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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION – ESSEX COUNTY
	:	DOCKET NO.:
	:	<u>Civil Action</u>
Plaintiffs,	:	
v.	:	VERIFIED COMPLAINT TO ENFORCE FINAL AGENCY ORDER AND RECOVER CIVIL PENALTIES IN A SUMMARY PROCEEDING PURSUANT TO R. 4:67-6 AND R. 4:70
AB TRADING ENTERPRISES, INC. and 959-961 CLINTON AVENUE ASSOCIATES, INC.,	:	
Defendants.	:	

Plaintiffs the New Jersey Department of Environmental Protection (“DEP”), and the Administrator of the New Jersey Spill Compensation Fund (“Administrator”) (collectively, “Department”), by and through their attorney, bring this verified complaint against Defendants AB Trading Enterprises, Inc. (“AB Trading”) and 959-961 Clinton Avenue Associates, Inc. (“Clinton Ave Associates”) (collectively, “Defendants”), and allege as follows:

STATEMENT OF THE CASE

1. The Department brings this summary action to compel the Defendants to remedy their longstanding failure to remediate contamination resulting from the discharge of

hazardous substances and noncompliance with a final agency order (“FAO”). The Department also seeks reimbursement for costs incurred related to the contamination and seeks to collect civil penalties for the violation of the FAO.

2. The legal authority for the FAO and the requirement to remediate the discharge of hazardous substances are pursuant to the New Jersey Spill Compensation and Control Act (“Spill Act”), N.J.S.A. 58:10-23.11 et seq.; the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31 (“Brownfield Act”); the Administrative Requirements for the Remediation of Contaminated Sites (“ARRCS”), N.J.A.C. 7:26C; the Site Remediation Reform Act (“SRRA”), N.J.S.A. 58:10C-1 to -29; the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 to -35 (“UST Act”); the Technical Requirements for Site Remediation (“TRSR Rules”), N.J.A.C. 7:26E; and Rule 4:67-1 and Rule 4:70.

3. Defendant Clinton Ave Associates owns the property, which contains a gasoline service station and automotive repair facility at 959-961 Clinton Avenue in Irvington, Essex County, New Jersey (“Site”). Defendant AB Trading was the owner and operator of the regulated underground storage tank (“UST”) that discharged hazardous substances at the Site.

4. The soil and groundwater at the Site have been contaminated since at least March 2003, when the Department first identified the discharge from a 1,000-gallon waste oil UST. Despite the Department’s repeated efforts, both Defendants have failed to remediate the Site.

5. Gasoline and its components pose threats to the environment and public health when they enter the soil and groundwater. The chemicals found in gasoline include benzene, toluene, ethylbenzene, and xylene, which are hazardous substances. Human exposure to these contaminants, including through ingestion or inhalation of vapors, can cause dizziness,

headaches, lung irritation, nervous system disruptions, and damage to the liver, kidneys, central nervous system, and eyes. These contaminants also persist in soil for long periods of time, impeding plant growth and threatening birds and mammals with irritation and toxicity.

6. Defendants' violations of environmental laws and regulations pose an ongoing risk to public health, safety, and the environment in the Irvington community. The community surrounding the Site has a significant low-income and minority population such that it is considered an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.¹ Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, with accompanying increased negative public health impacts.

7. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health, without regard to race, language, or income. See, e.g., Exec. Order No. 23 (April 20, 2018), N.J.A.C. 7:10-1.1 to 10.3; Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

8. After years of litigation and repeated attempts by the Department to bring Defendants into compliance with the applicable remediation requirements, the Department and Defendants executed a Direct Oversight Administrative Consent Order ("DO ACO") in July 2019, which is enforceable as a FAO pursuant to Rule 6:67-1 and Rule 4:70.

9. Through the DO ACO, Defendants agreed to hire a Licensed Site Remediation

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

Professional (“LSRP”) and remediate the Site in accordance with all relevant environmental statutes under the supervision of the Department. In addition to fully investigating the Site, submitting a Remedial Investigation Report (“RIR”), performing the remediation, submitting a Remedial Action Report (“RAR”), and submitting a Response Action Outcome (“RAO”) when the remediation is complete, direct oversight requirements include, but are not limited to, the establishment and maintenance of a Remediation Trust Fund (“RTF”), from which only the Department can authorize disbursements, Department approval of all document submissions, and the submission of a schedule of all work to be completed.

10. To date, Defendants have failed to comply with the DO ACO. Defendants do not have an LSRP retained, have not established the RTF, and have not provided the Department with the required RIR, RAR, RAO, or the schedule for when the Department can expect those remedial actions and documents to be completed.

11. The Department seeks through this summary proceeding to require Defendants to comply with the FAO and to ensure any contamination is remediated. Specifically, the Department seeks an order requiring Defendants to perform a Remedial Investigation and remediate any discharges discovered on the Site, or which have emanated from the Site, in accordance with all applicable laws and regulations; to recover from Defendants the costs that the Department has incurred, and will incur, related to those discharges; and to compel Defendants to pay civil penalties for their violation of the FAO.

THE PARTIES

12. The Department is a principal department within the Executive Branch of the State government, with its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey.

13. The Department’s enabling legislation, N.J.S.A. 13:D-1 to -19, vests it with the

authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. Pursuant to the Department's enabling legislation, N.J.S.A. 13:1D-1 to -19, and the Spill Act, the Department is authorized to institute legal proceedings enforcing FAOs, seeking injunctive relief and civil penalties, and compelling remediation in Superior Court.

14. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("Spill Fund") and maintains his principal office at 401 East State Street, Trenton, Mercer County, New Jersey. As the chief executive officer of the Spill Fund, the Administrator is authorized to approve and pay any cleanup and removal costs the Department incurs, N.J.S.A. 58:10-23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund. N.J.S.A. 58:10-23.11j.d.

15. Defendant AB Trading is a New Jersey corporation with a principal address at 7 Berkley Place, Colts Neck, New Jersey 07722. AB Trading was the owner and operator of regulated USTs on the Site at the time of discharge and is a person in any way responsible for the hazardous substance that was discharged on the Site under N.J.S.A. 58:10-23.11g.c(1).

16. Defendant Clinton Ave Associates is a New Jersey corporation with a principal address at 7 Berkley Place, Colts Neck, New Jersey 07722. Clinton Ave Associates has owned the Site since at least November 10, 1997, and is a person in any way responsible for the hazardous substance that was discharged on the Site under N.J.S.A. 58:10-23.11g.c(1).

17. The principal of AB Trading and Clinton Ave Associates is Alexander Briukhan.

18. Alexander Briukhan is also the principal of the following affiliated entities: 961 Clinton 2000 Corporation, 961 Clinton Corp., AB Realty Petroleum Inc., 1750 Hamburg Associates, Inc., and Irvington Gas, Inc. Over the course of the Department's enforcement history at the Site, Briukhan has signed documents related to the subject contaminated

property under these names. However, they were not signatories to the FAO. Only the Department and Defendants Clinton Ave Associates and AB Trading signed and are bound to the FAO.

FACTUAL ALLEGATIONS

19. Clinton Ave Associates is the owner of the Site, which is located at 959-961 Clinton Avenue, Irvington, Essex County, also known as Block 205, Lot 1 on the tax maps of Irvington Township. The Department has designated it as Site Remediation Program Interest Number 016344. Certification of Nadine Drake (“Drake Cert.”), ¶ 6; Exhibit A.

20. The Site borders residential areas of Irvington. It is located on the corner of Clinton Avenue and Harrison Place, with a church containing a day care center located across the street. The Site is bordered by single-family residences.

21. The Site has operated as a gasoline service station and auto repair facility since at least 1979. Drake Cert., ¶ 10.

22. At the time of the discharge, AB Trading owned and operated USTs that were used to store gasoline, diesel, and waste oil at the Site. Drake Cert., ¶ 7; Exhibit A, ¶ 5.

23. On March 4, 2003, during AB Trading’s ownership of the USTs, the Department conducted an inspection of the Site and detected the presence of volatile organic vapors and gasoline/diesel odors in two groundwater monitoring wells at the Site, indicating that there had been a discharge of hazardous substances to the soil and/or groundwater at the Site. Drake Cert., ¶ 11; see also March 4, 2003 Incident Report attached to Drake Cert. as Exhibit D.

24. On May 16, 2003, the Department received a report of gasoline contamination in soil discovered during the removal of a 1,000-gallon waste oil UST, further indicating that there was a discharge of hazardous substances to the soil and/or groundwater at the Site.

Drake Cert., ¶ 13; Exhibit E.

25. To compel compliance with the applicable environmental statutes at the Site and two other contaminated properties (unrelated to this complaint) owned by Alexander Briukhan's entities, the Department filed a complaint in the Superior Court of New Jersey against Defendant AB Trading and 1750 Hamburg Associates, Inc. (an affiliated company). On October 23, 2003, the Court issued a "Partial Consent Order for Ongoing Remediation and Penalty Payment Schedule" ("2003 Partial Consent Order"), requiring Defendant AB Trading to remediate the Site and pay penalties.

26. Both Defendant AB Trading and 1750 Hamburg Associates, Inc. failed to fulfill the remedial obligations for their respective properties, and in 2010, the Department filed a Motion in Aid of Litigants' Rights to compel compliance with the 2003 Partial Consent Order.

27. On November 4, 2010, the Court approved a "Consent Agreement for Ongoing Remediation and Penalty Payment" ("2010 Consent Agreement") between Defendant AB Trading, 1750 Hamburg Associates, Inc., and the Department concerning the remediation of the Site and the two other unrelated properties. See the October 26, 2010 Consent Agreement for Ongoing Remediation and Penalty Payment, attached as Exhibit 1 to Certification of Alana V. Paccione ("Paccione Cert.").

28. On October 10, 2012, Alexander Briukhan submitted a preliminary assessment and site investigation report to the Department for the Site. Drake Cert., ¶ 14; Exhibit F.

29. On April 7, 2015, AB Realty Petroleum Inc. submitted a Light Non-Aqueous Phase Liquid ("LNAPL") Report for the Site. LNAPL are petroleum products that float on top of the ground water at the Site. Drake Cert., ¶ 15; Exhibit G.

30. Defendants failed to submit an RIR to the Department by the March 1, 2017 regulatory timeframe. Accordingly, the Department issued a Notice of Violation (“NOV”) to AB Realty Petroleum Inc. for the Site on September 22, 2017. Drake Cert., ¶¶ 16-17; Exhibit H.

31. On December 13, 2018, the Licensed Site Remediation Professional (“LSRP”) retained by Irvington Gas, Inc. for the Site submitted a Dismissal Form to the Department, informing the Department that the LSRP’s services at the Site terminated on October 1, 2018. Defendants were required to retain a new LSRP and notify the Department of the same within 45 days after the dismissal, but failed to do so. Drake Cert., ¶¶ 18-19.

32. On January 18, 2019, the Department filed a complaint against Defendants in Irvington Municipal Court, alleging violations under the Spill Act and SRRA, N.J.S.A. 58:10C-1 to -29. See January 18, 2018 Irvington Municipal Complaints attached as Exhibit 2 to Paccione Cert.

33. Defendants contacted the Department to settle the violations. Drake Cert., ¶21.

34. On July 3, 2019, Defendants entered into the DO ACO with the Department to settle the municipal case. The DO ACO required Defendants to remediate the Site in accordance with the SRRA, N.J.S.A. 58:10C-1 to 29; the ARRCs, N.J.A.C. 7:26C; and the TRSR Rules, N.J.A.C. 7:26E. The DO ACO also required Defendants to pay a \$25,000 civil administrative penalty. Drake Cert., Exhibit A ¶¶ 13-14

35. Under the DO ACO, Defendants also agreed to retain an LSRP to perform the remediation of the contaminated Site in accordance with N.J.A.C. 7:26C-14.2(b)1; establish and maintain an RTF; submit a direct oversight remediation summary report including a schedule of work to be completed to the Department for approval in accordance with N.J.A.C. 7:26C-14.2(b)2v; conduct the remedial investigation and submit an RIR; implement the remedial actions according to the approved schedule; and submit a final RAR and RAO on the

approved date. Id. at ¶¶ 15-16, ¶ 19, ¶¶ 24-25.

36. If Defendants failed to comply with any provision of the DO ACO, stipulated penalties in the amount of \$1,000 per day would be triggered. Id. at ¶33.

37. The DO ACO also expressly provided that if Defendants failed to comply, including failing to pay stipulated penalties, the Department is authorized to enforce the ACO as a FAO pursuant to Rule 4:67 and Rule 4:70. Id. at ¶33.

38. Defendants have failed to fully remediate the Site pursuant to the DO ACO. Specifically, Defendants have not established an RTF and failed to submit the schedule of work to be completed to the Department, which are required by law and necessary to inform the Department and public of the expected completion dates for further remedial actions, including submission of the RIR, RAR, and RAO.

39. Defendants also have failed to hire and maintain an LSRP for the Site, as required by the DO ACO.

40. On July 1, 2019, AB Realty Petroleum, Inc. retained an LSRP for the Site. However, on May 13, 2022, the Department was notified that the LSRP withdrew from the case on December 31, 2021. Drake Cert., ¶ 27.

41. That same day, the Department sent a letter to Defendants advising them to retain an LSRP within 45 days. Defendants did not retain an LSRP. Drake Cert., ¶ 29.

42. On June 10, 2022, the Department issued a NOV to Defendant Clinton Ave Associates for failure to retain an LSRP. Drake Cert., ¶ 30; Exhibit L.

43. On January 25, 2024, the Department sent an email to Defendants advising them of their responsibility to bring the Site into compliance with the Department's regulations. The email included a Department-issued list of LSRPs with valid licenses. Defendants' counsel advised the Department that Alexander Briukhan, the principal for both

Defendants, was traveling outside of the country. Defendants did not respond further or hire an LSRP. Drake Cert., ¶¶ 35-36.

44. On February 9, 2024, the Department was notified by the New Jersey Department of Health that there was a potential vapor concern at the Christian Pentecostal Day Care located across the street from the Site, at 971 Clinton Ave. “Vapor Intrusion” is defined as the migration of volatile chemicals from the subsurface into overlying buildings through subsurface soils or preferential pathways (such as underground utilities). N.J.A.C. 7:26E-1.8. The accumulation of these vapors can affect human health, and investigation and remediation of the source of the contamination is required to fully eliminate the risk to neighboring properties. Drake Cert., ¶ 37.

45. That same day, the Department sent a follow-up email to Defendants that reiterated the Department’s requests to come into compliance and advised that because Defendants had not conducted the remedial investigation as required by the DO ACO, the extent of the contamination at the Site is unknown. The Department instructed Defendants to immediately hire an LSRP and conduct vapor intrusion surveys. The email advised that should Defendants fail to comply, the Department may initiate remedial measures at the Christian Pentecostal Day Care and pursue a cost recovery action with Defendants. Drake Cert., ¶ 38.

46. On February 22, 2024, counsel for the Defendants advised the Department they were “looking to retain an LSRP.” To date, Defendants have not retained an LSRP. Drake Cert., ¶ 40.

47. On April 1, 2024, the Department sent an email to Defendants informing them that they are still out of compliance with the DO ACO, that the Department would be moving forward with using Department resources to conduct a vapor intrusion investigation at the day care facility, and that the Department will be moving forward with additional enforcement

actions. To date, Defendants have not responded to the Department's communication. Drake Cert., ¶¶ 42-43.

48. On July 23 and 24, 2024, the Department's Bureau of Environmental Measurements and Site Assessment Receptor Survey Team performed Vapor Intrusion sampling at the Christian Pentecostal Day Care and Transcend Worship Center located across the street from the Site. Drake Cert., ¶ 44.

49. The Department incurred \$31,078.81 in costs associated with the Vapor Intrusion sampling.

50. Paragraph 37 of the DO ACO provides that if Defendants do not comply with any part of the DO ACO, the Department may take any action it is authorized to take, including filing a summary action in the Superior Court of New Jersey pursuant to Rule 4:67 and Rule 4:70 to enforce the Administrative Consent Order as a FAO.

51. To date, Defendants have not complied with their remedial obligations as outlined above.

COUNT I

ENFORCEMENT OF A FINAL AGENCY ORDER AGAINST DEFENDANTS ON A SUMMARY BASIS

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

53. Pursuant to the Spill Act, N.J.S.A. 58:10-23.11u.a.(1) and N.J.S.A. 58:10-23.11u.b., the Department may bring a civil action to compel compliance with a FAO pursuant to an Order to Show Cause under Rule 4:67-6, and to enforce a civil monetary penalty pursuant to an Order to Show Cause pursuant to Rule 4:70.

54. The Department may also assess a civil penalty (not to exceed \$50,000 per day, for each day the violation continues) against a person in violation of a provision of the

Spill Act or “any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Spill Act.” N.J.S.A. 58:10-23.11u.a.(1)(c); N.J.S.A. 58:10-23.11u.d.

55. On June 3, 2019, the Department and Defendants entered into a DO ACO.

56. The DO ACO is a FAO of the Department.

57. The DO ACO required Defendants to retain an LSRP, perform a remedial investigation, submit a schedule of remedial work to be completed, and implement the remedial actions outlined in the schedule.

58. To date, Defendants have failed to comply with the DO ACO.

59. Pursuant to Rule 4:67-6 and Rule 4:70, the Department is entitled to summary enforcement of the DO ACO as a FAO.

60. Defendants Clinton Ave Associates and AB Trading are liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred and which will be incurred at the Property as the result of the discharge of hazardous substances as set forth above.

