



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. ECE 02467-21

AGENCY DKT. NO. PEA 190001-
U29991

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION, BUREAU
OF HAZARDOUS WASTE COMPLIANCE
AND ENFORCEMENT,**

Petitioner,

v.

**CYPREXX SERVICES, LLC, and ED MULLEN,
CHIEF EXECUTIVE OFFICER, Jointly and Severally,**

Respondents.

Paige Hensor, Deputy Attorney General, for petitioner (Matthew J. Platkin, Attorney
General of New Jersey, attorney)

John T. Ambrosio, Esq., for respondents (Ambrosio & Associates, LLC, attorneys)

Record Closed: July 21, 2023

Decided: September 7, 2023

BEFORE TRICIA M. CALIGUIRE, ALJ:

STATEMENT OF THE CASE

Respondents Cyprexx Services, LLC (Cyprexx) and Ed Mullen, Chief Executive Officer (CEO), appeal the determination of petitioner New Jersey Department of Environmental Protection, Bureau of Hazardous Waste Compliance and Enforcement (NJDEP), that respondents have violated the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (SW Management Act), and/or the New Jersey Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq (SW Control Act), and the regulations promulgated pursuant to both laws (Regulations), respectively N.J.A.C. 7:26-16.3(a) and N.J.A.C. 7:26H-1.6(a). Respondents also appeal the assessment by the NJDEP of a civil administrative penalty of \$20,000.

PROCEDURAL HISTORY

On August 6, 2019, the NJDEP issued an Administrative Order and Notice of Civil Penalty Assessment (AONOCAPA) and Notice of Civil Administrative Penalty Assessment (NPA) to respondents finding that they had violated the above-cited Acts and regulations.¹ On August 27, 2019, respondents requested an adjudicatory hearing. On November 6, 2020, the NJDEP notified respondents that this matter would be transmitted to the Office of Administrative Law (OAL). The matter was filed for determination as a contested case on February 26, 2021, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On May 20, 2021, respondents requested that this matter be placed on the inactive list as respondents are part of a joint defense group, composed of companies similarly situated in New Jersey, which were involved in negotiations with the NJDEP and the New Jersey Attorney General's Office to resolve this matter. NJDEP did not object to this request and on May 21, 2021, a six-month order of inactivity was issued.

Telephone prehearing conferences with the parties were held on November 22, 2021, and January 10, 2022, during which respondents stated that they would be joining a motion for consolidation of this matter with a similar matter, OAL Dkt. No. ECE 02465-21, to be filed with the Honorable Elia Pelios, ALJ. Judge Pelios denied the motion for consolidation by

¹ I/M/O Cyprexx Services LLC, et al., EA ID # PEA190001-U2991, AONOCAPA and NLS, August 6, 2019.

order dated July 7, 2022, after which the parties requested a briefing schedule for cross-motions for summary decision.

On April 21, 2023, respondents filed a motion for summary decision in their favor, seeking specifically, a finding that they are not liable for the violations of the Acts and Regulations alleged in the NJDEP's August 6, 2019, AONOCAPA and NPA, and dismissing the NJDEP's assessment of a civil administrative penalty of \$20,000. Following extensions, on June 8, 2023, the NJDEP submitted a brief in opposition to the motion for summary decision and moved for summary decision in its favor. Respondents filed a reply brief on July 11, 2023, NJDEP replied on July 21, 2023, and the motion is now ripe for determination.

FACTUAL DISCUSSION AND FINDINGS

The parties stipulated to the following **FACTS** as undisputed and therefore, I **FIND**:

1. Respondent Cyprex is a limited liability company organized under the laws of the State of Delaware and maintains its principal place of business at 525 Grand Regency Boulevard, Brandon, Florida 33510.
2. Cyprex is authorized to engage in business in the State of New Jersey as a foreign limited liability company.
3. Respondent Edward Mullen (Mullen) is the CEO of Cyprex.
4. Cyprex is engaged in the business of providing property preservation services to its customers throughout the United States.
5. Property preservation is the process of performing services inside and outside of pre-foreclosure and post-foreclosed properties at the request of clients. Clients include banks, financial institutions and asset management companies and requested services include repairs, inspections, and maintenance.

