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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MERCER COUNTY
DOCKET NO. MER-

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, ACTING
COMMISSIONER SHAWN LATOURETTE OF
THE NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiffs,

v.

KAARS, INC. and ISAM ABUHUMOUD,
individually, and JOHN/JANE DOES
1 - 10,

Defendants.

CIVIL ACTION

COMPLAINT

Plaintiffs, the Acting Commissioner Shawn LaTourette of ("DEP"), and Acting Commissioner Shawn LaTourette of DEP ("Acting Commissioner") (collectively, "Department" or "Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by and through their attorney, file this Complaint against Defendants

Kaars, Inc. and Isam Abuhumoud ("Defendants" or "Kaars"), and allege as follows:

STATEMENT OF THE CASE

1. This is a civil action to compel Defendants' compliance with the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -73 ("WPCA"), Solid Waste Management Act, N.J.S.A. 13:1E-1 to -230 ("SWMA"), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -24 ("Spill Act"), and their applicable regulations, and for civil penalties and damages for Defendants' chronic violations of their environmental obligations.

2. Defendants operate an automobile scrap yard in east Trenton. The operation involves obtaining automobiles to dismantle for parts and scrap metal, and requires the removal and dismantling of various automobile parts that contain fluids such as gasoline, anti-freeze, oil, brake fluid and hydraulic fluid. All of these fluids contain hazardous substances that can be dangerous to public health and the environment. To prevent discharges of these hazardous substances into the environment, operations like Defendants are subject to permitting and other requirements under the WPCA and SWMA.

3. Defendants are obligated to prevent discharges of hazardous substances, and injury to the public and the environment. Defendants are subject to general permit No. NJG 0222917. Particularly, Defendants are required to prepare and implement a

"Stormwater Pollution Prevention Plan" ("SPPP") to prevent discharges of pollutants to surface waters and groundwaters of the State.

4. Permit NJG 0222917 also requires Defendants to engage in a variety of "best management practices" ("BMPs") to ensure protection of the public health and environment resulting from their operations.

5. Defendants have failed to comply with permit NJG 0222917. Inspections of the site have revealed that pollutants such as oils, grease and other materials are discharging off the Defendants' property and into nearby storm drains. These drains lead to Pond Run, a tributary of Assunpink Creek, which itself is a tributary to the Delaware River.

6. Despite numerous inspections of the site by DEP and the U.S. Environmental Protection Agency ("EPA") over the last several years, Defendants have failed to comply with critical parts of their permit.

7. At all relevant times, Defendants' permit has required them to remove automobile parts in a specific area of the facility and to cover all materials that may come into contact with precipitation in order to prevent surface and groundwater pollution. Yet, Defendants have continued to allow precipitation to fall on exposed vehicle parts containing hazardous materials,

particularly engines and engine blocks, gas tanks, braking systems, etc., while also ignoring other permit requirements.

8. The community surrounding Kaars, in the City of Trenton, has a significant low-income and minority population. Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, and soil pollution, and accompanying potential for increased public health impacts.

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

9. The Department seeks an order requiring Kaars comply with and address its habitual violations, as well as civil penalties to deter future violations.

THE PARTIES

10. DEP is a principal department within the Executive Branch of the New Jersey State government, vested with the authority to conserve and protect natural resources, the environment, to prevent pollution, and to protect the public health and safety. N.J.S.A. 13:1D-9. DEP maintains its principal offices at 401 East State Street, Trenton, New Jersey.

11. Defendant Kaars, Inc., is an automobile recycling facility located at 2-70 Parker Avenue, Trenton, New Jersey.

12. Defendant Isam Abuhumoud is the owner and operator of Defendant Kaars, Inc., and exercises all operational control over the facility and its compliance with the State's environmental laws.

13. "John and/or Jane Does" 1-10, these names being fictitious, are individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, Defendants Kaars, Inc.

GENERAL ALLEGATIONS

14. Defendants own and operate a vehicle recycling facility ("Kaars") in Trenton, New Jersey.

15. Kaars dismantles vehicles at its location in order to recover parts from the vehicles for possible sale, and for the purpose of recycling metals and other parts.

Permit Violations

16. Kaars is subject to various environmental requirements, particularly including the requirement to manage stormwater discharges from the site to prevent pollution of nearby water bodies.