WHEREFORE, the Department demands Judgment against Defendants:

- a. Finding Defendants in violation of the DO ACO;
- b. Ordering Defendants to comply with the terms of the DO ACO, including retaining an LSRP, submitting a schedule of work to be completed, establishing an RTF, completing an RIR, implementing the necessary remedial actions, and submitting an RAR and RAO;
- c. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:10-23.11u.a.(1)(c) and N.J.S.A. 58:10-23.11u.d for continuing noncompliance with an FAO issued pursuant to the Spill Act; and

- d. Finding that Defendants discharged gasoline and diesel fuel, which contain hazardous substances, at the Site, or are otherwise in any way responsible for the discharge of the hazardous substances;
- e. Compelling Defendants to comply with each and every requirement of the DO ACO, and to otherwise remediate the Site fully and completely in accordance with the SRRA, N.J.S.A. 58:10C-1 to -29, the Brownfield Act, N.J.S.A. 58:10B-1.3a, and all other applicable laws and regulations; and
- f. Granting such other relief as the Court deems just and proper.

COUNT II

VIOLATION OF THE SPILL ACT

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

62. Any person who discharges a hazardous substance, or is in any way responsible for the discharge of a hazardous substance, shall be liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.c.(1), except as provided by N.J.S.A. 58:10-23.11.g.(12), which is not applicable here.

63. The costs that the Department has incurred, and will incur, for the investigation and remediation of the Contaminated Site are “cleanup and removal costs” within the meaning of N.J.S.A. 58:10-23.11b., and are recoverable pursuant to N.J.S.A. 58:10-23.11u.b.(2), (4), and (5).

64. Defendants are “persons” within the meaning of N.J.S.A. 58:10-23.11b.

65. Clinton Ave Associates, as the owner of the Site at the time hazardous substances were discharged therefrom, is a discharger and a person in any way responsible for a discharge of hazardous substances, and is therefore liable, jointly and severally, without

regard to fault, to remediate the Contaminated Site pursuant to the Brownfield Act and in accordance with the Spill Act, the SRRA, the ARRCs, and the TRSR Rules, as well as for all cleanup, removal, and vapor intrusion investigation costs the Department has incurred, or will incur, related to remediating the Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).

66. AB Trading, as the owner and operator of the UST at the time hazardous substances were discharged therefrom, is a person in any way responsible for a discharge of hazardous substances, and is therefore liable, jointly and severally, without regard to fault, to remediate the Contaminated Site pursuant to the Brownfield Act and in accordance with the Spill Act, the SRRA, the ARRCs, and the TRSR Rules, as well as for all cleanup, removal, and vapor intrusion investigation costs the Department has incurred, or will incur, related to remediating the Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).

67. To date, the Department has incurred \$31,078.81 in costs from performing a vapor intrusion investigation that the Defendants failed to perform.

68. The Department may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including the reasonable costs of preparing and successfully litigating this action, N.J.S.A. 58:10-23.11u.b.(2); for its unreimbursed costs of restoring and replacing any natural resource damaged or destroyed by the discharge, N.J.S.A. 58:10-23.11u.b.(4); and for any other unreimbursed costs the Department incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

69. The Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund pursuant to N.J.S.A. 58:10-23.11q.

70. Pursuant to N.J.S.A. 58:10-23.11u.d, Defendants are subject, upon order of the Court, to a civil penalty of up to \$50,000 per day for their failure to remediate the

Contaminated Site, as appropriate. Each day the violation continues is a separate and distinct violation. Pursuant to the Penalty Enforcement Law and Rule 4:70-2, these penalties may be collected in a summary proceeding.

WHEREFORE, the Department demands Judgment against Defendants:

- a. Ordering Defendants, jointly and severally, without regard to fault, to reimburse the Department and the Administrator for all cleanup and removal costs the Department and the Administrator has incurred related to the Site, with applicable interest;
- b. Finding Defendants liable, jointly and severally, without regard to fault, for all cleanup and removal costs the Department and the Administrator will incur related to the Site, including the cleanup and removal costs the Department and the Administrator will incur and has incurred related to the Christian Pentecostal Day Care;
- c. Imposing upon Defendants, pursuant to N.J.S.A. 58:10-23.11u.a; N.J.S.A. 58:10-23.11u.d, and Rule 4:70, a civil penalty for Defendants' violation of the Spill Act;
- d. Awarding the Department and the Administrator their costs and fees incurred in this action;
- e. Awarding the Department and the Administrator any other relief this Court deems appropriate; and
- f. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising from the discharge of hazardous substances at the Site.

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

By: /s/*Alana V. Paccione*

Alana V. Paccione
Deputy Attorney General

Dated: October 16, 2024

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, the Court is advised that Alana V. Paccione, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

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

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

By: /s/ Alana V. Paccione
Alana V. Paccione
Deputy Attorney General

Dated: October 16, 2024

VERIFICATION OF PLEADING

I, Nadine Drake, being of full age, certify as follows:

1. I am employed by the New Jersey Department of Environmental Protection within the Contaminated Site Remediation & Redevelopment Program.
2. I am the enforcement manager assigned to the Site.
3. I have read the Verified Complaint.
4. I certify that the factual allegations contained in Paragraphs 12-48 and 50-51 of the Verified Complaint are true and correct to the best of my knowledge.
5. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Nadine M. Drake

Nadine Drake

Dated: 10/16/2024

MATTHEW J. PLATKIN
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NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION and
THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION
FUND,

Plaintiffs,

v.

AB TRADING ENTERPRISES, INC. and
959-961 CLINTON AVENUE
ASSOCIATES, INC.,

Defendants.

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

Civil Action

ORDER TO SHOW CAUSE

This summary action having been opened to the Court by Matthew J. Platkin, Attorney General of New Jersey, by Alana V. Paccione, Deputy Attorney General appearing, attorney for Plaintiffs New Jersey Department of Environmental Protection (the "Department"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator"), seeking relief on the return date by way of summary proceeding, pursuant to R. 4:67 and R. 4:70, based upon the facts set forth in the verified complaint filed herewith; and for good cause being shown;

IT IS on this _____ day of _____, 2024;

ORDERED that Defendants appear and show cause before the Honorable _____, Superior Court of New Jersey, Chancery Division, at the Essex County Dr. Martin Luther King, Jr. Justice Building, 495 Dr. Martin Luther King, Jr. Blvd., Newark, New Jersey, 07102, on the ____ day of _____, 20__, at o'clock in the _____ noon, or as soon thereafter as counsel may be heard, why an order should not be entered:

1. Finding Defendants in violation of the Direct Oversight Administrative Consent Order entered between the Department and Defendants;
2. Enforcing the Direct Oversight Administrative Consent Order by:
 - a. Ordering Defendants to comply with the terms of the DO ACO that it is currently in violation of, including immediately remediating the contaminated site in accordance with SRRA, N.J.S.A. 58:10C-1 to -29, the Brownfield Act, N.J.S.A. 58:10B-1.3a, and all other applicable laws and regulations, and in so doing:
 - i. Retain a Licensed Site Remediation Professional;
 - ii. Comply with the Department's Direct Oversight requirements;
 - iii. Establish and maintain a remediation trust fund pursuant to N.J.A.C. 7:26C-5.4 in an amount at least equal to the estimated remediation cost;
 - iv. Submit a direct oversight remediation summary report including a schedule of work to be completed;

- v. Conduct a remedial investigation and submit a Remedial Investigation Report;
 - vi. Conduct a remedial action and submit a Remedial Action Report; and
 - vii. Submit a Response Action Outcome, pursuant to N.J.A.C. 7:26C-6.2, based upon the implementation of remedial actions at the Site.
- 3. Ordering Defendants to pay \$31,078.81 in costs incurred by the Department for site remediation and investigation, and any future costs incurred by the Department related to the contamination;
- 4. Ordering Defendants to pay past due annual remediation fees in the amount of \$14,855;
- 5. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:10-23.11u.a.(1)(c) and N.J.S.A. 58:10-23.11u.d for continuing noncompliance with an FAO issued pursuant to the Spill Act;
- 6. Ordering Defendants to pay a civil penalty in an amount the court deems just and proper;
- 7. Granting Plaintiffs such other relief as this Court deems just and proper; and
- 8. Ordering that judgement is without prejudice to Plaintiffs' right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Site.

IT IS FURTHER ORDERED that within _____ days of this date, Plaintiffs' attorney shall serve Defendants with true and correct copies of this Order to Show Cause,

Verified Complaint, supporting certifications and supporting brief by regular and certified mail, return receipt requested; and

IT IS FURTHER ORDERED that Plaintiffs must file with the court its proof of service of the pleadings on Defendant no later than three days before the return date; and

IT IS FURTHER ORDERED that Defendants shall file a written answer, an answering affidavit or a motion returnable on the return date of this Order to Show Cause, and shall serve copies of the same upon Plaintiffs' attorney by _____, 20____. The answer, answering affidavit or motion, as the case may be, must be filed with the Clerk of the Superior Court in the county listed above and a copy of the opposition papers must also be sent directly to the chambers of Judge _____; and

IT IS FURTHER ORDERED that Plaintiffs must file and serve any written reply to the Defendant's opposition by _____, 20____. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____; and

IT IS FURTHER ORDERED that if Defendants do not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date, and the relief may be granted by default, provided that Plaintiffs filed their proof of service and a proposed form of order at least three days prior to the return date; and

IT IS FURTHER ORDERED that if Plaintiffs have not already done so, Plaintiffs shall submit a proposed form of order addressing the relief sought on the return date no later than three days before the return date; and

IT IS FURTHER ORDERED that Defendants take notice that Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer, an answering affidavit or a motion returnable on the return date of the order to show cause and proof of service within 35 days from the date of service of this order to show cause.

If Defendants are unable to obtain an attorney, Defendants may contact a Lawyer Referral Service or, if Defendants cannot afford to pay for an attorney, contact a Legal Services Office. The telephone numbers for these services in the county in which this action is pending are: (973) 622-6204 (Lawyer Referral Service) and (973) 624-4500 (Legal Services Office).

IT IS FURTHER ORDERED that the Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the parties are advised by the Court to the contrary no later than _____ days before the return date.

Hon.

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 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: Alana V. Paccione
 Deputy Attorney General
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 (609)376-2740

NEW JERSEY DEPARTMENT OF
 ENVIRONMENTAL PROTECTION and
 THE ADMINISTRATOR OF THE NEW
 JERSEY SPILL COMPENSATION
 FUND,

Plaintiffs,

v.

AB TRADING ENTERPRISES, INC. and
 959-961 CLINTON AVENUE
 ASSOCIATES, INC.,

Defendants.

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

: Civil Action

: **PROPOSED ORDER**

This matter having been opened to the Court by Matthew J. Platkin, Attorney General of New Jersey, by Alana V. Paccione, Deputy Attorney General appearing, attorney for Plaintiffs New Jersey Department of Environmental Protection (“DEP”) and the Administrator of the New Jersey Spill Compensation Fund (“Administrator”), with notice having been given to Defendants; and the Court having considered the Order to Show Cause and supporting brief; and for good cause shown;

IT IS on this _____ day of _____, 2024:

ORDERED that Defendants AB Trading Enterprises, Inc. and 959-961 Clinton Avenue Associates, Inc. are in violation of the Direct Oversight Administrative Consent Order.

ORDERED that Defendants shall:

1. Comply fully with the requirements set forth in the Direct Oversight Administrative Consent Order as follows:
 - a. Retain a Licensed Site Remediation Professional;
 - b. Comply with the Department's Direct Oversight requirements;
 - c. Establish and maintain a remediation trust fund pursuant to N.J.A.C. 7:26C-5.4 in an amount at least equal to the estimated remediation cost;
 - d. Submit a direct oversight remediation summary report including a schedule of work to be completed;
 - e. Conduct a remedial investigation and submit a Remedial Investigation Report;
 - f. Conduct a remedial action and submit a Remedial Action Report;
 - g. Submit a Response Action Outcome, pursuant to N.J.A.C. 7:26C-6.2, based upon the implementation of remedial actions at the Site;
2. Pay \$31,078.81 in costs incurred by the Department for site remediation and investigation, and any future costs incurred by the Department related to the contamination; and

3. Pay past due annual remediation fees in the amount of \$14,855.

ORDERED that Defendants pay a civil penalty of \$_____.

ORDERED that this judgement is without prejudice to Plaintiffs' right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Site.

ORDERED that a copy of this signed Order be served upon all parties within seven (7) days of its receipt by counsel for the Department.

Hon.

In accordance with the required statement to R. 1:6-2(a), this motion was:

_____ opposed

_____ unopposed.

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ATTORNEY GENERAL OF NEW JERSEY
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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION – ESSEX COUNTY
	:	DOCKET NO.:
	:	<u>Civil Action</u>
Plaintiffs,	:	
	:	CERTIFICATION OF NADINE DRAKE IN SUPPORT OF PLAINTIFFS’ ORDER TO SHOW CAUSE
v.	:	
AB TRADING ENTERPRISES, INC. and 959-961 CLINTON AVENUE ASSOCIATES, INC.,	:	
	:	
Defendants.	:	

I, Nadine Drake, do hereby certify as follows:

1. I am the Bureau Chief of the New Jersey Department of Environmental Protection's ("Department") Bureau of Enforcement and Investigations within the Contaminated Site Remediation and Redevelopment Program. I have been employed in this position since March 2024, and with the Department since 1988.

2. I am responsible for the Department's site remediation enforcement actions enforced under New Jersey Spill Compensation and Control Act, N.J.S.A. 58:23-.11 to -.24

(“Spill Act”), and the Brownfield and Contaminated Site Remediation Act (“Brownfield Act”), N.J.S.A. 58:10B-1 to -31, as amended by the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29 (“SRRA”). I am involved in the municipal ticket program, which includes overseeing and reviewing investigations, issuing municipal complaints, negotiating settlements for the municipal complaints and, if settlement cannot be reached, testifying at municipal trials. I am also familiar with how DEP receives, stores, and manages document submissions and environmental complaints.

3. I am familiar with the enforcement history for 959-961 Clinton Avenue, Block 205, Lot 1, Irvington, Essex County, New Jersey (the “Site”) and have investigated the Site since March of 2003.

4. I submit this Certification in support of the Department’s Order to Show Cause application that seeks to compel Defendants AB Trading Enterprises, Inc. (“AB Trading”) and 959-961 Clinton Avenue Associates, Inc. (“Clinton Ave Associates”) (collectively, “Defendants”) to remediate their contaminated property.

5. The community surrounding the Site has a significant low-income and minority population, and as such, it is considered an “overburdened community” under the New Jersey Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

6. Clinton Ave Associates is the current property owner at the Site. Clinton Ave Associates has a principal place of business at 7 Berkley Place, Colts Neck, New Jersey 07722 and has owned the Site since at least November 10, 1997. See Exhibit A, July 3, 2019 Direct Oversight Administrative Consent Order, a true and correct copy attached hereto, ¶3; Exhibit B, Deed Registration for Block 205, Lot 1, recorded January 14, 1998, a true and correct copy attached hereto.

7. AB Trading has a principal address at 1750 Hamburg Turnpike, Wayne, NJ 07470 and owned and operated the regulated underground storage tanks (“USTs”) at the Site at the time of the discharge. Business Record attached as Exhibit C. See also Exhibit A, ¶5.

8. Alexander Briukhan is the principal of AB Trading and Clinton Ave Associates. See Exhibit A.

9. Throughout the Site’s enforcement history, Alexander Briukhan has used similarly named entities, of which he is also principal, to sign documents. These include: 961 Clinton 2000 Corporation, 961 Clinton Corp., AB Realty Petroleum Inc., 1750 Hamburg Associates, Inc., and Irvington Gas, Inc.

10. Beginning in at least 1979, a gasoline service station and an auto repair facility have operated at the Site.

11. On March 4, 2003, the Department conducted an inspection of the Site and detected the presence of volatile organic vapors and gasoline/diesel odors in two groundwater monitoring wells at the Site, indicating that there had been a discharge of hazardous substances to the soil and/or groundwater at the Site. Attached as Exhibit D is a true and correct copy of the March 4, 2003 Incident Report.

12. On May 16, 2003, the Department received a report of gasoline contamination in soil discovered during the removal of a 1,000-gallon waste oil UST, further indicating that there was a discharge of hazardous substances to the soil and/or groundwater at the Site. Attached as Exhibit E is a true and correct copy of the May 16, 2003 Incident Report.

13. The Department initiated litigation in the New Jersey Superior Court against Defendant AB Trading to compel remediation and compliance with the applicable environmental statutes at the contaminated Site.

14. On October 10, 2012, Alexander Briukhan submitted a preliminary assessment

and site investigation report to the Department for the Site. Attached as Exhibit F is a true and correct copy of the preliminary assessment and site investigation report.

15. On April 7, 2015, AB Realty Petroleum Inc. submitted a Light Non-Aqueous Phase Liquid (“LNAPL”) Report for the Site. LNAPL are petroleum products that float on top of the ground water at the Site. Attached as Exhibit G is a true and correct copy of the LNAPL Report.

16. Defendants did not submit a Remedial Investigation Report (“RIR”) to the Department by the March 1, 2017 regulatory deadline, and this failure triggered compulsory Direct Oversight as provided by N.J.A.C. 7:26C-14.2(b) and N.J.A.C. 7:26C-3.3(b)6.

17. The Department issued a Notice of Violation (“NOV”) to AB Realty Petroleum Inc. for the Site on September 22, 2017 for the failure to submit the RIR. Attached as Exhibit H is a true and correct copy of the September 22, 2017 NOV.

18. On December 13, 2018, the Licensed Site Remediation Professional (“LSRP”) retained by Irvington Gas, Inc. for the Site submitted a Dismissal Form to the Department, informing the Department that the LSRP’s services at the Site terminated on October 1, 2018. Attached as Exhibit I is a true and correct copy of Department’s December 18, 2018 Letter regarding LSRP Dismissal.

19. Defendants were required to retain a new LSRP and notify the Department of the same within 45 days after the dismissal, but failed to do so.

20. On January 18, 2019, the Department filed a complaint against Defendants in Irvington Municipal Court. See January 18, 2018 Irvington Municipal Complaints, Certification of Alana V. Paccione, Exhibit 2.

21. Defendants contacted the Department to settle the violations.

22. On July 3, 2019, Defendants entered into the Direct Oversight Administrative Consent Order (“DO ACO”) with the Department in settlement of the municipal case. See Exhibit A.

