



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE  
*Governor*

BOB MARTIN  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
BUREAU OF HAZARDOUS WASTE  
ENFORCEMENT,

Petitioner,

ADMINISTRATIVE ACTION  
FINAL DECISION

OAL DKT NO.: ECE 01901-17  
AGENCY REF. NO.: PEA 160001-  
NJN986649929

v.

BRIAN SANTORA,

Respondent.

This Order addresses the appeal of an Administrative Order and Notice of Civil Administrative Penalty (AONOCAPA) issued on April 21, 2016 by the New Jersey Department of Environmental Protection (Department), Bureau of Hazardous Waste Enforcement (Bureau), to Brian Santora (Respondent) for violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing regulations, N.J.A.C. 7:26G, which incorporate by reference various provisions of the Code of Federal Regulations (CFR). Specifically, the Department alleged that Respondent operated a hazardous waste facility located at 3030 1st Road, Block 3513, Lot 17, Mullica Township, Atlantic County (facility or site), and stored several dozen containers of hazardous waste, boxes of fluorescent lamps, and piles of consumer electronics on the site without having submitted an application for the permit necessary to operate such a facility, in violation of 40 CFR 270.10(e-f). The Department also alleged that

Respondent improperly stored more than 100 containers on the site, many of which contained unknown materials, included numerous drums of petroleum and containers of chemicals, were marked as corrosive or flammable material or were unlabeled, were in poor condition, were exposed to the weather elements, were open, or contained expired materials, and that Respondent failed to determine if the waste was hazardous, in violation of 40 CFR 262.11. Further, the Department alleged Respondent stored these containers without minimizing the possibilities of fire, explosion or releases of hazardous waste or hazardous waste constituents, in violation of 40 CFR 265.31. The Department ordered Respondent to comply with the applicable regulations within 30 days.

For the violations alleged, the Department assessed a total of \$50,000 in civil administrative penalties, specifically, \$35,000 for intentionally and willfully storing hazardous waste on site without attempting to properly dispose of the waste or protecting against fire, explosion or releases, and \$15,000 for operating a hazardous waste facility without submitting the necessary permit application.

Respondent, through counsel, timely requested a hearing to contest the AONOCAPA. The Department granted the request and transferred the matter to the Office of Administrative Law (OAL), where it was assigned to Administrative Law Judge (ALJ) John S. Kennedy. Counsel for both parties participated in two status conference calls, and a hearing was scheduled for September 13, 2017. Counsel for both parties appeared at the hearing, but Respondent did not.

Following the hearing date, the ALJ issued an Initial Decision on October 11, 2017. The ALJ set forth the procedural history of this matter and the numerous unsuccessful attempts by Respondent's counsel to contact his client. The ALJ also detailed the notification that

Respondent's counsel sent to his client by mail, which was not returned, advising that Respondent's failure to appear at the hearing would result in the dismissal of his appeal. Although Respondent failed to communicate with his counsel, he did email the Department's counsel, who responded that Respondent should contact his counsel and that the hearing was scheduled for September 13, 2017.

For the reasons set forth therein, the Initial Decision of ALJ Kennedy is HEREBY ADOPTED without modification, no exceptions having been filed, and the decision being reasonable and properly based upon the record. Respondent's request for a hearing to contest the AONOCAPA is dismissed with prejudice. Respondent is directed to pay the penalty of \$50,000 within thirty (30) days of this Final Decision, as set forth in paragraphs 11, 12 and 13 of the AONOCAPA. Respondent is further directed to comply, within thirty (30) days of this Final Decision, with the order set forth in paragraph 6 of the AONOCAPA.

IT IS SO ORDERED.

November 20, 2017  
DATE

A handwritten signature in blue ink, appearing to read "Bob Martin", is written over a horizontal line.

Bob Martin, Commissioner  
New Jersey Department of  
Environmental Protection

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
BUREAU OF HAZARDOUS WASTE ENFORCEMENT

v.  
BRIAN SANTORA

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