flood, Defendant Hakim, through HITM and Hakim Enterprises, has stored flood damaged hand sanitizer on the Site.

85. The flood damaged hand sanitizer contained 75% ethanol and constitutes hazardous waste due to its flammability. 40 C.F.R. 261.11(a); N.J.A.C. 7:26G-6.1(a).

86. A HWMF includes “all contiguous land, and structures . . . used for treating, storing, or disposing of hazardous waste.” 40 C.F.R. 270.2.

87. The Solid Waste Rules incorporate by reference the federal regulations on hazardous waste management, 40 C.F.R. Part 270. N.J.A.C. 7:26G-12.1(a).

88. Defendant Hakim, through HITM and Hakim Enterprises, has operated a HWMF without submitting a Part A or Part B RCRA permit application in violation of the SWMA. N.J.A.C. 7:26G-12.1(a).

89. A corporate official is a person under the SWMA. N.J.A.C. 7:26-1.4.

90. Corporate officials who exercise complete dominance over corporate entities responsible for statutory violations, including violations of the SWMA, and who abuse the corporate forms of such entities, are themselves liable for such statutory violations.

91. As the president and only officer of HITM and Hakim Enterprises, defendant Hakim is liable under the SWMA, and is in violation of his SWMA obligations.

92. The SWMA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the SWMA or its implementing regulations. N.J.S.A. 13:1E-9(d).

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Finding Defendant Hakim in violation of the SWMA for failing to determine that the waste hand sanitizer constituted hazardous waste;
- b. Finding Defendant Hakim in violation of the SWMA for operating a HWMF without submitting Part A or Part B RCRA permit applications;
- c. Ordering Defendant Hakim to submit to the Department, within 15 days, a written workplan to properly segregate, identify, and remove any hazardous materials on the Site;
- d. Ordering Defendant Hakim to properly remove all hazardous waste on the Site;
- e. Reserving the Department's right to bring a claim against Defendant Hakim in the future for Defendants failure to remediate any discharge of hazardous substances at the Site under the Spill Act, N.J.S.A. 58:10-23.11 to -23.24, the Brownfield Act, N.J.S.A. 58:10B-1 to -20, and all other site remediation related applicable statutes, regulations, or Department directives;
- f. Reserving the Department's right to bring a claim against Defendant Joseph Hakim in the future for natural resource damages arising out of any discharge of hazardous substances at the Property; and
- g. Awarding the Department any other relief the Court deems just and proper.

COUNT V

VIOLATION OF SOLID WASTE MANAGEMENT ACT

(Against Hakim (individually))

93. Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if set forth in their entirety herein.

94. Defendant Hakim is the sole officer and the president of HITM and of Hakim Enterprises.

95. Defendant Hakim is the individual in charge of day-to-day activities of HITM and Hakim Enterprises, is the primary decision maker for HITM and Hakim Enterprises and has the authority to correct violations of applicable laws and regulations.

96. Defendant Hakim, through HITM and Hakim Enterprises, has stored, and continues to store, asbestos-containing materials from the collapsed building on the Property for a period exceeding six months, following the May 18, 2023 fire.

97. 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.

98. A SWF is “any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, recycling, recovering or disposing of solid waste.” N.J.A.C. 7:26-1.4.

99. The Department’s Solid Waste Rules apply to abandoned materials that “are . . . deposited [in New Jersey] for any period exceeding six months,” N.J.A.C. 7:26A-1.1(d), including asbestos containing materials. See N.J.A.C. 7:26-2.13.

100. Defendant Hakim, through HITM and Hakim Enterprises, has operated and is operating a solid waste facility without a SWF permit, in violation of the SWMA and implementing regulations. N.J.A.C. 7:26-2.8(f); N.J.S.A. 13:1E-9.

101. A corporate official is a person under the SWMA. N.J.A.C. 7:26-1.4.

102. Corporate officials who exercise complete dominance over corporate entities responsible for statutory violations, including violations of the SWMA, and who abuse the corporate forms of such entities, are themselves liable for such statutory violations.

103. As the president and only officer of HITM and Hakim Enterprises, Defendant Hakim is liable under the SWMA, and is in violations of his SWMA obligations.

104. The SWMA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the SWMA or its implementing regulations. N.J.S.A. 13:1E-9(d).

105. The SWMA provides the Department with the authority to seek civil penalties not to exceed \$50,000 per day in the Superior Court for any violation of the SWMA or its implementing regulations. N.J.S.A. 13:1E-9(f).

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Finding Defendant Hakim in violation of the SWMA for operating a SWF without a SWF permit;
- b. Ordering Defendant Hakim to submit to the Department, DOL, and DOH, within 30 days, a comprehensive site remedial plan to remove the asbestos-containing materials from the Site, in accordance with the requirements set forth in N.J.A.C. 7:26-2.12;
- c. Ordering Defendant Hakim to comply with the plan within 30 days of approval from DOL and DOH;
- d. Reserving the Department's right to bring a claim against defendant Joseph Hakim in the future for Defendants' failure to remediate any discharge of hazardous substances at the Site under the Spill Act, N.J.S.A. 58:10-23.11 to – 23.24, the Brownfield Act, N.J.S.A. 58:10B-1 to –20, and all other applicable statutes, regulations, or DEP directives;

- e. Reserving the Department's right to bring a claim against defendant Hakim in the future for natural resource damages arising out of any discharge of hazardous substances at the Site; and
- f. Awarding the Department any other relief the Court deems just and proper.

