

C. JURISDICTION & VENUE

3. Subject matter jurisdiction in this case is properly conferred in the Court pursuant to R.I. Gen. Laws §§ 8-2-13, 42-17.1-2(21)(vi), and 42-17.6-4(c).
4. Personal jurisdiction over the Defendant is properly conferred in this Court based on Defendant's operation of business within the State of Rhode Island.
5. Venue is properly placed in this Court pursuant to R.I. Gen. Laws §§ 9-4-3 and 42-17.6-4(c).

D. FACTS

6. The subject solid waste facility ("Facility") is located at 28 Privilege Street in Woonsocket, Rhode Island.
7. On February 5, 2020, DEM issued a License to STG to accept, consolidate, and store asbestos waste prior to shipment to other destination facilities.
8. On May 12, 2022, RIDEM issued a NOV to the Defendant alleging violation of its Operating Plan's restrictions on the quantity and duration of permitted storage of asbestos waste.
9. On May 12, 2022, RIDEM mailed the NOV by certified mail, return receipt requested, to PO Box 2132 in Bristol, Pennsylvania.
 - a. This was the address listed on the Pennsylvania Department of State's online database for the there-listed President of STG, Thomas Gaudet.
 - b. The Domestic Return Receipt indicates that the NOV was delivered on May 19, 2022.
10. On May 12, 2022, RIDEM mailed the NOV by certified mail, return receipt requested to 321 Lincoln Avenue in Bristol, Pennsylvania.

- a. This was the address as listed by the Rhode Island Secretary of State's online database for there-listed President of STG, Barry Gaudet.
 - b. The Domestic Return Receipt indicates that the NOV was delivered on May 19, 2022.
11. On June 6, 2022, RIDEM mailed the NOV by certified mail, return receipt request to 58 Pyles Lane in New Castle, Delaware.
 - a. This was the address listed by the Delaware Department of State's online database for STG's registered agent.
 - b. The online USPS Tracking information for this mailing indicates it was delivered on June 9, 2022.
12. On June 6, 2022, RIDEM mailed the NOV by certified mail, return receipt request to 28 Privilege Street in Woonsocket, Rhode Island, which is the Facility address.
 - a. The online USPS Tracking information for this mailing indicates it was delivered on June 9, 2022.
13. The multiple mailings of the NOV as described in Paragraphs 9-12 satisfy the service requirements for an NOV in that it was properly "sent by registered or certified mail" to the "last known address." R.I. Gen. Laws § 42-17.1-2(21)(i).
14. The Defendant had a statutory time period of twenty (20) days to request a hearing to contest the NOV. R.I. Gen. Laws § 42-17.1-2(21)(i).
15. The Defendant did not request an administrative hearing to contest the NOV within the statutory timeframe.
16. RIDEM's Administrative Adjudication Division (AAD) received an undated request from Thomas Gaudet on behalf of STG on September 13, 2022. However, that request was clearly untimely and the request was denied and the matter dismissed by the AAD by

order dated November 17, 2022. Said order was sent by regular mail back to the address from which the request came, 58 Pyles Lane in New Castle, Delaware.

17. The NOV imposed an administrative penalty of \$25,000.
18. The NOV ordered certain compliance terms to bring the Facility back into compliance with its Operating Plan. Specifically, the Order requires the following:
 - a. Immediately cease accepting additional Asbestos Waste. No Asbestos Waste shall be accepted at the Facility until compliance with this Order is confirmed in writing by DEM's Office of Land Revitalization & Sustainable Materials Management.
 - b. Within 30 days of receipt of the NOV, remove all Asbestos Waste stored at the Facility for compliant disposal in accordance with all applicable federal, state, and local statutes and regulations.
 - c. Within 45 days of receipt of the NOV, submit a written report to DEM's Office of Compliance and Inspection that details all actions taken to comply with this Order and include written verification of the compliant disposal of all Asbestos Waste removed from the Facility pursuant to this Order.
19. Because the Defendant failed to timely request an administrative hearing, the NOV and associated administrative penalty contained within automatically became a Compliance Order enforceable in Superior Court pursuant to R.I. Gen. Laws §§ 42-17.1-2(21)(vi) and 42-17.6-4(c).
20. As of the date of this Complaint, the Defendant has failed to fully comply with the terms of the Compliance Order.
21. The non-compliance poses an environmental concern.
 - a. Asbestos is a known human carcinogen.

- b. The Facility in located in an Environmental Justice Area.