23. The DO ACO required Defendants to remediate the Site in accordance with the SRRA, N.J.S.A. 58:10C-1 to 29; the ARRCs, N.J.A.C. 7:26C; and the TRSR Rules, N.J.A.C. 7:26E. The DO ACO also required Defendants to pay a \$25,000 civil administrative penalty. See id. at ¶¶ 13-14.

24. Under the DO ACO, Defendants agreed to retain an LSRP to perform the remediation of the contaminated Site in accordance with N.J.A.C. 7:26C-14.2(b)1; establish and maintain a Remediation Trust Fund (“RTF”); submit a direct oversight remediation summary report including a schedule of work to be completed to the Department for approval in accordance with N.J.A.C. 7:26C-14.2(b)2v; conduct the remedial investigation and submit an RIR; implement the remedial actions according to the approved schedule; and submit a final Remedial Action Report (“RAR”) and Response Action Outcome (“RAO”) on the approved date. Id. at ¶¶ 15-16, ¶ 19, ¶¶ 24-25.

25. If Defendants failed to comply with any provision of the DO ACO, stipulated penalties in the amount of \$1,000 per day would be triggered. Id. at ¶ 33.

26. The DO ACO provided that if Defendants failed to comply, including failing to pay stipulated penalties, the Department is authorized to enforce the ACO as a FAO pursuant to Rule 4:67 and Rule 4:70. Id. at ¶ 37.

27. AB Realty Petroleum, Inc., an entity controlled by Alexander Briukhan, retained an LSRP for the Site on July 1, 2019. Attached as Exhibit J is a true and correct copy of the LSRP Retention Form.

28. On May 13, 2022, the Department was notified that the LSRP withdrew from

the case on December 31, 2021. Attached as Exhibit K is a true and correct copy of the May 13, 2022 Department Letter Regarding LSRP Dismissal.

29. That same day, the Department sent a letter to Defendants advising them to retain an LSRP within 45 days. Defendants did not retain an LSRP. Id.

30. On June 10, 2022, the Department issued a NOV to Defendant Clinton Ave Associates for failure to retain an LSRP. Attached as Exhibit L is a true and correct copy of the June 10, 2022 NOV.

31. To date, Defendants have not hired an LSRP for the Site.

32. Defendants have not established an RTF.

33. Defendants have not submitted the schedule of work to be completed, which informs the Department and public of the expected completion dates for further remedial actions, including submission of the RIR, RAR, and RAO.

34. Defendants have not submitted the RIR, RAR, or RAO.

35. On January 25, 2024, the Department sent an email to Defendants advising them of their responsibility to bring the Site into compliance with the Department's regulations. The email included a Department-issued list of LSRPs with valid licenses.

36. Defendants' counsel advised the Department that Alexander Briukhan, the principal for both Defendants, was traveling outside of the country. Defendants did not respond further or hire an LSRP.

37. On February 9, 2024, the Department was notified by the New Jersey Department of Health that there was a potential vapor concern at the Christian Pentecostal Day Care located across the street from the Site, at 971 Clinton Ave.

38. That same day, I sent a follow-up email to Defendants that reiterated the Department's requests to come into compliance and advised that because Defendants had

not conducted the remedial investigation as required by the DO ACO, the extent of the contamination at the Site is unknown. I instructed the Defendants to immediately hire an LSRP and conduct vapor intrusion surveys. I also advised that should Defendants fail to comply, the Department may initiate remedial measures at the Christian Pentecostal Day Care and pursue a cost recovery action with Defendants.

39. The accumulation of these vapors can affect human health, and investigation and remediation of the source of the contamination is required to fully eliminate the risk to neighboring properties.

40. On February 22, 2024, counsel for the Defendants advised the Department they were “looking to retain an LSRP.”

41. To date, Defendants have not retained an LSRP.

42. On April 1, 2024, I sent an email to Defendants informing them that they are still out of compliance with the DO ACO, that the Department would be moving forward with using Department resources to conduct a vapor intrusion investigation at the day care facility, and that the Department will be moving forward with additional enforcement actions.

43. To date, Defendants have not responded to my communication.

44. On July 23 and 24, 2024, the Department’s Bureau of Environmental Measurements and Site Assessment Receptor Survey Team performed Vapor Intrusion sampling at the Christian Pentecostal Day Care and Transcend Worship Center located across the street from the Site.

45. The Department incurred \$31,078.81 in costs associated with the Vapor Intrusion sampling.

46. Defendants owe \$14,855 in past due Annual Remediation Fees.

CERTIFICATION

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 16, 2024

/s/ *Nadine M. Drake*

Nadine Drake

NEW JERSEY DEPARTMENT OF	:	SUPERIOR COURT OF NEW JERSEY
ENVIRONMENTAL PROTECTION and THE	:	CHANCERY DIVISION – ESSEX COUNTY
ADMINISTRATOR OF THE NEW JERSEY	:	DOCKET NO.:
SPILL COMPENSATION FUND,	:	<u>Civil Action</u>
Plaintiffs,	:	
v.	:	
AB TRADING ENTERPRISES, INC. and 959-	:	
961 CLINTON AVENUE ASSOCIATES, INC.,	:	
Defendants.	:	

BRIEF IN SUPPORT OF PLAINTIFFS' VERIFIED COMPLAINT AND ORDER TO SHOW CAUSE

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PRELIMINARY STATEMENT

This matter arises from Defendants 959-961 Clinton Ave Associates (“Clinton Ave Associates”) and AB Trading Enterprises, Inc.’s (“AB Trading”) (collectively, “Defendants”) longstanding failure to investigate and remediate a discharge of hazardous substances at 959-961 Clinton Avenue, Irvington, New Jersey, in violation of the Brownfield and Contaminated Site Remediation Act (“Brownfield Act”), the New Jersey Spill Compensation and Control Act (“Spill Act”) and the Site Remediation and Reform Act (“SRRA”). In 2019, Defendants and the New Jersey Department of Environmental Protection (the “Department”) entered into a Direct Oversight Administrative Consent Order (“DO ACO”) in which Defendants agreed to remediate the contaminated property under the supervision of the Department and in accordance with all relevant environmental statutes. The DO ACO is a final agency order (“FAO”) that is binding and requires strict compliance. To date, Defendants have failed to comply with the FAO.

The existing soil and groundwater contamination on the Site puts the environment and the health of Irvington residents in the surrounding community at risk. See Verified Complaint at ¶ 5. These environmental and public health risks associated with the Site contamination are further exacerbated, as the community surrounding the Site is identified as an “overburdened community” under New Jersey’s Environmental Justice Law, (“EJL”). Id. at ¶ 6. “Overburdened communities” have historically been disproportionately exposed to high-polluting facilities. Ibid.

Gasoline and its components pose threats to the environment and public health when they enter the soil and the groundwater. Id. at ¶5. These contaminants persist in soil for long periods of time, impeding plant growth and threatening birds and mammals with irritation and toxicity. Ibid. Human exposure to these contaminants, including through ingestion or

inhalation of vapors, can cause dizziness, headaches, lung irritation, nervous system disruptions and even damage to the liver, kidneys, central nervous system, and eyes. Ibid.

The Department now seeks to enforce the FAO pursuant to Rule 4:67-6 and seeks an order to compel Defendants to remediate the contamination for compliance with the Spill Act and SRRA. Further, the Department seeks imposition of civil penalties pursuant to N.J.S.A. 58:10-23.11u.a.(1)(c), N.J.S.A. 58:10-23.11u.d, and Rule 4:70 for continuing noncompliance with an FAO issued pursuant to the Spill Act.

STATEMENT OF FACTS

The property that is the subject of this Complaint is located at 959-961 Clinton Avenue, Block 205, Lot 1, on the Tax Map of Irvington Township, Essex County, New Jersey (“Site”). See Direct Oversight Administrative Consent Order (“DO ACO”) attached as Exhibit A. The community surrounding the Site has a significant minority population, and as such it is considered an “overburdened community” under the EJP, N.J.S.A. 13:1D-157 to -161.¹ Certification of Nadine Drake (“Drake Cert.”), ¶ 5.

Historically in New Jersey, “overburdened communities” have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, with accompanying increased negative public health impacts. N.J.S.A. 13:1D-157. The EJP declares that all communities in New Jersey are to be treated fairly and equitably concerning matters affecting the environment and public health without regard to race, ethnicity, color, national origin, language, or income. N.J.S.A. 13:1D-157 to -161; N.J.A.C.

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

7:1C-1.1 to 10.3; Executive Order No. 23 (Gov. Murphy 2018); see also Verified Complaint, ¶7.

On November 10, 1997, Defendant Clinton Ave Associates took ownership of the Site, which has been operating as a retail gasoline service station since at least 1979. Drake Cert., ¶¶ 6, 10. Defendant AB Trading owned and operated regulated underground storage tanks (“USTs”) that were used to store gasoline, diesel fuel, and waste oil at the Site. Exhibit A, DO ACO at ¶ 5. On March 4, 2003, during Defendant AB Trading’s ownership of the USTs, the Department inspected monitoring wells that were located at the Site. During the inspection, the Department detected the presence of volatile organic vapors and gasoline/diesel odors, which indicated a discharge of hazardous substances to the soil and/or groundwater. Drake Cert at ¶ 11. On May 16, 2003, Jeff Hunt, employed by Ira D. Conklin and Sons, visited the Site and discovered gasoline contamination during the removal of a 1,000-gallon waste oil UST. See Drake Cert, ¶12; May 16 2003 Inspection Report attached as Exhibit E. Hunt informed the Department of the discharge that same day. Id.

The discharge of hazardous substances triggered Defendants Clinton Ave Associates and AB Trading’s duty to remediate the Site in accordance with the Spill Act, Brownfield Act, and SRRA. However, Defendants have continuously failed to come into compliance with the applicable environmental statutes. Defendants did not submit a Remedial Investigation Report (“RIR”) to the Department by the March 1, 2017 statutory deadline, which triggered compulsory Direct Oversight pursuant to N.J.A.C. 7:26C-14.2(b) and N.J.A.C. 7:26C-3.3(b)5. See Drake Cert., ¶ 16.

On January 18, 2019, the Department filed a complaint against Defendants in Irvington Municipal Court for violations of the Spill Act and SRRA related to the failure to remediate the contaminated Site. See January 18, 2018 Irvington Municipal Complaints,

attached as Exhibit 2 to Certification of Alana V. Paccione. To avoid further litigation, the Defendants contacted the Department to settle the violations. Defendants settled the municipal case by entering into the DO ACO with the Department on July 3, 2019. See DO ACO (Exhibit A).

The DO ACO required Defendants to remediate the Site in accordance with the SRRA, the ARRCs, and the TRSR Rules. Id. ¶¶ 13-14. Pursuant to the terms, Defendants agreed to: retain a Licensed Site Remediation Professional (“LSRP”) to perform the remediation of the contaminated Site in accordance with N.J.A.C. 7:26C-14.2(b)1; establish and maintain a Remediation Trust Fund (“RTF”); submit a direct oversight remediation summary report including a schedule of work to be completed to the Department for approval; conduct the remedial investigation and submit a Remedial Investigation Report (“RIR”); implement the remedial actions according to the approved schedule; and submit a final Remedial Action Report (“RAR”) and Response Action Outcome (“RAO”) on the approved date. Id. at ¶¶ 15-16, ¶ 19, ¶¶ 24-25.

Soon after signing the DO ACO, on July 1, 2019, an LSRP was retained for the Site. Verified Complaint at ¶ 38; Drake Cert., ¶ 27. However, the Department received notice on May 13, 2022 that the LSRP withdrew from the case. Drake Cert., ¶28. Upon receiving this notice, the Department advised Defendants to retain a new LSRP within 45 days. Defendants failed to do so, and accordingly, the Department issued Defendant Clinton Ave Associates a Notice of Violation on June 10, 2022. Verified Complaint at ¶ 40; Drake Cert., June 10, 2022 NOV attached as Exhibit L to Drake Cert.

On January 25, 2024, February 9, 2024, and April 1, 2024, the Department sent emails to Defendants advising them that they were still out of compliance with the DO ACO and requesting that they hire an LSRP and perform the necessary site investigation. See Drake

Cert., ¶ 35, ¶38, ¶42. To date, no other LSRP has been retained for Site investigation or remediation. Id. at ¶ 41. Further, Defendants have not established an RTF, failed to submit the schedule of work to be completed to the Department, and failed to submit the required RIR, RAR, and RAO. Verified Complaint at ¶¶ 37-38; Drake Cert., ¶ 31-34.

As such, the soil and groundwater at the Site remain contaminated, which poses threats to the environment and to the health of the low-income and minority residents of the surrounding community. The discharge and the failure to remediate the Site constitute violations of the Spill Act, N.J.S.A. 58:23-.11 to -23.24, and Brownfield Act, N.J.S.A. 58:10B-1 to -31, as amended by SRRA.

The Department now seeks enforcement of the FAO pursuant to Rule 4:67-6 and issuance of a civil penalty pursuant to Rule 4:70. These rules permit this action to be conducted in a summary manner. These rules are applicable, respectively, to all actions brought by a New Jersey administrative agency to enforce a written order or determination and to actions seeking to impose a civil penalty.

LEGAL ARGUMENT

POINT I:

DEFENDANTS ARE REQUIRED TO COMPLY WITH THE TERMS OF THE FINAL AGENCY ORDER

The Department seeks enforcement of the DO ACO, which is a binding FAO, under Rule 4:67 to order Defendants to promptly investigate and remediate the Site. Rule 4:67-6 applies to "all actions by a state administrative agency . . . brought to enforce a written order or determination made by it, whether final or interlocutory, 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."

In a summary action to enforce a Final Order, Rule 4:67-6 does not permit any review of the validity of the underlying agency order. New Jersey Dep't of Env't Prot. v. River Lookout Assocs., LLC, No. A-2463-19, 2021 WL 4851286 (N.J. Super. Ct. App. Div. Oct 19, 2021) (“[T]he validity of an agency order shall not be justiciable in an enforcement proceeding” (quoting R. 4:67-6(c)3.)). Rather, pursuant to Rule 2:2-3(a)(2), the Appellate Division has exclusive jurisdiction to review the merits of final state agency determinations. Dep't of Envtl. Prot. v. Mazza & Sons, Inc., 406 N.J. Super. 13, 23 (App. Div. 2009)) (A “party cannot simply disregard the final agency action, wait for the agency to bring an enforcement action under Rule 4:67-6 in a trial court, and then challenge the agency action in defense of the enforcement action”).

The Department need only show that Defendants 961 Clinton Ave Associates and AB Trading have failed to comply with the FAO by failing to: hire and maintain an LSRP for the Site, establish an RTF, and submit the required documentation of an investigation or remediation at the Site, as specified in the FAO, for the court to grant the requested relief. There is no pending or available administrative or appellate review of the FAO or the Department's findings therein that would preclude this court's enforcement of the FAO. See Rule 4:67-6(c)(1). The terms here are unambiguous, requiring Defendants to comply with the regulations and timelines governing the remediation of contaminated sites.

Defendants have not complied with the terms of the FAO. The Department ordered Defendants to retain an LSRP, establish an RTF, submit a direct oversight remediation summary report with a schedule of work to be completed, conduct the remedial investigation and submit an RIR, implement the remedial actions, and submit a final RAR and RAO, but they have failed to do so. This failure to investigate and remediate presents an ongoing risk to the

environment and surrounding community. Accordingly, this Court should enforce the FAO and require full compliance from Defendants Clinton Ave Associates and AB Trading.

POINT II:

THIS COURT SHOULD ASSESS A CIVIL PENALTY AGAINST DEFENDANTS BECAUSE THEY FAILED TO COMPLY WITH A FINAL AGENCY ORDER

The DO ACO is a Final Agency Order. As discussed above, the FAO requires Defendants to comply with certain requirements and deadlines concerning the performance of a Site Investigation and remediation of the contamination discovered. However, Defendants have failed to satisfy their obligations. Each day that Defendants fail to comply with the FAO constitutes an additional, separate and distinct violation of the FAO and the Spill Act. A person violating the provisions of the Spill Act or an administrative order issued pursuant to the Spill Act is subject to the penalties prescribed in N.J.S.A. 58:10-23.11u.a.(1)(c) and N.J.S.A. 58:10-23.11u.d. Therefore, this Court should assess a civil penalty accordingly.

Rule 4:70 provides for summary proceedings to collect statutory penalties. These summary proceedings are to be brought in accordance with Rule 4:67-6, unless the applicable statute requires a plenary action. Rule 4:70-l(a). The statute applicable to the instant matter assesses penalties for violations and does not require a plenary hearing. Pursuant to N.J.S.A. 58:10-23.11u.d:

[a]ny person who violates [the Spill Act], or a court order issued pursuant thereto, . . . shall be subject to a civil penalty not to exceed \$50,000.00 per day for each violation, and each day's continuance of the violation shall constitute a separate violation. Any penalty incurred under this subsection may be recovered with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" . . . in the Superior Court

Defendants have consistently failed to comply with their obligations under the FAO to remediate the contaminated site. To date, Defendants have failed to hire and maintain an

LSRP, have not established an RTF, and failed to submit the schedule of work to be completed to the Department, which is required by law and necessary to inform the Department and public of the expected completion dates for further remedial actions, including the submission of the RIR, RAR, and RAO.

Thus, in accordance with N.J.S.A. 58:10-23.11u.a.(1)(c), N.J.S.A. 58:10-23.11u.d, and Rule 4:70, the Department requests this Court assess an additional civil penalty against Defendants proportionate to their repeated and continuing failure to comply with the FAO. An additional civil penalty, under N.J.S.A. 58:10-23.11u.a.(1)(c) will serve as an appropriate deterrent to such conduct in the future.

CONCLUSION

For the foregoing reasons, the Department respectfully requests this Court enter an order granting the relief sought in the Verified Complaint, and such other relief as this Court deems appropriate.

