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NEW JERSEY DEPARTMENT OF  
 ENVIRONMENTAL PROTECTION;  
 and, SHAWN LATOURETTE,  
 COMMISSIONER OF NEW JERSEY  
 DEPARTMENT OF ENVIRONMENTAL  
 PROTECTION

Plaintiffs,

v.

FAST OIL CO.; ARYEH  
 WEINSTEIN (Individually);  
 W.A.S. TERMINALS CORP.;  
 EASTERN BIOFUELS LLC.; "XYZ  
 CORPORATIONS" 1-10; and  
 "JOHN AND/OR JANE DOES" 1-  
 10,

Defendants.

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: SUPERIOR COURT OF NEW JERSEY  
 : CHANCERY DIVISION - ESSEX  
 : COUNTY  
 : DOCKET NO.

: CIVIL ACTION

: **VERIFIED COMPLAINT TO ENFORCE A**  
 : **FINAL AGENCY ORDER, AND TO**  
 : **COLLECT CIVIL PENALTIES IN A**  
 : **SUMMARY PROCEEDING PURSUANT TO**  
 : **R. 4:67-6 AND R. 4:70**

Plaintiffs, New Jersey Department of Environmental Protection ("DEP") and Commissioner of DEP Shawn LaTourette ("Commissioner") (collectively, "Department" or "Plaintiffs"), by and through their attorney file this Verified Complaint against the above-named defendants ("Defendants"), and allege as follows:

## STATEMENT OF THE CASE

1. The Department brings this civil action against Defendants to remedy their noncompliance with environmental laws and regulations at an industrial site on the banks of the Passaic River, which has exposed the Newark community to environmental and public health hazards for over a decade.

2. The Department seeks to enforce the terms of an Administrative Consent Order ("ACO"), which by its terms and by law is fully enforceable in Superior Court as a Final Agency Order ("FAO"), entered into between the Department and Defendant Fast Oil Company ("Fast Oil") more than three years ago to abate the hazardous conditions at the site located at 126 Passaic Street in Newark ("Site"). Despite the ACO's clear requirements Fast Oil has failed to remove approximately 300,000 gallons of wastewater containing hazardous substances from an aboveground holding tank ("Tank 210") that is in disrepair and poses an ongoing risk of discharge into the Passaic River.

3. For years, Fast Oil has unlawfully stored approximately 300,000 gallons of wastewater containing hazardous substances in Tank 210, which is in close proximity to the Passaic River, but has failed to prepare and implement the required Discharge Prevention, Containment and Countermeasure and Discharge, Cleanup and Removal ("DPCC/DCR") Plans. Despite the Department's repeated

administrative efforts to compel compliance, Fast Oil has flouted and continues to flout the Department's enforcement efforts.

4. Moreover, an inspection conducted by the Department just over two months ago raised new concerns that the secondary containment system surrounding Tank 210 is deteriorating and could allow leaks from the tank. Discharges from Tank 210 would negatively impact the adjoining shorelines of the Passaic River, which is located in close proximity to the Site.

5. In addition to ignoring its obligations under the ACO, Fast Oil is now removing sludge, a solid waste, from Tank 210, mixing it with cooking oil, and then selling it to a biodiesel supplier, all without a Solid Waste Facility ("SWF") permit and in violation of the Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-1 to -230.

6. Prior owners and operators of the Site, Defendants W.A.S. Terminals Corp. ("W.A.S. Terminals") and Eastern Biofuels LLC ("Eastern Biofuels"), executed remediation agreements with DEP requiring them to administer and complete all applicable administrative and remedial obligations pursuant to the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 to -14. But they failed to comply with those agreements.

7. Fast Oil's ongoing failure to remove the wastewater containing hazardous substances from Tank 210 or submit and implement a DPCC/DCR plan; its failure to obtain an SWF permit

prior to constructing or operating a solid waste facility; and its failure to properly inspect Tank 210 and adequately maintain its secondary containment system free of debris continue to jeopardize the health and safety of the community and the environment, particularly the Passaic River.

8. The community surrounding the Site has a significant low-income, minority or limited English proficiency population such that it is considered an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.<sup>1</sup> 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.

9. 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.

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<sup>1</sup> "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 Newark that is listed as an overburdened community on the Department's website, pursuant to N.J.S.A. 13:1D-159.

1241(b) (May 21, 2018); Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

10. The Department seeks to compel Fast Oil to comply with the FAO in a Summary Proceeding by removing the wastewater containing hazardous substances in Tank 210 or to submit a DPCC/DCR plan to the Department and seeks imposition of additional civil penalties for Fast Oil's violation of the FAO under N.J.S.A. 58:10-23.11u.(d). The Department also seeks an order under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -24 ("Spill Act"), the SWMA, the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29 ("SRRA"), ISRA, and their applicable regulations, to compel Fast Oil to make all necessary repairs to the secondary containment system surrounding Tank 210, immediately cease importing and processing solid waste without a SWF permit, complete all remedial obligations related to the Site, and for fees and civil penalties to deter future violations.

11. The Department also seeks to hold Defendant Aryeh Weinstein ("Weinstein"), Fast Oil's principal, individually liable under the SWMA for operating a solid waste facility without a SWF permit.

12. Lastly, the Department seeks to compel the other named Defendants, W.A.S. Terminal Corp. ("W.A.S. Terminals") and Eastern Biofuels LLC ("Eastern Biofuels"), to comply with their remedial obligations pursuant to the terms of executed agreements with the

Department, under ISRA, and its applicable regulations, and to pay fees and civil penalties.

#### **THE PARTIES**

13. DEP is a principal department within the Executive Branch of the State government and is charged with protecting human health and the environment by the enforcement of New Jersey's environmental laws, including the SRRA, ISRA, SWMA, and Spill Act. These statutes authorize DEP to institute legal proceedings in Superior Court.

14. Shawn LaTourette is the Commissioner of DEP. N.J.S.A. 58:10-23.11b and N.J.S.A. 58:10A-3. The Commissioner is vested with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19. The Commissioner is authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of ISRA. N.J.S.A. 13:1K-13.1.

15. DEP and the Commissioner maintain their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey.

16. Defendant Fast Oil is a corporation organized under the laws of the State of New Jersey with a main business address of 1520 Madison Ave., Lakewood, Ocean County, New Jersey. Defendant Aryeh Weinstein is the registered agent and president of Fast Oil.

17. Defendant Aryeh Weinstein, also known as "Aaron Weinstein," is an individual who resides at 120 Caranetta Drive, Lakewood, Ocean County, New Jersey. Weinstein is the sole member and president of Fast Oil. Upon information and belief, Weinstein is the individual in charge of the day-to-day activities of Fast Oil, with the authority to make decisions for Fast Oil and to correct violations of applicable laws and regulations.