17. Vehicle dismantling involves removal and proper disposal of numerous vehicle components, including fluids such as motor

oil, brake fluids, anti-freeze and other fluids. Motor oil contains a variety of petroleum hydrocarbons ("TPH") that if released to the environment pose a risk to public health, including effects on a person's central nervous system that may also affect the blood, immune system, liver, spleen, kidneys, a developing fetus, and the lungs. TPH exposure at high levels can even cause death. See Ex. B, ATSDR Public Health Statement for Total Petroleum Hydrocarbons.

18. It is unlawful for any person to discharge pollutants into waters of the State without a New Jersey Pollutant Discharge Elimination System ("NJPDES") permit. N.J.S.A. 58:10A-6(a). Kaars is subject to DEP permitting requirements under the WPCA, particularly the NJPDES Vehicle Recycling General Permit No. NJ0163279. See N.J.A.C. 7:14A-6.13. This general permit outlines requirements by permittees to prevent or eliminate the discharge of pollutants from a site via stormwater.

19. Kaars was issued NJPDES General Permit No. NJG0222917 on February 7, 2014.

20. The permit requires Kaars to: a) eliminate and/or minimize exposure of "source materials" to stormwater by implementing BMPs at the facility; b) develop and implement a "Stormwater Pollution Prevention Program" ("SPPP"); c) conduct annual inspections to ensure compliance with all permit conditions and BMPs; d) prepare annual reports related to compliance with the

permit; and e) prepare an annual certification that Kaars has complied with all permit requirements.

21. Defendants have failed to comply with the requirements of permit NJG0222917 as described in the following paragraphs.

22. Kaars exposes source materials to precipitation. "Source materials" are defined by the permit as "any materials or machinery located at the facility and directly or indirectly related to process of other industrial activities which could be a source of pollutants in a stormwater discharge associated with industrial activity."

23. Kaars has failed to implement BMPs. Part IV of Defendants' permit requires BMPs for Defendants' inbound vehicle inspection area; fluid draining and dismantling area; vehicle parts storage area; parts cleaning/solvent degreasing; fluid storage area processed vehicle storage area; operable vehicle storage area; and facility hydraulic equipment. It also requires spill prevention and response BMPs, as well as site stabilization and dust controls.

24. BMPs are measures to eliminate exposure of source materials to precipitation and to prevent run-off (stormwater) from entering the environment. Typical BMPs for a vehicle recycling business are roof covers over areas where vehicles are dismantled, and where fluids are removed, as well as impervious surface areas for vehicle dismantling, fluid removal and storage

of parts that contain fluids. Areas where removed fluids may be stored should also have berms installed to prevent escape of fluids from those areas.

25. Kaars' permit also required it to prepare a SPPP within six months of obtaining the permit, and to implement the SPPP within 12 months of permit authorization.

26. The purpose of the SPPP is to have company-wide procedures in place for the dismantling of vehicles and the handling, storage and disposal of fluids and parts from dismantled vehicles in order to prevent release of pollutants to the environment. SPPPs also require that employees be regularly trained on these procedures and on how to respond to spills or releases of pollutants at the facility to prevent pollutants in stormwater from leaving the facility.

27. The SPPP should have been prepared by August 7, 2014, and fully implemented by February 7, 2015. Defendants' failed to prepare a SPPP.

DEP Inspections

28. DEP personnel inspected Kaars on July 7, 2015, to determine compliance with its permit obligations. The inspection noted numerous violations, including: a) no SPPP available for review; b) no quarterly inspections had been performed; c) no annual certification was available; d) failure to eliminate source material exposure as required by permit BMPs, including exposure

of vehicle parts and equipment to precipitation; and e) visible oil and antifreeze on the ground. DEP issued a Notice of Violation ("NOV") requiring Kaars to respond within 30 days.

29. Kaars submitted a response to the DEP's NOV on August 20, 2015, alleging that it had made numerous changes and improvements to its operations.

30. On January 22, 2016, DEP again inspected Kaars and consequently issued an NOV on March 23, 2016. DEP again found numerous permit violations, including: a) incomplete SPPP; b) improper storage of engine blocks and cores; c) failure to perform and record quarterly inspections; d) failure to inspect hydraulic equipment; e) failure to maintain spill kits; f) failure to perform/document employee training; g) visible vehicle fluid spills; h) no annual report, and i) improper fluid storage as per BMPs.