6. Cyprexx provides field services to residential mortgage lenders and real estate owned asset management firms across the County, which involves the preservation, maintenance, and repairs of residential and commercial properties in New Jersey.
7. A small fraction of the field services—less than ten percent of the total expense of all field services—provided by Cyprexx includes the cost of collection, transportation, and disposal of wastes left behind by the occupants of vacant or foreclosed properties to other parties.
8. Typically, the field services that are provided include pre-foreclosure preservation, utility management, post-foreclosure preservation, eviction services, winterizations, landscaping, and repairs.
9. Cyprexx maintains a list of local independent contractors which perform all of the field services. Each independent contractor enters into a Vendor Service Agreement directly with Cyprexx.
10. On or about July 19, 2019, Cyprexx was engaged to provide field services with respect to the real property located at 207 Fresh Ponds Road, Monroe, New Jersey 08831 (the Site). Greenscapes Property Management, LLC (Greenscapes), a vendor hired by Cyprexx to provide cleanout and refuse removal services, represented to Cyprexx that it was authorized under New Jersey law to provide preservation services.
11. On July 19, 2019, during a compliance inspection at the Site, the NJDEP determined that Greenscapes was not authorized to engage in the business of solid waste collection.

Based on the documents filed by the parties in support of their motions, I **FIND** the following additional background **FACTS**:

1. On August 6, 2019, NJDEP issued the AONOCAPA charging respondents with violating the SW Management Act and its regulations, specifically N.J.A.C. 7:26-16.3(a), for engaging “in the collection, transportation, treatment, storage, transfer or disposal of solid waste without [an A-901] license, through brokering the collection,

transportation and disposal of waste from 217 Fresh Ponds Road, Monroe," as neither Cyprex nor Greenscapes held an A-901 license.

2. In the AONOCAPA, NJDEP also charged respondents with violating the SW Control Act and its regulations, specifically N.J.A.C. 7:26H-1.6(a), for engaging "in the business of solid waste collection or solid waste disposal" without a certificate of public convenience and necessity, as neither Cyprex nor Greenscapes held a certificate of public convenience and necessity.
3. In 2019, the term "broker" was defined in the SW Management Act regulations as follows:

"Broker" means any person, not registered with the Department, who for compensation (e.g., a commission or fee) arranges for the transportation or disposal of solid waste or hazardous waste, other than waste generated by that person.

[N.J.A.C. 7:26-16.2.]

4. In 2019, that portion of the SW Management Act referred to as the "A-901 Law,"² was amended to include the following definition of "broker," effective January 21, 2020:

"Broker" means a person who for direct or indirect compensation arranges agreement between a business concern and its customers for the collection, transportation, treatment, storage, processing, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services.

[L. 2019, c. 397, § 3, found at N.J.S.A. 13:1E-127(n).]

5. The following explanation was included in the report of the New Jersey Assembly Appropriations Committee on the proposed 2019 amendments to the A-901 Law (Senate Bill No. 1683/Assembly Bill No. 4267):

This bill amends existing law to expand the requirement for background checks to a broader range of persons involved in the solid waste industry, such as sales persons, consultants, and brokers.

² N.J.S.A. 13:1E-126 et seq.

[Assembly Appropriations Committee Statement to Senate, No. 1683 (December 12, 2019).]

POSITIONS OF THE PARTIES³

To start, the parties agree that Cyprexx did not physically handle, collect, and/or transfer solid waste for disposal at the Site. See Finding of Fact 9, above. The issue for resolution here is whether Cyprexx “was engaged in the business of solid waste” as a “broker” as those terms are defined in the statutes and regulations quoted below.

“Engaged in the business of solid waste” means obligating oneself, through a contract or some other means, to provide collection, transportation, treatment, storage or disposal of solid waste in the State of New Jersey, including employment of a licensed hauler, including a subsidiary, to do the actual collections, transportation, treatment, storage or disposal.