18. Defendant W.A.S. Terminals is a corporation organized under the laws of the State of New Jersey with a main business address of P.O. Box 649, Harrison, Hudson County, New Jersey.

19. Defendant Eastern Biofuels is a limited liability company organized under the laws of the State of New Jersey, with a main business address of 2 Tower Center, Suite 1202, East Brunswick, Middlesex County, New Jersey.

20. Defendants "XYZ Corporations" 1 through 10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Verified Complaint, certain of which are corporate successors to, predecessors of, tenants of, or are otherwise related to the named defendants, or are persons who otherwise participated in, or are otherwise related to defendants, or are agents of Defendants, such as brokers, attorneys and consultants or were responsible for, or that acted unlawfully in the transfer of the Site and/or the cessation/transfer of operations at the Site, and/or are other dischargers of, and/or

persons "in any way responsible" for, the hazardous substances discharged at the Site and were responsible for adhering to all applicable ISRA and SRRA program requirements, operating a solid waste facility located on the Site without a permit, and operating a facility on the Site for the collection and treatment of a pollutant without a permit.

21. Defendants "John and/or Jane Does" 1 through 10, these names being fictitious, are individuals with identities that cannot be ascertained as of the filing of this Verified Complaint, certain of whom are persons who otherwise participated in, such as brokers, attorneys and consultants or were responsible for, acting unlawfully in the transfer of the Site and/or the cessation/transfer of operations at the Site, and/or are other dischargers of, and/or persons "in any way responsible" for, the hazardous substances discharged at the Site and were responsible for adhering to all applicable ISRA and SRRA program requirements adhering to all applicable ISRA program requirements, operating a solid waste facility located on the Site without a permit, and operating a facility on the Site for the collection and treatment of a pollutant without a permit.



**GENERAL ALLEGATIONS**

**HISTORICAL OPERATIONS**

W.A.S. Terminals

22. The Site is known as Block 519, Lot 2 and Block 568, Lot 25 on the Tax Map of the City of Newark.

23. W.A.S. Terminals owned and operated the Site from 1986 to 2006.

24. During W.A.S. Terminals' ownership of the Site, several industrial establishments<sup>2</sup> operated on-site, including a petroleum refinery, a biodiesel refinery and a river terminal, all of which were involved in the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances or hazardous wastes on-site.

25. In 2006, W.A.S. Terminals alerted the Department of its intention to cease operations and transfer the Site to 126 LLC, thereby triggering the requirements of ISRA. The Site is assigned ISRA Case #E20060393.

26. As a condition of the sale of the Site to 126 LLC, W.A.S. Terminals entered into the W.A.S. Terminals Remediation Agreement with the Department and 126 LLC. In the agreement, the parties

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<sup>2</sup> An "industrial establishment" is defined as anyplace of business engaged in operations that involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances or hazardous wastes on-site. N.J.S.A. 13:1K-8.

agreed to complete all applicable ISRA program requirements, including establishing a remediation funding source ("RFS") and any other required remedial measures. An RFS ensures that funds are available to complete the remediation of a site if the person who is required to conduct remediation fails to do so.

27. The W.A.S. Terminals Remediation Agreement required 126 LLC to post an RFS in the form of a Remediation Trust Fund in the amount of \$250,000. 126 LLC satisfied this requirement by depositing \$250,000 in an account set up with North Fork Bank, now known as Capital One, N.A.

28. As part of the ISRA process, W.A.S. Terminals filed a General Information Notice ("GIN") with the Department in October 2006.

29. As indicated by the 2006 GIN submitted by W.A.S. Terminals to the Department, there is a separate parcel of land, referred to in the GIN as "a vacated portion of 3rd Avenue sheet 23 tax map" that may be related to an industrial establishment at the Site and, therefore, subject to the requirements of ISRA.

30. Upon receiving W.A.S. Terminal's 2006 GIN submission, the Department notified W.A.S. Terminals that it must comply with ISRA's requirements, including, at a minimum, performing a Preliminary Assessment ("PA") to identify potential Areas of Concern, performing a site investigation ("SI") to determine if the Site is contaminated with any hazardous substances above any

applicable thresholds, and submitting a PA/SI report to the Department proposing the issuance of a Response Action Outcome ("RAO") or proposing a Remedial Action Workplan ("RAW") within 180 days detailing the measures necessary to remediate contaminated property to the applicable remediation standard.

31. On May 25, 2007, W.A.S. Terminals submitted its PA and SI to the Department.

32. W.A.S. Terminal's SI report stated that contamination existed at the Site at levels exceeding the Department's Soil Cleanup Criteria at the time.

33. Although contaminants were identified during the SI, W.A.S. Terminals failed to conduct a RI to determine the nature and extent of the contamination at the Site as required by ISRA.

34. W.A.S. Terminals also failed to submit a RAW as required by ISRA.

35. Consequently, the Department sent W.A.S. Terminals notification and deficiency letters on June 7, 2007, and September 9, 2008, notifying W.A.S. Terminals that it was out of compliance with its ISRA duties, and subject to further enforcement as a result of the non-compliance.

36. To date, W.A.S. Terminals has not taken any further steps to comply with ISRA after submitting the PA and SI to the Department on May 25, 2007.

37. The Department has not issued a No Further Action Letter stating that the Site was satisfactorily remediated prior to SRRA and has not received a RAO post-SRRA from a licensed site remediation professional. N.J.S.A. 13:1K-9(b)(2), -9(d)(2).

EASTERN BIOFUELS

38. Prior to conveying the site to 126 LLC, W.A.S. Terminals leased a portion of the Site to its tenant, Eastern Biofuels, a biodiesel refiner, from approximately 2006 until 2007. On September 26, 2007, Eastern Biofuels executed the Eastern Remediation Agreement with the Department to allow the sale of its business to Innovation Fuels Inc. ("Innovation Fuels"). In the Eastern Remediation Agreement, Eastern Biofuels agreed to complete all applicable ISRA program requirements, including establishing an RFS in the amount of \$100,000, and any other remedial measures pursuant to the agreement. This RFS was separate from the RFS that 126 LLC was required to establish pursuant to the W.A.S. Terminals Remediation Agreement.

39. Eastern Biofuels failed to establish an RFS in the amount of \$100,000 as required by the Eastern Remediation Agreement.

40. In or around October 2007, Eastern Biofuels sold its business and assets to Innovation Fuels, another biofuel refiner, thereby triggering the requirements of ISRA. The Department assigned Case# E20070256 to this triggering event.

