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SUPERIOR COURT OF NEW JERSEY
CAMDEN COUNTY
DOCKET C-

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

WILLIAM F. YOCCO, DAMON
A.YOCCO, and ANDRE WEBB,,

Defendants.

VERIFIED COMPLAINT

Plaintiff State of New Jersey, Department of Environmental Protection ("DEP" or "Department"), by way of Order to Show Cause and Verified Complaint seeking summary action pursuant to R. 4:67-1 and N.J.S.A. 13:1E-9(d), against William Yocco, Damon Yocco, and Andre Webb, says:

STATEMENT OF THE CASE

1. This action is brought under the Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-1.1 et seq., to compel the removal of illegal solid waste including scrap metals, construction and

demolition debris, fill dirt, and discarded materials, currently all found on a property located at 260-268 Chestnut Avenue, Block 254, Lots 11 & 32 (the "Property"), in Camden City, New Jersey. The Property is owned by Defendant Andre Webb. Prior to the Property's transfer to Webb in July 2019, it was owned by Defendants William and Damon Yocco ("Yocco Defendants"), who since at least March 2013 have been under administrative orders by DEP to remove solid waste - including suspected hazardous waste in 55-gallon drums - from the Property.

2. Although the Yocco Defendants removed approximately one ton of suspected hazardous wastes and 31 gallons of used oil from the Property in May and August 2013, approximately 10,000 cubic yards of mixed solid waste remain on that site, and Defendants have made no effort to remove this material.

3. The Property is located in a designated redevelopment area of Camden, but the illegal presence of solid waste on the property has hindered the redevelopment process and contributed to blight which, for too long, has made it difficult for such neighborhoods to prosper. Concerted action is therefore necessary to address these harms and allow for progress in this area of Camden.

PARTIES

4. The DEP is a principal agency of the State government of New Jersey, responsible for protection of New Jersey's environment and enforcement of New Jersey's solid waste, hazardous waste, water

pollution and air pollution control laws. The DEP is located at 401 E. State Street, Trenton.

5. Defendants William Yocco and Damon Yocco are the prior owners of the Property located at 260-268 Chestnut Avenue, Camden City, also known as Block 254, Lot 11. William Yocco resides at 125 West Cottage Avenue, Haddonfield, New Jersey. Damon Yocco resides in St. Martin, United States Virgin Islands. William Yocco has durable power of attorney over all matters related to any claims and litigation. Certification of Robert J. Kinney ("Kinney Cert."), Exhibit 1.

6. Defendant Andre Webb is the current owner of the Property, and resides at 505 North 34th Street, Camden, New Jersey.

STATEMENT OF FACTS

7. On March 12, 2013, DEP inspectors from the Bureau of Solid Waste Compliance and Enforcement, along with representatives of the City of Camden Code Enforcement Bureau, inspected the Property. The inspection revealed approximately 17 (seventeen) 55-gallon drums in a partially dismantled building. Many of the drums were in poor condition and at least one was leaking. Labels on some of the drums indicated they might be filled with isopropyl alcohol, and three drums appeared to be filled with used oil. Numerous other small containers containing possible hazardous wastes (paint thinners, etc.) were also observed. The DEP issued a "Notice of Civil Administrative Penalty Assessment" ("NOCAPA") on October 11,

2013 to Damon and William Yocco, individually, for violations of N.J.A.C. 7:26G-6.1(a) and 40 CFR 262.11 (failure to determine whether waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations). See Kinney Cert., Exhibit 2.

8. The NOCAPAs assessed a \$5,000 civil administrative penalty against each defendant, individually. Id.

9. On March 14, 2013 DEP inspectors again inspected the Property, which was described as a former scrap yard and smelting facility.

10. DEP inspectors observed two large piles of mixed solid waste, including demolition debris, metals, and fill dirt. One pile measured approximately 35 feet wide x 110 feet long x 10 feet high (approximately 12,000 cubic yards (c.y.)) and the other 25 feet wide x 75 feet long x 10 feet high (approximately 6,200 c.y.). See Kinney Cert., Exhibit 3.

