

MATTHEW J. PLATKIN
 ATTORNEY GENERAL OF NEW JERSEY
 R.J. Hughes Justice Complex
 25 Market Street
 P.O. Box 093
 Trenton, New Jersey 08625-0093
 Attorney for Plaintiffs

By: Matthew Novak
 Deputy Attorney General
 Attorney ID No.: 341682020
 (609) 376-2740
 Matthew.Novak@law.njoag.gov

Dom Stockton-Rossini
 Deputy Attorney General
 Attorney ID No.: 275642018
 (609) 376-2740
domenico.stocktonrossini@law.njoag.gov

<p>NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION;</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>MJSONS EXCAVATING, LLC; MJ & SONS EXCAVATION, LLC; MJ & SONS CONTRACTORS TRUCKING; LLC; ZAZA TRUCKING, LLC; GT MIRANDA TRANSPORT, LLC; GT MIRANDA TRUCKING, LLC; B. BROTHERS MANAGEMENT, LLC; WAC TRUCKING LLC; JED EXPRESS, LLC; MILLENNIUM TRANSPORT, LLC; APV TRUCKING, LLC; 5BORO SOIL SERVICES; SINAI TRANSPORT, LLC; EXCAVATING BJ CORP; DSHC REAL ESTATED OWNED, LLC; WALTER MIRANDA-VICUNA, individually; MIRIAN L. MIRANDA, individually; BRYAN MIRANDA, individually; EDWIN G MIRANDA-VICUNA, individually; BRUCE LICAUSI, JR.,</p>	<p>SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION-ESSEX COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p>VERIFIED COMPLAINT TO ENFORCE FINAL AGENCY ORDERS, AND FOR INJUNCTIVE RELIEF AND PENALTIES</p>
--	---

individually; ANDRE "DRE" SALINAS, individually; ANA PANCHEO-VEGA, individually ; JOE WALLACE, individually; HENRY CHIMBO, individually; ANGEL BRAVO-GOMEZ, individually; "XYZ CORPORATIONS" 1-10 (Names Fictitious); and "JOHN AND/OR JANE DOES" 1-10 (Names Fictitious); Defendants.	
---	--

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

STATEMENT OF THE CASE

1. For years, the Defendants have repeatedly and flagrantly dumped construction waste on innocent property owners' land, without holding the proper permits. Despite numerous warnings from the Department, they have continued to violate the law.

2. The Department brings this civil action to remedy Defendants' past and ongoing disregard of Department orders and violations of environmental laws and regulations, which continue to expose numerous communities to potentially hazardous material. Specifically, the Department seeks to compel Defendants'

compliance with the New Jersey Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-1 to -48, the Solid Waste Utility Control Act ("SWUCA"), N.J.S.A. 48:13A-1 to -13, the Freshwater Wetlands Protection Act ("FWPA"), N.J.S.A. 13:9B-1 to -30, and the Flood Hazard Area Control Act ("FHACA"), N.J.S.A. 58:16A-50 to -103, and their implementing regulations.

3. The Department has issued Administrative Orders and Notices of Civil Administrative Penalty Assessment ("AONOCAPAs") against multiple Defendants for their repeated violations of New Jersey law. These Defendants have failed to challenge the AONOCAPAs, which have now become final agency orders. But Defendants have defied these final agency orders, continuing their unlawful operations in the solid waste business and failing to pay civil penalties.

4. The Department therefore seeks temporary and permanent restraints, damages, fees, and civil penalties. Specifically, the Department seeks (i) to enforce the five final agency orders issued against MJ & Sons Contractors, MJ Sons Excavating, MJ & Sons Excavation, B. Brothers Management, Excavating BJ Corp., DSHC, Walter Miranda, Mirian Miranda, Bryan Miranda, and Bruce Licausi Jr.; (ii) the assessment of civil penalties against the same defendants for violations of the final agency orders; and (iii) to enjoin all Defendants from operating in the solid waste business so long as they lack the required licensing and registration.

THE PARTIES

5. The Department is a principal department within the Executive Branch of the New Jersey State government vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9. The Department may commence a civil action in Superior Court for appropriate relief for any violation of the SWMA, SWUCA, FWPA, and FHACA. N.J.S.A. 13:1D-9. The Department maintains its principal office at 401 East State Street, Trenton, Mercer County, New Jersey.

6. The Commissioner is the Commissioner of the DEP, N.J.S.A. 58:10A-3, and is vested by law with various powers and authority, including those conferred by the DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19. The Commissioner maintains his principal office at 401 East State Street, Trenton, Mercer County, New Jersey.

7. MJ Sons Excavating, LLC, aka MJ Sons Excavating, M.J. Sons Excavating, and MJ Sons Excavating, ("MJ Sons Excavating") is a limited liability company operating within the State of New Jersey with a principal place of business at 48-54 E Bigelow Street, in the City of Newark, Essex County, New Jersey. MJ Sons is owned and managed by Defendants Walter Miranda and Mirian Miranda.

8. MJ & Sons Excavation, LLC ("MJ & Sons Excavation") is a limited liability company organized under the laws of the State of

New Jersey with a principal place of business at 48-54 E Bigelow Street, in the City of Newark, Essex County, New Jersey. MJ & Sons Excavation is owned and managed by Defendants Walter Miranda and Mirian Miranda.

9. MJ & Sons Contractors Trucking, LLC ("MJ & Sons Contractors") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 48-54 E Bigelow Street, in the City of Newark, Essex County, New Jersey. MJ & Sons Contractors is owned and managed by Defendants Walter Miranda and Mirian Miranda.

10. B. Brothers Management, LLC ("B. Brothers") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 48-54 E Bigelow Street, in the City of Newark, Essex County, New Jersey. B. Brothers is owned and managed by Defendant Mirian Miranda.

11. GT Miranda Transport, LLC ("GT Miranda Transport") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 69 Beaumont Place, in the City of Newark, Essex County, New Jersey. GT Miranda Transport, LLC is owned and managed by Defendant Edwin Miranda-Vicuno.

12. GT Miranda Trucking, LLC ("GT Miranda Trucking") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 90-92 Weequahic

Avenue, in the City of Newark, Essex County, New Jersey. GT Miranda Trucking, LLC is owned and managed by Defendant Edwin Miranda-Vicuno.

13. JED Express, LLC ("JED Express") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 218 Halladay Street, in the City of Jersey City, Hudson County, New Jersey.

14. WAC Trucking, LLC ("WAC Trucking") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 129 West Grand Street, Apt. B6, Elizabeth, NJ 07202.

15. Millennium Transport, Inc. is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 17 Adelaide Street, in the City of Belleville, Essex County, New Jersey.

16. 5Boro Soil Services Corporation ("5Boro") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 19 Violet Trail, in the City of Lafayette, Sussex County, New Jersey.

17. Excavating BJ Corp. is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 400 Delancy Street, Suite 105, Newark, NJ 07105. Excavating BJ Corp. is owned and managed by Defendant Bryan Miranda.

18. DSHC Real Estate Owned, LLC ("DSHC") is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 5 Somerset Street, Plainsboro, NJ 08536.

19. APV Trucking LLC is an unregistered company with the State of New Jersey and operates as a hauling company with a principal place of business at 34 South 11th Street, Apt. 3, Easton, PA 18042. APV Trucking LLC is operated by Defendant Ana Panchea-Vega.

20. Sinai Trucking, LLC is a limited liability company organized under the laws of the State of New Jersey with a principal place of business at 308 Houses Corner Road, Sparta, NJ 07871. Sinai Trucking is operated by Defendant Angel Bravo-Gomez.

21. Walter Miranda is a managing member of MJ Sons Excavating, MJ & Sons Contractors Trucking, and MJ & Sons Excavation, LLC, and was in control of the operation of equipment owned and operated by the companies, its agents, and employees at the time of the violations. He resides at 13-15 Sumo Village Court, Newark, NJ 07114.

22. Mirian Miranda is a managing member of MJ Sons Excavating, MJ & Sons Excavation, LLC, and B. Brothers and was in control of the operation of equipment owned and operated by the companies, its agents, and employees at the time of the violations. She resides at 13-15 Sumo Village Court, Newark, NJ 07114.

23. Bryan Miranda is a managing member of Excavating BJ Corp. and was in control of the operation of equipment owned and operated by the company, its agents, and employees at the time of the violations. He resides at 63 N. 6th St., Apt. 1, Newark, NJ 07107.

24. Andre "Dre" Salinas is an individual working with or for MJ & Sons Contractors and/or MJ Sons Excavating at the time of the violations coordinating the transport and deposit of solid waste. He resides at 125 Cherry Street, Elizabeth, NJ 07202.

25. Bruce Licausi, Jr. is an individual responsible for organizing and transporting solid waste on behalf of several of the corporate Defendants, including but not limited to MJSons Excavating, B Brothers Management, GT Miranda Transport, and MJ & Sons Contractors Trucking, LLC. He resides at 18 Nicole Court, Apt. 5D, Bangor, Maine 04401.

26. Ana Panchea-Vega is the operator of APV Trucking, LLC. She resides at 34 South 11th Street, Apt. 3, Easton, PA 18042.

27. Edwin G Miranda-Vicuno is a managing member of GT Miranda Transportation, LLC and GT Miranda Trucking, LLC. He resides at 90-92 Weequahic Ave., Floor 1, Newark, NJ 07112-2217.

28. Joe Wallace works with or for MJ & Sons Contractors and/or MJ Sons Excavating arranging and coordinating the disposal of solid waste. He resides at 18 Sweetwater Lane, Hamburg, NJ 07419-2525.

29. Henry Chimbo is an employee of MJ Sons Excavating. He resides at 17 Kossuth St., Newark, NJ, 07105.

30. Angel Bravo-Gomez, aka Anthony Kinito, is an individual residing at 86 Oraton Street, Newark, NJ, 07104. Bravo-Gomez is the operator of Sinai Trucking, LLC.

31. Defendants "XYZ Corporations" 1 through 10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, tenants of, or are otherwise related to the named Defendants, or are persons who otherwise participated in, or were responsible for, the operation of a solid waste facility on the Site without a permit.

32. Defendants "John and/or Jane Does" 1 through 10, these names being fictitious, are individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are persons who participated in, or were responsible for, the operation of a solid waste facility on the Site without a permit.

VENUE

33. This suit concerns violations that have occurred across the State, in ten separate counties, including a site in Essex County where solid waste was stored. Essex County is therefore an appropriate venue under New Jersey Court Rule 4:3-2.

GENERAL ALLEGATIONS

34. The Defendants have each individually participated in at least one instance of illegal transportation of solid waste, illegal disposal of solid waste, and/or misleading advertising and distribution of solid waste. Defendants have collectively contributed to the illegal deposition of solid waste at no fewer than fifteen sites.

Woolwich Township Site

35. On or about February 5, 2018, MJ & Sons Contractors transported solid waste to and deposited solid waste on a property located at 253 Back Creek Road, Woolwich Township, Gloucester County, New Jersey ("Woolwich Site"). Exhibit 1 to Gomez Cert., Woolwich AONACAPA ¶3.

36. The material transported and deposited consisted of dirt mixed with building demolition debris. Exhibit 1 ¶3.

37. The Department conducted a compliance review of the Woolwich Site on June 26, 2018, and determined the material at the site to be solid waste pursuant to N.J.A.C. 7:26-1.6 and N.J.A.C. 7:26-2.13(g)(1)(iv) (mixed construction and demolition debris). Exhibit 1 ¶3.

38. On May 15, 2019, the matter was referred to the Department's Transportation Oversight Unit ("TOU"). The TOU determined MJ & Sons Contractors and Walter Miranda illegally transported and deposited the solid waste because neither MJ &

Sons Contractors nor Defendant Walter Miranda, at the time of the transport, or currently, holds a DEP solid waste transporter registration as required by N.J.A.C. 7:26-3.2(a). Exhibit 1 ¶3

39. The Woolwich Site is not an approved facility to accept the solid waste material transported by MJ & Sons Contractors, pursuant to N.J.A.C. 7:26-3.4(b). Exhibit 1 ¶3.

40. On July 2, 2019, the Department issued an AONACAPA ordering MJ & Sons Contractors and Walter Miranda to "immediately cease disposing of solid waste at unapproved facilities", "make arrangements to lawfully remove the material it deposited at [the Woolwich Site]", and "immediately cease transporting solid waste without an approved solid waste transporter registration." Gomez Cert. ¶7; Exhibit 1 ¶5.

41. The AONOCAPA also ordered MJ & Sons Contractors and Walter Miranda to pay a penalty of \$13,000 for violation of the SWMA, N.J.S.A. 13:1E9-e; N.J.A.C. 7:26-3.2(a), 3.4(b). Exhibit 1 ¶6.

42. Defendants MJ & Sons Contractors and Walter Miranda failed to request a hearing to challenge the AONOCAPA or its terms within the required 20-day time period. Accordingly, the AONOCAPA became a Final Agency Order ("FAO") of the Department on August 27, 2020, 21 days after DEP served Defendants MJ & Sons Contractors and Walter Miranda, as set forth in the Administrative Procedures

Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e). Exhibit 1 ¶10.

43. Defendants MJ & Sons Contractors and Walter Miranda have failed to comply with the August 27, 2020 FAO in all respects.

Lafayette Site

44. In the winter of 2018, the owner of the property located at 65 Big Spring Road, Lafayette, Sussex County, New Jersey ("Lafayette Site") solicited clean fill from defendant Joe Wallace to fill a portion of the property. Appelbaum Affidavit ¶2.

45. Beginning in February and March 2019, multiple truckloads of solid waste material, in this instance construction waste, were deposited on the Lafayette Site. Appelbaum Affidavit ¶4.

46. On July 12, 2019, following a complaint by local government, the Department investigated the Lafayette Site to determine if the material was solid waste. Bombace Cert. ¶6.

47. The material deposited at the Lafayette Site consisted of soil mixed with "brick, concrete blocks and slabs, various types of metal pieces, tile and pieces of dimensional wood visible on the surface." The Department investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Bombace Cert. Bombace Cert. ¶6-¶7; Exhibit 63 to Bombace Cert., Lafayette Investigation Report.

48. MJ & Sons Contractors and MJ & Sons Excavation were identified as companies who transported at least one truckload of the material to, and deposited material on, the Lafayette Site. Bombace Cert. ¶9; Exhibit 64 to Bombace Cert., Lafayette Truck Photo.

49. Neither MJ & Sons Contractors nor MJ & Sons Excavation held nor hold a DEP solid waste transporter registration as required by N.J.A.C. 7:26-3.2(a). The Lafayette Site is not licensed to receive solid waste as required by N.J.A.C. 7:26-2.8(e)-(f).

Delaware Township Site

50. In May 2019, the owner of the property located at 31 Stone Signpost Road, Delaware Township, Hunterdon County, New Jersey ("Delaware Township Site") wanted clean fill material to expand a pathway for the harvesting of trees from the property. The owner's grandson found an advertisement on Facebook for clean fill posted by Defendant Henry Chimbo, and arranged for the delivery. Reed Cert. ¶3.

51. Multiple truckloads were brought to the property over a few months between May and July 2019. Reed Cert. The property owner was away from the property during this period and was unaware of the scale and content of the material dumped. Reed Cert.

52. On July 12, 2019 and August 13, 2019, the Hunterdon County Health Department ("HCHD") conducted investigations of the

property and observed MJ Sons Excavating and Zaza Trucking employees spreading construction debris. Exhibit 65 to Bombace Cert., HCHD Inspection Photos; Exhibit 3 to Bombace Cert., HCHD Delaware Twp. Inspection Reports.

53. Defendant Henry Chimbo organized the illegal transportation and disposal of the construction debris on the property. Bombace Cert; Exhibit 3; Exhibit 65.

54. On September 20, 2019, a Department investigator met the HCHD personnel at the property and observed the construction debris. Bombace Cert.

55. The material consisted of soil mixed with black corrugated plastic drain pipe pieces, untreated wood scrap, scrap metal, plastic containers, scrap PVC pipe and asphalt millings. The Department investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g) (1) (iv). Bombace Cert. ¶11; Exhibit 2 to Bombace Cert., Delaware Township Site Investigation Report and Photos; Exhibit 3.

56. The material was spread close to a tributary to the Plum Brook, a Category 1 Stream. Category 1 waters are protected from "measurable changes" to maintain water quality "based on exceptional ecological significance, exceptional recreational significance, exceptional water supply significance or exceptional fisheries resource(s) to protect their aesthetic value (color,

clarity, scenic setting) and ecological integrity (habitat, water quality and biological functions).” N.J.A.C. 7:9B-1.4 and - 1.5(d) (2) (iii).

57. Some, if not all, of the material deposited on the Delaware Twp. Site was from a construction site in Newark, New Jersey. Bombace Cert. ¶13; Exhibit 5 to Bombace Cert., Aerial Photograph of Newark Construction Site and Soil Testing. In June 2021, the owner of the Delaware Township Site tested the illegal material and found elevated levels of lead, mercury, cadmium, and Benzo(a)pyrene that exceeded the Departments Standards for Impact to Ground Water Soil Screening Levels, and the Department Soil Remediation Standards. Bombace Cert. ¶15; Exhibit 6 to Bombace Cert., Delaware Township Site Testing Results.

58. Between October 2019 and December 2019, Defendants MJ Sons Excavating, ZaZa Trucking, and potentially other companies deposited additional truckloads of material on different areas of the Delaware Twp. Site, even though the owner of the property did not solicit the material. Bombace Cert. ¶14; Exhibit 2; Reed Cert. ¶6-8.

59. The property owner instituted a civil action against numerous companies including defendants Henry Chimbo, MJ Sons Excavating, and ZaZa Trucking LLC, all of which defaulted. HNT-L-132-20.

60. On May 6, 2022, a Department Investigator hand delivered a NOV to Mirian Miranda detailing the violations that occurred on the Delaware Township Site. Bombace Cert. ¶15; Exhibit 8 to Bombace Cert., Delaware Twp. Site May 6, 2022 NOV.

Alexandria Site

61. In or around November 2019, two truckloads of solid waste material were deposited on a property located at 55 Schoolhouse Road, Alexandria, Hunterdon County, New Jersey ("Alexandria Site"). O'Sullivan Cert. ¶2.

62. On December 6, 2019, the Department investigated the solid waste material, which consisted of soils mixed with concrete, asphalt, wood, and plastics. Much of the material was spread out and covered with asphalt millings. Ongaro Cert. ¶5; Exhibit 10 to Ongaro Cert., Alexandria Site Investigation Report.