41. On October 29, 2007, the Department approved a Remediation in Progress Waiver ("RIP Waiver") pursuant to N.J.A.C. 7:26B-5.4(b), permitting Eastern Biofuels to transfer its operations to Innovation Fuels while the remediation of the Site remained incomplete. The Department stated in its authorization letter, however, that the RIP Waiver did not apply to prior operations or areas of concern that were being addressed under W.A.S. Terminal's ISRA Case #E20060393. As a result, W.A.S. Terminals was still obligated to remediate all areas of concern that were identified in Case #E20060393.

42. In order for a RIP Waiver to remain valid, the original ISRA case must also remain in compliance. N.J.A.C. 7:26B-5.4(c)(3).

43. W.A.S. Terminals ISRA Case# E20060393, the original ISRA case, is no longer in compliance with the requirements of ISRA. Consequently, Eastern Biofuels' RIP Waiver is no longer valid.

#### 126 LLC & INNOVATION FUELS

44. After 126 LLC purchased the Site from W.A.S. Terminals, it leased a portion of the Site to Innovation Fuels from approximately 2008 until 2012. Innovation Fuels filed for bankruptcy in or around February 2011, thereby triggering the requirements of ISRA. Neither 126 LLC, as the owner of an industrial establishment, or Innovation Fuels, the operator of an

industrial establishment, submitted a GIN to the Department for this triggering event, as required by ISRA.

45. 126 LLC and Innovation Fuels also failed to initiate a PA/SI or take any steps to comply with the requirements of ISRA.

46. To date, Innovation Fuels has not taken any steps to comply with ISRA.

47. Nor has 126 LLC submitted a GIN or taken any measures to comply with the requirements of ISRA.

48. In or around 2014, 126 LLC filed a Chapter 11 bankruptcy petition before the United States Bankruptcy Court for the District of New Jersey ("Bankruptcy Court"), again triggering ISRA.

#### FAST OIL'S ACQUISITION OF THE SITE

49. On October 6, 2014, 126 LLC executed a Contract of Sale Agreement ("Sale Agreement") with Sheman Oil Recovery, LLC ("Sheman Oil") for the sale of the Site. In the Sale Agreement, Sheman Oil agreed to assign its rights to purchase the Site to Fast Oil, which subsequently took title to the Site.

50. On December 16, 2014, the Bankruptcy Court conducted a hearing upon the motion of 126 LLC for an Order authorizing the sale of the Site free and clear of liens, claims, interests and encumbrances.

51. On December 17, 2014, Fast Oil signed a Remediation Certification Form and Name and Address Change Form memorializing Fast Oil's voluntary assumption of the ISRA remediation

obligations of 126 LLC under the W.A.S. Terminals Remediation Agreement. The Remediation Certification also required Fast Oil to post an RFS in the initial amount of \$250,000.

52. On December 24, 2014, the Bankruptcy Court issued an Order authorizing the sale of the Site to Fast Oil.

53. On December 29, 2014, Fast Oil acquired the Site, from 126 LLC with the intent to operate an oil recycling facility on the Site and to store oil-contaminated waters collected from other remediation sites, such as oil tank excavations and other oil-related remediation activities throughout New Jersey.

54. On March 25, 2015, the Department, Fast Oil and 126 LLC executed an Agreement to Transfer Remediation Trust Funds ("RFS Agreement"), whereby the parties agreed to transfer 126 LLC's RFS in the amount of \$250,000 to a new remediation trust fund established by Fast Oil as the grantor. This transfer satisfied Fast Oil's obligation, under the Remediation Certification, to establish an RFS.

55. As part of the RFS Agreement, Fast Oil also agreed to remediate the Site pursuant to the SRRA, ISRA, and all implementing regulations, and to comply with the RFS requirements pursuant to N.J.A.C. 7:26C-5, including but not limited to, payment of 1% annual surcharges, submission of remediation cost reviews, and annual adjustments to the RFS amount.

56. Fast Oil assumed 126 LLC's obligations to complete all applicable ISRA program requirements, including the RFS requirements and any other remedial measures pursuant to the Agreement when it signed the Remediation Certification. One of the requirements was to submit a Remedial Investigation Report ("RIR") to the Department.

57. The Department has not received an annual remediation cost review from Fast Oil since 2017.

58. The Department has not received an annual RFS surcharge payment from Fast Oil since 2018.

59. Fast Oil also failed to submit a Light Non-aqueous Phase Liquid ("LNAPL") report by the required regulatory and mandatory timeframes.

60. Fast Oil failed to submit a RIR to the Department by the regulatory timeframe of March 1, 2017, and by the mandatory timeframe of March 1, 2019. To date, Fast Oil has not provided the required RIR to the Department.

61. Given the history of noncompliance at the Site, Fast Oil's failure to submit the required RIR triggered Direct Oversight, thereby requiring the Department to take on a higher level of involvement to ensure proper remediation of the Site. N.J.A.C. 7:26C-14.2.



FAST OIL'S FAILURE TO REMOVE WASTEWATER  
FROM ASTs AT THE SITE

62. Fast Oil owns and operates numerous aboveground storage tanks ("ASTs"), buildings and appurtenances at the Site that were previously owned and operated by the prior operators.

63. Between 2018 and 2021, the Department inspected the Site several times, revealing numerous, repeated violations of the SWMA and Spill Act, and their implementing regulations.

64. Due to the Site's proximity to the Passaic River, the Environmental Protection Agency ("EPA") requires the facility to have a Spill Prevention, Control, and Countermeasure ("SPCC") plan. 40 C.F.R. § 112. The SPCC rule is intended to prevent the discharge of oil into navigable waters or adjoining shorelines. Id. at § 112.3

65. Based on 126 LLC's SPCC plan, Tank 210 - a 505,000-gallon AST located on the Site - contained approximately 300,000 gallons of wastewater containing hazardous substances at the time the plan was developed.

66. Under the Discharges of Petroleum and Hazardous Substance Rules, N.J.A.C. 7:1E-1.1 to -10.4, any facility that has a storage capacity of 20,000 gallons or more of hazardous substances is considered a "major facility." See also N.J.S.A. 58:10-23.11b.

67. To prevent discharges of hazardous substances, and injury to the public and environment, "major facilities" are required under the Spill Act, N.J.S.A. 58:10-23.11d2 and -23.11d3, and the Discharges of Petroleum and Hazardous Substance Rules, to prepare and implement a DPCC/DCR Plan.

68. New operators of a major facility are required to submit a DPCC/DCR Plan to the Department at least 180 days prior to the anticipated operational date of the facility and must implement the approved plans prior to operating the facility.

69. Because Fast Oil had not yet submitted the required SPCC plan to the EPA, the EPA contacted the Department to alert it to this deficiency and to determine whether Fast Oil had submitted DPCC/DCR plan to the Department. The Department confirmed it had not received the required plans.