31. Kaars responded to the March 2016 NOV on May 5, 2016, again claiming to have taken various corrective actions.

32. DEP conducted an inspection on September 8, 2016, and identified continued non-compliance with Kaars' NJPDES permit, including: a) no complete SPPP was available for review; b) improper storage of engine blocks, cores, and transmissions; c) visible gasoline leaks from a vehicle on the property; d) spent fuel storage was not in compliance with permit BMPs; and e) no listed BMPs for the vehicle crusher.

33. DEP consequently sent a corrective action letter to Kaars on September 9, 2016, directing Defendants to: a) review the contents of their permit; b) conduct quarterly inspections and maintain proper records; c) conduct spill response training; d) address leaking fluids from vehicles; e) conduct vehicle handling, parts storage and fluid management according to permit BMPs; f) provide an annual report as required by the permit, and g) update and make available the SPPP.

34. DEP conducted a further inspection on May 10, 2017. Numerous repeat violations were observed: a) a complete SPPP was not available for review; b) spill kits were not being maintained in required areas; c) fluid draining and dismantling was not in accordance with permit BMPs; d) fluid storage was not in compliance with permit BMPs; e) vehicles containing fluids were being partially crushed; f) Kaars reported the vehicle crusher was not in use, but vehicle fluids were observed in and around the crusher.

35. As a result of these violations, the Department issued an AONOCAPA to Defendants on October 12, 2017, ordering Kaars to take numerous corrective actions to comply with Defendants' permit and assessing a civil penalty of \$25,000. Defendants' timely submitted a request for hearing on the AONOCAPA on October 29, 2017. The hearing request is pending.

36. On May 11, 2018, DEP conducted an inspection of the facility, and on November 19, 2018, sent a copy of the inspection

report to Defendants. The inspection report noted numerous, continued violations, including: a) waste fluids were not under cover and in secondary containment; b) engines, engine cores, engine blocks, and transmissions were not stored under cover, as required by the permit; c) fluid draining was not conducted in accordance with BMPs; d) oil staining was observed on the ground adjacent to the crusher; e) fluid storage was not covered and there was no secondary containment; and f) numerous areas of fluid spills were observed.

37. On June 27, 2019, the EPA and DEP conducted a joint inspection of Defendants' facility. As with previous inspections, numerous - and in many cases continuous - violations were observed: a) the SPPP facility map did not depict the location of the fluid storage area and the approximate area of stormwater flow and drainage area; b) the SPPP did not have an inventory of potential source of materials that could contribute to stormwater pollution; c) records indicated failure to conduct quarterly inspections; d) annual reports were not provided; e) fluid drainage and dismantling areas were exposed to the elements and runoff was observed from those areas; f) engines, engine blocks, cores, transmissions and other components containing fluids were exposed to stormwater throughout the facility; g) batteries removed from vehicles were exposed to stormwater throughout the facility; h) drained oil was observed in 55-gallon drums lacking secondary containment and

proper labeling; i) numerous areas of oil and fluid leaks were observed in the processed vehicle storage area; j) used absorbent materials, such as straw, "Speedy Dry" (clay absorbent litter) were improperly stored or disposed of; k) numerous puddles with sheens and discoloration were observed throughout the facility; and l) numerous drums and containers contained stormwater.

38. On November 24, 2020, DEP conducted an inspection of the Kaars facility. DEP Hazardous Waste inspection staff observed improper storage and labeling of drums containing used oil and a lack of spill response equipment in these areas, in violation of N.J.A.C. 7:26A-6.4(d). A Field Notice of Violation was issued on this date.

39. The DEP Water Compliance and Enforcement inspector observed numerous violations of Kaars' permit that were consistent with previous violations, including: a) visible off-site discharges of stormwater along Parker Avenue to storm drains; b) stained and discolored soils outside the gates of the facility; c) mud and soils tracked onto the adjacent street; d) vehicles engines and parts are exposed to precipitation in the vehicle dismantling area; e) source materials from dismantled vehicles exposed to stormwater; f) uncovered dumpsters containing source materials exposed to precipitation; g) ponded water in numerous areas of the site with visible sheens/discoloration; h) visible discharges of fluids in the dismantled vehicle storage area; i) unauthorized

scrap metals and other debris in a large pile near the vehicle crusher; j) a large pile of discolored soil near the crusher; k) staining and fluid discharges adjacent to the crusher; l) no spill prevention kits; m) exposed fluids storage containers without secondary containment; n) unlabeled drums of fluids in a storage container; o) engines and engine components exposed to precipitation; and p) batteries stored on a pallet exposed to precipitation.