63. The Department investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Ongaro Cert. ¶6.

64. MJSons Excavating stapled a receipt to a pole on the property, indicating it deposited two truckloads of material on the property. MJ Sons Excavating has never held a license to transport solid waste. O'Sullivan Cert. ¶6; Exhibit 9 to O'Sullivan Cert., HCHD Alexandria Site Investigation Report. The

property owner voluntarily removed the material. O'Sullivan Cert. ¶7.

Southampton Site

65. Prior to March 2020, numerous truckloads of solid waste material were deposited on the property located at 431 North Main Street, Southampton Township, Burlington County, New Jersey ("Southampton Site"). Exhibit 11 to Petrauskas Cert., Southampton Site Compliance Evaluation.

66. On March 24, 2020, the Department sent two investigators to inspect the Southampton Site for potential illegal dumping and land use violations. Petrauskas Cert. ¶5. The property is located on the banks of the South Branch Rancocas Creek, and includes a flood hazard area and wetlands.

67. The investigators observed materials including, but not limited to, concrete, bricks, metal, and other construction debris. Petrauskas Cert. ¶5. The Department Bureau of Solid Waste Compliance and Enforcement ("BSWCE") investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Petrauskas Cert. ¶6; Exhibit 14 to Collins Cert., CLUE April 22, 2020 NOV.

68. The Department Bureau of Coastal and Land Use Compliance and Enforcement ("CLUE") investigator determined some of the material was placed in a regulated flood hazard area, a riparian

zone, and within a freshwater wetland transition area without a permit, in violation of N.J.A.C. 7:7A-2.1 and -2.3. Exhibit 14.

69. The Department observed and photographed MJ Sons Excavating, B. Brothers, and MJ & Sons Contractors trucks and other equipment at the Southampton Site. Exhibit 11. The Department investigators called the phone number from one truck and spoke with Defendant Walter Miranda. Petrauskas Cert. ¶7.

70. Mr. Miranda drove to the Southampton Site and spoke with Department investigators. Mr. Miranda explained he leased the site from the owner of the property. He admitted the trucks belonged to him, his wife, Defendant Mirian Miranda, and their companies; that employees for the companies deposited and, spread the material on the site; and that he intended to use the site as a staging area for other businesses. Petrauskas Cert. ¶8.

71. The Department investigators instructed Mr. Miranda to cease depositing material, remove the material from the property, and that a DEP solid waste transporter registration was required to legally transport solid waste. Petrauskas Cert. ¶9. The BSWCE investigator also issued Mr. Miranda an NOV for the illegal activity. Exhibit 13 to Petrauskas Cert., March 24, 2020 Field NOV.

72. On April 22, 2020, CLUE issued an NOV to MJ Sons Excavating and Mirian Miranda for the illegal material deposited

in the flood hazard area, riparian zone, and freshwater wetland transition area. Exhibit 14.

73. On June 25, 2020, May 4, 2021, and August 3, 2021, a BSWCE investigator returned to the Southampton Site to determine if any restoration work had been performed, but found that no restoration work had been completed. Petrauskas Cert. ¶11-13; Exhibit 15 to Petrauskas Cert., June 25, 2020 Southampton Site Inspection Report and Photos; Exhibit 16 to Petrauskas Cert., May 4, 2021 Southampton Site Inspection Report and Photos; Exhibit 17 to Petrauskas Cert., August 3, 2021 Southampton Site Inspection Report and Photos.

74. On October 29, 2020, CLUE issued an AONOCAPA against MJ Sons Excavating and Mirian Miranda. The AONOCAPA ordered MJ Sons Excavating and Mrs. Miranda to "cease all regulated activities taking place at the [Southampton] site and stabilize all disturbed areas in accordance with the 'Standards for Soil Erosion and Sediment Control of New Jersey,'" submit a restoration proposal to the Department within thirty days, and pay a \$20,000 penalty. Exhibit 12 to Collins Cert., October 29, 2020 AONOCAPA ¶7-11.

75. Defendants MJ Sons Excavating and Mirian Miranda failed to request a hearing to challenge the AONOCAPA or its terms within the 35-day time period, and, accordingly, the AONOCAPA became an FAO of the Department 36 days after DEP served Defendants MJ Sons Excavating and Mirian Miranda, on December 5, 2020, as set forth

in the Administrative Procedures Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1B-21(d) and N.J.S.A. 58:16A-63(d).

76. The Department discovered that Defendant DSHC obtained the property from the previous owner in August 2020. Petrauskas Cert. ¶14.

77. On a follow-up inspection on May 4, 2021, the DEP inspector determined that approximately one hundred additional truckloads of construction and demolition debris had been deposited on the site. Petrauskas Cert. ¶12; Exhibit 16 to Petrauskas Cert. The DEP inspector observed multiple trucks with MJSons Excavating and MJ & Sons Contractors Trucking markings at the site. Exhibit 16.

78. On August 17, 2021, BSWCE issued an NOV to DSHC for operating an unpermitted solid waste facility. Exhibit 19 to Petrauskas Cert., DSHC August 17, 2021 NOV. As a property with illegal deposits of solid waste, the Department determined the property is operating as an illegal "solid waste facility" without the required permits. N.J.A.C. 7:26-2.8(f). Petrauskas Cert. ¶14. BSWCE also issued another NOV to Walter Miranda and MJ & Sons Contractor. Exhibit 20 to Petrauskas Cert., Miranda August 17, 2021 NOV.

79. After multiple follow-up inspections, BSWCE determined DSHC failed to take remedial action. Petrauskas Cert. ¶16; Exhibit

18 to Petrauskas Cert., September 8, 2021 Compliance Evaluation Report.

80. On January 19, 2022, BSWCE issued an AONOCAPA against DSHC. The AONOCAPA ordered, among other things, that DSHC submit a Corrective Action Plan ("CAP") and remove all solid waste from the site after the CAP is approved. The AONOCAPA assessed a \$4,500 penalty. Pautrauskas Cert. ¶17; Exhibit 21 to Petrauskas Cert., DHSC AONOCAPA.

81. DSHC received the January 19, 2022 AONOCAPA on January 24, 2022. Exhibit 21. DSHC failed to request a hearing to challenge the AONOCAPA or its terms within the 20-day time period and, accordingly, the AONOCAPA became an FAO of the Department 21 days after DEP served Defendant DSHC, on February 12, 2022, per N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

82. On or around August 3, 2021, DHSC transferred the Southampton Site to Viscuso Properties, LLC.

83. To date, no remedial activity required under either the November 5, 2020 FAO or the February 12, 2022 FAO has been completed at the Southampton Site.

Hamilton Site

84. In 2021, the owner of the property located at 625 Paxson Avenue in Hamilton, Mercer County, New Jersey ("Hamilton Site") requested soil from Defendant Angel Bravo-Gomez after seeing a post on Facebook Marketplace from "Anthony Kinito," which is

believed to be an alias of Bravo-Gomez,. Mahmoud Kotb Cert. ¶2; Exhibit 22 to Sara Kotb Cert., Facebook Marketplace Screenshots. The property is located in a residential neighborhood of Hamilton, less than two blocks from an elementary school.

85. In or around April 2021, at least fourteen truckloads of material were deposited at the Hamilton Site. Sara Kotb Cert. ¶5.

86. MJSons Excavating deposited the material at the Hamilton Site. Sara Kotb Cert. ¶7; Exhibit 23 to Sumer Kotb Cert., Truck Photograph.

87. On April 13, 2021, the Department investigated the Hamilton Site after receiving a call to the Department hotline. The material on site consists of soil mixed with asphalt and concrete chunks, ceramic pipe, plastics, and dimensional lumber. Elton Cert. ¶6; Exhibit 24 to Elton Cert., April 13, 2021 Hamilton Site Investigation Report and Photographs. The Department investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Elton Cert. ¶10.

88. On April 12, 2022, the Department investigator returned to the Hamilton site and observed similar material mixed with the soil on the property. Elton Cert. ¶14; Exhibit 25 to Elton Cert., April 12, 2022 Hamilton Site Photos.

89. On April 26, 2022, the Department issued an NOV to Defendants Mirian Miranda and MJ Sons Excavating for their violations of the SWMA at the Hamilton Site. The NOV cited these defendants for transporting solid waste without a license and depositing solid waste at a facility not licensed to receive it. Elton Cert. ¶15; Exhibit 26 to Elton Cert., April 26, 2022 Hamilton NOV.

90. To date, the solid waste is still on the Hamilton Site.

Pohatcong Site

91. On or around June 11, 2021, multiple truckloads of solid waste material were deposited on the property located at 25 Mellicks Woods Road, Pohatcong Township, Warren County, New Jersey ("Pohatcong Site").

92. Andrew Melendez, zoning officer for Warren County, identified an MJ & Sons Contractors triaxle dump truck on the site. Melendez Cert. ¶ 3; Exhibit 27 to Melendez Cert., June 11, 2021 Pohatcong Site Photographs. As noted, MJ & Sons Contractors lacks a license to haul solid waste.

93. On June 17, 2021, the Department investigated the Pohatcong Site, identifying at least two piles of solid waste material. The material consisted of soil mixed with brick, concrete, rubble, dimensional wood, and plastic. The Department investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to

N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Bombace Cert. ¶19; Exhibit 28 to Bombace Cert., July 22, 2021 Pohatcong Site Investigation Report.

94. The property owner had requested fill material for home renovations, but received solid waste. Bombace Cert. ¶20. The material was removed at the homeowner's expense. Bombace Cert. ¶21-¶22.

95. On May 6, 2022, the Department issued an NOV to Mirian Miranda for the observed violations on the Pohatcong Site. Bombace Cert. ¶23; Exhibit 30 to Bombace Cert., May 6, 2022 Pohatcong NOV. The Department did not receive a response. Bombace Cert.

Bedminster Site

96. The owner of the property located at 300 Old Farm Road in Bedminster, Somerset County, New Jersey ("Bedminster Site") responded to a Facebook Marketplace advertisement for "clean fill." Defendant Andre Salinas posted the advertisement and coordinated the delivery of the material. Hall Cert. ¶2; Exhibit 31 to Hall Cert., Photographs and messages for delivery of the material.

97. On or around October 20, 2021, multiple truckloads of solid waste material were deposited on the Bedminster Site.

98. The property owner observed pieces of rubber, old car parts, and rubble from building demolition. Hall Cert. ¶6.

99. MJ Sons Excavating deposited the solid waste material and used a backhoe to move the material around the Bedminster Site. Exhibit 31.

100. On November 8, 2021, the Department received a complaint through the Department hotline about illegal solid waste at the Bedminster Site. On November 22, 2021, the Department investigated the site and identified multiple piles of solid waste material, and solid waste material spread out over a large area. Zasoski Cert. ¶5; Exhibit 32 to Zasoski Cert., Bedminster Site Investigation Report and Photographs.

101. The Department investigator observed soil mixed with asphalt, bricks, blocks and other materials. The investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Zasoski Cert. ¶6.

102. The property owner contacted Defendant Andre Salinas, demanding he remove the material. Salinas refused. On or around December 1, 2021, Bruce Licausi, Jr., contacted the property owner and offered to remove the material. Hall Cert. ¶7-9.

103. On or around December 3, 2021, Andre Salinas and Bruce Licausi, Jr., returned to the Bedminster Site and dropped off equipment to remove the material. On or around December 4, 2021, Mr. Salinas and a group of workers removed the material. Hall Cert. ¶¶10-12.

104. The Department determined neither Andre Salinas, nor Bruce Licausi, Jr. held or holds a DEP solid waste transporter registration as required by N.J.A.C. 7:26-3.2(a) to transport solid waste. Zasoski Cert. ¶8.

Howell Site

105. In July 2021, the owner of the property located at 135 Arnold Blvd., Howell, New Jersey ("Howell Site"), responded to a Facebook advertisement for "clean fill" placed by Defendant Salinas. The property owner requested clean fill for the Howell Site. Convery Cert. ¶2.

106. On July 27, 2021, Defendant Salinas informed the owner that the fill had arrived. A dump truck deposited a load of material on the Site; however, the material was not clean fill, instead it consisted of construction debris and garbage, including a visible pair of sneakers. Convery Cert. ¶3-4.

107. Upon realizing what had been deposited on his property, the property owner attempted to negotiate with Defendant Salinas for its removal. After months of argument, Defendant Salinas agreed to remove the waste. However, the property owner had to pay for an excavator to load the waste himself. Convery Cert. ¶5.

108. On December 9, 2021, Defendant Licausi contacted the Howell Site's property owner and agreed to remove the material. But the property owner had to provide the heavy equipment himself and pay for the removal. On December 23, 2021, Defendant Licausi

arrived at the Howell Site to remove the waste, which was loaded into vehicles marked "Excavating BJ Corp." Convery Cert. ¶¶6-7; Exhibit 33 to Convery Cert., December 23, 2021 photographs and messages with multiple defendants.

Pryslak Farms Site

109. On November 11, 2021, a Department Investigator observed an MJ Sons Excavating dump truck enter a property located on Hope Road, Block 1, Lot 24, in Great Meadow, Independence Twp., Warren County, New Jersey ("Pryslak Farms Site"). The property is owned by Pryslak Farms, a sod farm in Great Meadows. Bombace Cert. ¶24; Exhibit 34 to Bombace Cert., Pryslak Farms November 22, 2021 Investigation Report and Photos.

110. The Department investigator followed the dump truck and observed multiple truckloads of solid waste material dumped on the site, as well as an excavator. The dump truck deposited at least one pile of material. Bombace Cert. ¶25; Exhibit 34.

111. The Department investigator observed soil mixed with wood, asphalt, blocks, and other materials. The investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g) (1) (iv). Bombace Cert. ¶27; Exhibit 34.

112. The dump truck driver admitted to transporting and depositing one truckload of the solid waste, that he worked for MJ

& Sons, and stated that he was instructed to bring the material to the farm by one of his co-workers. Bombace Cert. ¶26.

113. The driver did not provide any information regarding the source of the waste or whether the waste had been tested for contamination. Bombace Cert. ¶26.

114. The US Department of Transportation number (#3404293) for the dump truck revealed it to be operated by Defendant Excavating BJ Corp. Bombace Cert. ¶28.

115. On December 1, 2021, the Department investigator returned to the Pryslak Farms Site and found similar piles of solid waste. Bombace Cert. ¶29; Exhibit 35 to Bombace Cert., December 1, 2021 Pryslak Farms Site Inspection Report and the photographs.

116. On March 7, 2022, the Department delivered an NOV to Mirian Miranda, MJ & Sons Contractors Trucking, MJSons Excavating, and Excavating BJ Corp., informing them that their solid waste transportation was illegal and informing them that to avoid further action, they need to remove the solid waste at the Pryslak Farms Site. Defendants did not respond to the NOV. Bombace Cert. ¶30; Exhibit 36 to Bombace Cert., Pryslak Farms NOV.

Pittstown Site

117. On November 8, 2021, the owner of the property located at 760 Everittstown Road, Pittstown, Hunterdon County, New Jersey ("Pittstown Site"), Li-Lan Chen, responded to a Facebook Marketplace advertisement for "screened fill dirt-grading

provided" services posted by Defendant Bruce Licausi, Jr. Li-Lan Chen Cert ¶4; Exhibit 37 to Li-Lan Chen Cert., Facebook advertisement and messages with Defendant Licausi. Mrs. Chen did not request clean fill and only wanted Bruce Licausi Jr. to grade a driveway.

118. Defendant Licausi presented a document to Li-Lan Chen titled "Certificate of Liability Insurance," which purported to provide commercial liability insurance to Defendant Licausi from a company called Next Insurance. However, the document is fraudulent and Next Insurance has no record of the policies listed in the document. Li-Lan Chen Cert. ¶5; Exhibit 38 to Li-Lan Chen Cert., False Insurance Document; Charles Walters Cert. ¶8; Exhibit 39 to Walters Cert., Email from Next Insurance.

119. Mrs. Chen and Defendant Bruce Licausi Jr. agreed that Mr. Licausi would provide the service on November 9, 2021, he did not come to the site or provide anything at that time. When Mr. Licausi failed to appear on November 9, Ms. Chen informed Mr. Licausi that she no longer wanted his grading services. Li-Lan Chen Cert. ¶6; Exhibit 37.

120. On November 21 and 26, 2021, Defendant Licausi twice asked Mrs. Chen if she still wanted the fill delivered. Mrs. Chen refused both times. Li-Lan Chen Cert. ¶7.

121. Despite Mrs. Chen's refusal, on or around February 12, 2022, multiple truckloads of material were deposited on the Pittstown Site. Li-Lan Chen Cert. ¶11.

122. On February 12, 2022, Bruce Licausi, Jr. appeared at the Pittstown Site with at least one dump truck registered to MJSons Excavating LLC. Podpora Cert. ¶2; Exhibit 40 to Podpora Cert., February 12, 2022 Podpora Photographs; Li-Lan Chen Cert. ¶13; Walters Cert. ¶9; Kirkland Cert. Bruce Licausi, Jr. briefly spoke with Mr. and Mrs. Chen and posted a note on the door of the home on the Pittstown Site stating that he would deliver an additional 20 truckloads of material before grading it. Li-Lan Chen Cert. ¶13.

123. On February 14, 2022, a WAC Trucking LLC dump truck came to the Pittstown Site with more material. The driver was sent to the property by Defendant Licausi and provided Licausi's phone number. Benjamin Chen Cert. ¶14. Mr. Chen asked Licausi to come to the Site. Benjamin Chen Cert. ¶15.

124. When Licausi arrived, Mr. Chen confronted Licausi about the material. Licausi agreed to remove the material the next day, but never came back. Benjamin Chen Cert. ¶17. During this conversation, Licausi specifically warned Mr. Chen not to contact DEP. Benjamin Chen Cert. ¶17. The Chens contacted the State Police and filed a report. Benjamin Chen Cert. ¶18.

125. On February 16, 2022, the Department received a complaint of illegal solid waste deposited on the Pittstown Site.

126. On February 24, 2022, a HCHD investigator inspected the site. Davis Cert. ¶2. The HCHD investigator observed multiple truckloads of material consisting of soil mixed with asphalt millings, pipes and other rubble. Davis Cert. ¶2; Exhibit 43 to Davis Cert., HCHD Pittstown Site Investigation Report and Photographs. Some of the piles consisted entirely of concrete slabs and large pieces with little to no soil. Exhibit 43.

127. After inspecting the Pittstown Site, the HCHD investigator searched for and found multiple Facebook Marketplace advertisements posted by Defendant Licausi. The advertisements included "dep certified" clean fill, "fill dirt-screened," and "topsoil-free delivery." Davis Cert. ¶4; Exhibit 43.