70. On February 20, 2018, the Department conducted an inspection of the Site. Weinstein, several workers for Fast Oil, and Mel Wolkstein ("Wolkstein") and his staff from Reach Associates Inc., an environmental consulting firm, were also present for the inspection. During the inspection, DEP inspectors observed numerous ASTs and two 250-gallon totes located onsite. Because the ASTs and totes were unlabeled, the contents (previously identified as wastewater) of the ASTs and totes were unclear.

71. On March 1, 2018, Fast Oil submitted the required SPCC plan to EPA. According to its SPCC plan, Fast Oil indicated it

was storing approximately 300,000 gallons of wastewater in Tank 210.

72. Subsequent testing of Tank 210 on June 15, 2018, showed that the wastewater in that tank contained silver, barium, and 2-butatone (methyl ethyl ketone), all of which are regulated hazardous substances, N.J.A.C. 7:1E-Appendix A.

73. Barium and its components pose threats to the environment and public health when they enter the soil and groundwater. Exposure to barium can cause gastrointestinal disturbances, muscular weakness and high blood pressure.

74. Methyl ethyl ketone ("MEK") also poses serious threats to the environment and public health. Exposure to MEK can cause respiratory tract irritation, central nervous system depression with nausea, dizziness, headache, stupor, uncoordinated or strange behavior or unconsciousness, nasal discharge, hoarseness, coughing, chest pain and breathing difficulty.

75. Silver and its components pose threats to the environment and public health when they enter the soil and groundwater. Ingesting or inhaling silver can cause breathing problems, lung, and throat irritation and stomach pain. Silver also persists in soil for long periods of time, impeding plant growth and threatening wildlife.

76. On September 21, 2018, Fast Oil and the Department entered into an ACO requiring Fast Oil to:

a. Verify that all of the wastewater from Tank 210 was removed or submit a DPCC/DCR Plan 120 days from the effective date of the ACO; and

b. Verify that the storage capacity of all the other ASTs were either below 20,000 gallons or submit a DPCC/DCR Plan within 180 days of the effective date of the ACO. See Exhibit A.

77. After the ACO was signed, the Passaic Valley Sewerage Commission ("PVSC") declined to accept the wastewater from Tank 210 due to the hazardous substances identified in the wastewater tank. Fast Oil claimed that it contacted several other disposal companies who also declined to accept the wastewater from Tank 210.

78. Fast Oil failed to comply with the deadline in the ACO for the removal of the wastewater contained in Tank 210. Thereafter, on February 20, 2019, it requested that the Department allow it to remove the tank's contents by treating the wastewater onsite in lieu of submitting the required DPCC/DCR plans to the Department by March 20, 2019.

79. Fast Oil's proposal involved running the wastewater through an onsite filtration system utilizing two process tanks with 18 to 20 filters in each tank to try to capture the hazardous substances. The treated wastewater would then be placed into a

tote for sampling. If no metals were detected, Fast Oil would then send the wastewater to the PVSC.

80. The Department approved Fast Oil's proposal with the condition that Fast Oil set up the filtration process, collect samples for analyses, and then start discharging the filtered wastewater to PVSC by November 29, 2019. In addition, Fast Oil was required to verify the contents of the other ASTs onsite and ensure they were "out-of-service" as defined in N.J.A.C. 7:1E-1.6.

81. As a result of the proposal agreed to at the February 20, 2019 meeting, the Department and Fast Oil executed an Amended ACO on August 15, 2019. See Exhibit B.

82. In the Amended ACO, Fast Oil agreed to:

- a. Prepare and implement a documented visual inspection program to inspect and maintain the secondary containment around Tank 210, and prepare and implement a response plan to address any leaks and/or discharges from Tank 210;
- b. Verify that the ASTs, excluding Tank 210, were either below 20,000 gallons or submit a DPCC/DCR Plan by December 6, 2019; and
- c. Verify that all of the wastewater from Tank 210 either was removed or submit a DPCC/DCR Plan by January 15, 2021.

83. Fast Oil met certain requirements of the Amended ACO. Specifically, Fast Oil:

a. Submitted to the Department monthly checklists related to the inspection and maintenance of the secondary containment system around Tank 210; and

b. Verified that all of the ASTs except Tank 210 were "out-of-service," as defined in N.J.A.C. 7:1E-1.6.

84. Fast Oil violated the Amended ACO by failing to comply with several of its core requirements, including:

a. Failing to submit a DPCC/DCR Plan certified pursuant to N.J.A.C. 7:1E-4.11 and prepared in accordance with N.J.A.C. 7:1E-4.2 and 4.3, to the Department at the address listed in N.J.A.C. 7:1E-4.5(g) by January 15, 2021; or

b. Failing to remove the wastewater from Tank 210 and ensure that Tank 210 was "out-of-service," as defined in N.J.A.C. 7:1E-1.6 by January 15, 2021.

85. On January 22, 2021, Fast Oil requested an extension of its Amended ACO deadline from January 15, 2021 to November 30, 2021, to either remove the wastewater containing hazardous substances contained in Tank 210 or submit a DPCC/DCR Plan.

86. The Department responded to Fast Oil's extension request via email on February 3, 2021, and sent a formal letter dated February 23, 2021, seeking more information. Specifically, the Department sought further information from Fast Oil about its process to install the treatment system including piping and instrumentation diagrams, process flow diagrams, and an update on

the status of Fast Oil's application to PVSC to discharge the filtered wastewater from Tank 210.

87. On March 22, 2021, Fast Oil responded to the Department's request for more information with a March 22, 2021 letter from Wolkstein of Reach Associates. Wolkstein disclosed in the letter that Fast Oil was transporting cooking oil onto the Site and mixing it with the tank heel<sup>3</sup> from Tank 17, an AST located on-site, and the sludge from Tank 210, and then shipping it offsite to an unnamed biodiesel supplier.

88. Specifically, Mr. Wolkstein stated in his letter that "[t]he people at the plant have been gradually removing the heel in Tank 17 and also the sludge from the bottom of Tank 210 by mixing 250-gallons of cooking oil with 300-gallons of heel in Tank 17 or sludge from Tank 210 and selling this to a biodiesel supplier."

89. Subsequently, the Department conducted a follow-up inspection of the Site on April 20, 2021. Weinstein was present for the inspection. During the inspection, DEP inspectors observed a plastic tote which appeared to contain cooking oil and that Tank 17 was completely empty and out-of-service.

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<sup>3</sup> Tank Heel means the volume of crude oil, petroleum product or oxygenate that remains in a storage tank at the lowest operable level.