[N.J.A.C. 7:26H-1.4.]

“Broker” means any person, not registered with the Department, who for compensation (e.g., a commission or fee) arranges for the transportation or disposal of solid waste or hazardous waste; other than waste generated by that person.

[N.J.A.C. 7:26-16.2 (emphasis added).]

Cyprexx contends that it is a “property preservation service” and is not interested in, nor did it ever intend to engage in, the business of solid waste. Cyprexx does not own or operate solid waste collection or transportation equipment or a solid waste treatment or disposal facility. Cyprexx has no employees or subsidiaries involved with solid waste in any manner. “When it needs such services, it hires experienced vendors to perform those services for it.” Br. of Respondents in Support of the Notice of Motion for Summary Decision (Respondents’ Br.) (April 21, 2023), at 6.

³ Should NJDEP prevail on its motion for summary decision, it reserves the right to request a hearing on whether the imposition of a civil administrative penalty of \$20,000, is appropriate under the Regulations. Br. of Respondent, at 12, fn. 3.

Cyprex cites cases (unreported) to show that “retention of a licensed solid waste collector” is not enough to turn a party in need of solid waste services into a broker or an “entity engaged in the solid waste business.” *Id.* at 10. It was Cyprex, not its client, who needed to have solid waste removed from the site; the client had no involvement in the retention of Greenscapes. Cyprex selected Greenscapes, agreed to the contract price, entered the contract with Greenscapes, and paid Greenscapes directly.⁴

In its motion for summary decision, the NJDEP claims Cyprex was “engaged in the business of solid waste” by its action in brokering—or hiring and paying—a third party “to do the actual collection, transportation and disposal of the solid waste collected at 207 Fresh Ponds Road.” Br. of Petitioner in Response to Motion for Summary Decision by Respondents and Cross-Motion for Summary Decision by Petitioner (Petitioner’s Br.) (June 8, 2023), at 6. Cyprex does not hold an A-901 license and therefore, it engaged in the business of solid waste services in violation of the SW Management Act. Notwithstanding that Cyprex may be organized for another purpose—property preservation—when Cyprex hired Greenscapes to perform solid waste removal services it acted as a broker⁵ in violation of the law. Petitioner Br. at 7.

In response, Cyprex contends that the third party which it hired to conduct “cleanout services,” Greenscapes, is not required to be licensed under the A-901 Law (or under other provisions of the SW Management Act). Greenscapes is a self-generator and is therefore “authorized to register its equipment to transport [the] solid waste that it generated.” Reply Br. of Respondents in Further Support of Motion for Summary Decision and in Opposition to the Cross-Motion for Summary Decision (July 11, 2023) (Respondents’ Reply Br.), at 3 and Ex. D.⁶

In reply, the NJDEP first concedes that Greenscapes is classified as a self-generator but notes that this classification is only due to the error of a former NJDEP employee. Even so, “regardless of whether Greenscapes is a self-generator, Cyprex still **brokered** an

⁴ Cyprex stated that its dealings with Greenscapes were typical of its business model.

⁵ Note that NJDEP refers to the regulatory definition of “broker” that was not in effect until January 2020. Petitioner Br. at 7 (quoting N.J.S.A. 1E:127(n)).

⁶ Cyprex supports its argument that Greenscapes is not an A-901 transporter on the stipulation of dismissal entered by NJDEP with respect to its claims against Greenscapes for solid waste transport from 207 Fresh Ponds Rd. Given that the entire stipulation was not presented in this matter and may include statements contrary to that proposed by Cyprex, that stipulation will not be considered here.

agreement for solid waste services from Greenscapes[.]” Ltr. Br. Reply of Petitioner (July 21, 2023) (Petitioner Reply), at 2 (emphasis in original).

LEGAL ANALYSIS AND CONCLUSIONS

Standard for Summary Decision

Summary decision is a well-recognized procedure for resolving cases in which the facts that are crucial to the determination of the matters at issue are not actually in dispute. By applying the applicable law and standard of proof to the undisputed facts, a decision may be reached in a case without the necessity of a hearing at which evidence is presented and testimony taken. The procedure is equally applicable in judicial as well as executive branch administrative proceedings. N.J.A.C. 1:1-12.5.