128. On March 3, 2022, a DEP BSWCE investigator investigated the Pittstown Site. The investigator identified approximately fifty truckloads of solid waste material. Most of the piles consisted of soil mixed with pieces of concrete, stone, work and other material. A few piles consisted entirely of concrete slabs, chunks and smaller pieces. Farrell Cert. ¶6; Exhibit 44 to Farrell Cert., Pittstown DEP Photo.

129. The BSWCE characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste

pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g) (1) (iv).
Farrell Cert. ¶11.

130. To date, the Pittstown property owner has taken steps to remove the waste at their own expense. Farrell Cert. ¶7.

Newark Site (Overburdened Community)

131. The community surrounding the property located at 44-54 East Bigelow Street, Newark, Essex County, New Jersey ("Newark Site") has a significant low-income and minority population, and is identified an Overburdened Community under N.J.S.A. 13:1D-157. 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, and soil contamination, and accompanying potential for increased public health impacts.

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

133. On February 22, 2022, DEP received an anonymous complaint of stockpiles of soil that had diesel smell coming off of them at the Newark Site. The properties included in the Newark

Site are owned and/or leased by B. Brothers, MJ Sons Excavating, Mirian Miranda, and/or Walter Miranda-Vicuna. Bombace Cert. ¶31.

134. On March 2, 2022, two DEP BSWCE investigators inspected the Newark Site. The investigators noticed multiple large stockpiles of solid waste material on the site, estimated to include more than 400 truckloads of material. Bombace Cert. ¶31; Exhibit 45 to Bombace Cert., March 2, 2022 Newark Site Investigation Report and Photographs. The piles consisted of soil mixed with asphalt, concrete, bricks, plastics, asphalt roofing shingles, vinyl siding, scrap wood, plastic sheeting, rubber matting, glass, and/or other materials. The investigators characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Bombace Cert. ¶32. At least one of the stockpiles encroached on an adjacent property, later identified as property owned by the City of Newark. Bombace Cert. ¶34.

135. The investigators observed multiple dump trucks on the Newark Site with decals identifying multiple companies, including WAC Trucking LLC, Excavating BJ Corp., MJ Sons Excavating, MJ & Sons Contractors, CA Miranda Transport, GTR Construction Maintenance LLC, Ayden Excavation Corp., and JCM Trucking. A soil screener was also observed on site. Exhibit 45.

136. Defendant Mirian Miranda arrived on site and spoke with the investigators. She admitted that she owned MJ Sons Excavating, which owned the property at 48 East Bigelow Street, and she was leasing other adjoining properties that made up the area where the solid waste material and dump trucks were located. Mrs. Miranda also admitted the material came from off-site, from multiple jobs. Bombace Cert. ¶¶35-36.

137. The investigators informed Mrs. Miranda that she needed DEP permits and approvals to deposit, process, or transport the material. The investigators also stated they would issue an NOV outlining the violations observed at the Newark Site. Bombace Cert. ¶36.

138. On March 3, 2022, the investigators returned to the Newark Site after receiving a tip that the soil screener was running and dust was coming off the site. When the investigators arrived, the screener was not running. Bombace Cert. ¶38; Exhibit 46 to Bombace Cert., March 3, 2022 Newark Site Investigation Report and Photographs.

139. The investigators met with a man named Bruce, later identified as Defendant Bruce Licausi Jr., who stated he was a friend of the owner and helped with the business. Bombace Cert. ¶39.

140. The investigators observed additional debris in the stockpiles including metal, rubber tubing, pieces of PVC pipe,

blocks, and dimensional wood scraps. The investigators also observed a separate pile of large blocks and rubble. Bombace Cert. ¶41.

141. The investigators discussed the violations they observed with Licausi and informed him that the company could not continue operating at the Newark Site and transporting waste without DEP approval. Bombace Cert. ¶41.

142. On March 7, 2022, DEP investigators returned to the Newark Site to issue two NOVs for the previously observed activity at the Newark Site and at the Pryslak Farms Site. Bombace Cert. ¶44-46.

143. Upon arriving at the Newark Site, the investigators noticed some of the stockpiles had been disturbed since the March 3, 2022, inspection, and the soil screener was recently used. The investigators also observed the stockpile encroaching on the adjacent property owned by the City of Newark was still present. Bombace Cert. ¶45; Exhibit 47 to Bombace Cert., March 7, 2022 Newark Investigation Report.

144. Defendants Walter and Mirian Miranda met the investigators at the Newark Site and they initially discussed how to achieve compliance with the NOV. Mrs. Miranda admitted she and MJ Sons Excavating deposited waste on the Pryslak Farms Site. Bombace Cert. ¶¶46-47.

145. Mrs. Miranda claimed that the material on the Newark Site was from the collective properties, including demolition material from buildings that had been torn down, despite her previous statement to DEP on March 2 that the materials originated offsite. When asked about the additional dump trucks on site, Mrs. Miranda admitted other companies stored trucks on site and dump material on site to be removed at a later date. Bombace Cert. ¶47.

146. The investigators observed multiple stockpiles of solid waste material that encroached on other properties around the Newark Site. Mrs. Miranda said one of the properties was owned by another company that she owned, Defendant B. Brothers. When asked about an area the investigators believed to be owned by the City of Newark, Mr. Miranda stated neither he, his wife, nor their companies deposited the material mixed with solid waste that was encroaching on the property. Bombace Cert. ¶47.

147. A Department investigator also conducted an aerial photograph search of the Newark Site. Since at least March 2018, the aerial photographs show multiple stockpiles of soils, tires and solid waste, dump trucks, and other activity including the demolition of buildings and encroachment on adjacent properties. Multiple aerial photos show trucks and stockpiles on the property owned by the City of Newark. Bombace Cert. ¶¶49-51; Exhibit 48 to Bombace Cert., Newark Site Aerial Maps.

148. The Newark Site lacks a Solid Waste Facility permit to receive, store, process, or distribute solid waste. Exhibit 50 to Bombace Cert., Newark Site NOV.

149. In August 2022, the Department conducted another investigation at the Newark Site. Exhibit 70 to Farrell Cert., February 2023 AONOCAPA. The Department found multiple Excavating BJ Corp., trucks transporting solid waste. Exhibit 70. The Department sampled soils in multiple trucks and on the Newark Site and found multiple samples with contaminated soils above the Department's Residential Ingestion-Dermal Soil Remediation Standards. Exhibit 70 ¶36.

150. To date, multiple stockpiles of solid waste are present at the Newark Site. Bombace Cert. ¶54; Exhibit 49 to Bombace Cert., March 23, 2022 Newark Site Investigation Report; Exhibit 70.

Readington Site

151. On February 27, 2022, the owner of the property located at 19 Forty Oaks Road, Whitehouse Station, New Jersey ("Readington Site") contacted Defendant Licausi through Facebook Marketplace to arrange for the delivery of clean fill dirt to level out a section of the Readington Property. Justo Cert. ¶2.

152. Between March 9 and 17, 2022, multiple truckloads of solid waste material were deposited on Readington Site. Licausi stated he worked for MJ & Sons Contractors. Justo Cert. At least

one of the trucks used to deliver fill had "5Boro Soil Services" markings. Justo Cert. ¶9; Exhibit 51 to Justo Cert., Justo Documents. An additional truck had "MJ & Sons Contractors" markings. At least one other truck had "Excavating BJ Corp" markings. Exhibit 67 to Justo Cert., Readington Truck Photos.

153. When the owner requested Defendant Licausi remove the excess fill, Licausi ceased communication with the owner. Justo Cert. ¶¶13-14.

154. On March 16, 2022, the Department received a complaint about the illegal solid waste dumped between March 9 and 14, 2022 and an investigator inspected the site on March 17, 2022. On March 17, 2022, a DEP BSWCE investigator inspected the Readington Site after the Department received a report of illegal dumping. The investigator noticed multiple large stockpiles of solid waste material on the site, as well as at least 2 to 3 loads of fill material. At least one of the piles consisted of soil mixed with concrete, brick, wood, asphalt, plastic-coated wire, and fabric. The investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g) (1) (iv). Bombace Cert. ¶56; Exhibit 52 to Bombace Cert., Readington Investigation Report.

155. Based on a statement from one of the truck drivers, the Department was able to identify Defendant Angel Bravo-Gomez as one

of the men involved in delivering and spreading the material on the Readington Site. Bombace Cert. ¶57; Exhibit 52.

156. On May 6, 2022, the Department issued a Notice of Violation to Walter Miranda, Mirian Miranda, MJ & Sons Contractors Trucking, MJ Sons Excavating, and Excavating BJ Corp. for their transport of solid waste without a license, and for depositing solid waste at the Readington Site, which is not licensed to receive it. Bombace Cert ¶58; Exhibit 53 to Bombace Cert., Readington Site NOV. The NOV explained Defendants' obligation to remove the solid waste from the Readington Site. Exhibit 53.

157. To date, the solid waste has not been removed from the Readington Site. Bombace Cert. ¶60.

Montgomery Site (Overburdened Community)

158. The community surrounding the protected farmland located at 694 County Route 533/694 Millstone River Road, Montgomery Twp., New Jersey ("Montgomery Site") has a significant minority population, and is identified as an Overburdened Community under N.J.S.A. 13:1D-157. 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, and soil contamination, and accompanying potential for increased public health impacts.

159. Residents of all communities should receive fair and equitable treatment in matters affecting their environment,

community, homes, and health without regard to a community's socio-economic condition. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018) and Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

160. On March 11, 2022, the owner of the Montgomery Site received a phone call from his tenant. Quick Cert ¶3. The tenant observed dump trucks operating at the Montgomery Site. Muentener Cert. ¶3; Exhibit 55 to Muentener Cert., Muentener Photographs.

161. The owner rushed to the Montgomery Site to discover multiple dump trucks depositing what appeared to be construction waste on the Montgomery Site. Quick Cert. ¶7. The Montgomery Township Police Department was notified. One of the trucks fled the scene, while the driver of the other, Defendant Pacheco-Vega, was detained by the police. Quick Cert. ¶¶9-13.

162. On March 11, 2022, the Montgomery Township Police Department interviewed Defendant Pacheco-Vega at the Montgomery Site. During that interview, she stated that she was hired by Defendant Edwin Miranda-Vacuna and his company Defendant GT Miranda Trucking. She showed the police her cell phone, which included messages from Defendant Edwin Miranda-Vacuna providing her with the location to pick up the solid waste and the address of the Montgomery Site. The cell phone also included messages

from Defendant Licausi. Gallagher Cert. ¶8; Exhibit 54 to Gallagher Cert., Montgomery Township Police Report.

163. The Montgomery Township Police received photographs taken by the tenant of the Montgomery Site showing several of the dump trucks that deposited material on the Montgomery Site. They performed a vehicle ownership search and determined that the vehicles were owned and operated by Defendants 5Boro Soil Services, JED XPRESS LLC, Millennium Transport, and WAC Trucking LLC. Exhibit 54.

164. At no point had the owner or tenant of the Montgomery Site asked or given permission for anything at all, let alone solid waste, to be deposited at his property. Quick Cert. ¶18.

165. On March 24, 2022, a DEP BSWCE investigator inspected the Montgomery Site, along with Montgomery Township officials and police. Gallagher Cert. ¶5; Exhibit 57 to Gallagher Cert., Montgomery Site Investigation Report. The investigator determined that there were between 40 and 50 piles of debris on the property. Gallagher Cert. ¶6. The investigator documented numerous piles of solid waste material consisting of soil mixed with concrete, brick, dimensional wood, asphalt, and other construction and demolition debris. Gallagher Cert. ¶5; Exhibit 57. The investigator characterized the material as "Type 13C (construction and

demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.6(a) and N.J.A.C. 7:26-2.13(g)(1)(iv). Ibid.

166. the Somerset County Soil Conservation ("SCSC") District Manager contacted Defendant Licausi, who not only admitted the trucks were acting under his instruction, but claimed that he "coordinate[s] jobs like this all over the State." D'Alessandro Cert ¶5. The township official also took photographs of the conditions on the Montgomery Site on March 11, 2022. D'Alessandro Cert. ¶4; Exhibit 56 to D'Alessandro Cert., March 11, 2022 Photographs.

167. Through investigation of license plates, the Department confirmed the Montgomery Township Police Department's finding that the trucks that deposited waste at the Montgomery Site were operated by Defendants 5Boro Soil Services, WAC Trucking LLC; JED Express, LLC; Millennium Transport, LLC; and APV Trucking, LLC.

168. On May 24, 2022, the Department issued a NOV to Defendant Licausi for violations of the SWMA, specifically, transportation of solid waste without a license and transporting solid waste to a facility without a solid waste management permit. N.J.S.A. 7:26-3.2(a)5; N.J.S.A. 7:26-3.4(b); N.J.S.A. 7:26-16.3(a); N.J.S.A. 7:26H-1.6(a); N.J.S.A. 7:26-2.8(e); Gallagher Cert. ¶10; Exhibit 59 to Gallagher Cert., Montgomery Township Licausi NOV.

169. On July 28, 2022, the Department issued NOVs to Defendants 5Boro Soil Services, WAC Trucking LLC, JED Express, LLC, Millennium Transport, LLC, and APV Trucking, LLC for violations of the SWMA, specifically, transportation of solid waste without a license in violation of N.J.A.C. 7:26- 3.2(a), depositing solid waste at a facility not registered to receive it in violation of N.J.A.C. 7:26- 3.4(b), participation in the solid waste business without a certificate of public convenience and necessity in violation of N.J.A.C. 7:26H- 1.6(a), and engaging in the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State without a license in violation of N.J.A.C. 7:26-16.3(a). The NOVs also required these Defendants to reimburse Somerset County for the cost of removal, identify the company who contacted them to perform the activity and any intermediaries involved with the project, and provide the address of the location where they picked up the subject materials. Gallagher Cert. ¶11; Exhibit 60 to Gallagher Cert., Montgomery Site Hauler NOVs.

170. Somerset County then hired a Licensed Site Remediation Professional to test the material for potential contamination. D'Alessandro Cert.; Exhibit 58 to D'Alessandro Cert., Soil Contamination Testing Results. The analytical results showed elevated levels of Benzo(a)pyrene in excess of the Department's Residential Soil Remediation Standards and high levels of lead and

mercury in excess of the Department's Migration to Groundwater Standards. D'Alessandro Cert; Exhibit 58. The County paid for the removal of the illegally deposited solid waste, and it was transported to a licensed facility on or around August 2, 2022. D'Alessandro Cert. D'Alessandro Cert ¶8-9; Exhibit 58.

171. None of the Defendants responded to or performed the actions required by the NOV's. D'Alessandro Cert ¶9.

Everittstown Road Site

172. On and around June 6, 2022, without the permission of anyone associated with the property, Defendants Chimbo, Mirian Miranda, and B & J Excavating Corp. deposited multiple truckloads of solid waste on the property located at 109 Everittstown Road, Alexandria Twp., New Jersey ("Everittstown Road Site"). Bombace Cert. ¶62.

173. The Everittstown Road Site was under construction and a contractor witnessed an "Excavating BJ Corp." truck dump a load of material on the property. Bombace Cert. ¶63. The contractor was hit by the truck as it left the property, and the contractor called the police. Exhibit 61 to Bombace Cert., Everittstown Road Investigation Report.

174. New Jersey State Troopers interviewed the driver of the Excavating BJ Corp. truck, with Defendant Chimbo serving as a translator. This interview confirmed that Defendant Chimbo was

the dispatcher who sent the drivers to the Everittstown Road Site; the drivers were working for Defendant B & J Excavating Corp.; and that Defendant Mirian Miranda provided the address to the drivers. Exhibit 62 to Bombace Cert., Everittstown Road Site Police Report.

175. On June 15, 2022, the State Troopers spoke with Defendant Marian Miranda. She informed them that Defendant Licausi had provided her with the Everittstown Road Site address. Exhibit 68 to Bombace Cert., Everittstown Road Site Police Report.

176. On June 17, 2022, a DEP investigator visited the Everittstown Road Site. Bombace Certification; Exhibit 61. The investigator found approximately 100 to 120 cubic yards of material consisting of dirt mixed with asphalt, concrete, metal, and scrap wood had been deposited on-site. Exhibit 61. The investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.4, -1.6(a) and N.J.A.C. 7:26-2.13(g) (1) (iv). Bombace Certification ¶62.

Licausi AONOCAPA

177. On October 18, 2022, the Department issued an AONOCAPA to Defendant Licausi. The AONOCAPA determined that Licausi violated the SWMA through his actions at the Bedminster Site, Howell Site, Alexandria Site, Montgomery Site, and Readington Site. Exhibit 69 to Bombace Cert., Licausi AONOCAPA. Specifically, the AONOCAPA states that he breached the SWMA by:

- a. Disposing of solid waste without a license. N.J.A.C. 7:26-16.3(a)
- b. Engaging in the business of solid waste collection and disposal without a license. N.J.A.C. 7:26H-1.6(a)
- c. Transporting solid waste without a registration. N.J.A.C. 7:26-3.2(a)
- d. Failing to dispose of solid waste at an approved facility. N.J.A.C. 7:26-3.4(b)
- e. Disposing of solid waste without receiving a Solid Waste Facility Permit. N.J.A.C. 7:26-2.8(e)
- f. Operating a solid waste facility without receiving a Solid Waste Facility Permit. N.J.A.C. 7:26-2.8(f)

178. The AONOCAPA ordered Licausi to cease engaging in the solid waste industry; arrange for the removal of solid waste from the sites where it was deposited within 10 days of the receipt of the order; and provide disposal receipts for any waste already removed from those sites within 10 days. Exhibit 69.

179. Defendant Licausi was also assessed a civil administrative penalty of \$125,000. Exhibit 69.

180. Defendant did not request a hearing within 20 days of receipt of the AONOCAPA; accordingly, the AONOCAPA, including all ordered corrective actions and penalties, became a Final Order on January 9, 2023.

181. Defendant Licausi has not complied with the Final Order; he has neither conducted any necessary waste removal nor paid the assessed penalty.

February 2023 AONOCAPA

182. On February 13, 2023, the Department issued an additional AONOCAPA to Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, and corporations they own and operate: Defendants MJ & Sons Contractors Trucking LLC, MJ Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. See Exhibit 70 to Farrell Cert., February 2023 AONOCAPA.