90. In addition, DEP inspectors observed a significant amount of material contained in Tank 210, including solids floating on top of the tank, water in the middle of the tank and sludge on the bottom of the tank.

91. Upon information and belief, Fast Oil removed the tank heel from Tank 17 and then mixed it with the sludge from Tank 210. Thereafter, Fast Oil mixed the contents from both tanks with cooking oil that had been transported to the Site before selling the mixture to a biodiesel supplier.

92. The Department determined that the sludge and floating solid materials observed in Tank 210 during the April 20, 2021 inspection constituted solid waste as defined by the SWMA Rules, N.J.A.C. 7:26-1.6 ("SW Rules"). The Department further determined that because Fast Oil had removed the tank heel/sludge from the ASTs and then mixed it with cooking oil before selling it to a biodiesel supplier it was operating a solid waste facility without a permit in violation of the SW Rules, N.J.A.C. 7:26-2.8(f).

93. At the conclusion of the April 20, 2021 inspection, the Department issued a Field Notice of Violation ("NOV") to Fast Oil for the violations of the SWMA and SW Rules observed during the inspection. See Exhibit C.

94. On May 6, 2021, the Department denied Fast Oil's request for an extension to bring Tank 210 into compliance by November 30, 2021. Instead, the Department granted Fast Oil an extension of 14



days from the receipt of the Department's letter denial to properly dispose of all liquids and sludge from Tank 210 and to ensure that Tank 210 was "out of service", as defined in N.J.A.C. 7:1E-1.6.

95. On July 29, 2021, the Department conducted a pre-arranged site inspection to determine compliance with the Amended ACO's requirements. Present for the inspection were Weinstein, Wolkstein, and Moshe Glatzer, from Acier Holdings LLC. ("Acier Holdings"), a real estate investment firm.

96. Weinstein stated that he had retained Acier Holdings to construct a wastewater treatment system to treat the wastewater containing hazardous substances in Tank 210 with the intent to discharge it to the PVSC.

97. During the July 29, 2021 inspection, the Department observed that Tank 210 was approximately half-full. Additionally, the Department's inspector noted that the secondary containment systems for Tank 210 and the tank/truck unloading area were in disrepair. There were visible cracks and a significant amount of vegetation growing within the containment systems along with a significant accumulation of debris. The inspector further noted that Fast Oil had failed to inspect Tank 210 in accordance with API 653, an industry standard that applies to the inspection, repair, alteration, and reconstruction of steel ASTs used in the petroleum and chemical industries. As a result of this inspection,

the Department determined that Fast Oil was still not in compliance with the requirements set forth in the Amended ACO.

98. As of the filing of this action, Fast Oil remains in violation of the Amended ACO.

### COUNT I

#### **Enforcement of the Final Agency Order on a Summary Basis (Against Fast Oil)**

99. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

100. On September 21, 2018, the Department entered into an ACO with Fast Oil requiring it to submit a DPCC/DCR plan for Tank 210, which contains approximately 290,000 gallons of wastewater containing hazardous substances in violation of the Spill Act and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:1E-4.5(d).

101. On August 15, 2019, the Department issued an Amended ACO to allow Fast Oil more time to come into compliance with the initial ACO.

102. By its terms and by law, the Amended ACO is fully enforceable in Superior Court as a FAO.

103. To date, Fast Oil have not complied with the requirements of the Amended ACO.

104. Pursuant to R. 4:67-6, the Penalty Enforcement Law, N.J.S.A. 2A:58-1 to -12, Paragraph 12 the Amended ACO, the

Department is entitled to summary enforcement of the ACO, which required Fast Oil to:

- a. Submit a DPCC/DCR Plan certified pursuant to N.J.A.C. 7:1E-4.11 and prepared in accordance with N.J.A.C. 7:1E-4.2 and 4.3, to the Department address listed in N.J.A.C. 7:1E-4.5(g); or
- b. Remove the wastewater containing hazardous substances contained in Tank 210 and ensure that it meets the definition of "out of service," as defined in N.J.A.C. 7:1E-1.6.

**WHEREFORE**, the Department demands judgment against defendant Fast Oil:

- a. Finding defendant Fast Oil in violation of the FAO;
- b. Ordering defendant Fast Oil to comply with the terms of the FAO including 1) submitting a DPCC/DCR Plan certified pursuant to N.J.A.C. 7:1E-4.11 and prepared in accordance with N.J.A.C. 7:1E-4.2 and 4.3, to the Department at the address listed in N.J.A.C. 7:1E-4.5(g) within thirty (30) days after the Court's Order; or 2) removing the wastewater containing hazardous substances located in Tank 210 and ensuring that it is "out-of-service" as defined in N.J.A.C. 7:1E-4.5(d) within thirty (30) days after the Court's Order;
- c. Awarding the Department all costs and fees incurred in relation to this action; and
- d. Awarding such other relief as the Court deems just and

proper.

**COUNT II**

**Civil Penalties for Failure to Comply with Final Agency Order on  
a Summary Basis (Against Fast Oil)**

105. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

106. Pursuant to N.J.S.A. 58:10-23.11u.a and N.J.S.A. 58:10-23.11u.d, Defendant Fast Oil is subject to a civil penalty of up to \$50,000 per day of its violation of the ACO, which is enforceable as a FAO, and each day's continuance of the violation constitutes a separate violation.

107. The Department may bring an action in Superior Court seeking the imposition of these penalties, N.J.S.A. 58:10-23.11u.a.(1)(c), which, along with costs, may be recovered by the Department 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. 58:10-23.11u.d., and R. 4:70.

108. As set forth above, Fast Oil has failed to comply with the FAO.

**WHEREFORE**, the Department demands judgment against defendant Fast Oil:

- a. Finding the defendant Fast Oil in violation of the ACO;
- b. Imposing upon the defendant Fast Oil, pursuant to N.J.S.A. 58:10-23.11u.a; N.J.S.A. 58:10- 23.11u.d and R.

4:70, a civil penalty for defendant Fast Oil's violation of the ACO; and

c. Awarding such other relief as the Court deems just and proper.

### **COUNT III**

#### **Violation of the Spill Act (Against Fast Oil)**

109. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

110. Pursuant to N.J.S.A. 58:10-23.11u.a and N.J.S.A. 58:10-23.11u.d, Defendant Fast Oil is subject to a civil penalty of up to \$50,000 per day for its violations of the Spill Act.

111. The Department may bring an action in Superior Court seeking the imposition of such penalties, N.J.S.A. 58:10-23.11u.a.(1)(a), which, along with costs, may be recovered by the Department.

112. Under the Spill Act, owners or operators of a facility subject to the Act are required to submit detailed information to the Department including a primary and contingency cleanup and removal plan for spills and a list of all precautionary measures followed to prevent discharges. N.J.S.A. 58:10-23.11d(a) - (e).