Respectfully submitted,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs
State of New Jersey, Department
of Environmental Protection

BY: s/Alana V. Paccione
Alana V. Paccione
Deputy Attorney General

Dated: October 16, 2024

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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: Alana V. Paccione
Deputy Attorney General
Attorney ID No. 440382023
Alana.Paccione@law.njoag.gov
(609)376-2740

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION – ESSEX COUNTY
	:	DOCKET NO.:
	:	<u>Civil Action</u>
Plaintiffs,	:	
	:	CERTIFICATION OF ALANA V. PACCIONE IN
v.	:	SUPPORT OF PLAINTIFF’S ORDER TO
	:	SHOW CAUSE
AB TRADING ENTERPRISES, INC. and 959-961 CLINTON AVENUE ASSOCIATES, INC.,	:	
Defendants.	:	

I, Alana Paccione, do hereby certify as follows:

1. I am employed by the State of New Jersey's Department of Law and Public Safety, Division of Law, as a Deputy Attorney General. On behalf of the Attorney General, I represent the New Jersey Department of Environmental Protection ("DEP"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "Department"), in the above-captioned matter.

2. I am familiar with the Department's file for this case and the facts that are the subject to the Order to Show Cause.

3. DEP is a principal department within the Executive Branch of the 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.

4. Attached hereto as Exhibit 1 is a true and correct copy of the October 26, 2010 Consent Agreement for Ongoing Remediation and Penalty Payment.

5. Attached hereto as Exhibit 2 is a true and correct copy of the January 18, 2018 Irvington Municipal Complaints.

CERTIFICATION

I certify that the foregoing statements made by me are true. I further certify that the exhibits attached hereto are true and correct copies. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/Alana V. Paccione

Alana V. Paccione
Deputy Attorney General
Division of Law
Department of Law & Public Safety
State of New Jersey

Date: October 16, 2024



New Jersey Judiciary
Civil Practice Division

Civil Case Information Statement (CIS)

Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed, or attorney's signature is not affixed.

For Use by Clerk's Office Only

Payment type <input type="checkbox"/> check <input type="checkbox"/> charge <input type="checkbox"/> cash	Charge/Check Number	Amount \$	Overpayment \$	Batch Number
Attorney/Pro Se Name Alana V. Paccione	Telephone Number (609) 376-2740 ext.	County of Venue Essex		
Firm Name (if applicable) NJ Office of Attorney General	Docket Number (when available)			
Office Address - Street 25 Market Street, PO Box 093	City Trenton	State NJ	Zip 08625	
Document Type Verified Complaint - Order to Show Cause	Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Name of Party (e.g., John Doe, Plaintiff) NJ Dept. of Environmental Protection	Caption State of NJ, Department of Environmental Protection v. AB Trading Enterprises, Inc., et. al.			
Case Type Number (See page 3 for listing) <u>801</u>				
Are sexual abuse claims alleged?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Does this case involve claims related to COVID-19?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is this a professional malpractice case? If "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Related Cases Pending? If "Yes," list docket numbers		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Do you anticipate adding any parties (arising out of same transaction or occurrence)?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Name of defendant's primary insurance company (if known)		<input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown		

The Information Provided on This Form Cannot be Introduced into Evidence.**Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation**Do parties have a current, past or recurrent relationship? ☐ Yes ☒ No

If "Yes," is that relationship:

☐ Employer/Employee ☐ Friend/Neighbor ☐ Familial ☐ Business☐ Other (explain) _____Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☐ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition.

Do you or your client need any disability accommodations? ☐ Yes ☒ No

If yes, please identify the requested accommodation:

Will an interpreter be needed? ☐ Yes ☒ No

If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).Attorney/Self-Represented Litigant Signature: Alana V. Paccione

Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES

(Choose one and enter number of case type in appropriate space on page 1.)

Track I - 150 days discovery

- 151 Name Change
- 175 Forfeiture
- 302 Tenancy
- 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 Book Account (debt collection matters only)
- 505 Other Insurance Claim (including declaratory judgment actions)
- 506 PIP Coverage
- 510 UM or UIM Claim (coverage issues only)
- 511 Action on Negotiable Instrument
- 512 Lemon Law
- 801 Summary Action
- 802 Open Public Records Act (summary action)
- 999 Other (briefly describe nature of action)

Track II - 300 days discovery

- 305 Construction
- 509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD))
- 599 Contract/Commercial Transaction
- 603N Auto Negligence – Personal Injury (non-verbal threshold)
- 603Y Auto Negligence – Personal Injury (verbal threshold)
- 605 Personal Injury
- 610 Auto Negligence – Property Damage
- 621 UM or UIM Claim (includes bodily injury)
- 699 Tort – Other

Track III - 450 days discovery

- 005 Civil Rights
- 301 Condemnation
- 602 Assault and Battery
- 604 Medical Malpractice
- 606 Product Liability
- 607 Professional Malpractice
- 608 Toxic Tort
- 609 Defamation
- 616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases
- 617 Inverse Condemnation
- 618 Law Against Discrimination (LAD) Cases

Track IV - Active Case Management by Individual Judge / 450 days discovery

- 156 Environmental/Environmental Coverage Litigation
- 303 Mt. Laurel
- 508 Complex Commercial
- 513 Complex Construction
- 514 Insurance Fraud
- 620 False Claims Act
- 701 Actions in Lieu of Prerogative Writs

Multicounty Litigation (Track IV)

- 282 Fosamax
- 291 Pelvic Mesh/Gynecare
- 292 Pelvic Mesh/Bard
- 293 DePuy ASR Hip Implant Litigation
- 296 Stryker Rejuvenate/ABG II Modular Hip Stem Components
- 300 Talc-Based Body Powders
- 601 Asbestos
- 624 Stryker LFIT CoCr V40 Femoral Heads
- 626 Abilify
- 627 Physiomesh Flexible Composite Mesh
- 628 Taxotere/Docetaxel
- 629 Zostavax
- 630 Proceed Mesh/Patch
- 631 Proton-Pump Inhibitors
- 633 Prolene Hernia System Mesh
- 634 Allergan Biocell Textured Breast Implants
- 635 Tasigna
- 636 Strattice Hernia Mesh
- 637 Singulair
- 638 Elmiron
- 639 Pinnacle Metal-on-Metal (MoM) Hip Implants

If you believe this case requires a track other than that provided above, please indicate the reason on page 1, in the space under “Case Characteristics”.

Please check off each applicable category

- ☐ **Putative Class Action**
☐ **Title 59**
☐ **Consumer Fraud**
- ☐ **Medical Debt Claim**

Exhibit A



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Site Remediation and Waste Management Program
 Enforcement and Information Support Element
 Mail Code 401-06A
 P.O. Box 420
 Trenton, New Jersey 08625-0420
 Tel: (609)633-1480
 Fax: (609)292-1975

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CATHERINE R. MCCABE
Commissioner

IN THE MATTER OF

**961 CLINTON 2000 CORP SITE
 959 -961 CLINTON AVENUE
 IRVINGTON, ESSEX COUNTY**

PROGRAM INTEREST NO. 016344

ADMINISTRATIVE CONSENT ORDER

AND

**959-961 CLINTON AVENUE ASSOCIATES,
 INC.**

AND

AB TRADING ENTERPRISES, INC.

This Administrative Consent Order is issued pursuant to the authority vested in the Department of Environmental Protection of the State of New Jersey ("Department") by N.J.S.A. 13:1D-1 through 19, the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.11z ("Spill Act"), the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 to -35, ("UST Act"), and duly delegated to the Assistant Director of the Enforcement and Information Support Element, pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The 961 Clinton 2000 Corp Site is located at 959-961 Clinton Avenue and is also known as Block 205, Lot 1, on the tax maps of Irvington, Essex County, New Jersey, which the Department refers to as Site Remediation Program Interest Number PI #016344 ("Site"). The Site and all other areas to which any hazardous substance discharged on the Site has migrated, shall hereinafter be referred to as the "Contaminated Site."
2. 959-961 Clinton Avenue Associates, Inc. is a New Jersey Corporation. Its principal address is 7 Berkley Place, Colts Neck, New Jersey 07722.

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3. 959-961 Clinton Avenue Associates, Inc. was the owner of the Site at the time of the discharge, and is the current owner of the Site and, is therefore a person in any way responsible for any hazardous substance discharged at the Site pursuant to the Spill Act, and a person responsible for conducting remediation pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-2.
4. AB Trading Enterprises, Inc. is a New Jersey Corporation. Its principal address is 7 Berkley Place, Colts Neck, New Jersey 07722.
5. AB Trading Enterprises, Inc. was the owner and operator of regulated underground storage tanks at the time of the discharge, and a person responsible for conducting the remediation pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-2.
6. On September 22, 2017, the Department issued a Notice of Violation for failure to complete the remedial investigation and submit a remedial investigation report by the regulatory timeframe of March 1, 2017.
7. Due to the discovery of a discharge at the Site on March 4, 2003, and the lack of a complete Remedial Investigation by the mandatory timeframe of March 1, 2019, the Site Remediation Reform Act requires the Department to undertake direct oversight of the remediation of the Site pursuant to the requirements in N.J.S.A. 58:10C-27c. See also N.J.A.C. 7:26C-14.2(b).
8. On January 18, 2019, the Department filed complaints in Irvington Municipal Court bearing the docket numbers 0709-SC-055627 and 0709-SC-055628 against 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. respectively, for failure to remediate the discharges of hazardous substances at the Site.
9. In order to resolve the Department's Complaints in Irvington Municipal Court, 959-961 Clinton Avenue Associates, Inc., AB Trading Enterprises, Inc. and the Department entered into settlement discussions and have agreed to settle this matter.
10. The Department currently holds \$125,085.93 in a dedicated account for the Site. This money cannot be utilized for the remediation of the Site. The funds held by the Department may be released when the remediation is completed by 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. provided the Department does not have to use the funds for a publicly funded remediation or the Department is petitioned, and approves the use of those funds for a remediation at the Site by an unrelated entity, and a Remedial Action Outcome is issued by the LSRP.
11. Without any admission of fact, fault, or liability, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. agree to remediate, pursuant to this Administrative Consent Order, all hazardous substances, hazardous wastes, and pollutants discharged at the Site.
12. The Department agrees that it will withdraw complaints 0709-SC-055627 and 0709-SC-055628 upon execution of this Administrative Consent Order by the Department, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc.

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NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:

Civil Administrative Penalty for Past Violations

13. Within thirty (30) calendar days of the execution of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall pay a civil administrative penalty in the total amount of **\$25,000** for past violations of N.J.A.C. 7:26C-14.2(b), by check made payable to "Treasurer, State of New Jersey" and remitted to the Division of Revenue at the address stated on the enclosed invoice.

959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall also simultaneously mail a photocopy of the penalty check and the payment invoice to the Department at the address: Kevin F. Kratina, Assistant Director, Enforcement & Information Support Element, Site Remediation and Waste Management Program, New Jersey Department of Environmental Protection, Mail Code 401-06A, P.O. Box 420, Trenton, New Jersey 08625-0420.

Remediation

14. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall remediate the Contaminated Site, including all discharges at the Site discovered during the remediation as the Department directs, pursuant to N.J.A.C. 7:26C-14.2(b)1, and according to this Administrative Consent Order, the Brownfield and Contaminated Site Remediation Act, N.J.S.A.58:10B-1 to -31, or the Underground Storage of Hazardous Substances Rules, N.J.A.C.7:14B, the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.
15. Within fourteen (14) calendar days of execution of this Administrative Consent Order 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall retain a licensed site remediation professional for the remediation of the Contaminated Site, pursuant to N.J.A.C. 7:26C-14.2(b)1.
16. At all times, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall ensure that each licensed site remediation professional involved in the remediation of the Contaminated Site makes all submissions concerning the remediation required by the Department simultaneously to the Department and to 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc., pursuant to N.J.A.C. 7:26C-14.2(b)7.
17. Within thirty (30) calendar days of execution of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit to the Department a receptor evaluation, pursuant to N.J.A.C. 7:26C-14.2(b)iv.
18. Within thirty (30) calendar days of execution of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit a Confirmed Discharge Notification form in accordance with N.J.A.C. 7:26C-1.7(d).

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19. Within sixty (60) calendar days of execution of this Administrative Consent Order 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit a direct oversight remediation summary report including a schedule of work to be completed to be approved by the Department in accordance with N.J.A.C. 7:26C-14.2(b)2v.
20. Within forty-five (45) calendar days of execution of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit to the Department a proposed public participation plan pursuant to N.J.A.C. 7:26C-14.2(b)2iii.
21. Upon receipt of the Department's written approval of the public participation plan, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall implement the public participation plan according to the Department's approved schedule, pursuant to N.J.A.C. 7:26C-14.2(b)8.
22. In accordance with the schedule approved by the Department, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit to the Department a feasibility study of potential alternatives for each area of concern at the Site, as the Department directs and pursuant to N.J.A.C. 7:26C-14.2(b)3 and U.S. Environmental Protection Agency, "The Feasibility Study: Detailed Analysis of Remedial Action Alternatives," (March 1990) OSWER 9355.3-01FS4, NTIS: PB90-272675INX.
23. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall, as the Department directs, implement each remedial action the Department selects for the Contaminated Site, pursuant to N.J.A.C. 7:26C-14.2(b)4.
24. In accordance with the schedule approved by the Department, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall complete the implementation of all remedial actions and obtain all applicable remedial action permits for the Contaminated Site selected pursuant to paragraph 19 above.
25. In accordance with the schedule approved by the Department, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit to the Department a final remedial action report pursuant to N.J.A.C. 7:26E-5.8 and a Response Action Outcome, pursuant to N.J.A.C. 7:26C-6.2, based upon the implementation of remedial actions at the Contaminated Site in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E, selected pursuant to paragraph 23 above.

Annual Remediation Fees and Oversight Costs

26. Within 30 calendar days after the Effective Date of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall pay a total of **\$3,320.00** for all outstanding annual remediation fees and oversight costs due for this Site prior to the Effective Date of this Administrative Consent Order.

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27. 959-961 Clinton Avenue Associates, Inc. and/or AB Trading Enterprises, Inc. shall pay, by the due date printed on any invoice, annual remediation and/or oversight costs, pursuant to N.J.A.C. 7:26C-4.9. Payment shall be made by mail to the address listed on the invoice.
28. Within 60 days after receipt of each annual remediation fee and/or oversight cost invoice from the Department, 959-961 Clinton Avenue Associates, Inc. and/or AB Trading Enterprises, Inc. shall pay the amount due online at <http://www.nj.gov/dep/online/> under "Non-Registered Services" or submit to the Department at the address listed on the invoice all annual remediation fees and oversight costs for the remediation of the Site pursuant to N.J.A.C. 7:26C-4, subject to any applicable defenses or exceptions, including those set forth in N.J.A.C. 7:26C-4.8 and N.J.A.C. 7:26C-4.10.

Designation of Underground Storage Tank Operators

29. Within 120 days of execution of this Administrative Consent Order 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall designate Class A, Class B and Class C operators for the underground storage tank systems at the Site and notify the Department of each designated Class A and Class B operator, pursuant to N.J.A.C. 7:14B-5.14.

Remediation Funding Source and Annual Surcharge When in Full Compliance

30. Within sixty (60) calendar days of execution of this Administrative Consent Order and annually thereafter, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit to the Department, a LSRP-certified detailed remediation cost review along with the Remediation Cost Review and RFS/FA form, pursuant to N.J.A.C. 7:26C-5.10(a).
31. Within sixty (60) calendar days of execution of this Administrative Consent Order, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall establish and maintain a remediation trust fund pursuant to N.J.A.C. 7:26C-5.4 in an amount at least equal to the estimated remediation cost referenced in paragraph 30. This Remediation Trust Fund is separate from the funds presently held by the Department as noted under paragraph 10 above.
32. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall pay, by the due date printed on any invoice, the annual one percent remediation funding source surcharge, pursuant to N.J.A.C. 7:26C-14.2(b)5 and N.J.A.C. 7:26C-5.9. Payment shall be mailed to the address listed on the invoice.

Stipulated Penalties and Other Enforcement

33. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall pay stipulated penalties in the amount of \$1,000 per day to the Department for failure to comply with any provision of this Administrative Consent Order.
34. Stipulated penalties shall begin to accrue on the first calendar day after the applicable due date or noncompliance, and not at the time the Department gives notice of the violation or non-compliance to 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. or

issues a demand for stipulated penalties. Stipulated penalties shall continue to accrue through the final day of correction of the violation or non-compliance. The Department does not have to provide notice of the violation or non-compliance for the stipulated penalties to begin to accrue.

35. Within 30 days after 959-961 Clinton Avenue Associates, Inc.'s and AB Trading Enterprises, Inc.'s receipt of a written demand from the Department for stipulated penalties, 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall submit a check made payable to "Treasurer, State of New Jersey," along with the applicable invoice enclosed with the demand, to the Division of Revenue at the address stated on the invoice. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall also simultaneously mail a photocopy of the check and the payment invoice to the Department at the address: Assistant Director, Enforcement & Information Support Element, Site Remediation and Waste Management Program, New Jersey Department of Environmental Protection, Mail Code 401-06A, P.O. Box 420, Trenton, New Jersey 08625-0420.
36. The payment of stipulated penalties does not alter 959-961 Clinton Avenue Associates, Inc.'s and AB Trading Enterprises, Inc.'s responsibility to complete all requirements of this Administrative Consent Order.
37. If 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. do not comply with any part of this Administrative Consent Order, including without limitation, do not pay stipulated penalties, the Department may take any action it is authorized to take, including without limitation, issuing an administrative order, assessing a civil administrative penalty, filing of a summary action in the Superior Court of New Jersey pursuant to R. 4:67 and R. 4:70 to enforce this Administrative Consent Order as a final order, enforcing this Administrative Consent Order as an order issued by the Department pursuant to the Spill Act, and issuing a Spill Act directive, conducting the remediation itself and recovering three times the Department's costs, and taking any other action.