COUNT I

(Violation of a Compliance Order)

22. Plaintiff hereby restates and incorporates by reference the allegations contained in Paragraphs 1 through 21 above.
23. The NOV was properly issued in accordance with R.I. Gen. Laws § 42-17.1-2(21).
24. The NOV was properly served in accordance with R.I. Gen. Laws § 42-17.1-2(21)(i).
25. In accordance with R.I. Gen. Laws § 42-17.1-2(21)(i), the NOV notified the Defendant of the facts that gave the Department reasonable grounds to believe that a violation of law had occurred; of the statutes and/or regulation(s) violated; and of the Defendant's right to request an administrative hearing before the Department's Administrative Adjudication Division by filing a request for hearing with twenty (20) days of service of the NOV.
26. Defendant did not request a hearing within the statutory period.
27. Pursuant to R.I. Gen. Laws § 42-17.6-4(c) and § 42-17.1-2(21)(i), the Defendant's failure to appeal the issuance of the NOV and the administrative penalty, is deemed to have waived Defendant's rights to an adjudicatory hearing resulting in the NOV automatically transforming into a Compliance Order of the RIDEM and the proposed administrative penalty becomes final.
28. Pursuant to R.I. Gen. Laws § 42-17.1-2(21)(vi), a Compliance Order is enforceable in the Superior Court through injunctive proceedings wherein the burden of proving error in the Compliance Order rests with the Defendant.
29. As of the date of filing this Complaint, the Defendant has failed to comply with the provisions of the Compliance Order.

COUNT II

(Violation of a Compliance Order Administrative Penalties)

30. Plaintiff hereby restates and incorporates by reference the allegations contained in Paragraphs 1 through 29 above.
31. The NOV was properly issued in accordance with R.I. Gen. Laws § 42-17.1-2(21).
32. The NOV was properly served in accordance with R.I. Gen. Laws § 42-17.1-2(21)(i).
33. The administrative penalty assessed in the NOV issued to the Defendant was assessed pursuant to R.I. Gen. Laws § 42-17.6-3.
34. In accordance with R.I. Gen. Laws § 42-17.6-3(a), the aforementioned NOV notified the Defendant of the facts giving rise to the alleged violations; of the statutes and/or regulations violated; the amount of the assessed administrative penalty for each violation; of the Defendant's right to request an administrative hearing before the RIDEM's Administrative Adjudicatory Division by filing a request for hearing within twenty (20) days of service of the NOV and that the failure to request a hearing in the time prescribed would result in the associated administrative penalty proposed becoming final; and the manner of payment thereof.
35. Defendant did not request a hearing within the statutory period.
36. Pursuant to R.I. Gen. Laws § 42-17.6-4(c) and § 42-17.1-2(21)(i), the Defendant's failure to appeal the issuance of the NOV and the administrative penalty, is deemed to have waived Defendant's rights to an adjudicatory hearing resulting in the NOV automatically transforming into a Compliance Order of the RIDEM and the proposed administrative penalty becomes final.

37. Pursuant to R.I. Gen. Laws § 42-17.1-2(21)(vi), a Compliance Order is enforceable in the Superior Court through injunctive proceedings wherein the burden of proving error in the Compliance Order rests with the Defendant.
38. Pursuant to R.I. Gen. Laws § 42-17.6-4(c), if a person waives their right to a hearing on an administrative penalty, it is enforceable in the Superior Court through injunctive proceedings.
39. Defendant has failed to pay the administrative penalty assessed in the NOV.

WHEREFORE, Plaintiff, Terrance Gray, in his capacity as Director of the Rhode Island Department of Environmental Management, hereby requests that Judgment be entered in favor of the Plaintiff and that the Plaintiff be granted the following relief to achieve compliance with the terms of the NOV:

1. Permanent Injunctive Relief, ordering Defendant to:
 - a. Immediately cease accepting additional Asbestos Waste. No Asbestos Waste shall be accepted at the Facility until compliance with the NOV is confirmed in writing by DEM's Office of Land Revitalization & Sustainable Materials Management.
 - b. Within 30 days, remove all Asbestos Waste stored at the Facility for compliant disposal in accordance with all applicable federal, state, and local statutes and regulations.
 - c. Within 45 days, submit a written report to DEM's Office of Compliance and Inspection that details all actions taken to comply with the NOV and include written verification of the compliant disposal of all Asbestos Waste removed from the Facility.
2. Award of Administrative Penalty, ordering Defendant to pay the full amount of \$25,000 to the Plaintiff, which is the amount of the administrative penalty assessed in the NOV; and

3. Such further relief as this Court deems just and equitable in accordance with the facts of this case.

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VERIFICATION

I, Tracey Tyrrell, Supervising Environmental Scientist of Rhode Island Department of Environmental Management's Office of Compliance and Inspection and an authorized representative of the Director, first being duly sworn upon oath, hereby state that the facts contained in this Complaint to the best of my knowledge and belief, true and accurate.

For the Director,

By: _____
TRACEY TYRRELL
Supervising Environmental Scientist
Office of Compliance and Inspection
Dated: October __, 2023.

**STATE OF RHODE ISLAND
PROVIDENCE COUNTY**

Subscribed and sworn to before me this __ day of October __, 2023.

NOTARY PUBLIC
My commission expires:

Submitted by:
Terrence Gray,
in his capacity as Director,
RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By his attorney,

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