40. On March 3, 2021 DEP Solid and Hazardous Waste inspectors determined that Kaars had failed to comply with the regulations regarding storage of used oil, including: a) the requirement to ensure that all used oil containers were in good condition and not leaking (DEP inspectors noted a rusted 55-gallon drum containing used oil), N.J.A.C. 7:26A-6.4(d)3; b) failure to properly label 5 (five) 55-gallon drums of used oil with the words "Used Oil", N.J.A.C. 7:26A-6.4(d)4; and c) failure to clean up a large volume of oil-contaminated "speedy dry" absorbent in the body shop, N.J.A.C. 7:26A-6.4(d)5.

41. On March 16, 2021 DEP inspectors took samples of a large pile of yard scrapings and mixed solid wastes located at the facility. One of those samples tested above state residential direct soil contact standards for the chemical compound benzo(a)pyrene, a human carcinogen.

COUNT I

**Violation of the Water Pollution Control Act,
N.J.S.A 58:10A-1 to -73.**

42. Plaintiffs incorporate each of the preceding paragraphs as if set forth fully herein;

43. The WPCA prohibits any person from discharging a pollutant to waters of the State without a valid permit or authorization from DEP. N.J.S.A. 58:10A-6(a).

44. "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal or agricultural waste or other residue discharged into the waters of the State. "Pollutant" includes both hazardous and nonhazardous pollutants. N.J.S.A. 58:10A-3(n).

45. Stormwater that comes into contact with source materials is a pollutant under the WPCA, the discharge of which by any person requires a permit. Ibid.; see also N.J.A.C. 7:14A-1.2.

46. Vehicle recycling operations are subject to the WPCA's permit requirements because "source materials," as defined by the WPCA, may be exposed to precipitation and generate a stormwater discharge. See N.J.A.C. 7:14A-24.2. Permittees must comply with all conditions of a permit. N.J.A.C. 7:14A-6.2.

47. Failure to comply with a permit's conditions is a violation of the WPCA. Id. See also N.J.S.A 58:10A-6(f)3.

48. Defendants were issued Vehicle Recycling general permit NJG0222917 on February 7, 2014.

49. DEP inspections of Defendants' facility between 2015 and 2020 revealed numerous, repeated violations of the conditions of Defendants' permit.

50. DEP's July 7, 2015 inspection identified the following violations of Defendants' permit:

- a. A SPPP was not available for review (Part IV B.2.b.);
- b. Quarterly inspections had not been performed (Part IV B.4ii.);
- c. No annual certification was available (Part IV B.4.h.);
- d. Employee training had not occurred (Part IV B.3.b.);
- e. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.);
- f. Oil and antifreeze were observed on the ground (Part IV C.1.c.);
- g. Spill kits were not placed in required areas (Part IV C.1.d.; C.9.c.);
- h. Waste oil receipts were unavailable (Part IV B.4.d.);

- i. The vehicle crusher was not properly maintained (Part IV B.8.a).

51. DEP's January 22, 2016 inspection of Defendants' facility identified the following permit violations:

- a. The SPPP was incomplete because it lacked a complete list of source materials, a process diagram, and contained an insufficiently detailed site map. (Part IV B.4.b., c., d.);
- b. Quarterly inspections had not been performed (Part IV B.4ii.);
- c. Equipment containing hydraulic fluids (front end loader) were not properly maintained. (Part IV C.8.b.);
- d. Impervious surfaces were not properly maintained or free of fluids. (Part IV C.2);
- e. The fluid storage area lacked labeling and a secondary containment system. (Part IV C.5);
- f. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.);
- g. Spill kits did not contain required materials and were not placed in required areas (Part IV C.1.d.; C.9.c.).

52. DEP's September 8, 2016 inspection revealed continued non-compliance with Kaars' NJPDES permit, including:

- a. The SPPP was incomplete and lacked required components. (Part IV B.4.);
- b. Records of quarterly inspections were not available (Part IV B.4iii.);
- c. No records of employee training were available (Part IV B.3.b);
- d. A vehicle was leaking gasoline onto the ground. The vehicle was not in the fluid draining and dismantling area (Part IV C.2.);
- e. Impervious surfaces were not properly maintained or free of fluids. (Part IV C.2);
- f. The fluid storage area lacked labeling and a secondary containment system. (Part IV C.5);
- g. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.).