183. The AONOCAPA cited these Defendants for their violations of the SWMA and the SWUCA at the Lafayette Site, Delaware Township Site, Alexandria Site, Southampton Site, Pohatcong Site, Hamilton Site, Pryslak Farms Site, and Newark Site. Exhibit 70. Specifically, the AONOCAPA states that these Defendants violated the SWMA and SWUCA by:

- a. Failing to deposit collected solid waste at a facility approved to receive it in violation of N.J.A.C. 7:26-3.4(b);
- b. Engaging in the disposal of solid waste at a facility that lacks a Solid Waste Permit, or operating such a facility without a Solid Waste Permit, in violation of N.J.A.C. 7:26-2.8(e-f);

c. Disposing of solid waste without a license in violation of 7:26-16.3(a);

d. Engaging in the business of solid waste disposal without holding a certificate of public convenience or necessity in violation of N.J.A.C. 7:26H-1.6(a).

184. Defendants were ordered to immediately cease all collection, transportation, processing, brokering and storage of solid waste, immediately cease all collection, transportation, processing, brokering, storage, purchase, sale or disposition, or any combination thereof, of soil and fill recyclable materials, and remove all solid waste deposited at the above Sites. Exhibit 70 to Farrell Cert.

185. Defendants were also assessed a civil administrative penalty of \$880,000.

186. Defendants did not request a hearing within 20 days of receipt of the AONOCAPA on February 23, 2023. Accordingly, the AONOCAPA, including all ordered corrective actions and penalties, became a FAO on March 16, 2023.

187. To date, Defendants continue to transport and store solid waste, have not applied for or obtained a certificate of public convenience and necessity as required by N.J.A.C. 7:26H-1.6(a), and have neither complied with the ordered corrective actions from the March 16 FAO in any way, nor paid any of the penalties from the March 16 FAO.

COUNT 1Enforcement of the August 2020 FAO Against MJ & Sons Contracting
and Walter Miranda

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

189. On August 27, 2020, the AONOCAPA against MJ & Sons Contracting and Walter Miranda became a FAO 21 days after Defendants had received the AONOCAPA and did not request a hearing, as set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

190. To date, Defendants Walter Miranda and MJ & Sons Contracting have not complied with the August 27, 2020 FAO. They did not arrange for the removal of the waste at the Woolwich Site; they continue to operate a waste hauling business without a registration; and they continue to deposit solid waste at facilities that are not licensed to receive solid waste. They have also not paid the \$13,000 penalty.

191. The SWMA authorizes the Department to bring an action seeking injunctive and other relief for violations of said Act. N.J.S.A. 13:1E-9(d).

192. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to enforcement of the August 27, 2020 FAO.

WHEREFORE, Plaintiffs request judgment in their favor:

a. Finding Defendants Walter Miranda and MJ & Sons

- Contracting in violation of the August 27, 2020 FAO;
- b. Enforcing the August 27, 2020 FAO's requirements that Defendants Walter Miranda and MJ & Sons Contracting cease operation of a waste hauling business without a registration, cease depositing solid waste at facilities not licensed to receive solid waste, and pay a \$13,000 penalty;
 - c. Granting such other relief as the Court deems proper.

COUNT 2

Imposition of Civil Penalties Against MJ & Sons Contracting and
Walter Miranda for Failure to Comply with a FAO

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

194. Pursuant to N.J.S.A. 13:1E-9f, any person who violates a Final Order issued pursuant to 13:1E-9c is subject to a penalty of up to \$100,000 per day of violation.

195. On August 27, 2020, the AONOCAPA became a FAO against Defendants Walter Miranda and MJ & Sons Contracting, following Defendants' failure to request a hearing.

196. To date, Defendants Walter Miranda and MJ & Sons Contracting have failed to comply with the August 27, 2020 FAO, including failing to pay the civil administrative penalty.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Imposing civil penalties against Defendants Walter

Miranda and MJ & Sons Contracting for the period of time during which they failed to comply with the August 27, 2020 FAO;

b. Granting Plaintiffs any other relief the Court deems just and proper.

COUNT 3

Enforcement of the December 2020 FAO Against Defendant MJ Sons Excavating and Mirian Miranda

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

198. On December 5, 2020, the October AONOCAPA against MJ Sons Excavating and Mirian Miranda became a Final Agency Order 35 days after Defendants had received the AONOCAPA and did not request a hearing, as set forth in the Administrative Procedures Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

199. To date, Defendants MJ Sons Excavating and Mirian Miranda have not complied with the December 5, 2020 FAO. They have not stabilized all disturbed areas at the Southampton Site in accordance with the "Standards for Soil Erosion and Sediment Control of New Jersey," or submitted a restoration proposal for the Southampton Site within the thirty-day deadline. They have also not paid the \$20,000 penalty.

200. The FWPA and FHACA authorize the Department to bring an action seeking injunctive and other relief for violations of said Acts. N.J.S.A. 13:9B-21(a)2; N.J.S.A. 58:16A-63.

201. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to enforcement of the December 5, 2020 FAO.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Finding Defendants MJ Sons Excavating and Mirian Miranda in violation of the December 5, 2020 FAO;
- b. Enforcing the December 5, 2020 FAO's requirements that Defendants MJ Sons Excavating and Mirian Miranda stabilize all disturbed areas at the Southampton Site in accordance with the "Standards for Soil Erosion and Sediment Control" of New Jersey, submit a restoration proposal for the Southampton Site, and pay the \$20,000 penalty.
- c. Granting such other relief as the Court deems just and proper.

COUNT 4

Imposition of Civil Penalties Against MJ Sons Excavating, and Mirian Miranda for Failure to Comply with a FAO

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

203. Pursuant to N.J.S.A. 13:9B-21 and N.J.S.A. 58:16A-63, any person who violates a FAO issued pursuant to N.J.S.A. 13:1B-

21(b) or N.J.S.A. 58:16A-63(b) is subject to a penalty of up to \$25,000 per day of violation.

204. On December 5, 2020, the October AONOCAPA became FAO against Defendants MJSONS Excavating and Mirian Miranda, following their failure to request a hearing.

205. To date, Defendants MJSONS Excavating and Mirian Miranda Contracting failed to comply with the December 5, 2020 FAO, including failing to pay the civil administrative penalty.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Imposing civil penalties against Defendants MJSONS Excavating and Mirian Miranda for the period of time during which they failed to comply with the November 5, 2020 FAO;
- b. Awarding Plaintiffs any other relief the Court deems just and proper.

COUNT 5

Enforcement of the February 2022 FAO Against DHSC

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

207. On February 14, 2022, the January 2022 AONOCAPA against Defendant DHSC became a FAO, 21 days after Defendant DHSC had received the AONOCAPA and did not request a hearing, as set forth in the Administrative Procedures Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

208. To date, Defendant DHSC has not complied with the February 14, 2022 FAO. Solid waste remains on the property, which is still in use as an unauthorized solid waste disposal site, DHSC has not submitted a corrective action plan, and DHSC has not paid the civil administrative penalty.

209. The SWMA authorizes the Department to bring an action seeking injunctive and other relief for violations of said Act. N.J.S.A. 13:1E-9(d).

210. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to enforcement of the February 14, 2022 FAO.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Finding Defendant DHSC in violation of the February 14, 2022 FAO;
- b. Enforcing the February 14, 2022 FAO's requirements that Defendant DHSC cease the unpermitted operation of a solid waste facility, provide DEP with all information regarding the source of the solid waste at the site, submit and implement a corrective action plan, and pay the \$4,500 penalty;
- c. Granting such other relief as the Court deems just and proper.

COUNT 6Imposition of Civil Penalties Against DHSC for Failure to Comply
with a FAO

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

212. Pursuant to N.J.S.A. 13: 1E-9f and N.J.S.A. 13:1E-1, any person who violates a FAO issued pursuant to 13:1E-9c is subject to a penalty of up to \$100,000 per day of violation.

213. On February 14, 2022, the January 2022 AONOCAPA against Defendant DHSC became a FAO, following Defendant's failure to request a hearing after being issued an AONOCAPA.

214. As set forth above, Defendant DHSC failed to comply with the FAO, including but not limited to failing to pay the civil administrative penalty.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Imposing civil penalties against Defendant DHSC for the period of time during which they failed to comply with the February 14, 2022 FAO;
- b. Awarding Plaintiffs any other relief the Court deems just and proper.

COUNT 7Enforcement of the March 16, 2023 FAO Against Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ Sons Excavation LLC, B. Brothers Management LLC, and Excavating BJ Corp.

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

216. On March 16, 2023, the February 2023 AONOCAPA against Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. became a FAO, 21 days after the above Defendants had received the AONOCAPA and did not request a hearing, as set forth in the Administrative Procedures Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

217. To date, Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. have not complied with the March 16, 2023 FAO. Defendants continue to transport, sell, and dispose of solid waste and soil. They have not arranged for the removal of the solid waste at any of the Sites named in the March 16, 2023 FAO.

218. Defendants have also failed to pay the civil administrative penalty.

219. The SWMA authorizes the Department to bring an action seeking injunctive and other relief for violations of said Act. N.J.S.A. 13:1E-9(d).

220. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to enforcement of the March 16, 2023 FAO.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Finding Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ & Sons Excavation LLC, B. Brothers Management LLC, and Excavating BJ Corp. in violation of the March 16, 2023 FAO;
- b. Enforcing the March 16, 2023 FAO's requirements that Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ & Sons Excavation LLC, B. Brothers Management LLC, and Excavating BJ Corp. cease the transporting, selling, and disposing of solid waste, recyclables, and soil, arrange for the disposal of solid waste at 65 Big Springs Road, Lafayette Township; 31 Stone Signpost Road, Delaware Township; 431 North Main Street, Southampton Township; 625 Paxson Ave., Hamilton Township; 25 Mellicks Woods Road, Pohatcong Township; Pryslak Farms at Hope Road, Great Meadows Township; and, 44-54 E. Bigelow Street/43-57 Clinton Street,

Newark, and pay the \$880,000 penalty.

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

COUNT 8

Imposition of Civil Penalties Against Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ Sons Excavation LLC, B. Brothers Management LLC, and Excavating BJ Corp. for Failure to Comply with a FAO

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

222. Pursuant to N.J.S.A. 13:1E-9f and N.J.S.A. 13:1E-1, any person who violates a FAO issued pursuant to the SWMA at N.J.S.A. 13:1E-9c is subject to a penalty of up to \$100,000 per day of violation.

223. On March 16, 2023, the February 2023 AONOCAPA against Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ & Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. became a FAO following Defendants' failure to request a hearing after being issued an AONOCAPA.

224. As set forth above, all of the Defendants failed to comply with the March 16, 2023 FAO, including by continuing to transport, sell, and dispose of solid waste and soil, failing to arrange for the removal of the solid waste at any of the Sites

named in the March 16, 2023 FAO, and failing to pay the assessed civil administrative penalty.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Imposing civil penalties against Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, MJ & Sons Contractors Trucking LLC, MJ & Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. for the period of time during which they failed to comply with the March 16, 2023 FAO;
- b. Awarding Plaintiffs any other relief the Court deems just and proper.

COUNT 9

Enforcement of the January 2023 FAO Against Bruce Licausi, Jr.

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

226. On January 9, 2023 the October 2022 AONOCAPA against Defendant Bruce Licausi Jr. became a FAO, twenty-one days after Licausi received the AONOCAPA and did not request a hearing, as set forth in the Administrative Procedures Act, N.J.S.A. 52:14B-10. See also N.J.S.A. 13:1E-9(e).

227. To date, Licausi has not complied with the January 2023 FAO. He has not arranged with qualified licensed waste removal professionals for the removal and disposal of the soil/fill materials he deposited at the Howell, Readington, Montgomery,

Alexandria, or Bedminster Sites. He also has not provided disposal receipts for any material previously removed from the sites at issue. Finally, he has also not paid the \$125,000 penalty.

228. The SWMA authorizes the Department to bring an action seeking injunctive and other relief for violations of said Act. N.J.S.A. 13:1E-9(d).

229. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to enforcement of the FAO.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Finding Defendant Bruce Licausi Jr. in violation of the January 2023 FAO;
- b. Enforcing the January 2023 FAO's requirements that Licausi arrange with qualified licensed and registered waste transporters, and the property owners of sites where waste materials were deposited, to remove the waste soil/fill materials and properly dispose of the material at approved waste facilities; provide the Department with all disposal receipts for all material previously removed from the properties identified in the January 2023 FAO; and pay the \$125,000 penalty.
- c. Granting such other relief as the Court deems just and proper.

COUNT 10Imposition of Civil Penalties Against Bruce Licausi Jr. for
Failure to Comply with the January 2023 FAO

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

231. Pursuant to N.J.S.A. 13:1E-9f, any person who violates a FAO issued pursuant to 13:1E-9c is subject to a civil penalty of up to \$100,000 per day of violation. On January 9, 2023, October 2022 AONOCAPA against Defendant Licausi became a FAO, following Defendant's failure to request a hearing after being issued an AONOCAPA.

232. As set forth above, Defendant Licausi failed to comply with the January 2023 FAO, including failing to work to remove the solid waste that he deposited or to pay the civil administrative penalty.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Imposing civil penalties against Defendant Licausi for the period of time during which he failed to comply with the January 2023 FAO;
- b. Awarding Plaintiffs any other relief the Court deems just and proper.

COUNT 11Violations of the Solid Waste Management Act

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

234. Under the SWMA, N.J.S.A. 13E-1 to -48 and its implementing regulations, N.J.A.C. 7:26-1.1 to 7:26-17.26, it is illegal to engage in the transportation of solid waste without obtaining an approved registration statement from the Department. N.J.A.C. 7:26-3.2(a).

235. Under the SWMA, N.J.S.A. 13E-1 to -230, and its implementing regulations, N.J.A.C. 7:26-1 et seq., solid waste materials shall be deposited at a solid waste facility only to the extent the materials contained in an individual load are waste types permitted for acceptance at that facility and commingled only to the extent permitted in the operating approvals for that facility. N.J.A.C. 7:26-3.4(b).

236. Under the SWMA, N.J.S.A. 13E-1 to -230, and its implementing regulations, N.J.A.C. 7:26-1 et seq., it is illegal to engage in the collection, transportation, storage, treatment, or disposal of solid waste without a license. N.J.A.C. 7:26-16.3(a).

237. Under the SWMA, N.J.S.A. 13E-1 to -230, and its implementing regulations, N.J.A.C. 7:26-1 et seq., it is illegal to engage in the business of solid waste collection or disposal

without holding a Certificate of Public Convenience and Necessity ("CPCN") from the Department. N.J.A.C. 7:26H-1.6(a).

238. Under the SWMA, N.J.S.A. 13E-1 to -230, and its implementing regulations, N.J.A.C. 7:26-1 et seq., it is illegal to engage in the disposal of solid waste at a property that does not hold a Solid Waste Permit. N.J.A.C. 7:26-2.8(e)-(f).

239. Every named Defendant has violated one or more of the above statutory provisions and regulations:

- a. Defendant MJ Sons Excavating transported solid waste to and deposited solid waste at facilities not registered to receive it at the Delaware Township Site, Pryslak Farms Site, Newark Site, Pittstown Site, Hamilton Site, Lafayette Site, Alexandria Site, and Southampton Site. MJ Sons Excavating lacks a license to transport solid waste, CPCN, and registration statement.
- b. Defendant MJ & Sons Excavation transported solid waste to and deposited solid waste at facilities not registered to receive it at the Lafayette Site. MJ & Sons Excavation lacks a license to transport solid waste, CPCN, and registration statement.
- c. Defendant MJ & Sons Contractors Trucking transported solid waste to and deposited solid waste at facilities not registered to receive it at the Woolwich Site,

Southampton Site, Lafayette Site, Readington Site, Newark Site, and Pohatcong Site. MJ & Sons Contractors lacks a license to transport solid waste, CPCN, and registration statement.

- d. Defendant ZaZa Trucking transported solid waste to and deposited solid waste at facilities not registered to receive it at the Delaware Township Site. ZaZa Trucking lacks a license to transport solid waste, CPCN, and registration statement.
- e. Defendant GT Miranda Transport transported solid waste to and deposited solid waste at facilities not registered to receive it and participated in depositing solid waste at facilities not registered to receive it at the Montgomery Site. GT Miranda Transport lacks a license to transport solid waste, CPCN, and registration statement.
- f. Defendant GT Miranda Trucking transported solid waste to and deposited solid waste at facilities not registered to receive it and participated in depositing solid waste at facilities not registered to receive it at the Montgomery Site. GT Miranda Trucking lacks a license to transport solid waste, CPCN, and registration statement.
- g. Defendant B. Brothers transported solid waste to and

deposited solid waste at facilities not registered to receive it at the Southampton Site and the Newark Site. B. Brothers is the owner of one of the lots located at the Newark Site. B. Brothers lacks a license to transport solid waste, CPCN, and registration statement. Its Newark Site lot is not a registered Solid Waste Facility.

- h. Defendant WAC Trucking transported solid waste to and deposited solid waste at facilities not registered to receive it at the Pittstown Site, Newark Site, and Montgomery Site. WAC Trucking lacks a license to transport solid waste, CPCN, and registration statement.
- i. Defendant JED Express transported solid waste to and deposited solid waste at facilities not registered to receive it at the Montgomery Site. JED Express lacks a license to transport solid waste, CPCN, and registration statement.
- j. Defendant Millennium Transport transported solid waste to and deposited solid waste at facilities not registered to receive it at the Montgomery Site. Millennium Transport lacks a license to transport solid waste, CPCN, and registration statement.
- k. Defendant APV Trucking transported solid waste to and

deposited solid waste at facilities not registered to receive it at the Montgomery Site. APV Trucking lacks a license to transport solid waste, CPCN, and registration statement.

- l. Defendant 5Boro Soil Services transported solid waste to and deposited solid waste at facilities not registered to receive it at the Montgomery Site and the Readington Site. 5Boro lacks a license to transport solid waste, CPCN, and registration statement.
- m. Defendant Sinai Trucking, LLC transported solid waste to and deposited solid waste at facilities not registered to receive it at the Readington Site. Sinai Trucking lacks a license to transport solid waste, CPCN, and registration statement.
- n. Defendant Excavating BJ Corp transported solid waste to and deposited solid waste at facilities not registered to receive it at the Newark Site. Excavating BJ Corp also deposited solid waste at the Readington Site and Everittstown Road Site. Excavating BJ Corp lacks a license to transport solid waste, CPCN, and registration statement.
- o. Defendant DSHC Real Estate Owned, LLC owns the property on which the Southampton Site is located.