The regulations provide that the decision sought by the movant “may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b).

The standards for determining motions for summary judgment are found in Judson v. Peoples Bank & Trust Co., 17 N.J. 67, 74–75 (1954), and later in Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995). A motion for summary decision may only be granted where the moving party sustains the burden of proving “the absence of a genuine issue of material fact,” and all inferences of doubt are drawn against the movant. Judson, 17 N.J. at 74-75. Nevertheless, if the opposing party offers only facts which are immaterial or insubstantial in nature, these circumstances should not defeat a motion for summary judgment. Id. at 75. Although the pleadings may raise a factual issue, the question before the judge is whether those facts are “material” to the legal issues to be tried.

Summary decision is appropriate when “the evidence . . . is so one-sided that one party must prevail as a matter of law.” Brill, 142 N.J. at 541 (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251–52, 106 S. Ct. 2505, 2512, 91 L. Ed. 2d 202, 214 (1986)). In

reviewing the proffered evidence to determine the motion, the judge must be guided by the applicable evidentiary standard of proof that would apply at trial on the merits.

The Applicable Statute and Regulations

The collection, transportation and disposal of solid waste is regulated by the SW Management Act, which authorizes the NJDEP to regulate all solid waste facilities and register all persons engaged in the collection and/or disposal of solid waste. N.J.S.A. 13:1E-2(b)(6), -4(a). The SW Management Act is a strict liability statute; only the proscribed act must be proven to establish liability. State v. Lewis, 215 N.J. Super. 564, 573 (App. Div. 1987) (citing Dept. of Env't'l. Prot. v. Harris, 214 N.J. Super. 140 (App. Div. 1986)). The civil penalty provision of the SW Management Act "does not stipulate that either willfulness or intention to violate must be proven before a penalty is imposed." Lewis, 215 N.J. Super. at 573 (quoting Harris, 214 N.J. Super. at 147).

The A-901 statute, N.J.S.A. 13:1E-126 to -135, and its regulations, N.J.A.C. 7:26H-16.1 et seq., impose a licensing requirement on the commercial waste industry in New Jersey. In order to receive an A-901 license, an individual or business must disclose extensive information to the NJDEP and submit to background investigations by the Attorney General to demonstrate their fitness, integrity and expertise. N.J.S.A. 13:1E-126, -133, and -134.

In the AONOCAPA, the NJDEP alleges that Cyprex has violated the SW Management Act, the SW Control Act, and the following two provisions of the Regulations, in pertinent part:

No person shall engage or continue to engage in the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste in this State without a license, or without complying with all the provisions of N.J.S.A. 13:1E-126 et seq., and with the provisions of this subchapter and of N.J.A.C. 7:26-16A [A-901 licensing requirements].

[N.J.A.C. 7:26-16.3(a).]

No person shall engage in the business of solid waste collection or solid waste disposal as defined by N.J.S.A. 48:13A-3 unless such person is the holder of a certificate of public convenience and necessity issued by the Department.

[N.J.A.C. 7:26H-1.6(a).]

It is undisputed that Cyprex hired Greenscapes to “perform cleanout and removal services,” which is another way of saying “to collect, transport and dispose of solid waste” at the Site. It is undisputed that in July 2019, Cyprex did not hold an A-901 license (and apparently, neither did Greenscapes). The parties stipulated that Cyprex is responsible for a variety of property restoration activities but does not perform the actual field services; all services are performed by third parties which are hired by Cyprex. The question for resolution then is whether by its action of hiring Greenscapes, did Cyprex engage in the collection, transportation, treatment, storage, transfer or disposal of solid waste without a license. The answer may depend on which version of the law applies.