53. DEP's May 10, 2017 inspection identified numerous violations:

- a. No complete SPPP was available for review (Part IV. B.4);

- b. Spill kits did not contain required materials and were not placed in required areas (Part IV C.1.d.; C.9.c.);
- c. Fluid draining and dismantling was not in accordance with permit BMPs (Part IV C.2.);
- d. Fluid storage was not in compliance with permit BMPs Part IV C.5.);
- e. Vehicles containing fluids were being partially crushed. (Part IV, C.2., 8.);
- f. Fluids were observed in and around the crusher. (Part IV, C.2., 8.);
- g. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.).

54. DEP's May 11, 2018 inspection revealed the following permit violations:

- a. Fluid draining and dismantling was not in accordance with permit BMPs (Part IV C.2.);
- b. Fluid storage was not in compliance with permit BMPs Part IV C.5.);
- c. Fluids were observed in and around the crusher. (Part IV, C.2., 8.);
- d. Oil and other fluid staining was observed in different parts of the facility (Part IV C.9.);

- e. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.).

55. On June 27, 2019, DEP and EPA conducted a joint inspection of the facility that identified the following violations of Defendants' permit:

- a. The SPPP was incomplete and lacked an accurate site map depicting fluid storage areas and direction of stormwater flow. The SPPP also lacked a complete list of source materials (Part IV, B.4.c.; B.4.d.);
- b. Defendants did not have complete records of quarterly inspections for a period of three years, and no annual inspection reports were found. Nor was an annual certification form found at the facility (Part IV B.4.f.i-ii.; g.i.; h.i.);
- c. The fluid draining area was uncovered and exposed to the elements, and stormwater with visible sheen and discoloration was observed discharging from the facility to the storm drain on Prospect Avenue (Part IV C.2.a.; N.J.S.A. 58:10A-6(a));
- d. Source materials, including engine cores and transmissions, were improperly stored and were

- exposed to the elements in violation of permit BMPs (Part IV C.3.a.);
- e. Batteries were being stored outside and not on an impervious surface (Part IV C.3.c.);
 - f. Drained fluids were improperly stored in unlabeled drums lacking secondary containment (Part IV C.5.d.);
 - g. Greasy and discolored puddles were observed in the processed vehicle storage area indicating leaks from processed vehicles (Part IV C.6.b.);
 - h. No employee training records were available (Part IV C.9.d.);
 - i. Significant volumes of absorbent materials were observed in various areas of the facility and outside the facility adjacent to Parker Avenue near the storm drain (Part IV C.10.a);
 - j. Numerous puddles throughout the facility had a visible sheen or were discolored and there were no measures to prevent these pollutants from discharging off the site (Part IV D.1.a).

56. DEP observed the following permit violations during its November 24, 2020 inspection of the facility:

- a. There were visible off-site discharges of stormwater along Parker Avenue to storm drains (Part IV C.2.a; N.J.S.A. 58:10A-6);

- b. Stained and discolored soils were evident outside the gates of the facility (Part IV C.2.a);
- c. Mud and soils were tracked off-site onto the adjacent street (Part IV C.10.a);
- d. Vehicles with hoods up were observed in in the vehicle dismantling area (Part IV C.1.e.);
- e. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.);
- f. Ponded water in numerous areas of the site with visible sheens/discoloration were observed (Part IV D.1.a.);
- g. Visible discharges of fluids in the dismantled vehicle storage area were observed (Part IV C.2.a.);
- h. Unauthorized scrap metals and other debris were observed in a large pile near the vehicle crusher. The Defendants' permit does not authorize storage or processing of scrap metals;
- i. Staining and fluid discharges were observed adjacent to the crusher (Part IV C.2.a);
- j. Spill kits did not contain required materials and were not placed in required areas (Part IV C.1.d.; C.9.c.);

- k. Drained fluids were improperly stored in unlabeled drums lacking secondary containment (Part IV C.5.d.);
- l. Source materials, including engine cores and transmissions, were improperly stored and were exposed to the elements in violation of permit BMPs (Part IV C.3.a.);
- m. Batteries were being stored outside and not on an impervious surface (Part IV C.3.c.).