DSHC operates a solid waste facility on the Southampton Site without a Solid Waste Facility Permit.

p. Defendant Walter Miranda-Vacuna is a managing member of MJ Sons Excavating, MJ & Sons Contractors Trucking, and MJ & Sons Excavation, LLC, and was in control of the operation of equipment owned and operated by the company, its agents, and employees. Accordingly, he is responsible for depositing solid waste at facilities not registered to receive it at the Woolwich Site, Southampton Site, Lafayette Site, Newark Site, Delaware Township Site, Pryslak Farms Site, Pittstown Site, Hamilton Site, Alexandria Site, and Pohatcong Site.

q. Defendant Mirian Miranda is a managing member of MJ Sons Excavating, MJ & Sons Excavation, LLC, and B. Brothers and was in control of the operation of equipment owned and operated by the company, its agents, and employees. Accordingly, she is responsible for depositing solid waste at facilities not registered to receive it at the Southampton Site, Lafayette Site, Newark Site, Delaware Township Site, Pryslak Farms Site, Pittstown Site, Hamilton Site, Everittstown Road Site, and Alexandria Site.

- r. Defendant Bryan Miranda is a managing member of Excavating BJ Corp., and was in control of the operation of equipment owned and operated by the company, its agents, and employees. Accordingly, he is responsible for depositing solid waste at facilities not registered to receive it at the Newark Site and the Pryslak Farms Site. Bryan Miranda lacks a license to transport solid waste, CPCN, and registration statement.
- s. Defendant Andre "Dre" Salinas organized and participated in depositing solid waste at facilities not registered to receive it at the Bedminster Site and the Howell Site. Salinas lacks a license to transport solid waste, CPCN, and registration statement.
- t. Defendant Bruce Licausi, Jr., organized and participated in depositing solid waste at facilities not registered to receive it at the Howell Site, Readington Site, Montgomery Site, Alexandria Site, Everittstown Road Site, and Bedminster Site. Licausi lacks a license to transport solid waste, CPCN, and registration statement.
- u. Defendant Ana Panchea-Vega is the manager of Defendant APV Trucking, an unregistered corporation. Panchea-

Vega participated in depositing solid waste at facilities not registered to receive it at the Montgomery Site. Panchea-Vega lacks a license to transport solid waste, CPCN, and registration statement.

v. Defendant Edwin Giovanni Miranda-Vacuna is a managing member of GT Miranda Transportation, LLC and GT Miranda Trucking, LLC. Edwin Miranda-Vacuna arranged the transport and deposit of solid waste at facilities not registered to receive it at the Montgomery Site. Edwin Miranda-Vacuna lacks a license to transport solid waste, CPCN, and registration statement.

w. Defendant Joe Wallace arranged for the deposit of solid waste at facilities not registered to receive it at the Lafayette Site. Wallace lacks a license to transport solid waste, CPCN, and registration statement.

x. Defendant Henry Chimbo arranged the deposit of solid waste at facilities not registered to receive it at the Delaware Township Site and the Everittstown Road Site. Chimbo lacks a license to transport solid waste, CPCN, and registration statement.

y. Defendant Angel Bravo-Gomez arranged the transport to and depositing of solid waste at facilities not

registered to receive it at the Readington Township Site and the Hamilton Site. Bravo-Gomez lacks a license to transport solid waste, CPCN, and registration statement.

240. The SWMA allows for the Department to institute an action in Superior Court to enforce the Act. The Department may specifically seek injunctive relief and civil penalties. N.J.S.A. 13:1E-9(d).

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Enjoining the Defendants from engaging in the business of solid waste transport or disposal so long as they lack a A-901 License as required by N.J.S.A. 13:1E-127;
- b. Ordering Defendants to remove all solid waste on each site using Department approved solid waste transporters and dispose of all solid waste at licensed solid waste facilities;
- c. Imposing civil penalties against Defendants for violations of the SWMA; and
- d. Awarding any other relief the Court finds appropriate.

RESPECTFULLY SUBMITTED,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Matthew Novak
Matthew Novak
Dom Stockton-Rossini
Deputy Attorneys General

Dated: 04/20/2023

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Dom Stockton-Rossini, is hereby designated as trial counsel for the Plaintiffs in this action.

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

By: /s/ Matthew Novak
Matthew Novak
Dom Stockton-Rossini
Deputy Attorney General

Dated: 04/20/2023

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

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

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Matthew Novak
Matthew Novak
Dom Stockton-Rossini
Deputy Attorney General

Dated: 04/20/2023

<p>NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, and THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION;</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>MJSONS EXCAVATING, LLC; MJ & SONS EXCAVATION, LLC; MJ & SONS CONTRACTOR TRUCKING; LLC; ZAZA TRUCKING, LLC; GT MIRANDA TRANSPORT, LLC; GT MIRANDA TRUCKING, LLC; B. BROTHERS MANAGEMENT, LLC; WAC TRUCKING LLC; JED EXPRESS, LLC; MILLENNIUM TRANSPORT, LLC; APV TRUCKING, LLC; 5 BORO SOIL SERVICES; SINAI TRANSPORT, LLC; EXCAVATING BJ CORP; DHSC REAL ESTATE OWNED, LLC; WALTER MIRANDA-VICUNA, individually; MIRIAN L. MIRANDA, individually; BRYAN MIRANDA, individually; EDWIN G MIRANDA-VICUNA, individually; BRUCE LICAUSI, JR., individually; ANDRE "DRE" SALINAS, individually; ANA PANCHEO-VEGA, individually ; HENRY CHIMBO, individually; ANGEL BRAVO-GOMEZ, individually; "XYZ CORPORATIONS" 1-10 (Names Fictitious); and "JOHN AND/OR JANE DOES" 1-10 (Names Fictitious),</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION-ESSEX COUNTY</p> <p>DOCKET NO.</p> <p style="text-align: center;"><u>Civil Action</u></p> <p style="text-align: center;">BRIEF IN SUPPORT OF ORDER TO SHOW CAUSE</p>
--	---

PLAINTIFFS' BRIEF IN SUPPORT OF VERIFIED COMPLAINT AND ORDER TO SHOW CAUSE TO ENFORCE FINAL AGENCY ORDERS AND REQUEST FOR PRELIMINARY INJUNCTIVE RELIEF

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market StreetPO
BOX 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiff
(609) 376-2740
domenico.stocktonrossini@law.njoag.gov

Matthew Novak (341682020)
Dom Stockton-Rossini (275642018)
Deputy Attorneys General
On the Brief

Table of Contents

PRELIMINARY STATEMENT 1

STATEMENT OF FACTS 3

LEGAL ARGUMENT 32

POINT I 33

DEFENDANTS MJSONS EXCAVATING, MJ & SONS CONTRACTORS TRUCKING, LLC, B. BROTHERS MANAGEMENT, EXCAVATING BJ CORP., DHSC, WALTER MIRANDA, MIRIAN MIRANDA, BRYAN MIRANDA, AND BRUCE LICAUSI JR. ARE REQUIRED TO COMPLY WITH THE TERMS OF THE AONOCAPAS AND THE DEPARTMENT IS ENTITLED TO CIVIL PENALTIES. 33

A. The AONOCAPA Defendants are required to comply with the terms of the AONOCAPAS 33

B. The Department is entitled to an Order pursuant to R. 4:70 assessing civil penalties against the "AONOCAPA Defendants" for their continued failure to comply with the five FAOs. 36

POINT II 38

DEFENDANTS' UNLAWFUL TRANSPORTATION, DISPOSAL, AND STOCKPILING OF SOLID WASTE REQUIRES ENTRY OF PRELIMINARY INJUNCTIVE RELIEF UNDER THE SWMA REQUIRING DEFENDANTS TO IMMEDIATELY CEASE THEIR ILLEGAL ACTIVITY AND REMEDIATION OF NUMEROUS SITES AROUND THE STATE. 38

POINT III 41

THE DEPARTMENT IS ENTITLED TO INJUNCTIVE RELIEF BASED ON TRADITIONAL NOTIONS OF EQUITY. 41

A. Defendants' Continued Illegal Transportation, Deposition, and Stockpiling of Solid Waste Causes Irreparable Harm to the People of New Jersey and the Environment 43

B. The Department's Claims for Injunctive Relief are Based on a Settled Legal Right 46

C. The Department is Likely to Succeed on the Merits of Its Claims 47

D. The Balance of Equities and Hardships Favors Injunctive Relief as Requested by the Department 48

CONCLUSION 49

PRELIMINARY STATEMENT

The unpermitted dumping and storage of solid waste is a violation of the New Jersey Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-1 to -48, and an ongoing threat to public health and the environment. Defendants are responsible for illegally dumping and/or storing hundreds of tons of illegal solid waste on at least fifteen properties throughout the State of New Jersey. The waste consists primarily of construction debris. Defendants are distributing this solid waste throughout the state, either by falsely offering "clean fill" in advertisements to unwitting homeowners and then delivering truckloads of construction waste or, on occasion, by simply dumping the waste on properties without permission. Defendants lack the license and registration requirements to transport or store solid waste. The New Jersey Department of Environmental Protection ("Department") has encountered Defendants across the state, and has repeatedly issued Notices of Violation, Administrative Orders, and Final Agency Orders telling Defendants to cease their illegal activity. Defendants have ignored all these efforts and continue to violate the law and operate their illegal solid waste businesses.

Plaintiffs are entitled to an order enforcing multiple Final Agency Orders ("FAO"s) against certain Defendants. These Defendants, including MJ Sons Excavating LLC ("MJ Sons Excavating"), MJ & Sons Excavation, Excavating BJ Corp., B. Brothers Management

LLC, DHSC Real Estate Owned, LLC ("DHSC"), MJ & Sons Contractor Trucking LLC ("MJ & Sons Contractor"), Walter Miranda-Vicuna (also known as Walter Miranda), Mirian Miranda, Bryan Miranda, and Bruce Licausi Jr., have each failed to comply with at least one FAO of the Department. Accordingly, the Department brings this action to compel prompt compliance with the FAOs, which require Defendants to comply with applicable environmental laws, cease illegal transportation, depositing, and storage of solid waste, remediate multiple sites, and for civil penalties.

In addition to enforcing the existing FAOs, the Department seeks an order requiring all of the named Defendants to immediately cease the illegal transporting, depositing, and/or stockpiling of solid waste and to properly remove and dispose of the solid waste on each site. These activities require certain approvals from the Department, including a solid waste transportation registration, a solid waste facility ("SFW") registration, and/or a soil transportation registration. However, notwithstanding this requirement, Defendants have illegally engaged, and continue to engage, in the transportation, deposition, and stockpiling of solid waste on multiple sites around the State. The Department seeks an order to cease this illegal activity and protect the public and the environment from their illegal dumping.

STATEMENT OF FACTS

The properties at issue are The Department seeks to stop the illegal dumping, transportation and storage of solid waste at fifteen different sites, in seven counties, in New Jersey. Verified Complaint at ¶¶1-4. Defendants' illegal activities include, but are not limited to, the transportation, depositing, and maintaining of solid waste without permits. The Defendants' activity at each individual site is part of a larger pattern of activity whereby Defendants are profiting from violating the SWMA across the State. No Defendant held, applied for, or maintained a solid waste permit, registration, or other approval from the Department at any time during the events outlined below.

Woolwich Site

Defendants MJ & Sons Contractors and Walter Miranda-Vicuna transported and deposited material consisting of dirt mixed with construction and demolition debris to a property located at 253 Bear Creek Road, Woolwich Township, Gloucester County, New Jersey ("Woolwich Site") in February 2018. Verified Complaint at ¶¶35-36; Gomez Cert.; Exhibit 1 to Gomez Cert., Woolwich AONOCAPA. Department investigators identified the material as solid waste and issued an Administrative Order and Notice of Administrative Penalty Assessment ("AONOCAPA") on July 2, 2019 for violations of the SWMA, and the Solid Waste Utility Control Act ("SWUCA"), N.J.S.A. 48:13A-1 to -13 ("July 2019 AONOCAPA"). Verified

Complaint at ¶¶38-40; Exhibit 1. The July 2019 AONOCAPA ordered MJ & Sons Contractors and Walter Miranda to immediately cease all transportation of solid waste to, and to remove the solid waste from, the Woolwich Site, and to pay a \$13,000 penalty. Verified Complaint at ¶¶40-41; Exhibit 1. Neither MJ & Sons Contractors nor Walter Miranda-Vicuna requested an administrative hearing, and the July 2019 AONOCAPA became a FAO on August 27, 2020. Verified Complaint at ¶42; Exhibit 1.

Lafayette Site

In the winter of 2018, the owner of the property located at 65 Big Spring Road, Lafayette, Sussex County, New Jersey ("Lafayette Site") solicited clean fill from Defendant Joe Wallace to fill a portion of the property. Verified Complaint at ¶¶44-45. Beginning in February and March of 2019, multiple truckloads of material were deposited on the Lafayette Site. Verified Complaint at ¶45.

Following complaints of illegal dumping, the Department investigated the Lafayette Site on July 12, 2019. Verified Complaint at ¶46. The investigator determined that material dumped on the site consisted of mixed brick, concrete blocks and slabs, asphalt, metal, and wood. Verified Complaint at ¶47; Bombace Cert.; Exhibit 63 to Bombace Cert., Lafayette Investigation Report. The material is consistent with the definition for "Type 13C (construction and demolition) debris", defined as solid waste

pursuant to N.J.A.C. 7:26-1.4 and 1.6 and N.J.A.C. 7:26-2.13(g)(1)(iv). Verified Complaint at ¶47; Exhibit 63.

The property owner subsequently provided photographs of the trucks that deposited the solid waste. Exhibit 64 to Bombace Cert., Lafayette Truck Photo; Applebaum Affidavit. The trucks were marked with "MJ and Sons Excavating" and "MJ and Sons Contractor Trucking LLC." Verified Complaint at ¶48; Exhibit 64.

Delaware Township Site

In May 2019, the owner of the property located at 31 Stone Signpost Road, Delaware Township, Hunterdon County ("Delaware Township Site") sought clean fill to expand a pathway on his land. Verified Complaint at ¶50; Reed Cert. The property owner's grandson responded to an advertisement for clean fill material on Facebook Marketplace placed by Defendant Henry Chimbo. Reed Cert. In July and August 2019, Defendant MJSons Excavating transported and deposited truckloads, not of the advertised clean fill, but materials consisting of dirt mixed with construction and demolition debris to the Delaware Township Site. Verified Complaint at ¶52; Bombace Cert; Exhibit 2; Exhibit 3 to Bombace Cert, HCHD Delaware Twp. Inspection Reports; Exhibit 65 to Bombace Cert., HCHD Inspection Photos.

Henry Chimbo organized the transportation and disposal of solid waste on the Delaware Township Site without a solid waste permit. Verified Complaint at ¶53; Exhibit 3. Defendants MJSons

Excavating and ZaZa Face Trucking LLC ("ZaZa Trucking") deposited multiple truckloads of material on the site without a solid waste permit, the majority of which was not requested and done without permission. Reed Cert. Department and Hunterdon County Health Department ("HCHD") personnel generally described the material as consisting of soil mixed with black corrugated plastic drain pipe pieces, untreated wood scrap, scrap metal, plastic containers, scrap PVC pipe and asphalt millings. Verified Complaint at ¶55; Bombace Cert. Exhibit 2; Exhibit 3; Exhibit 65; Exhibit 7 to Bombace Cert., December 17, 2019 Delaware Twp. Site Photos.

The Department determined at least some of the material came from a construction site in Newark, New Jersey, and the property owner confirmed much of the soil on the Delaware Township Site is contaminated with hazardous substances including lead, mercury, Cadmium, and Benzo(a)pyrene. Verified Complaint at ¶57; Bombace Cert. ¶14; Exhibit 5 to Bombace Cert., Aerial Photograph of Newark Construction Site and Soil Testing; Exhibit 6 to Bombace Cert., Delaware Twp. Site Soil Test Results Map.

On May 6, 2022, a Department investigator hand delivered a Notice of Violation ("NOV") to Mirian Miranda. Verified Complaint at ¶60; Bombace Cert. The NOV described the on-going violations related to the Delaware Township Site including unauthorized disposal, storage, and transportation of solid waste. Bombace Cert.; Exhibit 8 to Bombace Cert, Delaware Twp. Site May 6, 2022

NOV. The NOV identified necessary corrective actions to be taken by Mirian Miranda, Walter Miranda, MJ & Sons Contractor, and/or MJ & Sons Excavating, within ten days. Exhibit 8. The Department did not receive any response. Bombace Cert.

Alexandria Site

Defendants MJ Sons Excavating, Mirian Miranda, and Walter Miranda-Vicuna were responsible for the transportation and deposition of material consisting of construction and demolition debris to a property located at 55 Schoolhouse Road, Alexandria, Hunterdon County ("Alexandria Site"). Verified Complaint at ¶¶61-64; O'Sullivan Cert; Exhibit 9 to O'Sullivan Cert., HCHD Alexandria Site Investigation Report. On December 4, 2019, an HCHD investigator inspected the property and found two piles of soil mixed with solid waste and a receipt from MJ Sons Excavating. O'Sullivan Cert; Exhibit 9. On December 6, 2019, a Department investigator observed the material on the Alexandria Site, generally describing it as "soils mixed with concrete, asphalt, wood, and plastics." Verified Complaint at ¶¶62-63; Ongaro Cert; Exhibit 10 to Ongaro Cert., Alexandria Site Investigation Report. The Department investigator confirmed that MJ Sons Excavating stapled a receipt to a pole on the Alexandria Site for the material, which identified that the company operated by Defendants Mirian and Walter Miranda was responsible for the dumping. Verified Complaint at ¶64; O'Sullivan Cert.

Southampton Site

Defendants MJ Sons Excavating, MJ & Sons Contractors, B. Brothers Management, Walter Miranda-Vicuna, and Mirian Miranda transported and deposited material consisting of dirt mixed with construction and demolition debris to a property located at 431 North Main Street, Southampton Township, Burlington County, New Jersey ("Southampton Site"), and spread the material around the site. Verified Complaint at ¶¶65-83; Petrauskas Cert.; Exhibit 11 to Petrauskas Cert., Southampton Site Compliance Evaluation. Department investigators observed the material consisted of solid waste, including bricks, metal, and other construction waste. Verified Complaint at ¶67; Petrauskas Cert; Exhibit 11.

Defendant Walter Miranda-Vicuna met with Department investigators at the Southampton Site and admitted that he, his wife, and their companies and employees transported the material to the site, deposited it, and spread it to level out the area. Verified Complaint at ¶¶70-71; Petrauskas Cert; Exhibit 11. The Department investigators explained that transporting the material to the site and depositing it on site violated multiple laws and regulations. Verified Complaint at ¶71; Petrauskas Cert; Exhibit 11. The investigators also issued a field NOV detailing the violations. Verified Complaint at ¶71; Petrauskas Cert; Exhibit 13 to Petrauskas Cert., March 24, 2020 Field NOV. Despite the field NOV and a mailed NOV, no remediation took place at the

Southampton Site. Verified Complaint at ¶¶72-83; Collins Cert; Petrauskas Cert.

