



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 SOLID WASTE
COMPLIANCE AND
ENFORCEMENT,

ADMINISTRATIVE ACTION
FINAL DECISION

OAL DKT. NO.: ECE-SW 01767-10
AGENCY REF. NO.: PEA08006-131888

Petitioner,

v.

RED ROCK LAND
DEVELOPMENT, LLC,

Respondent.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, AIR
COMPLIANCE AND
ENFORCEMENT¹,

OAL DKT NO.: ECE-AI 01772-10
AGENCY REF. NO.: PEA08002-02967

Petitioner,

v.

BEDROC CONTRACTING, LLC,

Respondent.

¹ The caption has been revised to reflect the correct program within the Department of Environmental Protection responsible for initiating the enforcement action.

This Final Decision adopts the separate Initial Decisions of Administrative Law Judge Caridad F. Rigo dated September 8, 2014, in the above-captioned and related matters, OAL Docket Nos. ECE-SW 01767-10 and ECE-AI 01772-10, which were the subject of a single Order of Dismissal executed by the ALJ on May 9, 2012, in response to the Department of Environmental Protection's (Department) single Motion to Dismiss the hearing requests of the respondents in each matter for failure to prosecute. The respondents are related facilities and were represented by the same counsel in the Office of Administrative Law (OAL).

Red Rock Land Development, LLC, OAL Docket No. ECE-SW 01767-10

In this matter, the Department issued an Administrative Order and Notice of Civil Penalty Assessment on October 10, 2008 to Red Rock Land Development, LLC (Red Rock), a Class B recycling facility located at Page and Schuyler Avenues, Block 235, Lots 4 and 5, Lyndhurst Township, Bergen County, citing the facility with violations of its recycling facility general approval and the regulations governing such facilities. The violations included failure to comply with numerous specific operational requirements of the general approval, in violation of N.J.A.C. 7:26A-3.1(a); failure to obtain other approvals required to operate both the facility and equipment, in violation of N.J.A.C. 7:26A-3.10(a); failure to maintain records, in violation of N.J.A.C. 7:26A-3.17(a) 1, 2 and 3 and -3.17(c); failure to operate the facility and construct or install associated appurtenances thereto, in accordance with the general approval and the provisions of N.J.A.C. 7:26A-1 et seq., in violation of N.J.A.C. 7:26A-3.5(e); and failure to maintain site conditions as required by the general approval in violation of N.J.A.C. 7:26A-3.5(e). As a result of these violations, the majority of which were determined to be of major seriousness and major, or intentional, conduct, the Department assessed a penalty of \$160,000.

Red Rock requested an administrative hearing and the matter was referred to OAL. Red Rock was represented by Jack Traina, Esquire.

On April 18, 2012, the Department, through counsel, filed its Motion to Dismiss the hearing request based on Red Rock's failure to prosecute its appeal. The ALJ held numerous status conferences and scheduled a hearing for May 18, 2012, but Red Rock, through counsel, failed to appear at the last status conference on November 15, 2011, and failed to communicate its intentions regarding the appeal. Red Rock also did not respond to the Motion to Dismiss. The ALJ then entered the above-noted Order dismissing the hearing request on May 9, 2012.

Based on the above facts of record, I ADOPT the Initial Decision dismissing, with prejudice, Red Rock's hearing request for failure to prosecute and, further, I affirm the Department's administrative penalty of \$160,000 as set forth in the AONOCAPA.

Bedroc Contracting, LLC, OAL Docket No. ECE-AI 01772-10

In this matter, the Department issued an AONOCAPA on June 24, 2008, to Bedroc Contracting, a facility located at 340 Orient Way, Block 235, Lot 1, Lyndhurst, Bergen County, citing the facility with twenty-six violations of the Air Pollution Control Act and air pollution control rules, including N.J.A.C. 7:27-8.3(a), (b), (e); -8.13(d), (h); N.J.A.C. 7:27-9.2(b); and 40 CFR 60.670, for operating out of compliance with its air pollution control permits and certificates. The violations included failure to maintain records and reports related to the quantity of and disposition of air emissions from the facility's operations. As a result of these violations, the Department assessed the facility a penalty of \$88,000. Bedroc Contracting requested an administrative hearing and the matter was referred to OAL. While not formally consolidated with the Red Rock matter, OAL Docket No. ECE-SW 01767-10, the Department and the ALJ

handled this matter together with the Red Rock contested case. Bedroc was also represented by Jack Traina, Esquire.

On April 18, 2012, the Department filed its Motion to Dismiss the hearing request based on Bedroc Contracting's failure to prosecute its appeal. The ALJ held numerous status conferences and scheduled a hearing for May 18, 2012, but Bedroc, through counsel, failed to appear at the last status conference on November 15, 2011, and failed to communicate its intentions regarding the appeal. Bedroc also did not respond to the Motion to Dismiss. The ALJ then entered the above-noted Order dismissing the hearing request on May 9, 2012.

Based on the above facts of record, I ADOPT the Initial Decision dismissing, with prejudice, Bedroc's hearing request for failure to prosecute and, further, I affirm the Department's administrative penalty of \$88,000 as set forth in the AONOCAPA.

CONCLUSION

For the reasons stated in the Initial Decisions and herein, I ADOPT the findings and conclusions of the separate Initial Decisions dated September 8, 2014. Petitioners Red Rock and Bedroc are directed to pay the \$160,000 and \$88,000 penalties assessed by the Department in the respective AONOCAPAs within twenty (20) days of this Final Decision.

IT IS SO ORDERED.

DATE: October 16, 2014

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
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v.

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ENVIRONMENTAL PROTECTION, AIR COMPLIANCE AND ENFORCEMENT

v.

BEDROC CONTRACTING, LLC
OAL DKT NO.: ECE- AI 01772-10
AGENCY REF. NO.: PEA08002-02967

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