WHEREFORE, The Department demands judgment against the Defendants for violation of the WPCA and requests that this Court:

- a. Order Defendants to immediately cease all vehicle receipt, dismantling, fluid removal, crushing and all other activities authorized by permit NJG0222917 until permit compliance is achieved;

- b. Order Defendants to immediately implement corrective measures to comply with all terms of the permit, including but not limited to clean-up and maintenance of all impervious surface areas of the facility; installation of berms in areas where fluids are removed and stored; installation of a berm around the vehicle crusher; installation of covers for area in which source materials such as engines, engine cores, blocks, transmissions and other components removed from vehicles that may contain fluids will be stored; installation of covers where batteries are stored, or relocation of batteries to a covered area; and all other measures

required by the permit to prevent or eliminate the discharge of stormwater to surface and groundwater from the facility;

c. Order Defendants to immediately implement staff training related to compliance with all terms of the permit;

d. Order Defendants to pay civil penalties of up to \$50,000 per day per violation for each of the violations alleged in this complaint pursuant to the N.J.S.A. 58:10A-10(e); and

e. Order such other relief as the Court finds necessary and proper.

COUNT II

**Violation of the Solid Waste Management Act,
N.J.S.A. 13:1E-1 to -230.**

57. Plaintiffs incorporate each of the preceding paragraphs as if set forth fully herein;

58. The SWMA prohibits any person from operating a solid waste facility without a permit or authorization from DEP. N.J.S.A. 13:1E-5; N.J.A.C. 7:26-2.8(e)-(f).

59. Defendants' permit is solely for the dismantling and recycling of vehicles. The cover letter to the permit states that "facilities that engage in the business of vehicle recycling AND scrap metal processing are not eligible under this permit and will be considered for authorization under DEP's Scrap Metal Processing and Recycling General Permit."

60. Defendants do not possess, nor have they sought to attain, a Scrap Metal Processing and Recycling General Permit.

53. Scrap metal is a solid waste, the storage of which requires authorization under the SWMA. N.J.S.A. 13:1E-3 (definition of solid waste).

54. DEP's inspection of Defendants' facility on November 10, 2020, identified a large pile of scrap metals at the facility.

55. The DEP inspection also observed a large pile of discolored soils or similar materials adjacent to the vehicle crusher.

56. The scrap metals and discolored soils constitute solid waste under the SWMA. Defendants do not have a permit for the storage of solid waste.

WHEREFORE, the Department demands judgment against the Defendants for violation of the SWMA and requests that this Court:

a. Order Defendants to submit a proposal to DEP within 30 days of the order detailing how Defendants will remove the illegal solid wastes in the scrap metal storage area;

b. Order Defendants to, within 30 days of the order, contract with a New Jersey licensed testing laboratory to perform tests on the soil pile adjacent to the crusher to determine the chemical characteristics of the materials in the pile, and following receipt of test results, make immediate arrangements for the proper handling and disposal of the material;

c. Order Defendants to pay civil penalties of up to \$25,000 per day per violation for each of the violations alleged in this complaint pursuant to the N.J.S.A. 13:1E-9(d); and

d. Order such other relief as the Court finds necessary and proper.

COUNT III

**Violation of the Solid Waste Management Act,
N.J.A.C. 7:26A-6.4(d)3 - 5.**

57. Plaintiffs incorporate each of the preceding paragraphs as if set forth fully herein.

58. Vehicle recycling operations remove various fluids from vehicles to be scrapped, motor oil.

59. The SWMA requires a generator of used oil to properly store and label containers of used oil, N.J.A.C. 7:26A-6.4(d).

60. On November 24, 2020, and March 3, 2021, DEP Hazardous Waste inspection staff observed improper storage and labeling of drums containing used oil and improper disposal of spill response materials, in violation of N.J.A.C. 7:26A-6.4(d)(3), (4) and (5).

61. DEP Hazardous Waste staff conducted another inspection on March 3, 2021 and observed a rusted 55-gallon drum containing used oil, and five 55-gallon drums of used oil without proper labels, in violation of N.J.A.C. 7:26A-6.4(d)3, 4.

62. Inspectors also observed significant quantities of oil-contaminated "speedy dry" absorbent on the shop floor, in violation of N.J.A.C. 7:26A-6.4(d)5.

