



## 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,

ADMINISTRATIVE ACTION  
FINAL DECISION

OAL DKT NO.: ECE 03477-14  
AGENCY REF. NO.: PEA 110001-005033

Petitioner,

v.

THE HOME RUBBER CO.,

Respondent.

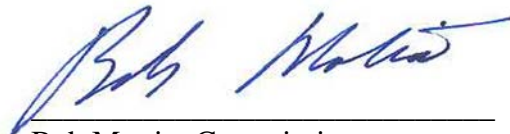
This Order addresses the appeal of an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) issued on April 10, 2013, by the Department of Environmental Protection (Department) to The Home Rubber Company (Respondent). The AONOCAPA alleged that Respondent failed to register a 10,000 gallon underground storage tank (UST), in violation of the Underground Storage of Hazardous Substances Act (USHSA), N.J.S.A. 58:10A-21 to -35, and implementing rules, specifically, N.J.A.C. 7:14B-2.1(a). The AONOCAPA ordered Respondent to submit a completed UST facility certification questionnaire with proof of financial assurance and a current UST registration certificate for its 10,000 gallon heating oil UST. Alternatively, the Department ordered Respondent to close the UST pursuant to applicable closure requirements within ninety days of the date of issuance of the AONOCAPA. The Department assessed a \$20,000 administrative penalty for Respondent's failure to register.

Respondent filed a hearing request and the matter was transferred to the Office of Administrative Law where it was assigned to Administrative Law Judge (ALJ) Lisa James-Beavers. Settlement negotiations failed and a one-day hearing was held on August 11, 2015. On September 25, 2015, the ALJ issued her Initial Decision finding Respondent liable for failing to register its UST but decreasing the penalty to \$15,000. On October 7, 2015, the Department filed exceptions to various findings in the Initial Decision regarding characterizations of the UST rules and witnesses' testimony. The Department also took exception to the ALJ's conclusions of law that resulted in her reduction of the penalty from \$20,000 to the midpoint of the penalty range, \$15,000.

The time for issuing the Final Decision was extended until February 8, 2016. While the Initial Decision was before me for review, Respondent and the Department reached a settlement of the matter. The parties have executed a Stipulation of Settlement and Withdrawal of Hearing Request with Prejudice (Stipulation of Settlement), a copy of which is attached to this Final Decision. Further review of the ALJ's Initial Decision is not necessary as the matter is now moot. I therefore REJECT the Initial Decision as moot and ADOPT the Stipulation of Settlement as the Final Decision in this matter. Pursuant to the Stipulation of Settlement, Respondent shall pay to the Department the sum of \$10,000, within ninety days after the effective date, as provided for in the Stipulation of Settlement.

IT IS SO ORDERED.

DATE: February 8, 2016



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Bob Martin, Commissioner  
New Jersey Department of  
Environmental Protection

NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION, BUREAU OF  
HAZARDOUS WASTE ENFORCEMENT, v.  
THE HOME RUBBER CO.

OAL DKT. NO. ECE 03477-14  
AGENCY REF. NO. PEA 110001-005033

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State of New Jersey

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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BOB MARTIN  
*Commissioner*

OAL DOCKET NO: ECE 03477-2014  
AGENCY REFERENCE NO: PEA 110001-005033

STATE OF NEW JERSEY,	)	
DEPARTMENT OF ENVIRONMENTAL	)	
PROTECTION, BUREAU OF HAZARDOUS	)	
WASTE & UST COMPLIANCE	)	
AND ENFORCEMENT,	)	
	)	
Petitioner,	)	STIPULATION OF SETTLEMENT
	)	AND WITHDRAWAL OF
v.	)	HEARING REQUEST WITH
	)	PREJUDICE
THE HOME RUBBER COMPANY,	)	
	)	
Respondent.		

This Stipulation of Settlement ("Stipulation") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq., and the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et. seq., and duly delegated to the Bureau Chief, Bureau of Hazardous Waste & UST Compliance and Enforcement, pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The Home Rubber Company owns 31 Woolverton Avenue, Block 150A, Lot 1; Block 150A, Lot 9; Block 151C, Lot 5; and Block 151C, Lot 7; Trenton City, Mercer County, New Jersey ("Site").