General Provisions

38. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. shall make all submissions required by this Administrative Consent Order to the Department at the address listed in N.J.A.C. 7:26C-1.6(a), except as otherwise indicated in this Administrative Consent Order.
39. In addition to the Department's statutory and regulatory rights to enter and inspect the Site, 959-961 Clinton Avenue Associates, Inc. agrees to allow the Department and its authorized representatives access to the Site at all times for the purpose of monitoring 959-961 Clinton Avenue Associates, Inc.'s and AB Trading Enterprises, Inc.'s compliance with this Administrative Consent Order and for the Department to perform any remediation necessary to protect the public health and safety and the environment.
40. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. agree to stop conducting all or part of the remediation of the Site under this Administrative Consent Order

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upon receipt of written notice from the Department that the Department has decided to complete all or part of the remediation itself in order to protect public health and safety and the environment.

41. The Department reserves, and this Administrative Consent Order is without prejudice to, all rights against 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. concerning all other matters.
42. Nothing in this Administrative Consent Order shall be construed as precluding the Department from taking any action it deems necessary or appropriate to protect the public health and safety and the environment, and to enforce the environmental laws of the State of New Jersey.
43. Nothing in this Administrative Consent Order shall restrict the ability of the Department to raise or make the above findings in any other proceeding.
44. Nothing in this Administrative Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Administrative Consent Order.
45. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. retain all rights they may have against any other responsible parties for the remediation of the Contaminated Site.
46. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. consent to entry of this Administrative Consent Order and waive their right to request an administrative hearing concerning the terms of this Administrative Consent Order pursuant to N.J.A.C. 7:26C-9.10. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. agree they will not request an administrative hearing concerning stipulated penalties.
47. 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. agree not to contest (a) the authority or jurisdiction of the Department to enter into this Administrative Consent Order, and (b) the terms or conditions hereof, except that 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. do not waive their right to contest the interpretation or application of such terms and conditions in an action or proceeding brought by the Department to enforce this Administrative Consent Order.
48. This Administrative Consent Order shall be binding on 959-961 Clinton Avenue Associates, Inc. and any successor, subsidiary, assign, trustee in bankruptcy, or receiver appointed pursuant to a proceeding in law or equity of 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc.
49. This Administrative Consent Order shall be binding AB Trading Enterprises, Inc. and any successor, subsidiary, assign, trustee in bankruptcy, or receiver appointed pursuant to a proceeding in law or equity of 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc.

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50. By executing this Administrative Consent Order, the undersigned representatives of 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc., have the authority to prevent and correct a violation of this Administrative Consent Order.
51. Each undersigned representative of 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. and the Department certifies that he or she is authorized to enter into this Administrative Consent Order, and to execute and legally bind each party to this Administrative Consent Order.
52. This Administrative Consent Order may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Administrative Consent Order.
53. The Effective Date of this Administrative Consent Order shall be the date that both 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. and the Department have executed this Administrative Consent Order.

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

DATE: JUL 03 2019

By: Kevin F. Kratina
Kevin F. Kratina, Assistant Director
Enforcement & Information Support Element

**RESPONSIBLE CORPORATE OFFICIAL,
AB TRADING ENTERPRISES INC.**

DATE: June 3, 2019

By: [Signature]
Name: Alexander Briukhov
Title: President

961 Clinton 2000 Corp
NEA 19000001
Page 9 of 9

AB TRADING ENTERPRISES, INC.

DATE: June 3, 2019

By: 

Name: Alexander Bruikhan

Title: President

**RESPONSIBLE CORPORATE OFFICIAL,
959-961 CLINTON AVENUE ASSOCIATES, INC.**

DATE: June 3, 2019

By: 

Name: Irina Stenouch

Title: President

959-961 CLINTON AVENUE ASSOCIATES, INC.

DATE: June 3, 2019

By: 

Name: Irina Stenouch

Title: President

New Jersey Department of Environmental Protection

Invoice NO.

191134570

Enforcement - Spill Fund (SRP)

Program Interest	Type of Notice	Amount Due
961 CLINTON 2000 CORP	Original (Non-Initial)	\$25,000.00
959 961 CLINTON AVE		
Irvington, NJ 07111		
016344		
	Billing Date	Due Date
	7/17/2019	8/16/2019
		NJEMS Bill ID
		000000197295400

SUMMARY	
Total Amount Assessed	\$25,000.00
Amount Received Before Installment Plan (If installment plan is allowed)	\$0.00
Amount Transferred to Installment Plan	\$0.00
Installment Amount	\$0.00
Total Amount Credited	\$0.00
Total Amount Debited (Other Than Amounts Assessed)	\$0.00
Total Amount Due	\$25,000.00

Cut Here

New Jersey Department of Environmental Protection

Invoice NO.

191134570

Enforcement - Spill Fund (SRP)

		NJEMS Bill ID		
		000000197295400		
Program Interest ID	Type of Notice	Billing Date	Due Date	Amount Due
016344	Original (Non-Initial)	7/17/2019	8/16/2019	\$25,000.00

For name and/or
address change, check
box and write
corrections on the back
of this invoice

☐
RETURN THIS PORTION

Enter the amount
of your payment -->

With your check made payable to:

TREASURER - STATE OF NEW JERSEY

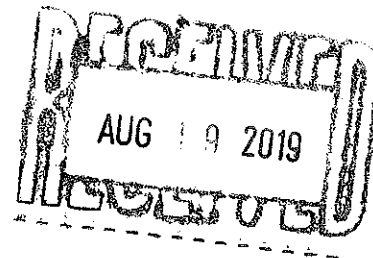
and mail to:

959 961 CLINTON AVENUE ASSOC INC
ATTN:
959 CLINTON AVE
Irvington, NJ 07111

NJ DEPARTMENT OF TREASURY
DIVISION OF REVENUE
PO BOX 417
TRENTON, NJ 08646-0417

AW → DR → ND

**LAW OFFICES OF
DENNIS J. FRANCIS, ESQ., LLC**
37 LIBERTY STREET
SUITE 1
LITTLE FERRY, NEW JERSEY 07643



Dennis J. Francis, Esq.*
E-Mail: djflawoffices@gmail.com

Telephone: (201) 440-4330
Facsimile: (201) 440-4335

Of Counsel: James T. Novello, Esq.

* Licensed in NJ and NY

August 14, 2019

VIA FEDERAL EXPRESS

New Jersey Department of Treasury
Division of Revenue
P.O. Box 417
Trenton, New Jersey 08646-0417

**Re: Administrative Consent Order
961 Clinton 2000 Corp Site
959-961 Clinton Avenue
Irvington, Essex County
PI#: 016344
Case #: 03-05-16-0938-31**

To Whom It May Concern:

In reference to the above captioned matter, kindly note that my office represent the interests of 959-961 Clinton Avenue Associates, Inc. and AB Trading Enterprises, Inc. In furtherance of the NJEMS Bill Id #197295400, enclosed please find a check made payable to "Treasurer – State of New Jersey" in the amount of \$25,000.00. Please note that this payment is being made in furtherance of my clients' obligations as set forth in the Administrative Consent Order entered into with the NJDEP. As per paragraph 13 of said ACO, I am providing the NJDEP a photocopy of the penalty check and the payment invoice.

Thank you for your attention to this matter. If you shall have any questions please do not hesitate to contact this office as soon as possible.

Very truly yours,


Dennis J. Francis

DJF:dk
Enclosures

cc: Kevin F. Kratina, Assistant Director (w/encls. – via first class mail)
Clients (w/encls. - via hand delivery only)

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENFORCEMENT-SITE REMEDIATION AND WASTE MANAGEMENT

INVOICE NO.
191134570

Program Interest
961 CLINTON 2000 CORP
959 961 CLINTON AVE
Irvington, NJ. 07111
016344

Type of Notice
ORIGINAL (NON-INITIAL)

Amount Due
\$ 25,000.00

Billing Date
07/17/19

Due Date
08/16/19

NJEMS Bill ID
000000197295400

Summary	
Total Amount Assessed	25,000.00
Amount Received Before Creating Installment Plan (if installment plans is allowed)	0.00
Amount Transferred To Installment Plan	0.00
Installment Amount	0.00
Total Amount Credited	0.00
Total Amount Debited (Other Than Amounts Assessed)	0.00
Total Amount Due	25,000.00

REMINDER:
SHOULD YOU HAVE ANY QUESTIONS, DEP CONTACT INFORMATION CAN BE FOUND IN THE AC
COMPANYING ENFORCEMENT DOCUMENT
MAKE CHECKS PAYABLE TO: TREASURER - STATE OF NEW JERSEY
WRITE PROGRAM INTEREST ID ON YOUR CHECK (SEE BOTTOM STUB)
RETURN THE BOTTOM STUB WITH YOUR PAYMENT
MAIL PAYMENT AND STUB TO: NJ DEPARTMENT OF TREASURY (SEE BOTTOM STUB)

See Back Of Page for Billing Inquiries

INVOICE NO.
191134570

D9901F (R 3/14/02)

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENFORCEMENT-SITE REMEDIATION AND WASTE MANAGEMENT

INVOICE NO.
191134570

Program Interest ID
016344

Type of Notice
ORIGINAL (NON-INITIAL)

Billing Date
07/17/19

Due Date
08/16/19

NJEMS Bill ID
000000197295400

Amount Due
\$ 25,000.00

For name and/or address
change, check box and write
corrections on the back of this
invoice.

**DO NOT FOLD, BEND OR MARK**

Enter the Amount
of your payment → \$

RETURN THIS PORTION with your check made payable to:

TREASURER - STATE OF NEW JERSEY
and mail to:

NJ DEPARTMENT OF TREASURY
DIVISION OF REVENUE
PO BOX 417
TRENTON, NJ 08646-0417

S2

959 961 CLINTON AVENUE ASSOC INC
959 CLINTON AVE
Irvington NJ 07111

EP101010101010101000010603040411111002500000000321911345700S20

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENFORCEMENT-SITE REMEDIATION AND WASTE MANAGEMENT

INVOICE NO.
191134570

Program Interest

961 CLINTON 2000 CORP
959 961 CLINTON AVE
Irvington, NJ. 07111
016344

Type of Notice

ORIGINAL (NON-INITIAL)

Amount Due

\$ 25,000.00

Billing Date

07/17/19

Due Date

08/16/19

NJEMS Bill ID

000000197295400

Administrative Consent Order (ACO)
Negotiated Enforcement Action
This bill was created by the Assessments Trigger.

ASSESSMENTS

Start-End Date: 06/27/2019-06/27/2019 Activity: NEA190001

Assessment Type: PENALTY(Spill Fund)

Status: Open (Pending Payment)

Regulatory Basis:

Amount: \$ 25000.00


Total Amount Assessed: \$ 25,000.00

55-7065/2212

961 CLINTON 2000 CORP
961 CLINTON AVE
IRVINGTON, NJ 07111

1379

Date 2-15-19

Pay to the order of Treasurer - State of NJ \$ 25,000⁰⁰/₁₀₀
Twenty Five Thousand 00/₁₀₀ Dollars  Security Features
Included.
Details on Back.

KEARNY BANK
917 ROUTE 23 SOUTH
POMPTON PLAINS, NEW JERSEY 07444

For 191134570

⑆ 221270651⑆ 0294400882⑆ 1379

Exhibit B

10/5/2018

Property Detail

DATE 00/00/00			COUNTY ESSEX			DISTRICT 0709 IRVINGTON		
DEED REGISTRATION							R.T.F. EXEMPT	
BOOK 5516	PAGE 337	DEED DATE 11/10/97	DATE RECORDED 01/14/98	R.T. FEE 350	PRICE 100000			
G R A N T O R	TIERNEY, JAMES 68 PINTA COURT BRICK, N.J. 00000			G R A N T E E	959-961 CLINTON AVE ASSOC. 92 HOMESTEAD DRIVE MATAWAN, N.J. 00000			
	TAX MAP & LIST DESCRIPTIONS				PROPERTY CLASSIFICATION			
	BLOCK 205	CLASS 4A						
	LOT 1	CL. 4 TYPE 210						
QUAL	CONDO							
ASSESSED VALUE								
YEAR SAME AS DEED	LAND		BUILDINGS		TOTAL			
1997	17400		25800		43200			
PROPERTY LOCATION					FLOOR AREA	YEAR BUILT		
959-961 CLINTON AVE.					0	0		
REMARKS:					RATIO:			
					0			
ADDITIONAL BLOCKS/LOTS								
BLOCK	LOT	QUAL	LAND	BUILDINGS	TOTAL			
			0	0	0			
			0	0	0			
			0	0	0			
			0	0	0			
			0	0	0			
NONUSABLE CODE					SERIAL NO.			
					4599312			

Exhibit C

Exhibit D

Report of Incident/Complaint

12/6/2018

Incident Date: 3/4/2003Incident Id: 49281Program: Communication CenterIncident Type Desc: Underground Storage TankRecd Date Time: 3/4/2003 17:39:33DEP Region:Incident Status Desc: ContinuousIncid Link ID#: 13899Trenton Dispatch Num: 03-03-04-1739-33**Substances Involved****Incident Description**

SOIL CONTAMINATION FOUND AROUND TANK FIELD. STATION HAS BEEN CLOSED. CLEANUP UNKNOWN.

Substance	CAS Number	Quantity	Units
GASOLINE			
DIESEL FUEL			
Impacts To:	Land	Waterbody:	

Incident Location**Follow-Up Priority:**

IRVINGTON GAS STATION

Addr: 961 CLINTON AVEMunicipality: Irvington TwpCounty: EssexBlock, Lot:**Incident Source/Responsible Party**Name: IRVINGTON GAS INC.Phone #:Verified:Addr: 961 CLINTON AVEMunic: Irvington TwpCounty: EssexState: NJPermit/Case#:Reported By: BUREAU OF SO.CASE MGMTAddr: 401 E. STATE STPhone #: 609-777-0126Name: LEONARD LIPMAN

CN-433

Confidential:Municipality: Trenton CityCounty: MercerCase Status:as of:Lead DEP Investigator/Contact:**Action/Activity**

Task	Assigned Staff	Due Date	Completed Date	Hrs Spent	Incident Action Comments	Organization	User ID Last Updt	Dt/Time Last Updt
Notification - A310			3/4/03			IRVINGTON TWP	JSANDERS	3/4/03 17:50
Notification - Fax			3/4/03			Case Assignment Section	JSANDERS	3/4/03 17:46

Reporter Comments

Exhibit E

Report of Incident/Complaint

12/6/2018

Incident Date: 5/16/2003Incident Id: 56461Program:

Communication Center

Incident Type Desc: Underground Storage TankRecd Date Time:

5/16/2003 09:38:31

DEP Region:Incident Status Desc:

Terminated

Incid Link ID#: 16595Trenton Dispatch Num:

03-05-16-0938-31

Substances InvolvedIncident Description

REMOVAL OF 1-1000 GALLON UST

Substance	CAS Number	Quantity	Units
GASOLINE			
Impacts To:	Land	Waterbody:	

Incident LocationFollow-Up Priority:

IRVINGTON GAS INC

Addr: 961 CLINTON AVEMunicipality: Irvington TwpCounty: EssexBlock, Lot:Incident Source/Responsible PartyName:Phone #: 973-886-6118Verified:Addr: 961 CLINTON AVEMunic: Irvington TwpCounty: EssexState: NJPermit/Case#:Reported By: IRA D. CONKLIN & SONSAddr: 251 SECOND STPhone #: 888-853-0100Name: JEFF HUNTConfidential:Municipality: Saddle Brook TwpCounty: BergenCase Status:

as of:

Lead DEP Investigator/Contact:Action/Activity

Task	Assigned Staff	Due Date	Completed Date	Hrs Spent	Incident Action Comments	Organization	User ID Last Updt	Dt/Time Last Updt
Notification - Fax			5/16/03			Case Assignment Section	JHART	5/16/03 9:44
Notification - A310			5/16/03			IRVINGTON TWP	JHART	5/16/03 9:44

Reporter Comments

Exhibit F



New Jersey Department of Environmental Protection
Site Remediation Program
PRELIMINARY ASSESSMENT / SITE INVESTIGATION
 (Also Use this Form For UST Unknown Source Investigations)

NOV - 7 2012

Date Stamp
 (For Department use only)

A Phase I or Phase II is not equivalent to a Preliminary Assessment; therefore, it will not be an acceptable substitution.

SECTION A. SITE NAME AND LOCATION

Site Name: Gas and Diesel Gas Station

List all AKAs:

Street Address: 961 Clinton Avenue

Municipality: Irvington (Township, Borough or City)

County: Essex Zip Code: 07111

Incident Number(s)/Com. Center Number(s):

Program Interest (PI) Number(s): 016344 Case Tracking Number(s): 12-01-06-1402-40

Date Remediation Initiated Pursuant to N.J.A.C. 7:26C-2: 12/01/2011

State Plane Coordinates for a central location at the site: Easting: Lat 74-13-53 W Northing: Lon 40-43-28W

Municipal Block(s) and Lot(s):

Block # 205 Lot # 1 Block # Lot #

Block # Lot # Block # Lot #

Block # Lot # Block # Lot #

Block # Lot # Block # Lot #

SECTION B. NJDEP CASE MANAGER

Do you have an assigned Case Manager? ☐ Yes ☒ No

If "Yes," please list the Case Manager: _____

SECTION C. SUBMITTAL STATUS

	Not Applicable	Included in this Submission	Previously Submitted	Date Of Submission	Date of Revised Submission	Date of Document Withdrawal
Public Notification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Immediate Environmental Concern Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
IEC Engineered System Response Action Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Vapor Concern Mitigation Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
LNAPL Interim Remedial Measure Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Preliminary Assessment Report	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10/10/2012		
Receptor Evaluation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Site Investigation Report	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10/10/2012		
Remedial Investigation/Remedial Action Work Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Remedial Action Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Response Action Outcome	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Alternative Soil Remediation Standard and/or Screening level Application Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Case Inventory Document	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SECTION I. ALTERNATIVE STANDARD / VARIANCES**Alternative remediation standard**

If proposing an alternative remediation standard pursuant to N.J.A.C. 7:26D-7.4, or alternate vapor intrusion screening level, check here ☐ and attach the Alternative Soil Remediation Standard and/or Screening Level Application Form as an addendum.