On October 29, 2020, the Department issued an AONOCAPA ("October 2020 AONOCAPA") against MJ Sons Excavating and Mirian Miranda for violations of the Flood Hazard Area Control Act ("FHACA"), N.J.S.A. 58:16A-50 to -103 and Freshwater Wetland Protection Act ("FWPA"), N.J.S.A. 13:1B-1 to -30, on the Southampton Site. Verified Complaint at ¶74; Collins Cert; Exhibit 12 to Collins Cert., October 29, 2020 AONOCAPA. The October 2020 AONOCAPA ordered MJ Sons Excavating and Mirian Miranda to immediately cease all regulated activity at the Southampton Site, to remove all material deposited on the site, and assessed a \$20,000 civil administrative penalty. Verified Complaint at ¶74. The October 2020 AONOCAPA was received and signed for on November 5, 2020. Collins Cert; Exhibit 12. Because neither MJ Sons Excavating nor Mirian Miranda filed a request for an administrative hearing, the October 2020 AONOCAPA became an FAO on December 10, 2020. Verified Complaint at ¶75; Exhibit 12.

Follow-up inspections from late 2020 through August 2021 showed additional solid waste had been brought to, and placed on, the Southampton Site despite the Department's NOV's and AONOCAPA. Verified Complaint at ¶73, ¶76-79; Petrauskas Cert; Exhibit 14 to Collins Cert., CLUE April 22, 2020 NOV; Exhibit 15 to Petrauskas Cert., June 25, 2020 Southampton Site Compliance Evaluation;

Exhibit 16 to Petrauskas Cert., May 4, 2021 Southampton Site Compliance Evaluation; Exhibit 17 to Petrauskas Cert., August 3, 2021 Southampton Site Compliance Evaluation; Exhibit 18 to Petrauskas Cert., September 8, 2021 Southampton Site Compliance Evaluation; Exhibit 19 to Petrauskas Cert., DSHC August 17, 2021 NOV; Exhibit 20 to Petrauskas Cert., Miranda August 17, 2021 NOV.

On January 19, 2022, the Department issued an AONOCAPA ("January 2022 AONOCAPA") against DHSC, the new property owner, for operating a solid waste facility without a permit. Verified Complaint at ¶80; Petrauskas Cert.; Exhibit 21 to Petrauskas Cert., January 2022 AONOCAPA. The January 2022 AONOCAPA ordered DHSC to immediately cease all regulated activity at the Southampton Site, remove the material deposited on the site, and assessed a \$4,500 civil administrative penalty. Exhibit 21. The January 2022 AONOCAPA was received and signed for on January 24, 2022. Verified Complaint at ¶81; Exhibit 21. Because DHSC did not file a request for an administrative hearing, the January 2022 AONOCAPA became a FAO on February 14, 2022. Verified Complaint at ¶81; Exhibit 21. To date, the solid waste remains on the Southampton Site.

Hamilton Site

Defendants MJ Sons Excavating arranged for and delivered solid waste to the property located at 625 Paxson Ave in Hamilton, Mercer County ("Hamilton Site"). Verified Complaint at ¶¶84-90; Mahmoud Kotb Certification. The property owner sought "clean fill"

material through Facebook Marketplace and her father, Mahmoud, responded to an advertisement from Defendant Angel Bravo-Gomez, under his alias "Anthony Kinito". Verified Complaint at ¶84; Mahmoud Kotb Certification; Exhibit 22 to Sara Kotb Cert., Hamilton Facebook Messages and Advertisement. The advertisement offered "clean fill" and the advertised photographs showed what appeared to be clean topsoil without visible contamination. Mahmoud Kotb Cert; Sara Kotb Cert. On April 9, 2021, Defendant MJ Sons Excavating deposited fourteen truckloads of material on the Hamilton Site. Mahmoud Kotb Cert; Sumer Kotb Cert; Exhibit 23 to Sumer Kotb Cert., Truck Photograph. When MJ Sons Excavating delivered the material, the homeowner, her sister, and Mahmoud were surprised to find construction debris and other rubble, including bricks, construction tape, large stones, and pipes mixed in with the soil. Sumer Kotb Cert; Sara Kotb Cert. The homeowner contacted Department to report the material. Sara Kotb Cert.

On April 13, 2021, a Department investigator inspected the Hamilton Site. Verified Complaint at ¶87; Elton Cert.; Exhibit 24 to Elton Cert., April 13, 2021 Hamilton Site Investigation Report and Photographs. The investigator documented multiple piles of material consisting of soil mixed with asphalt and concrete chunks, ceramic pipe, plastics, and dimensional lumber. Verified Complaint at ¶87; Exhibit 24. On April 12, 2022, the Department investigator returned to the Hamilton Site and observed that the solid waste

was still on the site. Verified Complaint at ¶88; Elton Cert; Exhibit 25 to Elton Cert., April 12, 2022 Hamilton Site Investigation Photographs.

On April 22, 2022, a Department investigator hand delivered an NOV to Walter Miranda at the headquarters of multiple defendants in Newark, New Jersey. Elton Cert.; Exhibit 26 to Elton Cert., April 26, 2022 Hamilton NOV. The NOV described the on-going violations on the Hamilton Site including unauthorized disposal, storage, and transportation of solid waste. Exhibit 26. The NOV identified necessary corrective actions to be taken by Mirian Miranda, and/or MJ & Sons Excavating, within ten days. Ibid. Department did not receive any response. Elton Cert.

Pohatcong Site

On or around June 11, 2021, Defendant MJ & Sons Contractor Trucking deposited multiple truckloads of solid waste on a property located at 25 Mellicks Woods Road, Pohatcong, Warren County ("Pohatcong Site"). Verified Complaint at ¶¶91-95; Melendez Cert; Exhibit 27 to Melendez Cert., June 17, 2021 Pohatcong Site Photographs. On July 22, 2021, a Department investigator inspected the Pohatcong Site and observed at least two large piles of solid waste. Verified Complaint at ¶93; Bombace Cert; Exhibit 28 to Bombace Cert., July 22, 2021 Pohatcong Site Investigation Report and Photos. The solid waste material consisted of soil mixed with brick, concrete, rubble, dimensional wood, and plastic. Verified

Complaint at ¶93; Bombace Cert; Exhibit 28. Like many of the Defendants' targets, the property owner had solicited clean fill from MJ & Sons, but received solid waste instead. Bombace Cert. Exhibit 29 to Bombace Cert., September 13, 2021 Pohatcong Site Investigation Report. On May 6, 2022, the Department issued an NOV to MJ & Sons Contractors and Walter Miranda-Vicuna, seeking voluntary corrective action, but did not receive a response. Verified Complaint at ¶95; Bombace Cert; Exhibit 30 to Bombace Cert., May 6, 2022 Pohatcong NOV.

Bedminster Site

On or around October 20, 2021, Defendants Andre "Dre" Salinas and MJSons Excavating deposited multiple truckloads of solid waste on the property located at 300 Old Farm Road in Bedminster, Somerset County ("Bedminster Site"). Verified Complaint at ¶¶96-104. The property owner had requested "clean fill" from Defendant Andre "Dre" Salinas after seeing a Facebook Marketplace advertisement. Verified Complaint at ¶96; Hall Cert. However, when the material was deposited on site, it was soil mixed with debris, including but not limited to rubber, old car parts, and construction materials. Verified Complaint at ¶98; Hall Cert; Exhibit 31 to Hall Cert., Photographs and messages for delivery of the material.

On November 8, 2021, the Department received a complaint regarding the illegal fill on the Bedminster Site. Verified

Complaint at ¶100; Zasoski Cert. On November 22, 2021, a Department investigator inspected the site, identifying multiple piles of solid waste and waste spread around the site. Verified Complaint at ¶100; Zasoski Cert; Exhibit 32 to Zasoski Cert., Bedminster Site Investigation Report and Photographs. The investigator observed soil mixed with asphalt, bricks, blocks, and other construction and demolition debris. Verified Complaint at ¶101; Zasoski Cert; Exhibit 32.

After the Department investigated the Bedminster Site, the property owner contacted Defendant Andre Salinas and requested him to remove the solid waste. Verified Complaint at ¶102; Hall Cert; Exhibit 31. Defendant Salinas ignored the property owner, but Defendant Bruce Licausi, Jr. contacted her and offered to remove the material. Verified Complaint at ¶102; Hall Cert.; Exhibit 31. On December 3 and 4, 2021, Defendants Bruce Licausi Jr., Andre Salinas, and MJ Sons Excavating removed the illegal solid waste. Verified Complaint at ¶103; Hall Cert.; Exhibit 31.

Howell Site

On or around July 27, 2021, MJ Sons Excavating and Defendant Salinas deposited multiple truckloads of solid waste on the property located at 135 Arnold Blvd, Howell Township, Monmouth County ("Howell Site"). Verified Complaint at ¶¶105-108; Convery Cert. The property owner, Mr. Convery, responded to a Facebook Marketplace advertisement for free clean fill material. Verified

Complaint at ¶105; Convery Cert. Soon after responding to the advertisement, Defendant Salinas called Mr. Convery, notifying him there were three trucks outside the Howell Site with the fill he requested. Verified Complaint at ¶106; Convery Cert. Mr. Convery allowed the trucks onto the Howell Site and noticed large pieces of construction debris and other trash mixed in the soil. Verified Complaint at ¶106; Convery Cert.

Mr. Convery asked Defendant Salinas to remove the material, but it took months before Mr. Convery was able to get him to agree to do so. Verified Complaint at ¶106; Convery Cert. Defendant Licausi also agreed to help with the removal process, but Mr. Convery had to pay for removal because Defendants Licausi and Salinas claimed that they did not have a way to load the waste into the trucks. Verified Complaint at ¶¶107-108; Convery Cert.; Exhibit 33 to Convery Cert., December 23, 2021 photographs and messages with multiple defendants. On December 23, 2021, Defendant Licausi removed the waste using an Excavating BJ Corp. truck, and signed an acknowledgment of removal. Verified Complaint at ¶108; Convery Cert.; Exhibit 33.

Pryslak Farms Site

On November 22, 2021, a Department investigator observed a truck labeled MJ Sons Excavating pulling into a driveway at the property located on Hope Road, Block 1, Lot 24, Independence Twp., Warren County ("Pryslak Farms Site"), with a full load of what

appeared to be dirt. Verified Complaint at ¶¶109-116; Bombace Cert., Exhibit 34 to Bombace Cert., Pryslak Farms November 22, 2021 Investigation Report and Photos. The investigator followed the truck and found it deposited the truckload on the site, alongside other piles of solid waste that had apparently be deposited previously. Verified Complaint at ¶110; Bombace Cert; Exhibit 34. The investigator observed piles of soil mixed with wood, asphalt, blocks, and other construction and demolition debris materials. Verified Complaint at ¶111; Bombace Cert; Exhibit 34.

The truck driver admitted he dumped the truckload he brought to the site. Verified Complaint at ¶112; Bombace Cert; Exhibit 34. He explained that his co-worker directed him to the Pryslak Farms Site, but he was unable to provide documentation for the source of the material. Verified Complaint at ¶113; Bombace Cert.

The US Department of Transportation number (#3404293) for the dump truck revealed it to be operated by Defendant Excavating BJ Corp. Verified Complaint at ¶114; Bombace Cert. On December 1, 2021, the Department investigator returned to the Pryslak Farms Site and found similar piles of solid waste. Bombace Cert. ¶29; Exhibit 35 to Bombace Cert., December 1, 2021 Pryslak Farms Site Inspection Report and the photographs.

On March 7, 2022, while investigating a site in Newark, Defendant Mirian Miranda admitted to the investigator that MJSons Excavating is responsible for depositing the solid waste on the

Pryslak Farms Site, believing the company had permission from the owner. Verified Complaint at ¶116; Bombace Cert. Department investigators also hand delivered an NOV detailing the violations on the Pryslak Farms Site, and requested Mirian Miranda cease transporting solid waste and submit a plan for removal of the solid waste from the Pryslak Farms Site. Verified Complaint at ¶116; Bombace Cert.; Exhibit 36 to Bombace Cert., March 7, 2022 Pryslak Farms NOV. Defendants did not respond to the NOV.

Pittstown Site

Defendants Licausi, MJ Sons Excavating, and WAC Trucking, LLC ("WAC Trucking") deposited dozens of piles of solid waste on the property located at 760 Everittstown Road, Pittstown (Alexandria Twp.) Hunterdon County ("Pittstown Site"). Verified Complaint at ¶117-30. The property owner originally contacted Defendant Licausi through a Facebook Marketplace advertisement for grading services in November, 2021. Verified Complaint at ¶117; Li-lan Chen Cert; Exhibit 37 to Li-lan Chen Cert., Facebook advertisement and messages with Defendant Licausi. Defendant Licausi did not show up to perform the grading work and the property owner ceased contact. Verified Complaint at ¶119; Li-lan Chen Cert.

Despite not being hired, several months later on February 12, 2022, Defendant Licausi directed multiple trucks to deposit solid waste onto the Pittstown Site. Verified Complaint at ¶¶121-22; Podpora Cert; Exhibit 40 to Podpora Cert., February 12, 2022

Podpora Photographs; Kirkland Cert. At least one truck registered to MJSons Excavating was photographed entering the site by a neighbor. Verified Complaint at ¶122; Padpora Cert; Exhibit 40; Walters Cert. Multiple trucks delivered waste to the site and the waste was spread over a large area throughout the day. Verified Complaint at ¶¶121-24; Kirkland Cert. The property owners did not seek fill material and never gave permission to Defendants to deposit any material on the Pittstown Site. Li-lan Chen Cert; Chaopen "Benjamin" Chen Cert.

On February 14, 2022, a WAC Trucking dump truck came to the Pittstown Site with more material. Verified Complaint at ¶123; Benjamin Chen Cert; Exhibit 41 to Benjamin Chen Cert., February 14, 2022 Pittstown Site Video-WAC Truck. The driver stated Defendant Licausi sent him to the Pittstown Site and provided the property owner Defendant Licausi's phone number. Verified Complaint at ¶123; Benjamin Chen Cert. One of the property owners, Benjamin Chen, asked Defendant Licausi to come to the Site. Verified Complaint at ¶123; Benjamin Chen Cert. When Defendant Licausi arrived, Mr. Chen confronted him about the material, Defendant Licausi agreed to remove the material the next day, but never came back. Verified Complaint at ¶124; Benjamin Chen Cert; Exhibit 42 to Benjamin Chen Cert., February 14, 2022 Pittstown Site Video-Licausi.

On February 16, 2022, the Department received a complaint

concerning the illegal solid waste deposited at the Pittstown Site. Verified Complaint at ¶125. On February 24, 2022, the HCHD sent an investigator to the Pittstown Site where she observed dozens of piles of solid waste that had been deposited over a large area of the Site. Verified Complaint at ¶126; Davis Cert; Exhibit 43 to Davis Cert., HCHD Pittstown Site Investigation Report, Documents, and Photos. The HCHD investigator observed material consisting of soil mixed with asphalt, pipe, rubble, and other solid waste. Verified Complaint at ¶126; Davis Cert; Exhibit 43. Some of the piles consisted entirely of concrete slabs and large pieces with little to no soil. Verified Complaint at ¶126; Davis Cert; Exhibit 43.

After investigating the Pittstown Site, the HCHD investigator found multiple advertisements on Facebook posted by Defendant Bruce Licausi, Jr. Verified Complaint at ¶127; Davis Cert; Exhibit 43. The advertisements included listings for clean fill material, "DEP Certified" clean fill, "fill dirt-screened," and "topsoil-free delivery." Verified Complaint at ¶127; Davis Cert; Exhibit 43.

On March 3, 2022, a Department investigator inspected the site and concluded that at least fifty truckloads of material had been dumped at the site. Verified Complaint at ¶128; Farrell Cert. The Department identified solid waste consisting of soil mixed with concrete, stone, and other construction debris material. Verified Complaint at ¶128-129; Farrell Cert; Exhibit 44 to Farrell

Cert., March 3, 2022 Department Photo. Some piles included large slabs and blocks of concrete. Verified Complaint at ¶128; Farrell Cert; Exhibit 44.

Newark Site

On February 22, 2022, the Department received an anonymous complaint of stockpiles of soil emitting diesel fuel odors from the properties located at 44-54 East Bigelow Street in Newark, Essex County ("Newark Site"). Verified Complaint at ¶133. The properties are owned, occupied, and/or leased by Defendants Mirian Miranda, Walter Miranda, B. Brothers, Excavating BJ Corp., and MJ Sons Excavating. Verified Complaint at ¶133.

On March 2, 2022, two Department investigators inspected the Newark Site and found large stockpiles of solid waste material throughout the site. Verified Complaint at ¶134; Bombace Cert. The piles included soil mixed with asphalt, concrete, bricks, plastics, asphalt roofing shingles, vinyl siding, scrap wood, plastic sheeting, rubber matting, glass, and other materials. Verified Complaint at ¶134; Kathy Bombace Cert; Exhibit 45 to Bombace Cert., March 2, 2022 Newark Site Investigation Report and Photographs. At least one pile encroached on a neighboring property owned by the City of Newark. Verified Complaint at ¶134; Bombace Cert; Exhibit 45. The investigators observed multiple dump trucks on site with decals identifying multiple companies, including Defendants WAC Trucking LLC, Excavating BJ Corp., MJ Sons

Excavating, MJ & Sons Contractors, as well as non-defendants CA Miranda Transport, GTR Construction Maintenance LLC, Ayden Excavation Corp., and JCM Trucking. Verified Complaint at ¶135; Bombace Cert; Exhibit 45. A soil screener was also observed on site. Bombace Cert; Exhibit 45.

Defendant Mirian Miranda arrived to the Newark Site and met with the investigators. Verified Complaint at ¶136; Bombace Cert; Exhibit 45. During the meeting, Ms. Miranda admitted to owning 48 E. Bigelow Street and leasing the other properties through MJ Sons Excavating. Verified Complaint at ¶136; Bombace Cert; Exhibit 45. Ms. Miranda also admitted she, and the companies operating the Newark Site, deposited the material onto the site from "multiple jobs." Verified Complaint at ¶137; Bombace Cert; Exhibit 45. The investigators informed Ms. Miranda that she needed Department permits and other approvals to operate the site and to process the material coming from off the site, and that the Department planned to issue a formal NOV. Verified Complaint at ¶137; Bombace Cert; Exhibit 45.