COUNT VI

VIOLATION OF FLOOD HAZARD AREA CONTROL ACT

(Against Hakim (individually))

106. The Department repeats and incorporates by reference each and every allegation set forth in the preceding paragraphs as if set forth in their entirety herein.

107. Defendant Hakim is the sole officer and the president of HITM and of Hakim Enterprises.

108. A corporate official is a person under the FHACA. N.J.A.C. 7:13-1.2.

109. Defendant Hakim is the individual in charge of day-to-day activities of HITM and Hakim Enterprises, is the primary decision maker for HITM and Hakim Enterprises and has the authority to correct violations of applicable laws and regulations.

110. A floodway is the channel of a natural stream and portions of the flood hazard area adjoining the channel, that are reasonably required to carry and discharge the flood water or flood flow of any natural stream. N.J.S.A. 58:16A-51(b). A flood fringe is that portion of a flood hazard area that is outside the floodway. N.J.S.A. 58:16A-51(e).

111. A riparian zone is the land and vegetation within and adjacent to a regulated water that exists along both sides of every regulated water. N.J.A.C. 7:13-1.2; N.J.A.C. 7:13-2.3(c); N.J.A.C. 7:13-4.1.

112. The Department is authorized to identify flood hazard areas adjacent to a natural stream. N.J.S.A. 58:16A-51(c). The flood hazard area is the land, and the space above that land, which lies below the flood hazard area design flood elevation. N.J.A.C. 7:13-1.2. The flood hazard area design flood elevation was established by utilizing the FEMA 100 year floodplain elevation and adding one foot, pursuant to N.J.A.C. 7:13-3.4(e).

113. The Site includes a flood hazard area, including both floodway and flood fringe, and a riparian zone identified by the Department. See Whitley Cert., ¶3; N.J.A.C. 7:13-3.4(e).

114. It is a violation of the FHACA to engage in a FHACA regulated activity, as defined in N.J.A.C. 7:13-2-4, in a regulated area without a flood hazard area permit. N.J.A.C. 7:13-2.1(a).

115. The flood hazard area is a regulated area under the FHACA. N.J.A.C. 7:13-2.3(b).

116. The riparian zone is a regulated area under the FHACA. N.J.A.C. 7:13-2.3(c).

117. The storage of unsecured materials is a regulated activity under the FHACA if undertaken in a regulated area. N.J.A.C. 7:13-2.4(a).

118. Defendant Hakim, through HITM and Hakim Enterprises, have stored, and continue to store, unsecured debris in a flood hazard area including both the floodway and flood fringe, as well as the riparian zone of the Assunpink Creek. Whitley Cert. at ¶8.

119. The Department may not issue an individual permit for the storage of unsecured material in a floodway. N.J.A.C. 7:13-12.16(c).

120. The Department may only issue an individual permit for the storage of unsecured material in a regulated area outside a floodway if the unsecured material is stored as part of a business or facility, the primary function of which is to store and distribute material, N.J.A.C. 7:13-12.16(d)(1), and the applicant demonstrates that the unsecured

material cannot feasibly be stored outside the flood hazard area and riparian zone onsite.
N.J.A.C. 7:13-12.16(d)(2).

121. Defendant Hakim's storage of unsecured debris on the Site is not part of a business or facility to store and distribute the debris.

122. The FHACA provides the Department with the authority to institute an action in the Superior Court for temporary and permanent relief enjoining conduct in violation of the FHACA and its implementing regulations. N.J.S.A. 58:16A-63(c).

WHEREFORE, Plaintiffs demand judgment in their favor:

- d. Finding Defendant Hakim in violation of the FHACA for the storage of unsecured material in a regulated area;
- e. Ordering Defendant Hakim to submit to the Department, within 30 days, a restoration plan for the flood hazard area including the removal of unsecured material and the receiving location for the material; and
- f. Awarding the Department any other relief the Court deems just and proper.

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

Dated: 4/24/25

By: S/ Soorim Song
Soorim Song
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Soorim Song, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

The undersigned counsel hereby certifies, in accordance with Rule 4:5-1(b)(2), that the subject Site is involved in an ongoing administrative proceeding in the Office of Administrative Law, namely the contested cases concerning the Defendant's Administrative Hearing Requests: EA ID #PEA 230002- NJR000089912; EA ID #PEA 250001-1088154. The OAL matters are being stayed pending the outcome of this Superior Court action seeking injunctive relief.

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

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

Dated: 4/24/25

By: S/ Soorim Song
Soorim Song
Deputy Attorney General

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

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

Dated: 4/24/25

By: S/ Soorim Song
Soorim Song
Deputy Attorney General

VERIFICATION

ROBERT GOMEZ, by way of verification, states that:

1. I am a Manager within the Division of Waste and UST Compliance and Enforcement within the New Jersey Department of Environmental Protection ("DEP").
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in paragraphs 1-41, 43-67, and 82-106 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.

/s/ Robert Gomez
Robert Gomez

Dated: 4/17/2025

VERIFICATION

ROBERT H. CLARK, by way of verification, states that:

1. I am a Manager within the Division of Land Resource Protection within the New Jersey Department of Environmental Protection ("DEP").
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in paragraphs 1-13, 26, 42, 68-81, and 107-123 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.

 Digitally signed by Robert H. Clark
Date: 2025.04.23 14:29:18-04'00'

Robert H. Clark

Dated: 04/23/2025