11. The DEP issued a Notice of Violation on May 28, 2013 to the Yocco Defendants that directed them to remove and properly dispose of all unauthorized solid waste materials from the property. Id. On February 27, 2014 DEP re-inspected the Property and found that additional solid waste had been disposed of on it. Id.

12. The DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to the Yocco Defendants on June 13, 2015 for illegally operating a solid waste facility without a permit. Kinney Cert., Exhibit 3. The AONOCAPA

assessed a \$5,000 civil penalty and ordered the Defendants to remove all solid waste from the property within 30 days. Id.

13. In response to the October 2013 NOCAPA, the Yocco Defendants removed the 55 gallon drums and other hazardous materials from the Property. However, the solid wastes on the Property described in the June 2015 AONOCAPA have not been removed. Certification of Irv Gandy, Paragraph 3.

14. On July 19, 2019, the Yocco Defendants sold the Property to Defendant Andre Webb.

15. No arrangement or agreement was made between the Yocco Defendants and Defendant Webb regarding removal of the illegal solid wastes.

16. As owner of the property, an unpermitted solid waste facility, Defendant Webb is responsible under the SWMA to remove all illegal solid wastes for proper disposal. N.J.A.C. 7:26-2.8(f).

COUNT 1

OPERATING A SOLID WASTE FACILITY WITHOUT A PERMIT

17. The Plaintiff incorporates paragraphs 1-16 of this Complaint herein as if fully set forth below;

18. N.J.A.C. 7:26-2.8(f) of the regulations under the SWMA, N.J.S.A. 13:1E-1.1 et seq., prohibit a person from operating a solid waste facility without having first obtained a permit from the Department;

19. The Property constitutes a solid waste facility because of

the Yocco Defendants' disposal and storage of solid waste on the Property for more than six months. N.J.A.C. 7:26-1.4;

20. Neither the Yocco Defendants nor Defendant Webb have applied for or been issued a Solid Waste Facility Permit for the Property.

21. WHEREFORE, the Plaintiff demands judgment in its favor:

- a. Ordering the Defendants to remove all solid waste from the Property by no later than December 31, 2019; and
- b. Such other relief as the Court deems just and proper.

COUNT 2

FAILURE TO PROPERLY DISPOSE OF ILLEGAL SOLID WASTE

22. The Plaintiff incorporates paragraphs 1-21 of this Complaint herein as if fully set forth below;

23. Despite having been ordered to remove the solid waste from the Property, the Yocco Defendants failed to do so, and in excess of 10,000 cubic yards of solid waste remain on the Property;

24. Neither the Yocco Defendants nor Defendant Webb have requested, nor does any Defendant named herein possess, permits issued by the Department that would allow for the storage of solid waste on the Property;

25. The Property therefore constitutes an illegal solid waste facility pursuant to N.J.A.C. 7:26-2.8(f);

26. Pursuant to the SWMA, all illegal solid wastes must be removed from the property and properly disposed of at a regulated facility;

27. WHEREFORE, the Plaintiff demands judgment in its favor:

- a. Ordering the Defendants to remove the solid waste from the Property by no later than December 31, 2019; and
- b. Ordering Defendants to dispose of the solid wastes at an appropriately regulated facility;
- c. Ordering Defendants to retain documentation of the disposal of the solid wastes and to provide copies of the documentation to the Department's representative within 7 days of disposal of each load; and
- d. Such other relief as the Court deems just and proper.