On March 3, 2022, a neighboring company called one of the investigators complaining that Defendants were operating the soil screener, causing dust to cover the surrounding area. Verified Complaint at ¶¶138-141; Bombace Cert; Exhibit 46 to Bombace Cert., March 3, 2022 Newark Site Investigation Report and Photos. When the investigators arrived to the Newark Site, the screener was not

operating, but the investigators noticed piles of material were disturbed and additional debris and waste materials, including metal, rubber tubing, pieces of PVC piping, blocks and large pieces of rubble, and dimensional wood. Verified Complaint at ¶¶138-140; Bombace Cert; Exhibit 46. Defendant Licausi was on the site and briefly spoke with the investigators. Verified Complaint at ¶139; Bombace Cert; Exhibit 46. The investigators informed Defendant Licausi of the companies', and individuals', need for Department approvals and permits to maintain, transport, and deposit the material on the Newark Site because it was solid waste. Verified Complaint at ¶141; Bombace Cert; Exhibit 46.

On March 7, 2022, the Department investigators returned to the Newark Site to deliver NOVs and perform a follow-up inspection. Verified Complaint at ¶142; Bombace Cert. The investigators noticed even more material was disturbed since the March 3, 2022 inspection, and at least two dump trucks were now parked on the adjacent property owned by the City of Newark. Verified Complaint at ¶¶143-44; ¶146; Bombace Cert; Exhibit 47 to Bombace Cert., March 7, 2022 Newark Investigation Report. Defendants Mirian Miranda and Walter Miranda met with the investigators to discuss the NOVs. Verified Complaint at ¶144; Bombace Cert; Exhibit 47. Ms. Miranda admitted to dumping at the Newark Site and the Pryslak Farms Site, that the material on the Newark Site came from demolition and construction sites, and that the dump trucks on site were used to

transport material to and from the Newark Site. Verified Complaint at ¶145; Bombace Cert; Exhibit 47.

After the March 7, 2022 inspection, a Department investigator performed a historical review of aerial photographs available to the Department. Verified Complaint at ¶147; Bombace Cert; Exhibit 48. The aerial photographs show at least five years of storage of large piles of materials at the Newark Site, and multiple instances of the piles and equipment having encroached onto adjacent properties. Verified Complaint at ¶147; Bombace Cert; Exhibit 48 to Bombace Cert., Newark Site Aerial Maps. Additional inspections have shown Defendants continue to operate at the Newark Site despite the issuance of multiple NOV's and warnings from Department investigators. Verified Complaint at ¶¶148-50; Bombace Cert; Exhibit 49 to Bombace Cert., March 23, 2022 Newark Site Investigation Report; Exhibit 50 to Bombace Cert., Newark Site NOV; Exhibit 70 to Farrell Cert., February 2023 AONOCAPA.

Readington Site

Defendants Licausi, MJ & Sons Contractors, Sinai Trucking, and Bravo-Gomez are responsible for multiple truckloads of material deposited on the property located at 19 Forty Oaks Road, Readington, Hunterdon County, New Jersey ("Readington Site"). Verified Complaint at ¶151; Justo Cert. The property owner responded to multiple advertisements on Facebook Marketplace for "clean fill" and top soil, including one by Defendant Licausi.

Verified Complaint at ¶151; Justo Cert. Defendant Licausi agreed to deliver six truckloads of material to the Readington Site. Justo Cert. On March 9, 2022, Defendant Licausi delivered the first truckloads of material and represented that he worked for MJ & Sons Contractors. Verified Complaint at ¶152; Justo Cert.

Between March 9 and 14, 2022, multiple trucks from different companies deposited material onto the Readington Site. Verified Complaint at ¶152: Justo Cert. On March 14, 2022, the property owner contacted the police because the far more material was being dumped than the owner had requested and the trucks caused property damage. Justo Cert; Exhibit 51 to Justo Cert, Justo Documents. The police interviewed Defendant Licausi, who admitted to coordinating the delivery of the material and that his "subcontractors" were delivering a lot of the material. Justo Cert.; Exhibit 51. One of the drivers, driving a 5 Boros truck, stated his boss "Angel", later identified as Defendant Angel Bravo-Gomez, directed him to deliver material to the Readington Site. Exhibit 51; Exhibit 52 to Bombace Cert., Readington Investigation Report.

On March 16, 2022, the Department received a complaint about the illegal solid waste dumped between March 9 and 14, 2022 and an investigator inspected the site on March 17, 2022. Verified Complaint at ¶154; Bombace Cert; Exhibit 52. The investigator observed multiple piles of solid waste material and evidence that

material had recently been spread around the property with an excavator. Verified Complaint at ¶154; Bombace Cert; Exhibit 52. The solid waste material consisted of soil mixed with concrete, brick, wood, asphalt, plastic-coated wire, and fabrics. Verified Complaint at ¶154; Bombace Cert; Exhibit 52.

On May 6, 2022, a Department investigator hand delivered an NOV to Mirian Miranda. Verified Complaint at ¶156; Bombace Cert; Exhibit 53 to Bombace Cert., May 6, 2022 Readington Site NOV. The NOV described the on-going violations related to the Readington Site including the unauthorized disposal, storage, and transportation of solid waste. Exhibit 53. The NOV identified necessary corrective actions to be taken by Mirian Miranda, Walter Miranda, MJ & Sons Contractors, MJ & Sons Excavating, and/or, Excavating BJ Corp., within ten days. Ibid. Department did not receive any response.

Montgomery Site

Defendants Licausi, Edwin G ("Giovanny") Miranda-Vicuna, Pacheco-Vega, Sinai Trucking, LLC ("Sinai"), WAC Trucking, Millennium Transport, Inc. ("Millennium"), APV Trucking, LLC ("APV"), and JED XPRESS, LLC are responsible for depositing dozens of truckloads of solid waste on the property located at 694 Mill Stone River Road, Bell Meade, Montgomery Twp., Somerset County ("Montgomery Site"). Verified Complaint at ¶160. On March 11, 2022, multiple trucks appeared on the Montgomery Site and deposited

dozens of truckloads of material without the property owner's permission. Verified Complaint at ¶160; Muentener Cert.; Exhibit 55 to Muentener Cert., Muentener Photographs; Quick Cert. The property owner called the Montgomery Township Police, who responded to the site twice on March 11. Verified Complaint at ¶161; Quick Cert.

The police spoke with multiple drivers and with Defendants Pacheco-Vega, in person, and Edwin Miranda-Vicuna over the phone. Verified Complaint at ¶162; Exhibit 54 to Gallagher Cert., Montgomery Township Police Report. Defendant Edwin Miranda-Vicuna identified Defendant Licausi as the one responsible for coordinating the transportation and depositing of the material at the Montgomery Site. Verified Complaint at ¶161; Exhibit 54. The police spoke with Defendant Licausi who admitted to coordinating the deposits and explained that he finds sites for companies to deposit material. Verified Complaint at ¶161; Exhibit 54.

The Montgomery Site property owner also informed the Somerset County Soil Conservation ("SCSC") District Manager about the dumping because the property is a preserved farm. Quick Cert; D'Alessandro Cert. The SCSC District Manager called Defendant Licausi to discuss potential solutions. Verified Complaint at ¶166. During the conversation, Defendant Licausi admitted again to coordinating the operation. Verified Complaint at ¶166; D'Alessandro Cert. Defendant Licausi admitted he had no Department

permits or approvals, was at the Montgomery Site while the dumping occurred, and took payment from the drivers for coordinating the activity. Verified Complaint at ¶166; D'Alessandro Cert. Defendant Licausi did not show any remorse or concern over the situation and believed the issue was "not a big deal." D'Alessandro Cert.

A Department investigator inspected the site on March 24, 2022. Verified Complaint at ¶165; Gallagher Cert. The investigator documented numerous piles of solid waste material consisting of soil mixed with concrete, brick, dimensional wood, asphalt, and other construction and demolition debris. Verified Complaint at ¶165; Gallagher Cert; Exhibit 57 to Gallagher Cert., Montgomery Site Investigation Report.

Somerset County then hired a Licensed Site Remediation Professional to test the material for potential contamination. Verified Complaint at ¶170; D'Alessandro Cert.; Exhibit 58 to D'Alessandro Cert., Soil Contamination Testing Results. The analytical results showed elevated levels of Benzo(a)pyrene in excess of the Department's Residential Soil Remediation Standards and high levels of lead and mercury in excess of the Department's Migration to Groundwater Standards. Verified Complaint at ¶170; D'Alessandro Cert; Exhibit 58. The County paid for the removal of the illegally deposited solid waste, and it was transported to a licensed facility on or around August 2, 2022. Verified Complaint

at ¶170; D'Alessandro Cert.

On May 24, 2022, the Department delivered via certified mail a NOV to Defendant Licausi. Verified Complaint at ¶168; Gallagher Cert.; Exhibit 59 to Gallagher Cert., Montgomery Township Licausi NOV. The NOV detailed the violations on the Montgomery Site and requested remedial actions within ten days of receipt. Exhibit 59. In July 2022, the Department also issued NOVs to Defendants 5 Boro Soil Services, Millennium, APV Trucking, JED Express, LLC, and WAC Trucking. Verified Complaint at ¶169; Gallagher Cert.; Exhibit 60 to Gallagher Cert., Montgomery Site Hauler NOVs. None of NOV recipients took any remedial action.

Everittstown Road Site

On and around June 6, 2022, Defendants Chimbo and Excavating BJ Corp. deposited multiple truckloads of illegal solid waste on the property located at 109 Everittstown Road, Alexandria Twp., New Jersey ("Everittstown Road Site"). Verified Complaint at ¶172; Bombace Cert. The site was under construction and a contractor witnessed an Excavating BJ Corp. truck dump a load of material on the property. Verified Complaint at ¶173; Bombace Cert; Exhibit 61 to Bombace Cert., Everittstown Road Investigation Report; Exhibit 62 to Bombace Cert., Everittstown Road Site Police Report. The contractor was hit by the truck as it left the property and the contractor called the police. Exhibit 62.

The police found another Excavating BJ Corp. truck close to

the Everittstown Road Site and spoke with the driver. Ibid. The driver confirmed Defendant Mirian Miranda sent a text to the drivers with the Everittstown Road Site address. Ibid. Ms. Miranda directed the original driver to return to the scene where he was identified by the contractor. Ibid. Defendant Chimbo helped translate for the original driver and implied the dumping was not illegal. Ibid.

On June 15, 2022, the State Trooper contacted Ms. Miranda again to discuss the incident. Ibid. Ms. Miranda explained that "Bruce", using the same cell phone as Defendant Licausi (908-392-5111), contacted her about the Everittstown Road Site, saying the contractor requested the material. Ibid. One of the trucks involved had license plate number XLS S92, which is registered to Defendant Excavating BJ Corp. Walters Cert; Exhibit 62.

On June 17, 2022, the trooper contacted Kathy Bombace, a Department investigator, about the illegal dumping incident. Bombace Cert; Exhibit 61. Ms. Bombace drove to the Everittstown Road Site to investigate. Verified Complaint at ¶176; Bombace Cert.; Exhibit 61. The investigator observed approximately 100 to 120 cubic yards of solid waste material consisting of dirt mixed with asphalt, concrete, metal, and scrap wood on the Everittstown Road Site. Exhibit 61. The investigator characterized the material as "Type 13C (construction and demolition) debris", defined as solid waste pursuant to N.J.A.C. 7:26-1.4 and N.J.A.C.

7:26-2.13(g) (1) (iv).

January 2023 Final Agency Order

On October 18, 2022, the Department issued an AONOCAPA to Bruce Licausi, Jr. Verified Complaint at ¶177; Bombace Cert. The AONOCAPA determined that Licausi violated the SWMA through his actions at the Bedminster Site, Howell Site, Alexandria Site, Montgomery Site, and Readington Site, where he organized the disposal of solid waste at locations not registered as proper disposal locations and while lacking the required registration. Verified Complaint at ¶177; Exhibit 69 to Bombace Cert., Licausi AONOCAPA. The AONOCAPA ordered Licausi to cease engaging in the solid waste industry; within 10 days of the receipt of the order, arrange for the removal of solid waste from the sites where it was deposited; and within 10 days, provide disposal receipts for any waste already removed from those sites. Exhibit 69. The Department also assessed a Civil Administrative Penalty of \$125,000. Ibid. Because Licausi did not file a request for a hearing, the AONOCAPA became a FAO on January 9, 2023. Verified Complaint at ¶180.

Licausi has not complied with the January 2023 FAO. He did not arrange for the removal of solid waste from the sites cited after the AONOCAPA was issued, or pay the assessed penalty. Verified Complaint at ¶181.

February 2023 Final Agency Order

On February 13, 2023, the Department issued an AONOCAPA to Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, and corporations they own and operate: Defendants MJ & Sons Contractors Trucking LLC, MJSons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. Verified Complaint at ¶182; Exhibit 70. The AONOCAPA cited these Defendants for their SWMA and SWUCA violations at the Lafayette Site, Delaware Township Site, Alexandria Site, Southampton Site, Pohatcong Site, Hamilton Site, Pryslak Farms Site, and Newark Site. Exhibit 70. The AONOCAPA ordered these Defendants to immediately cease all collection, transportation, processing, brokering and storage of solid waste, to immediately cease all collection, transportation, processing, brokering, storage, purchase, sale or disposition, or any combination thereof, of soil and fill recyclable materials, and to remove all solid waste deposited at the above Sites. Ibid. Defendants were also assessed a civil administrative penalty of \$880,000. Ibid. Because Defendants failed to request a hearing within 20 days of receipt of the AONOCAPA on February 23, 2023, the AONOCAPA, including all ordered corrective actions and penalties, became a FAO on March 16, 2023. Verified Complaint at ¶186.

Defendants have failed to comply with the March 2023 FAO. They have not arranged for the removal of solid waste from any of

the sites cited, arranged for the cleanup of the any of the sites, or paid the assessed penalty. Verified Complaint at ¶187.

LEGAL ARGUMENT

Defendants are responsible for depositing illegal solid waste at numerous sites throughout the State. None of the Defendants has Department permits or other required approvals to collect, transport, dispose of, or otherwise manage solid waste. The material at each of the sites consists of construction and demolition debris that the Department has properly defined as solid waste. As part of their unpermitted activity, Defendants Walter Miranda-Vicuna, Mirian Miranda, Licausi, MJ & Sons Contractor Trucking, MJ Sons Excavating, and DHSC failed to comply with AONOCAPAs directing them to immediately cease transporting solid waste, cease depositing solid waste, and/or begin remediating sites where solid waste has been deposited. The Department now seeks to enforce these AONOCAPAs as FAOs and seeks injunctive relief for on-going unpermitted activity.

Further, the Department is entitled to injunctive relief against Defendants because the SWMA and its regulations provide a statutory and regulatory basis for the entry of an injunction, and the Department can demonstrate that Defendants violated the SWMA. In the alternative, the four equitable factors required for preliminary injunctive relief, outlined in Crowe v. DeGioia, 90 N.J. 126, 132 (1982), are clearly present.

POINT I

DEFENDANTS MJSONS EXCAVATING, MJ & SONS CONTRACTORS TRUCKING, LLC, B. BROTHERS MANAGEMENT, EXCAVATING BJ CORP., DHSC, WALTER MIRANDA, MIRIAN MIRANDA, BRYAN MIRANDA, AND BRUCE LICAUSI JR. ARE REQUIRED TO COMPLY WITH THE TERMS OF THE AONOCAPAS AND THE DEPARTMENT IS ENTITLED TO CIVIL PENALTIES.

The Department seeks enforcement of multiple AONOCAPAs as FAOs pursuant to R. 4:67. Rule 4:67-6 applies to "all actions by a state administrative agency . . . brought to enforce a written order or determination made by it, . . . and whether the order to be enforced requires the payment of money or imposes a non-monetary requirement or includes a combination of monetary and non-monetary remedies" Also, because Defendants MJSONS Excavating, MJ & Sons Contractor Trucking, B. Brothers Management, Excavating BJ Corp., DHSC, Walter Miranda, Mirian Miranda, Bryan Miranda, and Bruce Licausi Jr. (collectively the "AONOCAPA Defendants"¹) failed to satisfy their obligations to fully comply with the AONOCAPAs, each day the AONOCAPA Defendants fail to satisfy their obligations constitutes an additional, separate, and distinct violation of the AONOCAPAs and the SWMA, SWCUA, and FHACA. Therefore, the Court should assess civil penalties accordingly.

A. The AONOCAPA Defendants are required to comply with the terms of the AONOCAPAs

The "AONOCAPA Defendants" are all in violation of one or more

¹ The collective "AONOCAPA Defendants" to avoid redundancy, as all the legal arguments for enforcement of AONOCAPAs against them as Final Agency Orders is identical.

of five separate AONOCAPAs, and each is a FAO because the AONOCAPA Defendants required to do so failed to request a hearing within the designated timeframes. See Exhibit 1; Exhibit 12; Exhibit 21; Exhibit 69; Exhibit 70. Failure to request a hearing within the designated timeframe results in an AONOCAPA becoming a Final Agency Order. N.J.S.A. 13:1E-9(c); N.J.S.A. 13:9B-21(d). Accordingly, the July 2019 AONOCAPA, the October 2020 AONOCAPA, the January 2022 AONOCAPA, the October 2022 AONOCAPA and the February 2023 AONOCAPA are FAOs and are enforceable in a summary manner. R. 4:67-6.

The "AONOCAPA Defendants" required to do so, did not request a hearing for any of the AONOCAPAs, thus, each of the above named five AONOCAPAs became final agency orders against the named AONOCAPA Defendants. Exhibit 1, Paragraph 10 (became FAO on 21st day after receipt); Exhibit 12, Paragraph 14 (became FAO on 36th day after receipt); Exhibit 21, Paragraph 10 (became FAO on 21st day after receipt); Exhibit 69, Paragraph 19 (became FAO on 21st day after receipt); Exhibit 70, Paragraph 44 (became FAO on 21st day after receipt). In a summary action to enforce a FAO, R. 4:67-6 does not permit review of the validity of the underlying agency order. In re Valley Rd. Sewerage Co., 295 N.J. Super. 278, 290 (App. Div. 1996), *aff'd*, 154 N.J. 224 (1998). The terms here are unambiguous, requiring the Defendants to undertake certain corrective actions within specified timeframes described in each

of the AONOCAPAs. Exhibits 1, 12, 21, 69, 70. None of the Defendants have undertaken the required corrective actions.