A site-specific screening level was developed for the evaluation of the VI pathway ☐ Yes ☒ No

Variance from regulations

If the Licensed Site Remediation Professional has varied from the Technical Rules, provide the citation(s) from which the remediation varied and the page(s) in the attached document where the rationale for the variance is provided.

N.J.A.C. 7:26E- _____ Page _____

N.J.A.C. 7:26E- _____ Page _____

N.J.A.C. 7:26E- _____ Page _____

SECTION J. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION INFORMATION AND CERTIFICATION

Full Legal Name of the Person Responsible for Conducting the Remediation: Alex Burkhan

Representative First Name: Alex

Representative Last Name: Burkhan

Title: Owner

Business Affiliation: _____

Phone Number: (973) 886-6118

Ext: _____

Fax: _____

Mailing Address: 961 Clinton Ave

City/Town: Irvington

State: NJ

ZIP Code: 07111

Email Address: _____

This certification shall be signed by the person responsible for conducting the remediation who is submitting this notification in accordance with Administrative Requirements for the Remediation of Contaminated Sites rule at N.J.A.C. 7:26C-1.5(a).

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.

Signature: _____

Date: 10-12-12

Name/Title: Alex Burkhan / Owner

No Changes Since Last Submittal ☐

SECTION K. LICENSED SITE REMEDIATION PROFESSIONAL INFORMATION AND STATEMENT

LSRP ID Number: 529681

First Name: Kartar

Last Name: Israni

Phone Number: (973) 885-7450

Ext:

Fax: (973) 263-3217

Mailing Address: 9 Tomalyn Hill Road

City/Town: Montville

State: NJ

Zip Code: 07045

Email Address: karterisrani@hotmail.com

This statement shall be signed by the LSRP who is submitting this notification in accordance with SRRA Section 16 d. and Section 30 b.2.

I certify that I am a Licensed Site Remediation Professional authorized pursuant to N.J.S.A. 58:10C to conduct business in New Jersey. As the Licensed Site Remediation Professional of record for this remediation, I:

[SELECT ONE OR BOTH OF THE FOLLOWING AS APPLICABLE]:

- ☐ directly oversaw and supervised all of the referenced remediation, and/or
☐ personally reviewed and accepted all of the referenced remediation presented herein.

I believe that the information contained herein, and including all attached documents, is true, accurate and complete.

It is my independent professional judgment and opinion that the remediation conducted at this site, as reflected in this submission to the Department, conforms to, and is consistent with, the remediation requirements in N.J.S.A. 58:10C-14.

My conduct and decisions in this matter were made upon the exercise of reasonable care and diligence, and by applying the knowledge and skill ordinarily exercised by licensed site remediation professionals practicing in good standing, in accordance with N.J.S.A. 58:10C-16, in the State of New Jersey at the time I performed these professional services.

I am aware pursuant to N.J.S.A. 58:10C-17 that for purposely, knowingly or recklessly submitting false statement, representation or certification in any document or information submitted to the board or Department, etc., that there are significant civil, administrative and criminal penalties, including license revocation or suspension, fines and being punished by imprisonment for conviction of a crime of the third degree.

LSRP Signature:

Date:

10/12/2012

LSRP Name/Title: Kartar Israni / Engineer

No Changes Since Last Submittal ☐

Company Name: Robert Engineering - Israni Enterprises, Inc.

Completed forms should be sent to:

Bureau of Case Assignment & Initial Notice
 Site Remediation Program
 NJ Department of Environmental Protection
 401-05H
 PO Box 420
 Trenton, NJ 08625-0420

Exhibit G



New Jersey Department of Environmental Protection
Site Remediation Program

LIGHT NON-AQUEOUS PHASE LIQUID (LNAPL) REPORTING FORM

Date Stamp
 (For Department use only)

APR - 7 2015

This form is to be used to report to the Department the presence of Light Non-Aqueous Phase Liquid (LNAPL) and to document initial LNAPL recovery efforts. (Note: Submittal of this form does not substitute for notifying the Department of a discharge pursuant to N.J.A.C. 7:26E-1.4.) In addition, this same form is used to accompany the report submittal that document actions taken for initial LNAPL recovery efforts and implementation of the interim remedial measure for LNAPL following completion of a focused remedial investigation conducted to determine the extent of LNAPL.

Submittal Type: ☐ Initial LNAPL Discovery ☒ 1-Year LNAPL Reporting Submission

SECTION A. SITE NAME AND LOCATION

Site Name: IRVINGTON GAS

List all AKAs: _____

Street Address: 959-961 CLINTON AVENUE

Municipality: IRVINGTON (Township, Borough or City)

County ESSEX Zip Code 07111

Program Interest (PI) Number(s): 016344 Case Tracking Number(s): 12-01-06-1402-40

Date Remediation Initiated Pursuant to N.J.A.C.26C-2: 12/28/2011

State Plane Coordinates for a central location at the site: Easting: 569307 Northing: 689004

Municipal Block(s) and Lot(s):

Block # <u>205</u>	Lot # <u>1</u>	Block # _____	Lot # _____
Block # _____	Lot # _____	Block # _____	Lot # _____
Block # _____	Lot # _____	Block # _____	Lot # _____
Block # _____	Lot # _____	Block # _____	Lot # _____

SECTION B. NJDEP CASE MANAGER

Do you have an assigned Case Manager? ☐ Yes ☒ No

If "Yes," please list the Case Manager: _____

SECTION C. ACTIONS BEING REPORTED

1. ☐ LNAPL Discovery Date: 12/28/2011

Type of LNAPL (Check all that apply)

- ☒ Gasoline ☒ Diesel Fuel ☐ #2 Fuel Oil ☐ #4 Fuel Oil ☐ #6 Fuel Oil ☐ Jet Fuel
☐ Lubricating Oil ☐ Hydraulic Fluid ☐ Waste Oil ☐ Kerosene ☐ Unknown
☐ Other, list: _____

List source(s) of LNAPL release (put unknown if source not identified) LEAKING USTS

Was an ongoing release discovered? ☒ Yes ☐ No

Was any ongoing release stopped? ☒ Yes ☐ No

If "No," explain: _____

LNAPL Thickness: 0.125 INCH

How was LNAPL discovered?

- ☐ In Monitoring Well ☒ In Excavation ☐ In Utility, list type: _____
☐ On Surface Water ☐ Seep ☐ Within a sump
☐ Other, explain: _____

Initial LNAPL Recovery Efforts. (check all that apply)

- ☐ Bailing

 ☐ Sorbent material (socks, pads, etc.)
☒ Skimmers

 ☐ Ejector pumps
☐ Single or Dual-Phase Vacuum Extraction

 ☐ Technically Impracticable
☐ Other, explain: _____

List frequency of action: WHILE EXCAVATION WAS OPEN**2. ☒ LNAPL Interim Remedial Measure (IRM)**

- a. Is the focused remedial investigation (delineation) for LNAPL complete?
- ☒
- Yes
- ☐
- No

If "No," explain: _____

- b. Is LNAPL still present at the site following initial recovery efforts?
- ☐
- Yes
- ☒
- No

If "No," skip to 2.g. below.

- c. Is the LNAPL present offsite?
- ☐
- Yes
- ☒
- No
- ☐
- Unknown

- d. Has a LNAPL IRM been implemented at this site?
- ☒
- Yes
- ☐
- No

If "No," explain: _____

If "Yes," provide date IRM implemented: 09/01/2013List type of IRM: EXCAVATION AS TANKS WERE BEING INSTALLED

- e. Does any monitoring data, information or observations indicate that the LNAPL is migrating horizontally (i.e. aerial extent of LNAPL is expanding)?
- ☐
- Yes
- ☒
- No

If "Yes," is the IRM designed to prevent further migration? ☐ Yes ☐ No

- g. Has the LNAPL response (Initial recovery, RI, IRM and reporting, as applicable) been performed following the "Light Non-Aqueous Phase Liquid (LNAPL) Initial Recovery and Interim Remedial Measures Guidance (LNAPL Guidance)"?
- ☒
- Yes
- ☐
- No

If "No", define any variance from the LNAPL Guidance. VISUAL RESULTS SO FAR

Note: Whenever a narrative explanation is requested, attach additional sheets as need to provide a complete response. Attach reports documenting all remedial investigation and initial/interim remedial measure activities related to LNAPL including plans for operational monitoring. See the LNAPL Guidance for suggested report format.

SECTION D . VARIANCE FROM REGULATIONS

If the Licensed Site Remediation Professional has varied from the Technical Rules, provide the citation(s) from which the remediation varied and the page(s) in the attached document where the rationale for the variance is provided.

N.J.A.C. 7:26E- _____ Page _____

N.J.A.C. 7:26E- _____ Page _____

N.J.A.C. 7:26E- _____ Page _____

SECTION E. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION INFORMATION AND CERTIFICATIONFull Legal Name of the Person Responsible for Conducting the Remediation: AB 56 RIALTY PETROLEUM INCRepresentative First Name: ALEX Representative Last Name: BRIUKHANTitle: OWNER

Phone Number: _____ Ext: _____ Fax: _____

Mailing Address: 961 CLINTON AVENUECity/Town: IRVINGTON State: NJ Zip Code: 07111Email Address: AB56CORP@YAHOO.COM

This certification shall be signed by the person responsible for conducting the remediation who is submitting this notification in accordance with Administrative Requirements for the Remediation of Contaminated Sites rule at N.J.A.C. 7:26C-1.5(a).

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.

Signature:  Date: 3/26/2015Name/Title: ALEX BRIUKHAN No Changes Since Last Submittal ☐

SECTION F. LICENSED SITE REMEDIATION PROFESSIONAL INFORMATION AND STATEMENTLSRP ID Number: 593752First Name: GARY Last Name: LANDISPhone Number: (973) 294-1771

Ext: _____

Fax: _____

Mailing Address: 52 SOUTH HILLSIDE AVENUECity/Town: SUCCASUNNAState: NJZip Code: 07876Email Address: GARY@G-ENVIRONMENTAL.COM

This statement shall be signed by the LSRP who is submitting this notification in accordance with SRRA Section 16 d. and Section 30 b.2.

I certify that I am a Licensed Site Remediation Professional authorized pursuant to N.J.S.A. 58:10C to conduct business in New Jersey. As the Licensed Site Remediation Professional of record for this remediation, I:

[SELECT ONE OR BOTH OF THE FOLLOWING AS APPLICABLE]:
☐ *directly oversaw and supervised all of the referenced remediation, and/or*
☒ *personally reviewed and accepted all of the referenced remediation presented herein.*

I believe that the information contained herein, and including all attached documents, is true, accurate and complete.

It is my independent professional judgment and opinion that the remediation conducted at this site, as reflected in this submission to the Department, conforms to, and is consistent with, the remediation requirements in N.J.S.A. 58:10C-14.

My conduct and decisions in this matter were made upon the exercise of reasonable care and diligence, and by applying the knowledge and skill ordinarily exercised by licensed site remediation professionals practicing in good standing, in accordance with N.J.S.A. 58:10C-16, in the State of New Jersey at the time I performed these professional services.

I am aware pursuant to N.J.S.A. 58:10C-17 that for purposely, knowingly or recklessly submitting false statement, representation or certification in any document or information submitted to the board or Department, etc., that there are significant civil, administrative and criminal penalties, including license revocation or suspension, fines and being punished by imprisonment for conviction of a crime of the third degree.

LSRP Signature: _____

Date: 3/30/15LSRP Name/Title: GARY G. LANDIS/PRESIDENTNo Changes Since Last Submittal ☐Company Name: GECP INC dba G Environmental

Completed forms should be sent to:

Bureau of Case Assignment & Initial Notice
Site Remediation Program
NJ Department of Environmental Protection
401-05H
PO Box 420
Trenton, NJ 08625-0420

AB Irvington
Free Product



**G Environmental
GECP INC**

52 South Hillside Avenue Succasunna, NJ 07876
(p)973-294-1771 (fax) 973-668-5730
gary@g-environmental.com

March 30, 2015

Bureau of Case Assignment and Initial Notice
Site Remediation Program
NJDEP
Mail Code 401-05H
PO Box 420
Trenton, NJ 08625-0420

RE: LNAPL Form Irvington Gas
PI 016344; 959-961 Clinton Avenue
12-01-06-1402-40
Block 205 Lot 1

Dear NJDEP,

The attached LNAPL form was signed by the property owner AB 56 Rialty Petroleum INC in order to document the remediation (excavation) conducted to date at 959-961 Clinton Avenue. The old tanks were removed in late December 2011 to January 2012.

There was an initial excavated soil stockpile generated during the tank removals that was then removed from the site and trucked 1003 tons to Keegan Landfill in December 2012. As part of the site redevelopment an additional 920tons of soil was trucked and disposed of at Clean Earth of Carteret, NJ. The second pile was removed from the site in November 2013. This second pile was generated as a result of the installation of new fiberglass USTs. As part of the new tank field installation there are observation wells around the tank field. To date there is no free product present in the observation wells.

The excavation activities that led to 1900 tons of soil being removed from the site was the Interim Remedial Measure conducted by AB 56 Rialty Petroleum in order to meet the deadlines for remediating the LNAPL and removing the source.

Please see attached and update your records. You can contact me at 973-294-1771 or by email gary@g-environmental.com

Thanks,

3/30/2015

Gary G. Landis, SSE, Closure, LSRP 593752
President
G Environmental
GECP INC

Irvington Gas Station
 PI 016344
 961 Clinton Avenue
 Irvington, NJ

Summary of Soil Disposal
 11/4-11/5 2013

	Manifest	DATE	TONS	DESTINATION
1	860359	"11/4/2013	36.41	Clean Earth Carteret
2	860360	"11/4/2013	37.86	Clean Earth Carteret
3	860374	"11/4/2013	34.45	Clean Earth Carteret
4	860373	"11/4/2013	35.25	Clean Earth Carteret
5	860372	"11/4/2013	36.12	Clean Earth Carteret
6	860371	"11/4/2013	30.66	Clean Earth Carteret
7	860370	"11/4/2013	31.62	Clean Earth Carteret
8	860361	"11/4/2013	30.77	Clean Earth Carteret
9	860369	"11/4/2013	33.62	Clean Earth Carteret
10	860368	"11/4/2013	29.72	Clean Earth Carteret
11	860367	"11/4/2013	34.56	Clean Earth Carteret
12	860366	"11/4/2013	36.1	Clean Earth Carteret
13	860362	"11/4/2013	35.46	Clean Earth Carteret
14	860363	"11/4/2013	31.5	Clean Earth Carteret
15	860364	"11/4/2013	29.78	Clean Earth Carteret
16	860365	"11/4/2013	33.47	Clean Earth Carteret
17	860375	"11/4/2013	36.37	Clean Earth Carteret
18	860376	"11/4/2013	27.51	Clean Earth Carteret
19	860377	"11/4/2013	35.13	Clean Earth Carteret
20	860378	"11/4/2013	31.97	Clean Earth Carteret
21	665862	"11/5/2013	35.42	Clean Earth Carteret
22	783627	"11/5/2013	31.16	Clean Earth Carteret
23	788377	"11/5/2013	33.56	Clean Earth Carteret
24	788378	"11/5/2013	33.41	Clean Earth Carteret
25	860379	"11/5/2013	35.15	Clean Earth Carteret
26	860380	"11/5/2013	29.59	Clean Earth Carteret
27	788379	"11/5/2013	35.77	Clean Earth Carteret
28	783628	"11/5/2013	18.56	Clean Earth Carteret

920.95 tons

Irvington Gas Station
 PI 016344
 961 Clinton Avenue
 Irvington, NJ

Summary of Soil Disposal
 12/2012

TICKET No.	Manifest	DATE	TONS	DESTINATION
1	87122	2009 "12/10/2012	28.31	Keegan Landfill
2	87123	2010 "12/10/2012	28.47	Keegan Landfill
3	87124	2015 "12/10/2012	28.73	Keegan Landfill
4	87125	2024 "12/10/2012	28.93	Keegan Landfill
5	87126	2025 "12/10/2012	29.23	Keegan Landfill
6	87127	2029 "12/10/2012	29.22	Keegan Landfill
7	87128	2013 "12/10/2012	28.84	Keegan Landfill
8	87129	2036 "12/10/2012	28.89	Keegan Landfill
9	87130	2033 "12/10/2012	26.65	keegan Landfill
10	87131	2027 "12/10/2012	28.35	keegan Landfill
11	87132	2030 "12/10/2012	28.78	keegan Landfill
12	87133	2028 "12/10/2012	28.2	keegan Landfill
13	87134	2040 "12/10/2012	27.79	Keegan Landfill
14	87135	2037 "12/10/2012	27.79	keegan Landfill
15	87137	2038 "12/10/2012	28.77	keegan Landfill
16	87138	2043 "12/10/2012	29.09	keegan Landfill
17	87139	2031 "12/10/2012	29.56	Keegan Landfill
18	87140	2042 "12/10/2012	27.25	keegan Landfill
19	87141	2047 "12/10/2012	29.89	keegan Landfill
20	87142	2039 "12/10/2012	29.47	Keegan Landfill
21	87144	2690 "12/13/2012	42.26	Keegan Landfill
22	87145	2686 "12/13/2012	42.55	Keegan Landfill
23	87146	2688 "12/13/2012	28.3	Keegan Landfill
24	87147	2687 "12/13/2012	40.33	Keegan Landfill
25	87148	1796 "12/13/2012	41.5	keegan Landfill
26	87149	2692 "12/13/2012	29.2	Keegan Landfill
27	87150	2689 "12/13/2012	43.19	Keegan Landfill
28	87151	2693 "12/13/2012	41.25	Keegan Landfill
29	87152	2691 "12/13/2012	41.75	Keegan Landfill
30	87152	2689 "12/13/2012	40.89	Keegan Landfill
31	87153	1795 "12/13/2012	40.33	Keegan Landfill

1003.76 tons



**G Environmental
GECIP INC**

52 South Hillside Avenue Succasunna, NJ 07876
(p)973-294-1771 (fax) 973-668-5730
gary@g-environmental.com

July 16, 2013

Bureau of Case Assignment and Initial Notice
Site Remediation Program
NJDEP
401-05h
PO Box 420
Trenton, NJ 08625-0420

Re: PI 016344 Remedial Action Report Form
Documentation of the Soil Pile Disposal 12/2012
959-961 Clinton Avenue, Irvington, NJ

Dear NJDEP,

Irvington Gas Station (PI 016344) disposed of the pile on December 10-13, 2012. The associated weight tickets and signatures from the drivers and facility (Keegan Landfill, Kearny, NJ) is attached.