2. The Home Rubber Company owns and maintains an on-site underground storage tank system as defined by N.J.A.C. 7:14B-1.6, consisting of one (1) tank: a 10,000 gallon heating oil (#4) underground storage tank ("UST") and associated appurtenances.

3. On November 20, 2006, the Department issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AO/P") against The Home Rubber Company for violation of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq. and the regulations promulgated pursuant thereto, specifically, N.J.A.C. 7:14B-2.1(a) (failure to properly register a UST). The AO/P assessed a \$20,000 civil administrative penalty.

4. The Home Rubber Company timely requested an administrative hearing before the Office of Administrative Law ("OAL") contesting the AO/P and the allegations made therein. As a result of the hearing request, this matter was duly transmitted to the Office of Administrative Law for determination as a contested case.

5. The Department and The Home Rubber Company has agreed to settle this case by payment by The Home Rubber Company of \$10,000 without hearing, further effort, delay and costs of further litigation. The parties have agreed to the form and content of this Stipulation which sets forth the disposition of these matters.

THEREFORE, IT IS HEREBY ORDERED AND AGREED AS FOLLOWS:

6. In full settlement of the matters described in the AO/P, The Home Rubber Company shall pay to the Department the sum of \$10,000, due ninety days after the effective date of this Stipulation of Settlement in the manner provided in the following paragraphs.

7. In the event that The Home Rubber Company fails to comply with the terms of this Stipulation, the entire assessed penalty amount of \$20,0000, minus any amount already paid, shall be immediately due and owing and the Department may, in accordance with paragraph 10 below, and in addition to other remedies, docket this Stipulation as a Final Agency Order in that amount pursuant to the Penalty Enforcement Law of 1999, or enforce the Stipulation in Superior Court pursuant to R. 4:67 or R. 4:70, or in any other manner as may be appropriate against The Home Rubber Company, their successors or assigns.

8. The Home Rubber Company shall remit the payment amount by cashier's or certified check payable to the "New Jersey Department of Treasury, State of New Jersey," and shall mail the payment together with the enclosed enforcement invoice form to:

Division of Revenue  
New Jersey Department of Treasury  
P.O. Box 417  
Trenton, New Jersey 08625-0417

9. This Stipulation shall constitute a Final Order of the Department which may, in addition to other remedies, be docketed with the Clerk of the Superior Court as a Judgment or which may be otherwise enforced, either in a summary proceeding under R. 4:67-6, or in any other manner as may be appropriate.

10. Nothing in this Stipulation shall constitute a waiver of any statutory or regulatory right of the Department, nor shall this Stipulation preclude the Department from taking enforcement action against The Home Rubber Company for matters not set forth in the AO/P, including bringing an action to enforce the terms of this Stipulation.

11. The Department enters into this Stipulation pursuant to the police powers of the State of New Jersey for the enforcement of the laws of the State and protection of the public health, safety and welfare. All obligations imposed by this Stipulation shall constitute continuing regulatory obligations pursuant to those police powers.

12. No payment owed or made pursuant to this Stipulation is considered by the Department to constitute a debt, damage claim, or other claim which may be limited or discharged in a bankruptcy proceeding.

13. This Stipulation represents the complete and integrated agreement of, and shall be binding upon, and/or inure to the benefit of, the State of New Jersey, and its divisions, agencies and respective successors, and the Signatory(ies) and its respective agents, successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity.

14. The Home Rubber Company hereby withdraws, with prejudice, its request for an administrative hearing, which was docketed in the Office of Administrative Law as Docket No. ECE 03477-2014, and waives any right it may have to an administrative hearing on the April 10, 2013 AO/P.

15. This Stipulation shall be binding on The Home Rubber Company, its successors and assigns.

16. The signatures on behalf of the Department and The Home Rubber Company certify that the signers have full authority to execute this Stipulation and to bind the respective parties to its terms.

17. Department agrees that all future correspondence, notices, etc. shall be forwarded to PO Box 378, Trenton NJ, 08605.

RRB



17. This Stipulation becomes effective on the date on which  
it is signed by the DEP.

THE HOME RUBBER COMPANY  
Respondent

Dated: 2-3-16

By: Richard A. Balke

Ry Balke

Print Name

President

Title

NEW JERSEY DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Dated: 2/3/16

By: Michael R. Hastry

Michael R. Hastry, Chief  
Hazardous Waste and UST Compliance  
and Enforcement