WHEREFORE, the Department demands judgment against the Defendants for violation of the SWMA and requests that this Court:

a. Order Defendants to immediately comply with the requirements of N.J.A.C. 7:26A-6.4(d) and affix appropriate labels to all containers of used oil at the facility;

b. Order Defendants to immediately place in the used oil storage area appropriate spill response equipment to fully address any potential spill that may occur in the used oil storage area;

c. Order Defendants to contract with a licensed company to remove and properly process all used oil at the facility;

d. Order Defendants to pay civil penalties of up to \$25,000 per day per violation for each of the violations alleged in this complaint pursuant to the N.J.S.A. 13:1E-9(d); and

e. Order such other relief as the Court finds necessary and proper.

COUNT IV

**Violation of the Spill Compensation and Control Act,
N.J.S.A 58:10-23.11 to -23.11z.**

63. Plaintiffs incorporate each of the preceding paragraphs as if set forth fully herein.

64. DEP inspections have consistently revealed the presence of spills of fluids at the Defendants' property, including motor oil, brake fluids, anti-freeze and other fluids. Motor oil contains a variety of TPH that pose a risk to public health if

released to the environment, including effects on a person's central nervous system, and also the blood, immune system, liver, spleen, kidneys, a developing fetus, and the lungs. TPH exposure at high levels can even cause death.

65. DEP inspectors also sampled a pile of yard scrapings and mixed solid wastes for the presence of hazardous substances. Samples taken on March 16, 2021 revealed the presence of a hazardous substance, benzo(a)pyrene, a human carcinogen,

66. The Spill Act prohibits any person from discharging hazardous substances without State or Federal permission.

67. The fluids discharged by Defendants, and the benzo(a)pyrene present in the yard scrapings, threaten public health and the environment.

WHEREFORE, the Department demands judgment against the Defendants for violation of the Spill Act and requests that this Court:

a. Order Defendants to immediately cease discharges of any hazardous substances at the property;

b. Order Defendants to take immediate action to clean up any discharges of hazardous substances and to dispose of hazardous substances and clean-up materials at a New Jersey licensed facility;

c. Order Defendants to restore or compensate the State for any natural resources that may have been damaged or destroyed as a result of Defendant's illegal discharges;

d. Order Defendants to pay civil penalties of up to \$50,000 per day per violation for each of the violations alleged in this complaint pursuant to the N.J.S.A. 58:10-23.11(u)d; and

e. Order such other relief as the Court finds necessary and proper.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 5/7/21

By: /s/ Robert J. Kinney
Robert J. Kinney
Deputy Attorney General

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

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 5/7/21

By: /s/ Robert J. Kinney
Robert J. Kinney
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

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

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES AND COMPLIANCE WITH RULE 1:38-7(c)

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are also the subject of an enforcement proceeding initiated by DEP by issuance of an AONOCAPA PEA170001-448716 for which no hearing has yet been scheduled in the Office of Administrative Law. Counsel certifies that no non-party known to Plaintiffs at this time should be joined in this action pursuant to R. 4:28, nor is any other party subject to joinder pursuant to R. 4:29-1. If, however, any

such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b) (2).

Counsel further certifies that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

Dated: 5/7/21

By: /s/ Robert J. Kinney
Robert Kinney
Deputy Attorney General

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-000980-21

Case Caption: NJ DEPT. OF ENV. PROTECTION VS KAARS, INC.

Case Type: ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION

Case Initiation Date: 05/07/2021

Document Type: Complaint

Attorney Name: ROBERT J KINNEY

Jury Demand: NONE

Firm Name: ATTORNEY GENERAL LAW

Is this a professional malpractice case? NO

Address: 25 MARKET STREET PO BOX 93

Related cases pending: NO

TRENTON NJ 08625

If yes, list docket numbers:

Phone: 6093762965

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Name of Party: PLAINTIFF : NJ Dept. of Env. Protection

Are sexual abuse claims alleged by: NJ Dept. of Env. Protection?
NO

Name of Defendant's Primary Insurance Company

(if known): Unknown

Are sexual abuse claims alleged by: Acting Comm'r of NJDEP? NO

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? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

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? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

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)*

05/07/2021
Dated

/s/ ROBERT J KINNEY
Signed