COUNT 3

PAYMENT OF CIVIL PENALTIES UNDER THE SOLID WASTE MANAGEMENT ACT

28. The Plaintiff incorporates paragraphs 1-27 of this Complaint herein as if fully set forth below;

29. The SWMA, N.J.S.A. 13:1E-1.1 et seq. authorizes the assessment of civil penalties for violations of the SWMA up to \$50,000 per day per violation. N.J.S.A. 13:1E-9(f);

30. Over 10,000 c.y. of illegally stored and/or disposed of solid waste remain on the Property without the benefit of a permit or other authorization from the Department, in violation of the SWMA;

31. The solid waste have been stored on the Property since at least March 13, 2013;


32. Defendants have failed to properly remove and dispose of the solid wastes as required by the SWMA;

33. WHEREFORE, the Plaintiff demands judgment in its favor:

- a. Ordering the Defendants to remove the solid waste from the Property by no later than December 31, 2019;
- b. Ordering Defendants to dispose of the solid wastes at an appropriately regulated facility;
- c. Ordering Defendants to retain documentation of the disposal of the solid wastes and to provide copies of the documentation to the Department's representative within 7 days of disposal of each load;
- d. Assessing civil penalties as authorized by N.J.S.A. 13:1E-9(f), as may be appropriate; and
- e. Such other relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Robert J. Kinney
Deputy Attorney General

VERIFICATION

Irv Gandy, by way of certification, states that:

1. I have read the Verified Complaint.
2. I certify that the factual allegations described in paragraph 13 are true and correct.
3. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

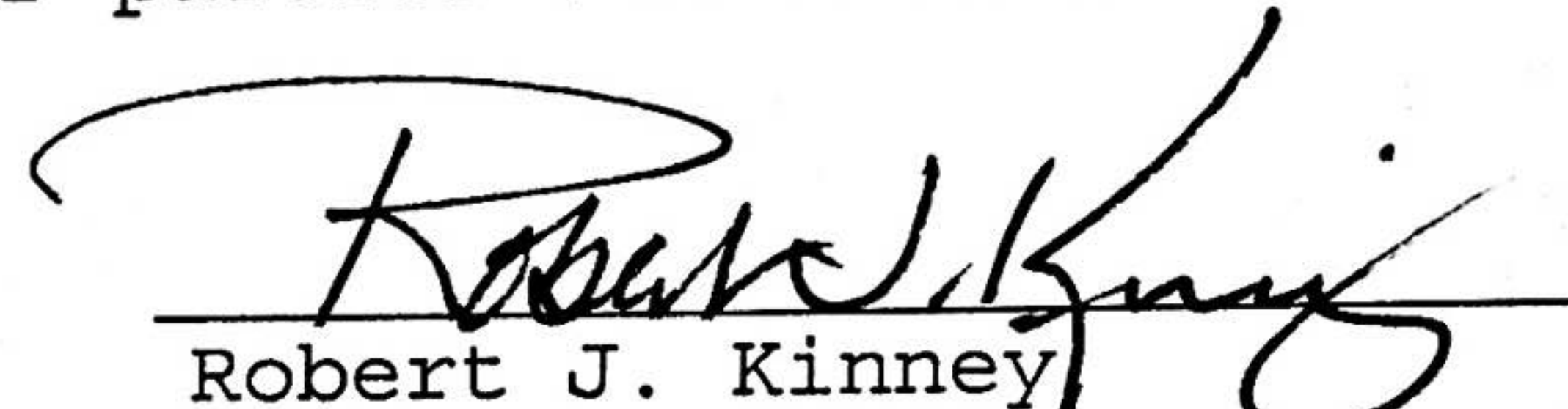
By: Irving Gandy 4th
Irv Gandy
Environmental Specialist 3

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), Robert J. Kinney, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiff, New Jersey Department of Environmental Protection, in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, pursuant to R. 4:5-1(b)(2), that the matters in controversy in this action are also the subject of proceedings against William and Damon Yocco in the New Jersey Office of Administrative Law, Dockets ECE 09762-16 and ECE 09763-16. Plaintiff is not aware of any other party who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiff, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).


Robert J. Kinney
Deputy Attorney General