The "AONOCAPA Defendants" continue to violate the FAOs requirements to stop dumping solid waste on certain properties in violation of the FAOs, therefore the Court should order them to stop. Defendants Walter Miranda and MJ & Sons Contractor Trucking, LLC, continued to violate the SWMA, SWUCA, and the July 2019 AONOCAPA, even after the AONOCAPA became a FAO. Walter Miranda and MJ & Sons Contractors Trucking, LLC were responsible for solid waste found on the Southampton, Pohatcong, and Newark Sites after the July 2019 AONOCAPA became a FAO in August 2020. Verified complaint ¶42; ¶¶65-83; ¶¶91-95; ¶¶131-50; Exhibit 1. Defendants Walter Miranda, Mirian Miranda, Bryan Miranda, and the corporations they own and operate: MJ & Sons Contractors Trucking LLC, MJ & Sons Excavating LLC, B. Brothers Management LLC, and Excavating BJ Corp. continue to violate the March 2023 FAO.

None of the "AONOCAPA Defendants" have paid the civil penalties assessed by their respective AONOCAPAs. Assessed penalties in FAOs are summarily enforceable in Superior Court under N.J.C.R. 4:70.

The "AONOCAPA Defendants" have not complied with the terms of the AONOCAPAs, and each actively violated at least one FAO. Accordingly, the Department requests that the Court enforce the AONOCAPAs as FAOs and require full compliance from the "AONOCAPA

Defendants" as appropriate; specifically, the August 2020 FAO against MJ & Sons Contracting and Walter Miranda, the December 2020 FAO against MJ Sons Excavating and Mirian Miranda, the February 2020 FAO against DHSC, the January 2023 FAO against Bruce Licausi, Jr., and the March 2023 FAO against MJ & Sons Contractors Trucking LLC, MJ Sons Excavating LLC, B. Brothers Management LLC, Excavating BJ Corp., Walter Miranda, Mirian Miranda, and Bryan Miranda. The Court should order the AONOCAPA Defendants to cease their illegal solid waste operations, submit plans for the removal of the solid waste they dumped across the state, and pay the assessed penalties.

B. The Department is entitled to an Order pursuant to R. 4:70 assessing civil penalties against the "AONOCAPA Defendants" for their continued failure to comply with the five FAOs.

Each of the "AONOCAPA Defendants" failed to comply with one or more of the five AONOCAPAs discussed in the preceding paragraphs or file hearing requests with the Department. Farrell Cert; Gomez Cert. As discussed above, the AONOCAPAs require the "AONOCAPA Defendants" to comply with specific orders, including, but not limited to, ceasing transportation and disposal of solid waste without Department approvals, and removing solid waste from the affected properties within certain timeframes Exhibits 1, 12, 21, 69, 70. However, the "AONOCAPA Defendants" failed to satisfy their obligations under the AONOCAPAs, specifically by continuing to transport and deposit solid waste without a registration, and by

failing to remove the solid waste from the affected properties. Farrell Cert; Gomez Cert. Each day the "AONOCAPA Defendants" fail to satisfy their obligations constitutes an additional, separate, and distinct violation of the FAOs and SWMA, N.J.S.A. 13:1E-9(f), SWUCA, N.J.S.A. 48:13A-12(b), and FHACA, 58:16A-63(e), therefore, the Court should assess civil penalties accordingly.

R. 4:70 provides for summary proceedings to enforce statutory penalties. These summary proceedings are to be brought in accordance with R. 4:67, unless the applicable statute requires a plenary action. R. 4:70-1(a). The applicable statutes to the AONOCAPAs allow the Court to issue penalties for violations and do not require a plenary hearing. N.J.S.A. 13:1E-9(f) (allowing penalties up to \$100,000 per day of violation of an order); N.J.S.A. 48:13A-12(b) (allowing \$10,000 for a first violation, \$25,000 for a second violation, and \$50,000 or the third and each subsequent violation of an order); 58:16A-63(e) (allowing penalties up to \$25,000 per day of violation of an order).

In this case, the "AONOCAPA Defendants" failed to comply with their obligations under the AONOCAPAs to cease transportation and disposal of solid waste without approvals, and failed to remove solid waste from the affected sites. Verified Complaint ¶43, ¶¶74-83; ¶¶177-187; see also Exhibits 1, 12, 21, 69, 70.

The "AONOCAPA Defendants" failed to comply with their obligations under the AONOCAPAs. Thus, in accordance with N.J.S.A.

N.J.S.A. 13:1E-9(f), N.J.S.A. 48:13A-12(b), 58:16A-63(e), and R. 4:70, the Department requests the Court order additional civil penalties against the "AONOCAPA Defendants" proportionate to their repeated and continuing failure to comply with the AONOCAPAs. An additional civil penalty, under N.J.S.A. 13:1E-9(f), N.J.S.A. 48:13A-12(b), 58:16A-63(e), will serve as an appropriate deterrent to such conduct in the future.

POINT II

DEFENDANTS' UNLAWFUL TRANSPORTATION, DISPOSAL, AND STOCKPILING OF SOLID WASTE REQUIRES ENTRY OF PRELIMINARY INJUNCTIVE RELIEF UNDER THE SWMA REQUIRING DEFENDANTS TO IMMEDIATELY CEASE THEIR ILLEGAL ACTIVITY AND REMEDIATION OF NUMEROUS SITES AROUND THE STATE.

Despite the issuance of numerous warnings, letters, NOVs, and AONOCAPAs, and multiple inspections, meetings, and communications with multiple Department employees, Defendants have failed to comply with, and remain in violation of, multiple provisions of the SWMA.

In the absence of legislation, a court's authority to grant injunctive relief is generally based on notions of equity set forth in Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982). In this case, however, the Legislature provided a method for the Department to obtain injunctive relief without the need for reliance on traditional equity factors delineated in Crowe. The Department is fully empowered by statute to file a civil action against violators for a temporary or permanent injunction, either independently or in combination with other actions. See N.J.S.A. 13:1E-

9(d) (1) (authorizing the Department to bring actions seeking permanent and temporary injunctive relief in SWMA enforcement).

"In such circumstances, no showing of irreparable harm need be made by the party seeking the injunction, nor must the court consider whether the injunction is in the public interest." 42 Am. Jur. 2d Injunctions; see, e.g., Dep't of Env'tl. Prot. v. Interstate Recycling, Inc., 267 N.J. Super. 574, 577-78 (App. Div. 1993) (holding the Department need not show actual environmental damage for the court to enjoin repeated violation of environmental statutes) (citing Hoffman v. Garden State Farms, Inc., 76 N.J. Super. 189, 201 (Ch. Div. 1962)); Matawan Reg'l Teachers Assoc'n v. Matawan-Aberdeen Reg'l Bd. of Educ., 212 N.J. Super. 328, 334-35 (Law Div. 1986) (holding a movant does "not need to show irreparable harm to be entitled to injunctive relief. Where injunctions are creatures of statute, all that need be proven is a statutory violation.").

Further, the Department may seek such relief in a summary proceeding. See e.g., N.J. Dep't of Env'tl. Prot. v. Boro Auto Wrecking Co., No. A-4920-04 (App. Div. Oct. 24, 2006) (slip op. at 4). "Actual harm or direct injury to the public health or environmental need not be shown to enjoin a violation of our environmental laws. Rather, the Legislature has fashioned an injunctive remedy designed to be 'preventive' and intended to 'restrain acts which tend to produce public injury.'" Ibid.

(quoting State v. Wheeler, 44 N.J.L. 88, 96 (Sup. Ct. 1882)).

Thus, to obtain the preliminary injunctive relief under the SWMA, all the Plaintiffs need to establish is that Defendants have violated and continue to violate the SWMA.

The SWMA and its implementing regulations require permits, registrations, and authorizations from the Department before any person can transport, deposit, or stockpile solid waste in New Jersey. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-2.8, -3.2, -3.4, and -16.3. None of the named Defendants hold, or held during the events set for in the verified complaint, a permit, registration, or authorization from the Department to transport, deposit, or stockpile solid waste in New Jersey. Verified Complaint at ¶38; ¶49; ¶104; Gomez Cert.; Farrell Cert.

Since at least 2018, each Defendant has transported, deposited, maintained stockpiles, or brokered solid waste without permits, registrations, or approvals. Defendants Walter Miranda-Vicuna and Mirian Miranda, through their various corporate entities, stockpile material on the Newark Site and coordinate the transportation and depositing of solid waste on sites around the State. Verified Complaint at ¶¶131-50; Bombace Cert; Exhibit 70. Bruce Licausi, Jr., Bryan Miranda, Andre Salinas, Henry Chimbo, and Angel Bravo-Gomez coordinate the transportation and depositing of solid waste on different sites around the State, either through false advertising on Facebook Marketplace and other social media,

or by simply dumping waste on innocent peoples' properties without permission. Verified Complaint at ¶¶61-64; ¶¶84-90; ¶¶117-30; ¶¶158-71; Ongaro Cert.; O'Sullivan Cert.; Sumer Kotb Cert.; Mahmoud Kotb Cert.; Sara Cert.; Elton Cert.; Farrell Cert.; Benjamin Chen Cert.; Li-lan Chen Cert.; Davis Cert.; Muentener Cert.; Quick Cert.; Gallagher Cert.; D'Alessandro Cert. The other Defendants have transported and deposited waste at and to the various sites without proper approvals.

All the activity described in the Verified Complaint details longstanding, continuous, and on-going violations of the SWMA. Therefore, the Court should order Defendants to immediately cease transporting, depositing, and stockpiling solid waste unless and until they apply for and receive a permit or other required approvals from the Department, and to properly remove all solid waste at issue from the contaminated sites.

POINT III

THE DEPARTMENT IS ENTITLED TO INJUNCTIVE RELIEF BASED ON TRADITIONAL NOTIONS OF EQUITY.

Defendants' unpermitted transportation, deposition, and stockpiling of solid waste requires immediate action by Defendants. Although the Court here need not delve into traditional notions of equity to grant an injunction in this case, the Department does satisfy the traditional four-part test for equitable injunctive relief set forth in Crowe v. De Gioia.

New Jersey has long recognized the power of courts to grant injunctive relief to “prevent some threatening, irreparable mischief, which should be averted until opportunity is afforded for a full and deliberate investigation of the case” Zoning Bd. of Adjustment of Sparta Tp. V. Service Elec. Cable Television of N.J., Inc., 198 N.J. Super. 370, 379 (App. Div. 1985) (internal citations omitted). This power “must be administered with sound discretion and always upon considerations of justice, equity, and morality in a given case.” Ibid. In this case, justice, equity, and morality all demand immediate action to address ongoing environmental harms affecting the multiple communities around the State.

To demonstrate it is entitled to injunctive relief, the moving party must establish: (a) irreparable harm will result if the requested relief is not granted; (b) the claim asserted is based on a settled legal right; (c) the material facts are largely uncontroverted and there is a reasonable probability of prevailing on the merits; and (d) the balance of equities are in the moving party’s favor (i.e., that the moving party will suffer greater hardship if the injunctive relief is denied than the opponent if it is granted). Crowe, 90 N.J. at 132-34; see also Waste Mgmt. of N.J. v. Union Cty. Util. Auth., 399 N.J. Super. 508, 519-20 (App. Div. 2008). The movant must demonstrate each factor by clear and convincing evidence. Garden State Equal. v. Dow, 216 N.J. 314,

320 (2013) (citing Brown v. City of Paterson, 424 N.J. Super 176, 183 (App. Div. 2012)).

In light of the conditions described in the accompanying Department personnel and witness certifications, it is beyond dispute that the Department, the environment, and the people of New Jersey are suffering and will continue to suffer irreparable harm if a preliminary injunction is not granted. Furthermore, the Department is likely to prevail on the merits of the underlying claims because the SWMA and its regulations prohibit Defendants' well documented and uncontested conduct. Finally, the equities overwhelming weigh in favor of injunctive relief.

A. Defendants' Continued Illegal Transportation, Deposition, and Stockpiling of Solid Waste Causes Irreparable Harm to the People of New Jersey and the Environment

Defendants' repeated, continuous, and on-going violations of the SWMA and its regulations irreparably harm the public health and the environment. Unless Defendants' stop their illegal activity, the Department, the environment, and the citizens of the State will continue to suffer harm.

"Harm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages." Crowe, 90 N.J. at 132-33. This case cannot be adequately redressed by monetary damages. Defendants are responsible for numerous illegal stockpiles of solid waste around the State and Defendants Walter Miranda-Vicuna, Mirian Miranda, Bryan Miranda, MJ Sons Excavating,

MJ & Sons Contractors Trucking, BJ Excavating Corp., and B. Brothers illegally stockpile solid waste at the Newark and Southampton Sites. Verified Complaint at ¶¶65-83, 131-50; Bombace Cert.; Exhibit 70; Petrauskas Cert.; Collins Cert.; Exhibit 12. It is undisputed that no Defendant holds a SWF permit. The permit application process ensures a SWF, such as the ones located at the Newark and Southampton sites, implements measures to protect public safety and the environment. N.J.S.A. 13:1E-2; N.J.S.A. 13:1E-4. For example, a SWF permit requires the implementation of procedures, structures, or equipment to prevent runoff from waste, prevent contamination of water supplies, mitigate effects of equipment failure and power outages, prevent undue exposure of personnel to waste, and prevent releases to the atmosphere. N.J.A.C. 7:26-2.11. Additionally, an applicant for a SWF permit must assess the public health and environmental impacts of the facility. N.J.A.C. 7:26-2.9.

To legally transport and deposit solid waste, applicants for a solid waste transportation registration must submit to extensive background checks and specific submit specific paperwork to the Attorney General, including but not limited to disclosure statements, finger printing, and background information. N.J.S.A. 13:1E-128; N.J.A.C. 7:26-3.2. Once a registration is granted, the recipient must keep certain information up to date, follow specific requirements for compliance, and could be subject to

investigations by the Attorney General. N.J.S.A. 13:1E-129; N.J.A.C. 7:26-3.1, 3.2, 3.5, and -16.8.

SWMA regulations, and applying for and obtaining SWMA permits and approvals is not merely a "check the box" exercise; failure to obtain proper permits and comply with the Department's regulations has real and serious consequences. Defendants' noncompliance threatens the public health, safety, and the environment. Beyond the simple transportation and depositing of solid waste, Defendants prey on innocent landowners by advertising "clean fill" but deliver dirt mixed with construction and demolition debris that cannot be used. Verified Complaint at ¶¶50-60, 84-90, 96-108, 151-57; Bombace Cert.; Elton Cert.; Sumer Kotb Cert.; Mahmoud Kotb Cert.; Sara Kobt Cert.; Hall Cert.; Convery Cert.; Davis Cert.; Justo Cert. Defendants have also simply dumped solid waste on unsuspecting property without permission, dumping truckload after truckload of unwanted and harmful solid waste. Verified complaint at ¶¶61-64, 117-30, 158-171; Ongaro Cert.; O'Sullivan Cert.; Benjamin Chen Cert.; Li-lan Chen Cert.; Muentener Cert.; Quick Cert.; Gallaher Cert. Beyond simple solid waste, some sites have solid waste that contains elevated levels of hazardous substances that are potentially hazardous to human health, and difficult and expensive to remove. Verified complaint at ¶¶50-60; 131-50, 158-71; Bombace Cert.; Exhibit 6; Farrell Cert.; Exhibit 70; D'Alessandro Cert.; Exhibit 58.

Many of the Defendants have been issued multiple NOV's and other documents describing the illegality of their actions, but there is no indication Defendants will voluntarily stop their activities. None of the harms caused by Defendants can be completely remedied with monetary relief alone; only ceasing the illegal transportation, depositing, and stockpiling solid waste, and remediating properties will abate these harms. Therefore, preliminary injunctive relief is warranted.

B. The Department's Claims for Injunctive Relief are Based on a Settled Legal Right

The Department meets the second Crowe factor because the Department's claims for injunctive relief are based on settled legal rights. As discussed in Point II, the Department is entitled to injunctive relief to restrain Defendants violations of the SWMA and its regulations.

Defendants are either operating an unpermitted SWF, transporting and depositing solid waste without a permit or approvals, or are brokering solid waste without a permit or approvals. Defendants past and on-going activities are prohibited by the SWMA. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-2.8, -3.2, -3.4, and -16.3. The SWMA authorizes the Department to seek injunctive relief for such violations. N.J.S.A. 13:1E-9(d). Therefore, the Department meets the second Crowe factor.

C. The Department is Likely to Succeed on the Merits of Its Claims

The Department meets the third Crowe factor because the facts are largely uncontroverted and there is more than a reasonable probability it will prevail on the merits of its claims. Any movant seeking preliminary injunctive relief must demonstrate a "reasonable probability of success on the merits." Waste Mgmt. of N.J., 399 N.J. Super. at 519-20; Crowe, 90 N.J. at 132-34; see also Waste Mgmt. of N.J. v. Morris Cty. Mun. Util. Auth., 433 N.J. Super. 445, 452-54 (App. Div. 2013) (reversing the trial court for failing to consider its "authority to impose interlocutory restraints regardless of doubts about the movants'" likelihood of success, even though the trial court did not find that the movants' claims were likely to succeed).

Here, the Department satisfies its burden for an injunction because its cause of action is based on unambiguous statutory authority that is well-settled. N.J.S.A. 13:1E-9. Indeed, the primary objective of this action is to preserve the status quo insofar as the first goal of the Department is to have Defendants cease its illegal activity and comply with the SWMA. Defendants continue to violate multiple provisions of SWMA and its regulations by maintaining stock piles of solid waste and continuing to operate as unpermitted solid waste transporters. See Point II. Based on the observations of Department personnel and additional evidence

assembled by the Department, it is highly likely the Department will ultimately prevail in this matter.

D. The Balance of Equities and Hardships Favors Injunctive Relief as Requested by the Department

A balancing of the relative hardships to the parties overwhelmingly favors granting a preliminary injunction. The Department must demonstrate that a "balancing of the equities and hardships favors injunctive relief." Waste Mgmt. of N.J., 399 N.J. Super. at 519-20. New Jersey courts have recognized the need, upon proper showing, to grant an injunction when to do otherwise would fracture justice. See Sheppard v. Twp. of Frankford, 261 N.J. Super. 5 (App. Div. 1992); J. H. Renarde, Inc. v. Sims, 312 N.J. Super. 195, 206 (Ch. Div. 1998). When analyzing this element, courts generally weigh the injury which the defendants would suffer, assuming the defendant is enjoined and then prevail at a final hearing, against the injury plaintiff would suffer if no injunction is issued and plaintiff prevails. Crowe, 90 N.J. at 132-34; see also Morrison v. Morrison, 93 N.J. Super. 96, 102 (Ch. Div. 1966) (explaining that temporary restraints are often warranted when the opposing party cannot demonstrate an "exceptional hardship").

Here, injunctive relief is strongly in the public interest. The requested relief will prevent irreparable harm to the public health and the environment from Defendants' activity. Illegal