A total of 1003.76tons of soil was removed from the site.

Since that time the property has undergone additional construction activities including the installation of three (3) new fiberglass UST back into the ground. Construction is still ongoing.

If you have any questions as to the submittal of this information contact my office 973-294-1771 or by email at gary@g-environmental.com

Sincerely,

7/16/2013

Gary G. Landis
President, LSRP 593752

Exhibit H



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

Site Remediation and Waste Management Program
Division of Enforcement, Technical & Financial Support
Enforcement & Information Support Element
Mail Code 401-06A
PO Box 420
Trenton, NJ 08625-0420

ALEX BRIUKHAN
AB REALTY PETROLEUM INC
961 CLINTON AVE
IRVINGTON, NJ 07111

NOTICE OF VIOLATION

EA ID #: BEA170001 - 016344

Name: 961 Clinton 2000 Corp
Location: 959 961 Clinton Ave,
Irvington Twp, Essex County, New Jersey
PI #: 016344

You are hereby notified that during a compliance review conducted on September 21, 2017 the Department of Environmental Protection (DEP or the Department) identified violations of the New Jersey Spill Compensation and Control Act (N.J.S.A. 58:10-23 et seq.), and the regulations promulgated thereunder.

This **NOTICE** is issued based on facts observed by or known to the Department's representative issuing this **NOTICE**, to warn you of the violations listed below.

DESCRIPTION OF VIOLATIONS

Requirement: Pursuant to N.J.A.C. 7:26E- 4.10(a), the person responsible for conducting the remediation shall complete the remedial investigation and submit to the Department a remedial investigation report prepared pursuant to N.J.A.C 7:26E-4.9. [N.J.A.C. 7:26E-4.10(a)]

Description of Noncompliance: Failure to submit a remedial investigation report within the required timeframe.

AB REALTY PETROLEUM INC
BEA170001 - 016344
Page # 2

PURPOSE OF THIS NOTICE - This is intended to serve as a **NOTICE** to you, to warn you of the above violations, in order to provide you with an opportunity to investigate the matter and take corrective action to address the identified violations. This **NOTICE** does not constitute a formal enforcement order, a final agency action or a final legal determination that a violation has occurred. Therefore, this **NOTICE** may not be appealed or contested.

Neither the issuance of this **NOTICE** nor any corrective actions taken by you to address the violations cited, precludes the State of New Jersey or any of its agencies from initiating future enforcement action (including issuance of a formal enforcement order and the assessment of penalties) with respect to the violations listed above or for any other violations. In the event the Department determines to pursue future formal enforcement action, you will then be provided with an opportunity to appeal or contest such action. The above violations are subject to penalties of up to \$50,000.00 per day/offense in civil administrative penalties as per the Spill Compensation and Control Act.

Please be advised that it is recommended that you, or your licensed site remediation professional to be retained, check the Department's Data Miner report at <https://www13.state.nj.us/DataMiner> to determine all due dates applicable to this matter and to determine if other violations exist that are not covered by this NOV and warrant immediate corrective action.

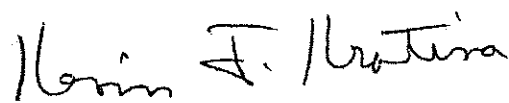
RESPONDING TO THIS NOTICE – Corrective actions taken in response to this **NOTICE** can affect the Department's determination on the need for or severity of any potential future enforcement action in this matter. The Department may consider any actions you take in response to this **NOTICE** as part of its determination 1) on whether to initiate future formal enforcement action for this site/matter and, 2) on the amount of any penalty that may be assessed in future enforcement actions. Please see the Corrective Action(s) section below regarding actions you may undertake to address violations identified in this **NOTICE**:

CORRECTIVE ACTION(S) FOR VIOLATIONS IN THIS NOTICE

1. Submit to the Department the remedial investigation report along with the appropriate form. [N.J.A.C. 7:26E- 4.10(a)]

IF YOU HAVE QUESTIONS REGARDING THIS NOTICE, the actions recommended, or if you would like to describe actions taken to address the identified violations, please contact the Duty Officer in the Compliance and Assistance section of the Bureau of Enforcement and Investigations at 609-633-1480.

Date: September 22, 2017



Kevin F. Kratina, Assistant Director
Enforcement and Information Support Element

AB REALTY PETROLEUM INC
BEA170001 - 016344
Page # 3

Additional Resources

Site Remediation Website <http://www.nj.gov/dep/srp/>
Site Remediation Regulations <http://www.nj.gov/dep/srp/regs/>
Site Remediation List of LSRPs http://www.nj.gov/dep/srp/srra/l srp/lsrp_list.htm

Exhibit I



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM
BUREAU OF CASE ASSIGNMENT & INITIAL NOTICE
401-05H P.O. Box 420
Trenton, NJ 08625-0420

December 13, 2018

Alex Briukhan
AB REALTY PETROLEUM INC
961 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Alex Briukhan
AB Reilty corp
961 Clinton Avenue
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Gary Landis
GECF INC
52 South Hillside
Succasunna, NJ 07876
Email: gary@g-environmental.com

RE: Dismissal

959 961 CLINTON AVE
Irvington Twp, Essex County
SRP-PI: 016344
Activity Number Reference: REL180001

Dear Responsible Entity:

This letter serves to advise that an LSRP Notification of Dismissal Form has been received by the New Jersey Department of Environmental Protection for 961 Clinton 2000 Corp. The NJDEP confirms that Gary G Landis has been released by 961 Clinton 2000 Corp on October 1, 2018 where the LSRP was retained to perform an investigation.

Listed below is the LSRP history for 961 Clinton 2000 Corp:

Case#	License#	LSRP Name	Start Date	End Date
-------	----------	-----------	------------	----------

LSR120001	593752	GARY G LANDIS	03/31/2013	10/01/2018
LSR120001	529681	Kartar Israni	09/07/2011	10/09/2012

**Note: N/A if Due Diligence

There is no active Licensed Site Professional retained at this case. If the remediation has not been completed, the responsible entitie(s) have 45 days to retain an LSRP to conduct the remediation.

On May 7, 2009, the Site Remediation Reform Act (SRRA) was enacted. The SRRA establishes criteria for the licensing of site remediation professionals who will assure that contaminated sites are remediated in accordance with the Technical Requirements for Site Remediation, N.J.A.C.7:26E. The SRRA authorizes the Department to establish mandatory timeframes for the completion of each phase of remediation. These timeframes, as well as other requirements of the act, have been codified in regulations that became effective on November 4, 2009. The complete rule can be found at www.state.nj.us/dep/srp/regs/arrcs/arrcs_rule.pdf.

Failure for responsible entities to comply with the obligations above may result in the Department taking direct oversight of the remediation of the contaminated site. Once a site or a portion of a site is under direct Department oversight, the responsible party forfeits all rights in the decision making process regarding the remedial investigation and remedial action to be performed at the site, including remedy selection. Additionally, the responsible party will be required to post a remediation funding source and the Department will control the disbursements from the remediation funding source.
(http://www.nj.gov/dep/srp/guidance/srra/direct_oversight.pdf)

Sincerely



Kirstin Hahn, Bureau Chief
Bureau of Case Assignment & Initial Notice

Exhibit J

LSRP Notification of Retention or Dismissal

Service Information

Service ID: 952631

Submission Type: Retention

Submission Name: LSRP Retention

Comments:

Created On: 07/02/2019

Facility Profile

Facility ID: 016344

Facility Name: 961 CLINTON 2000 CORP

County: Essex

Facility Location: 959 961 CLINTON AVE
Irvington, NJ 07111

Mailing Address: 7 BERKLEY PL
Colts Neck, NJ 07722

Case Information

Activity Number: LSR120001

Activity Type: LSRP Opt-In Case

Facility ID: 016344

Facility Name: 961 CLINTON 2000 CORP

Case Tracking Number: 18453

Status: Active

Status Date: 01/13/2012

Case Name: IRVINGTON GAS INC

Document Title: 03-05-16-0938-31 /N11-7953

Contacts

Name: ALEX BRIUKHAN
Title:

Contact Type: Retained By
Organization Name: AB REALTY PETROLEUM INC
Organization Type: Corporation
E-Mail: ab56corp@yahoo.com
Phone: (973) 886-6118 (Work Phone Number)
Contact Address: 959 CLINTON AVE
Irvington, New Jersey 07111

Name: ALEX BRIUKHAN
Title:

Contact Type: Responsible Party
Organization Name: AB REALTY PETROLEUM INC
Organization Type: Corporation
E-Mail: ab56corp@yahoo.com
Phone: (973) 886-6118 (Work Phone Number)
Contact Address: 959 CLINTON AVE
Irvington, New Jersey 07111

Name: ALEX BRIUKHAN
Title:

Contact Type: Responsible Party
Organization Name: AB REALTY PETROLEUM INC
Organization Type: Corporation
E-Mail: ab56corp@yahoo.com
Phone: (973) 886-6118 (Work Phone Number)
Contact Address: 959 CLINTON AVE
Irvington, New Jersey 07111

Name: ALEX BRIUKHAN
Title:

Contact Type: Responsible Party
Organization Name: AB REALTY PETROLEUM INC
Organization Type: Corporation
E-Mail: ab56corp@yahoo.com
Phone: (973) 886-6118 (Work Phone Number)
Contact Address: 959 CLINTON AVE
Irvington, New Jersey 07111

Name: ALEX BRIUKHAN
Title:
Contact Type: Responsible Party
Organization Name: AB REALTY PETROLEUM INC
Organization Type: Corporation
E-Mail: ab56corp@yahoo.com
Phone: (973) 886-6118 (Work Phone Number)
Contact Address: 959 CLINTON AVE
Irvington, New Jersey 07111

Name: Jan Ilves
Title: Vice President
Contact Type: E-Submitter
Organization Name: JPI Associates, Inc.
Organization Type: Corporation
E-Mail: jpiassociates@verizon.net
Phone: (856) 456-6500 (Work Phone Number) - Cell: 856.261.0438
Contact Address: 725 Market Street
Gloucester City, New Jersey 08030

Name: Jan Ilves
Title: Vice President
Contact Type: E-Certifier
Organization Name: JPI Associates, Inc.
Organization Type: Corporation
E-Mail: jpiassociates@verizon.net
Phone: (856) 456-6500 (Work Phone Number) - Cell: 856.261.0438
Contact Address: 725 Market Street
Gloucester City, New Jersey 08030

Retention/Release Details

Date Retained: 07/01/2019
Hired to address: Specific Known Contaminated AOC(s)

The following table lists the total number of Contaminated AOC's associated with each remedial activity as well as the number being addressed by this LSRP.

Facility ID	Facility	Activity Number	Case Tracking Number	Document Title	Total # Known CAOC's Associated with the site	Total # of Known CAOC's on site this LSRP is addressing
016344	961 CLINTON 2000 CORP	LSR120001	18453	03-05-16-0938-31 /N11-7953	1	1

Certification

Certifier: Jan Ilves
Certifier ID: 17612
Challenge/Response Question: What is your favorite color?
Challenge/Response Answer: *****
Certification PIN: *****
Date/Time of Certification: 07/02/2019 13:59

(1) I certify, as a Licensed Site Remediation Professional authorized pursuant to N.J.S.A. 58:10C-1 et seq. to conduct business in New Jersey, that for the remediation described in this submission, and all attachments included in this submission, I personally: Managed, supervised, or performed the remediation conducted at this site that is described in this submission, and all attachments included in this submission; and/or periodically reviewed and evaluated the work performed by other persons that forms the basis for the information in this submission; and/or completed the work of another site remediation professional, licensed or not, after having: (1) reviewed all available documentation on which I relied; (2) conducted a site visit and observed the then-current conditions and verified the status of as much of the work as was reasonably observable; and (3) concluded, in the exercise of my independent professional judgment, that there was sufficient information upon which to complete any additional phase of remediation and prepare workplans and reports related thereto;

(2) I certify:

- That I have read this submission and all attachments to this submission;
- That in performing the professional services as the licensed site remediation professional for the entire site or each area of concern, I adhered to the professional conduct standards and requirements governing licensed site remediation professionals provided in N.J.S.A. 58:10C-16;
- That the remediation conducted at the entire site or each area of concern, that is described in this submission and all attachments to this submission, was conducted pursuant to and in compliance with the remediation requirements in N.J.S.A. 58:10C-14.c;
- That the remediation described in this submission, and all attachments to this submission, was conducted pursuant to and in compliance with the regulations of the Site Remediation Professional Licensing Board at N.J.A.C. 7:26f; and
- That the information contained in this submission and all attachments to this submission is true, accurate, and complete.

(3) I certify, when this submission includes a response action outcome, that the entire site or each area of concern has been remediated in compliance with all applicable statutes, rules, and regulations and is protective of public health and safety and the environment.

(4) I certify that no other person is authorized or able to use any password, encryption method, or electronic signature that the Board or the Department have provided to me.

(5) I certify that I understand and acknowledge that:

- If I knowingly make a false statement, representation, or certification in any document or information I submit to the Department I may be subject to civil and administrative enforcement pursuant to N.J.S.A. 58:10C-17.a.1(a) through (f) by the Board, including but not limited to license suspension, revocation, or denial of renewal; and
- If I purposely, knowingly, or recklessly make a false statement, representation, or certification in any application, form, record, document or other information submitted to the Department or required to be maintained pursuant to the Site Remediation Reform Act, I shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$75,000 per day of violation, or by imprisonment, or both.

(6) I certify that I have read this certification prior to signing, certifying, and making this submission.

Jan Ilves

07/02/2019

General

Date

LSRP License Number:

594638

Exhibit K



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Case Assignment & Initial Notice
Site Remediation Program
401-05H
P.O. Box 420
Trenton, NJ 08625-0420
Phone: (609) 292-2943 Fax: (609) 633-1439

SHAWN M. LATOURETTE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

May 13, 2022

Alex Briukhan
AB REALTY PETROLEUM INC
959 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Alex Briukhan
Irvington Gas, Inc.
959 961 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Alexander Briukhan
959 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Alexander Briukhan
959-961 CLINTON AVENUE ASSOCIATES, INC
959 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Alexander Briukhan
961 Clinton Corp.
959 Clinton Ave
Irvington, NJ 07111
Email: ab56corp@yahoo.com

Jan Ilves
Vice President
JPI Associates, Inc.
725 Market Street
Gloucester City, NJ 08030
Email: jpiassociates@verizon.net

RE: Dismissal

959 961 CLINTON AVE
Irvington Twp, Essex County

SRP-PI: 016344
Activity Number Reference: REL220001

Dear Responsible Entity:

This letter serves to advise that an LSRP Notification of Dismissal Form has been received by the New Jersey Department of Environmental Protection for 961 Clinton 2000 Corp. The NJDEP confirms that Jan P Ilves has been released from 961 Clinton 2000 Corp on December 31, 2021 where the LSRP was retained to perform an investigation.

Listed below is the LSRP history for 961 Clinton 2000 Corp:

Case#	License#	LSRP Name	Start Date	End Date
LSR120001	593752	GARY G LANDIS	03/31/2013	10/01/2018
LSR120001	529681	Kartar Israni	09/07/2011	10/09/2012
LSR120001	594638	JAN P ILVES	07/01/2019	12/31/2021

**Note: N/A if Due Diligence

There is no active Licensed Site Professional retained at this case. If the remediation has not been completed, the responsible entitie(s) have 45 days to retain an LSRP to conduct the remediation.

On May 7, 2009, the Site Remediation Reform Act (SRRA) was enacted. The SRRA establishes criteria for the licensing of site remediation professionals who will assure that contaminated sites are remediated in accordance with the Technical Requirements for Site Remediation, N.J.A.C.7:26E. The SRRA authorizes the Department to establish mandatory timeframes for the completion of each phase of remediation. These timeframes, as well as other requirements of the act, have been codified in regulations that became effective on November 4, 2009. The complete rule can be found at www.state.nj.us/dep/srp/regs/arrcs/arrcs_rule.pdf.

Failure for responsible entities to comply with the obligations above may result in the Department taking direct oversight of the remediation of the contaminated site. Once a site or a portion of a site is under direct Department oversight, the responsible party forfeits all rights in the decision making process regarding the remedial investigation and remedial action to be performed at the site, including remedy selection. Additionally, the responsible party will be required to post a remediation funding source and the Department will control the disbursements from the remediation funding source.

(http://www.nj.gov/dep/srp/guidance/srra/direct_oversight.pdf)

Sincerely

A handwritten signature in dark ink, appearing to read "Kirstin Hahn". The script is cursive and fluid, with the first name "Kirstin" and last name "Hahn" clearly distinguishable.

Kirstin Hahn, Bureau Chief
Bureau of Case Assignment & Initial Notice

Exhibit L



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SHAWN M. LATOURETTE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Site Remediation and Waste Management Program
Division of Enforcement, Technical & Financial Support
Enforcement & Information Support Element
Bureau of Enforcement & Investigations
Mail Code 401-06U
PO Box 420
Trenton, NJ 08625-0420

ALEXANDER BRIUKHAN
959 961 CLINTON AVENUE ASSOC INC
959 CLINTON AVE
IRVINGTON, NJ 07111

AND

ALEX BRIUKHAN
AB REALTY PETROLEUM INC
959 CLINTON AVE
IRVINGTON, NJ 07111

NOTICE OF VIOLATION

EA ID #: BEA220001 - 016344

Name: 961 Clinton 2000 Corp
Location: 959 961 Clinton Ave,
Irvington Twp, Essex County, New Jersey
PI #: 016344

You are hereby notified that during a compliance review conducted on June 10, 2022 the Department of Environmental Protection (DEP or the Department) identified violations of the New Jersey Spill Compensation and Control Act (N.J.S.A. 58:10-23 et seq.), and the regulations promulgated thereunder.