113. Subparagraph (f) of the same section requires the Department to promulgate rules and regulations "establishing standards for the availability of preventative, cleanup and

removal procedures, personnel and equipment at any major facility.”

114. Under the Discharges of Petroleum and Hazardous Substance Rules, N.J.A.C. 7:1E-1.1 to -10.4, any facility that has a storage capacity of 20,000 gallons or more of hazardous substances is considered a “major facility.”

115. One of the tanks located on the Site, Tank 210, a 505,000-gallon AST, contains approximately 300,000 gallons of wastewater containing hazardous substances. The Site is therefore a major facility.

116. N.J.A.C. 7:1E-2.11(f) requires that secondary containment systems be “maintained in good repair, free of accumulated debris, and free of cracks through which hazardous substances could be discharged.”

117. N.J.A.C. 7:1E-2.16(d)1 requires integrity testing for steel ASTs of over 2,000 gallons in accordance with API 653, an industry standard that applies to the inspection, repair, alteration, and reconstruction of steel ASTs used in the petroleum and chemical industries.

118. As of July 29, 2021, the secondary containment systems for Tank 210 were in disrepair, with visible cracks and a significant amount of vegetation growing within the containment systems along with a significant accumulation of debris.

119. Fast Oil also failed to inspect Tank 210 in accordance with API 653.

120. As a result, Fast Oil was in violation of the Discharges of Petroleum and Hazardous Substance Rules, specifically, N.J.A.C. 7:1E-2.11(f) and N.J.A.C. 7:1E-2.16(d)1.

**WHEREFORE**, the Department demands judgment against defendant Fast Oil:

- a. Finding defendant Fast Oil in violation of the Spill Act and its implementing regulations;
- b. Ordering defendant Fast Oil to make all necessary repairs to the secondary containment system surrounding Tank 210;
- c. Ordering defendant Fast Oil to inspect Tank 210 in accordance with API 653;
- d. Ordering defendant Fast Oil to pay civil penalties for violation of the Discharges of Petroleum and Hazardous Substance Rules in an amount the Court deems just and proper;
- e. Ordering defendant Fast Oil to compensate the Department for all reasonable costs and fees that have been and will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;
- f. Reserving the Plaintiffs' rights to bring a clam against

defendant Fast Oil in the future for natural resource damages arising out of the discharge of hazardous substances at the Site; and

g. Awarding such other relief as the Court deems just and proper.

#### **COUNT IV**

##### **Violation of ISRA (Against W.A.S. Terminals)**

121. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

122. Pursuant to N.J.S.A. 13:1K-13.1(a)(2) and -(c), the Commissioner is empowered to initiate an action in Superior Court to hold defendant W.A.S. Terminals liable for its ISRA non-compliance and collect penalties assessed by the court.

123. Under ISRA, an "owner" is defined as any person who owns the real property of an industrial establishment or who owns the industrial establishment. N.J.S.A. 13:1K-8.

124. During the course of W.A.S. Terminals' ownership of the subject property, multiple industrial establishments operated on-site.

125. The SRRA is the mechanism by which remediation under ISRA is implemented.

126. The SRRA defines "person responsible for conducting the remediation" to include "the owner or operator of an industrial



establishment subject to [ISRA] for the remediation of a discharge." N.J.S.A. 58:10C-2.

127. ISRA's plain language states that an owner or operator of an industrial site is "strictly liable, without regard to fault, for all remediation costs and for all direct and indirect damages resulting from the failure to implement the remedial action workplan." N.J.S.A. 13:1K-13a. Obligations imposed by ISRA "shall constitute continuing regulatory obligations imposed by the State." N.J.S.A. 13:1K-12.

128. As the owner of an industrial establishment as defined in N.J.S.A. 13:1K-8; N.J.S.A. 58:10C-2, defendant W.A.S. Terminals is subject to continuing regulatory obligations, including all remediation requirements, imposed by the State." N.J.S.A. 13:1K-12.

129. W.A.S. Terminals cessation of operations and transfer of the Site to 126 LLC in 2006 triggered ISRA. As a result, the Department assigned Case #E20060393 to these ISRA triggering events.

130. As a condition of the sale of the Site to 126 LLC, W.A.S. Terminals entered into the W.A.S. Terminals Remediation Agreement with the Department and 126 LLC. In the agreement, both parties agreed to complete all applicable ISRA program requirements, including establishing an RFS and any other remedial measures.

131. In or around May 7, 2007, W.A.S. Terminals submitted its PA and SI to the Department.

132. W.A.S. Terminals, however, failed to submit a RAW within the 180-day timeframe to determine the nature and extent required by ISRA and in violation of N.J.A.C. 7:26E.

133. Defendant W.A.S. Terminals is responsible for completing all applicable ISRA program requirements and any other remedial measures pursuant to the Agreement and the SRRA when it transferred the Site and ceased operations. One of those requirements was to submit a RIR to the Department. The RIR was required to be submitted to the Department by March 1, 2017.

134. To date, defendant W.A.S. Terminals has failed to submit the required RIR in violation of N.J.A.C. 7:26E-4.10 and has failed comply with direct oversight pursuant to N.J.A.C. 7:26C-14.2.

**WHEREFORE,** the Commissioner demands judgment against defendant W.A.S. Terminals:

- a. Finding defendant W.A.S. Terminals in violation of ISRA, the SRRA, and its implementing regulations;
- b. Ordering defendant W.A.S. Terminals to comply with all ISRA and SRRA obligations, including but not limited to: 1) requiring defendant W.A.S. Terminals to submit a RIR to the Department in accordance with N.J.A.C. 7:26E-4.10, within ninety (90) days after the Court's Order; 2) requiring defendant W.A.S. Terminals to submit a LNAPL report, within

ninety (90) days after the Court's Order; 3) requiring defendant W.A.S. Terminals to comply with direct oversight pursuant to N.J.A.C. 7:26-14.2 as a result of its failure to meet statutory and mandatory remediation timeframes; and 4) requiring defendant W.A.S. Terminals to adhere to all other remediation statutes and regulations;

c. Awarding all costs recoverable under N.J.S.A. 13:1K-13(c)(2), including but not limited to reasonable costs of preparing and litigating this matter;

d. Awarding the Commissioner statutory penalties pursuant to N.J.S.A. 13:1K-13(e) arising from W.A.S. Terminal's violations of ISRA, which may be up to \$25,000 per day for each day in violation;

e. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances at the Site; and

f. Awarding such other relief as the Court deems just and proper.