This **NOTICE** is issued based on facts observed by or known to the Department's representative issuing this **NOTICE**, to warn you of the violations listed below.

DESCRIPTION OF VIOLATIONS

AB REALTY PETROLEUM INC AND 959 961 CLINTON AVENUE ASSOC INC

BEA220001 - 016344

Page # 2

Requirement: Pursuant to N.J.A.C. 7:26C- 2.3(a)1 & 2, upon the occurrence of any of the events listed in N.J.A.C. 7:26C-2.2(a), the person who is responsible for conducting the remediation at a site pursuant to N.J.A.C. 7:26C-1.4(a) shall hire a licensed site remediation professional and within 45 days shall notify the Department of the name and license information and the scope of remediation, including the number of contaminated areas of concern and impacted media. [N.J.A.C. 7:26C- 2.3(a)1 & 2]

Description of Noncompliance: Failure to hire a licensed site remediation professional upon the occurrence of one of the events listed in N.J.A.C. 7:26C-2.2(a), and to provide the required information to the Department within 45 days as required.

PURPOSE OF THIS NOTICE - This is intended to serve as a **NOTICE** to you, to warn you of the above violations, in order to provide you with an opportunity to investigate the matter and take corrective action to address the identified violations. This **NOTICE does not** constitute a formal enforcement order, a final agency action or a final legal determination that a violation has occurred. Therefore, this **NOTICE** may not be appealed or contested.

Neither the issuance of this **NOTICE** nor any corrective actions taken by you to address the violations cited, precludes the State of New Jersey or any of its agencies from initiating future enforcement action (including issuance of a formal enforcement order and the assessment of penalties) with respect to the violations listed above or for any other violations. In the event the Department determines to pursue future formal enforcement action, you will then be provided with an opportunity to appeal or contest such action. The above violations are subject to penalties of up to \$50,000.00 per day/offense in civil administrative penalties as per the Spill Compensation and Control Act.

Please be advised that it is recommended that you, or your licensed site remediation professional to be retained, check the Department's Data Miner report at <https://www13.state.nj.us/DataMiner> to determine all due dates applicable to this matter and to determine if other violations exist that are not covered by this NOV and warrant immediate corrective action.

RESPONDING TO THIS NOTICE – Corrective actions taken in response to this **NOTICE** can affect the Department's determination on the need for or severity of any potential future enforcement action in this matter. The Department may consider any actions you take in response to this **NOTICE** as part of its determination 1) on whether to initiate future formal enforcement action for this site/matter and, 2) on the amount of any penalty that may be assessed in future enforcement actions. Please see the Corrective Action(s) section below regarding actions you may undertake to address violations identified in this **NOTICE**:

CORRECTIVE ACTION(S) FOR VIOLATIONS IN THIS NOTICE

1. Hire a licensed site remediation professional and notify the Department of the name and license information and the scope of remediation, including the number of contaminated areas of concern and impacted media. [N.J.A.C. 7:26C- 2.3(a)1 & 2]

AB REALTY PETROLEUM INC AND 959 961 CLINTON AVENUE ASSOC INC

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IF YOU HAVE QUESTIONS REGARDING THIS NOTICE, the actions recommended, or if you would like to describe actions taken to address the identified violations, please contact the Duty Officer in the Compliance and Assistance section of the Bureau of Enforcement and Investigations at 609-633-1480.



Date: June 10, 2022

Ann H. Wolf, Bureau Chief
Bureau of Enforcement & Investigations

Additional Resources

Site Remediation Website <http://www.nj.gov/dep/srp/>

Site Remediation Regulations <http://www.nj.gov/dep/srp/regs/>

Site Remediation List of LSRPs http://www.nj.gov/dep/srp/srra/lrsp/lrsp_list.htm

Exhibit 1

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625
Attorney for Plaintiff, State of New Jersey,
Department of Environmental Protection

By: Robert J. Kinney
Deputy Attorney General
(609) 292-1401

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - PASSAIC COUNTY

DOCKET NO. C-7-03

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Plaintiff,

v.

AB TRADING ENTERPRISES, INC.,
and 1750 HAMBURG ASSOCIATES,
INC.,

Defendants.

FILED
04/18/2011
Chancery/General Equity
SPECIAL ENVIRONMENTAL CASE

CIVIL ACTION

CONSENT AGREEMENT FOR ONGOING
REMEDATION AND PENALTY PAYMENT

This matter being opened to the Court by the Attorney General of New Jersey, attorney for Plaintiff New Jersey Department of Environmental Protection ("Department" or "DEP"), by way of Verified Complaint, supporting certification and brief alleging that AB Trading Enterprises, Inc., and 1750 Hamburg Associates, Inc., ("Defendants") violated the Underground Storage of Hazardous Substances Act ("UST Act"), N.J.S.A. 58:10A-21 to -37, and the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11a et seq., and this Court having found that the Defendants

were liable for violations of the UST Act and Spill Act, and the Plaintiff and Defendants having entered into a "Partial Consent Order for Ongoing Remediation and Penalty Payment Schedule" ("Partial Consent Order") on October 23, 2003 (attached herein as Exhibit 1, and incorporated by reference in its entirety), and

WHEREAS, this Court having entered the Partial Consent Order on October 23, 2003, and

WHEREAS, on or about September 19, 2005, the Defendants entered into Administrative Consent Orders ("ACO") as to the AB TRADING ENTERPRISES, INC., site, Program Interest Number 015494 (attached herein as Exhibit 2, and incorporated by reference in its entirety), the AY PARAMUS GAS, INC., site, Program Interest Number 011211 (attached herein as Exhibit 3, and incorporated by reference in its entirety), and the IRVINGTON GAS, INC., site, Program Interest Number 016344, Master File Number 00008941 (attached herein as Exhibit 4, and incorporated by reference in its entirety), and

WHEREAS, the above referenced ACOs required Defendants to engage in and complete remediation activities as to each site, including, but not limited to, the timely submission of Preliminary Assessment/Site Investigation reports, Remedial Investigation Work Plans ("RIW"), Remedial Action Work Plans ("RAW"), progress reports, and submission and maintenance of remediation funding sources, including annual remediation funding source surcharges,

and

WHEREAS, Defendants were required to pay a civil penalty of \$200,000.00 (two hundred thousand dollars), and

WHEREAS, Defendants made an initial penalty payment of \$100,000.00 on or about November 12, 2003, with a schedule for regular monthly installment payments of \$2,213.43 (two thousand, two hundred thirteen dollars and 43 cents) to cover the balance of the civil penalty, with interest, and

WHEREAS, Defendants ceased making regular monthly penalty payments prior to October, 2005, leaving a balance of penalty payments owed, including interest and penalties, of \$71,049.22 (seventy-one thousand forty-nine dollars and 22 cents), and

WHEREAS, Defendants failed to timely maintain remedial funding sources for each site, and failed to pay annual remediation funding source ("RFS") surcharges for 2008 and 2009, and

WHEREAS, the parties met on April 16, 2010, to address Defendants' non-compliance with the ACOs and Defendants' violation of the Partial Consent Order, and

WHEREAS, Defendants have since made payments of outstanding oversight fees for each site, and have completed some additional tasks, and

WHEREAS, the parties having reached an amicable resolution to matters related to Defendants' violations of the Partial Consent Order:

1. IT IS ON THIS 26 DAY OF Oct, 2010, ORDERED
THAT DEFENDANTS SHALL:

A. As to the AB TRADING ENTERPRISES, INC., site:

- i. Submit a Remedial Investigation Report/Remedial Action Workplan or, if appropriate, a Remedial Investigation Report/No Further Action Request, no later than December 30, 2010; and
- ii. Complete Receptor Evaluation requirements pursuant to N.J.A.C. 7:26E-1.14 through 1.19, no later than January 14, 2011.

B. As to the AY PARAMUS GAS, INC., site:

- i. Conduct soil delineation, to be completed no later than December 10, 2010;
- ii. Conduct a ground water sampling event, to be completed no later than December 30, 2010;
- iii. Complete Public notification Requirements pursuant to N.J.A.C. 7:26E-1.4, no later than December 10, 2010;
- iv. Install two onsite monitoring wells no later than December 30, 2010;
- v. Following installation of the two monitoring wells described in paragraph B iv., conduct a ground water sampling event on ALL site wells and conduct aquifer testing to be completed no later than

January 28, 2011;

vi. Submit a Remedial Investigation Report/Remedial Investigation Workplan no later than February 11, 2011;

vii. Complete Receptor Evaluation requirements pursuant to N.J.A.C. 7:26E-1.14 through -1.19 no later than January 14, 2010.

C. As to the IRVINGTON GAS, INC., site:

i. Complete Public Notification requirements pursuant to N.J.A.C. 7:26E-1.4 no later than December 10, 2010;

ii. Submit a RIW of scheduled remedial activities (either UST closure with a remedial investigation or a remedial investigation without the UST closure) no later than January 28, 2011;

iii. Complete Receptor Evaluation requirements pursuant to N.J.A.C. 7:26E-1.14 through -1.19 no later than January 14, 2011.

D. As to each site noted above, submit a written report or letter, within 5 days of completion of each item listed above, to the Department's Case Manager, at the following address:

Christina Page, Senior Environmental Specialist
NJ Department of Environmental Protection
401 E. State Street
P.O. Box 028
Trenton, NJ 08625

E. Within 90 days of the entry of this Order, pay a civil penalty of \$68,083.26 by certified or bank check made payable to "Treasurer, State of New Jersey," under the following schedule:

1. Pay \$22,694.42 within 30 days of the date of entry of this Order by the Court;
2. Pay \$22,694.42 within 60 days of the date of entry of this Order by the Court;
3. Pay \$22,694.42 within 90 days of the date of entry of this Order by the Court.

Payment checks shall be sent to the Case Manager identified in Paragraph D, with the enclosed invoice.

F. Should Defendants fail to pay the civil penalty as described above in Paragraph E, Defendants shall pay, within 5 days of written demand of the Department, stipulated penalties of \$1,000.00 per day, in addition to any outstanding penalty payments owed.

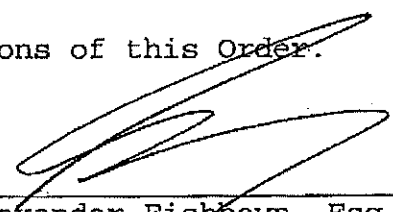
G. Defendants shall immediately notify the Department's case manager, in writing, if Defendants believe that they will be unable to meet any of the deadlines or duties established in Paragraphs A through D of this Order. The Department may, at its sole discretion, thereafter modify any deadlines or duties based upon good cause shown. If Defendants fail to notify the Department in writing as provided herein and fail to comply with any deadline or duty described in Paragraphs A through D of this Order, defendants

shall pay, upon written demand of the Department, stipulated penalties of \$500.00 per day for each missed deadline.

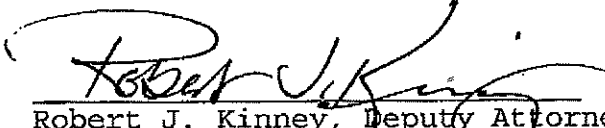
H. The Department reserves the right to take appropriate legal action, including, but not limited to, a motion for monetary and other sanctions as authorized by R. 1:10-3 of the New Jersey Court Rules, if Defendant fails to comply with any of the provisions of this Order.

I. This Consent Order resolves only those matters which were before the Court pursuant to Docket No.: C-7-03. No other judicial or administrative enforcement or compliance matters between the Department and Defendants, including, but not limited to, Office of Administrative Law Docket No.: ECEWE 01640-2009N, are included in or resolved by this Consent Order.

J. The Court shall retain jurisdiction to enforce the provisions of this Order.

BY: 
Alexander Fishbeyn, Esq.
Attorney for Defendants

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

BY:  10.22.10
Robert J. Kinney, Deputy Attorney General
Attorney for Plaintiff New Jersey Department
of Environmental Protection

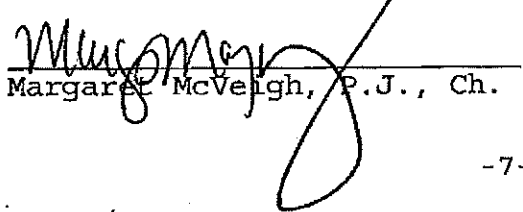

Margaret McVeigh, P.J., Ch.

Exhibit 2

0709

SC

055628

Township of Irvington
Civic Square
Irvington, NJ 07111

The State of New Jersey

vs.

Defendant's Name: First		Initial		Last	
AE TRADING ENTERPRISES, INC					
Address					
959 CLINTON AVENUE IRVINGTON					
State	Zip Code	Telephone	SOCIAL SECURITY NUMBER		
NJ	07111				
Birth Date:	Mo.	Day	Yr.	Sex	Eyes
Driver's License #				Height	Restrictions
State				Exp. Date	

STATE OF NEW JERSEY
COUNTY OF ESSEX

JSS:

Complaining Witness: DAVID RUBIN (Name) BADGE #385
of NJ DEPT OF ENV PROTECTION (Identify Dept/Agency Represented) AGENCY #229
Residing at 401 E 9TH ST TRENTON NJ 08625 (Badge No.)

by certification or on oath, says that to the best of his/her knowledge or information and belief, the named defendant on or about the _____ Month _____ Day _____ Year _____ Time _____ in _____ IRVINGTON _____ County of _____ ESSEX _____ N.J.

did commit the following offense: FAILURE TO REMEDIATE CONTAMINATION AT 959-961 CLINTON AVENUE BLK 205 LOT 1
(DESCRIPTION OF OFFENSE)

in violation of (one charge only) N.J.A.C. 7:26C-2.3(a)
(Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE	Describe Location
	959-961 CLINTON AVE

OATH: Subscribed and sworn to before me
this _____ day of _____, yr _____

CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OR

(Signature of Complaining Witness)

1-18-19 (Date)

(Signature of Person Administering Oath)

(Signature of Complaining Witness)

NOTICE

THIS IS A COURTESY COPY OF THE COMPLAINT THAT WILL BE FILED WITH THE MUNICIPAL COURT, CHARGING YOU WITH THE OFFENSE LISTED ABOVE. NO ACTION IS REQUIRED BY YOU UNTIL THE MUNICIPAL COURT PROVIDES YOU WITH FURTHER INFORMATION. IF THE COURT DETERMINES THAT A SUMMONS SHOULD BE ISSUED WITH THIS COMPLAINT, THE COURT WILL ADVISE YOU WHEN AND WHERE TO APPEAR. IN ADDITION, YOU WILL BE INFORMED THAT A WARRANT FOR YOUR ARREST MAY BE ISSUED IF YOU DO NOT APPEAR IN COURT.



PLEASE NOTIFY COURT OF DISABILITY ACCOMMODATION NEEDS.



Complaint-Courtesy Copy

SF (September 2009)

COMPLAINT-COURTESY COPY

COMPLAINT-COURTESY COPY

date 1/26/19

0709

SC

055627

Township of Irvington
Civic Square
Irvington, NJ 07111

The State of New Jersey

vs.

Defendant's Name: First		Initial		Last	
959-961 CLINTON AVENUE ASSOCIATES, INC					
Address					
959 CLINTON AVE IRVINGTON					
State	Zip Code	Telephone	SOCIAL SECURITY NUMBER		
NJ	07111				
Birth Date:	Mo.	Day	Yr.	Sex	Eyes
Height	Weight	Restrictions			
Driver's License #					
State	Exp. Date				

STATE OF NEW JERSEY
COUNTY OF

ESSEX

JSS

Complaining Witness: DAVID RUBIN BADGE #385
 of: NIDEP 401 E STATE ST. BOX 901 TRENTON 08622
 (Identify Dept/Agency Represented) (Badge No.)
 Residing at: AGENCY # 2293

by certification or on oath, says that to the best of his/her knowledge or information and belief, the
 named defendant on or about the _____ Month _____ Day _____ Year _____ Time
 in _____ IRVINGTON _____ 0709 _____ County of _____ ESSEX _____ N.J.

did commit the following offense: FAILURE TO REMEDIATE
 CONTAMINATION AT 959-961 CLINTON AVE
 (DESCRIPTION OF OFFENSE)
 BLK 205 LOC 1
 in violation of (one charge only) N.J.A.C. 7:26C-2.3(2)
 (Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE	Describe Location
	959-961 CLINTON AVE

☐ OATH: Subscribed and sworn to before me
 this _____ day of _____, yr _____

☐ CERTIFICATION: I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

OR

(Signature of Complaining Witness)

1-18-11

(Date)

(Signature of Person Administering Oath)

(Signature of Complaining Witness)

NOTICE

THIS IS A COURTESY COPY OF THE COMPLAINT THAT WILL BE FILED WITH THE MUNICIPAL COURT, CHARGING YOU WITH THE OFFENSE LISTED ABOVE. NO ACTION IS REQUIRED BY YOU UNTIL THE MUNICIPAL COURT PROVIDES YOU WITH FURTHER INFORMATION. IF THE COURT DETERMINES THAT A SUMMONS SHOULD BE ISSUED WITH THIS COMPLAINT, THE COURT WILL ADVISE YOU WHEN AND WHERE TO APPEAR. IN ADDITION, YOU WILL BE INFORMED THAT A WARRANT FOR YOUR ARREST MAY BE ISSUED IF YOU DO NOT APPEAR IN COURT.



PLEASE NOTIFY COURT OF DISABILITY ACCOMMODATION NEEDS.



Complaint-Courtesy Copy

SF (September 2009)