#### **COUNT V**

#### **Violation of ISRA (Against Eastern Biofuels)**

135. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

136. Pursuant to N.J.S.A. 13:1K-13.1(a)(2) and (c), the Commissioner is empowered to initiate an action in Superior Court to hold defendant Eastern Biofuels liable for its ISRA non-compliance and collect penalties assessed by the court.

137. Under ISRA, an "operator" is defined as any person, including users, tenants, or occupants, having and exercising direct actual control of the operations of an industrial establishment. N.J.S.A. 13:1K-8.

138. An "industrial establishment" is defined as any place of business engaged in operations which involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances or hazardous wastes on-site. N.J.S.A. 13:1K-8.

139. Defendant Eastern Biofuels, a biodiesel refiner, refined, treated, stored, and handled hazardous substances and/or hazardous wastes at the Site. Consequently, Eastern Biofuels meets the definition of "industrial establishment" under ISRA.

140. The SRRA is the mechanism by which remediation under ISRA is implemented.

141. The SRRA defines "person responsible for conducting the remediation" to include "the owner or operator of an industrial establishment subject to [ISRA] for the remediation of a discharge." N.J.S.A. 58:10C-2.

142. ISRA's plain language states that an owner or operator of an industrial site is "strictly liable, without regard to fault, for all remediation costs and for all direct and indirect damages resulting from the failure to implement the remedial action workplan." N.J.S.A. 13:1K-13a. Obligations imposed by ISRA "shall constitute continuing regulatory obligations imposed by the State." N.J.S.A. 13:1K-12.

143. As the operator of an industrial establishment as defined in N.J.S.A. 13:1K-8 and N.J.S.A. 58:10C-2, defendant Eastern Biofuels is subject to continuing regulatory obligations, including all remediation requirements, imposed by the State. N.J.S.A. 13:1K-12.

144. On September 26, 2007, Eastern Biofuels, the operator of an industrial establishment, executed the Eastern Remediation Agreement with the Department to allow the sale of its business to Innovation Fuels to occur.

145. In the Eastern Remediation Agreement, Eastern Biofuels agreed to complete all applicable ISRA program requirements, including establishing an RFS in the amount of \$100,000, and any other remedial measures pursuant to the agreement. Eastern Biofuels failed to establish an RFS in the amount of \$100,000 as required by the Eastern Remediation Agreement.

146. In or around October 2007, Eastern Biofuels sold its business and assets to Innovation Fuels Inc, another biofuel

refiner, thereby triggering the requirements of ISRA. The Department assigned Case# E20070256 to this triggering event.

147. On October 29, 2007, the Department approved a RIP Waiver pursuant to N.J.A.C. 7:26B-5.4(b), permitting Eastern Biofuels to transfer its operations to Innovation Fuels while the remediation of the Site remained incomplete.

148. The approval of a RIP Waiver authorizes the owner or operator to close operations or transfer ownership or operations prior to obtaining approval from the Department of a remedial action workplan and without an approved remediation agreement. N.J.A.C. 7:26B-5.4(a). In order for a RIP Waiver to remain valid, however, the original ISRA case must also remain in compliance. N.J.A.C. 7:26B-5.4(c)(3).

149. The original ISRA Case# E20060393 is no longer in compliance with the requirements of ISRA. As a result, Eastern Biofuels RIP Waiver is no longer valid and must be rescinded.

**WHEREFORE,** the Commissioner demands judgment against defendant Eastern Biofuels:

- a. Finding defendant Eastern Biofuels in violation of ISRA, the SRRA, and its implementing regulations;
- b. Rescinding defendant Eastern Biofuel's RIP Waiver;
- c. Ordering defendant Eastern Biofuels to establish an RFS in the amount of \$100,000 within thirty (30) days after the Court's Order.

- d. Ordering defendant Eastern Biofuels to comply with all ISRA and SRRA obligations, and all other remediation statutes and regulations;
- e. Awarding all costs recoverable under N.J.S.A. 13:1K-13(c)(2), including but not limited to reasonable costs of preparing and litigating this matter;
- f. Awarding the Commissioner statutory penalties pursuant to N.J.S.A. 13:1K-13(e) arising from Eastern Biofuel's violations of ISRA, which may be up to \$25,000 per day for each day in violation; and
- g. Awarding such other relief as the Court deems just and proper.

**COUNT VI**

**Violation of ISRA  
(Against Fast Oil)**

150. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

151. Pursuant to N.J.S.A. 13:1K-13.1(a)(2) and (c), the Commissioner is empowered to initiate an action in Superior Court to hold defendant Fast Oil liable for its ISRA non-compliance and collect penalties assessed by the court.

152. Fast Oil assumed 126 LLC's obligations to complete all applicable ISRA program requirements, including the RFS

requirements and any other remedial measures pursuant to the Agreement when it signed the Remediation Certification.

153. Fast Oil has failed to comply with a number of these requirements. Specifically:

- a. The Department has not received an annual remediation cost review from Fast Oil since 2017;
- b. The Department has not received an annual RFS surcharge payment from Fast Oil since 2018; and
- c. Fast Oil failed to submit a LNAPL report or a RIR by the required regulatory and mandatory timeframes and has not done so to date.

154. Fast Oil's failure to submit a RIR to the Department by the mandatory timeframe of March 1, 2019, triggered Direct Oversight.

155. To date, defendant Fast Oil has failed comply with direct oversight pursuant to N.J.A.C. 7:26C-14.2.

**WHEREFORE,** the Commissioner demands judgment against defendant Fast Oil:

- a. Finding defendant Fast Oil in violation of ISRA, the SRRA, and its implementing regulations;
- b. Ordering defendant Fast Oil to comply with all ISRA and SRRA obligations, including but not limited to: 1) requiring defendant Fast Oil to tender all outstanding RFS annual surcharges through the date of the filing of this action to



the Department in accordance with N.J.A.C. 7:26C-5, within thirty (30) days after the Court's Order; 2) requiring defendant Fast Oil to submit annual remediation cost reviews for the years 2018 through 2021 to the Department in accordance with N.J.A.C. 7:26C-5-10, within thirty (30) days after the Court's Order; 3) requiring defendant Fast Oil to submit annual valuation/verification forms for the years 2019 through 2021 to the Department in accordance with N.J.A.C. 7:26-5.3, within thirty (30) days after the Court's Order; 4) requiring defendant Fast Oil to submit a RIR to the Department in accordance with N.J.A.C. 7:26E-4.10, within ninety (90) days after the Court's Order; 5) requiring defendant Fast Oil to submit a LNAPL report, within ninety (90) days after the Court's Order; 6) requiring defendant Fast Oil to comply with direct oversight pursuant to N.J.A.C. 7:26-14.2 as a result of its failure to meet statutory and mandatory remediation timeframes; and 7) requiring defendant Fast Oil to adhere to all other remediation statutes and regulations;

c. Awarding all costs recoverable under N.J.S.A. 13:1K-13(c)(2), including but not limited to reasonable costs of preparing and litigating this matter;

d. Awarding the Commissioner statutory penalties pursuant to N.J.S.A. 13:1K-13(e) arising from Fast Oil's violations of

ISRA, which may be up to \$25,000 per day for each day in violation; and

e. Awarding such other relief as the Court deems just and proper.

## COUNT VII

### **Violations of the SWMA (Against Fast Oil)**

156. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

157. The SWMA prohibits any person from operating a solid waste facility 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).

158. A solid waste facility 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. 7:26-1.6.

159. Defendant Fast Oil has imported and processed, and is importing, and processing cooking oil with the sludge present in Tank 210. This material meets the definition of solid waste under the SW rules. N.J.A.C. 7:26-1.6.

160. The SW rules provide that, subject to certain exceptions not present here, "[n]o person shall begin construction or operation of a solid waste facility without obtaining a SWF [solid waste facility] Permit". N.J.A.C. 7:26-2.8(f).

161. Defendant Fast Oil does not have, and has not sought to obtain, a SWF permit.

162. Consequently, defendant Fast Oil has operated and is operating a solid waste facility without a SWF permit, in violation of the SWMA and SW rules. N.J.A.C. 7:26-2.8(f); N.J.S.A. 13:1E-9.

163. 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 SW rules. N.J.S.A. 13:1E-9(d).

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

**WHEREFORE**, the Department demands judgment against defendants Fast Oil and XYZ Corporations 1-10:

- a. Finding defendants Fast Oil and XYZ Corporations 1-10 in violation of the SWMA for operating a solid waste facility without a SWF permit;
- b. Ordering defendants Fast Oil and XYZ Corporations 1-10 to immediately cease importing and processing solid waste without a SWF permit;
- c. Ordering defendants Fast Oil and XYZ Corporations 1-10 to submit to the Department, within 10 days, a plan to

properly remove all solid waste on the Site and dispose of the solid waste at a DEP-approved solid waste facility;

d. Directing defendants Fast Oil and XYZ Corporations 1-10 to comply with the plan within 20 days of the Department's approval of the plan;

e. Requiring defendants Fast Oil and XYZ Corporations 1-10 to pay penalties pursuant to N.J.S.A. 13:1E-9(f) for each day of their continuing failure to comply with the requirements of the SWMA, in an amount to be determined by the Court; and

f. Awarding such other relief as the Court deems just and proper.

#### **COUNT VIII**

##### **Violations of the SWMA (Against Aryeh Weinstein (Individually))**

165. The Department repeats each allegation in the foregoing paragraphs as though set forth in their entirety herein.

166. The SWMA prohibits any person from operating a solid waste facility 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).

167. The SW rules provide that, subject to certain exceptions not present here, "[n]o person shall begin construction or operation of a solid waste facility without obtaining a SWF [solid waste facility] Permit". N.J.A.C. 7:26-2.8(f).

168. Defendant Weinstein is the sole member of Fast Oil and the president of Fast Oil.

169. Defendant Weinstein is the individual in charge of day-to-day activities of Fast Oil, is the primary decision maker for Fast Oil, and has the authority to correct violations of applicable laws and regulations.

170. Defendant Weinstein, through Fast Oil, has operated a solid waste facility without obtaining a SWF permit.

171. 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.

172. As the owner and controlling member of Fast Oil, defendant Weinstein is liable under the SWMA, and is in violation of his SWMA obligations.

**WHEREFORE**, the Department demands judgment against defendant Weinstein and John and/or Jane Does 1-10:

- a. Finding defendants Weinstein and John and/or Jane Does in violation of the SWMA for operating a solid waste facility without a SWF permit;
- b. Ordering defendants Weinstein and John and/or Jane Does 1-10, to immediately cease importing and processing solid waste without a SWF permit;
- c. Ordering defendants Weinstein and John and/or Jane Does

1-10, to submit to the Department, within 10 days, a plan to properly remove all solid waste on the Site and dispose of the solid waste at a DEP-approved solid waste facility;

d. Directing defendants Weinstein and John and/or Jane Does 1-10, to comply with the plan within 20 days of the Department's approval of the plan;

e. Requiring defendants Weinstein and John and/or Jane Does 1-10, to pay penalties pursuant to N.J.S.A. 13:1E-9(f) for each day of their continuing failure to comply with the requirements of the SWMA, in an amount to be determined by the Court; and

f. Awarding such other relief as the Court deems just and proper.

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: /s/ Michael S. Spinello  
Michael S. Spinello  
Deputy Attorney General

DATED: October 8, 2021

**DESIGNATION OF TRIAL COUNSEL**

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

**CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(C)**

Undersigned counsel further certifies 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).

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

/s/ Michael S. Spinello  
Michael S. Spinello  
Deputy Attorney General

DATED: October 8, 2021

**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 Plaintiffs at this time. As investigations into the Site that is the subject of this action are still ongoing, JOHN DOES 1-10, JANE DOES 1-10 and XYZ CORPORATIONS 1-10 have been named in case it is discovered that other parties are liable for the violation of environmental laws and regulations related to the subject Site. Plaintiff reserves the right to amend the Complaint to add the names of additional responsible parties once discovered who should be joined in this action pursuant to R. 4:28, or who are subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, 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).

ANDREW J. BRUCK  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

/s/ Michael S. Spinello  
Michael S. Spinello  
Deputy Attorney General

DATED: October 8, 2021



**VERIFICATION**

I, Philip Polios, by way of certification, state that:

1. I am a Chemical Safety Engineer with the Bureau of Release Prevention for the New Jersey Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in paragraphs 62 through 98 of the Verified Complaint are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

          /s/ Philip Polios            
Philip Polios

DATED: 10/8/2021

**VERIFICATION**

I, Ryan Pedersen, by way of certification, state that:

1. I am an Environmental Specialist with the Bureau of Hazardous Waste Compliance & Enforcement for the New Jersey Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in paragraphs 87 through 93 of the Verified Complaint are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

          /s/ Ryan Pedersen            
Ryan Pedersen

DATED: 10/8/2021

**VERIFICATION**

I, Ann Wolf, by way of certification, state that:

1. I am employed by the New Jersey Department of Environmental Protection within the Site Remediation Program.
2. I am the Bureau Chief of the Bureau of Enforcement and Investigations.
3. I have read the Verified Complaint.
4. I certify that the factual allegations contained in paragraphs 22 through 61 are true and correct to the best of my knowledge.
5. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

\_\_\_\_\_  
/s/Ann Wolf  
Ann Wolf

DATED: 10/8/2021