The AONOCAPA charges Cyprex with violating the SW Management Act by engaging “in the collection, transportation, treatment, storage, transfer or disposal of solid waste . . . through brokering the collection, transportation, and disposal of waste.” The statutory definition of broker and the obligations of a broker with respect to licensing changed after the AONOCAPA was issued.

“Generally, the law favors prospective, rather than retroactive, application of new legislation unless a recognized exception applies.” Strategic Env'tl. Partners, LLC v. New Jersey Dep't of Env'tl. Prot., 438 N.J. Super. 125, 140 (App. Div. 2014) (citing James v. N.J. Mfrs. Ins. Co., 216 N.J. 552, 556, 563 (2014)). In James, the Supreme Court applied the “two-part test” to determine if a statute could be applied retroactively: “whether the Legislature intended to give the statute retroactive application [and] whether retroactive application will result in either an unconstitutional interference with vested rights or a manifest injustice.” 216 N.J. at 563 (citations omitted); see also Strategic Partners, 438 N.J. Super. at 140.

There are three circumstances in which a statute should be applied retroactively:

- (1) When the Legislature expresses its intent that the law apply retroactively, either expressly or implicitly;
- (2) when an amendment is curative; or
- (3) when the expectations of the parties so warrant.

[James, 216 N.J. at 563 (citations omitted).]

The NJDEP points to no instances in which the new definition of broker was applied retroactively and there is no language in the statute directing retroactive application. The new law is not simply curative, it expanded the categories of persons subject to background checks. The NJDEP contends that the amendments to the A-901 statute clarified that a “broker” is someone who is paid for arranging disposal services by a disposal company for the broker’s customers. Petitioner’s Br. at 9. A close reading of the two versions of the “broker” definition leads to the conclusion that the actual change is the omission of the phrase “who are not regulated by the Department” in the latter. Both versions define a broker as someone who is paid for arranging solid waste services for a third party. Further, the Legislative History, quoted above, states that the 2019 amendment did not clarify the definition of a broker but added brokers to the entities which are required to obtain A-901 licenses under the SW Management Act. Finally, there is no evidence that the parties anticipated retroactive application. Accordingly, I **CONCLUDE** that the applicable statute and regulations are those that were in effect in August 2019, and that were cited by the NJDEP when the AONOCAPA was issued in August 2019.

Liability of a Broker for Compliance with the Licensing Requirements of the SW Management Act and the SW Control Act in 2019

Respondents are charged with engaging in the business of solid waste without a license through their actions in brokering the services of Greenscapes. In 2019, brokering is not specifically included in the list of covered activities and the definition of broker strongly implies that registration is not required:

“Broker” means any person, not registered with the Department, who for compensation (e.g., a commission or fee) arranges for the transportation or disposal of solid waste or hazardous waste, other than waste generated by that person.

[N.J.A.C. 7:26-16.2 (emphasis added).]

However, another section of the regulations lists the persons exempt from the licensing and disclosure requirements and a “broker” is not included. N.J.A.C. 7:26-16.3(d) (last amended December 1984). In an unreported decision, the Appellate Division notes the ambiguity raised by the two sections and recommends that the Department resolve the ambiguity. Dept. of Env’tl. Prot. v. Amco Resource Recovery, Inc., et al., Dkt. No. A-5926-89T3, fn. 1 (App Div. June 4, 1991) (noting that trial judge observed that as written, N.J.A.C. 7-26-16.2, suggests brokers are exempt).⁷

There are no published cases finding a broker, as defined prior to 2020,⁸ is engaged in the solid waste business as a result of arranging for transportation or disposal of solid waste. Nor are there reported cases in which a company offering property preservation services like those of Cyprex has been deemed a broker or has been deemed to be engaged in the business of solid waste.

Respondents rely on an unpublished, nonprecedential decision of the Appellate Division in which a remediation company hired to cleanup, restore, and maintain a hazardous waste disposal site and which subcontracted the transportation for disposal of the waste was deemed not to be a solid waste transporter and therefore, not subject to the licensing requirements for solid waste transporters. In re the Matter of the Bid for Removal and Disposal of PCB Contaminated Materials at the Burnt Fly Bog-Uplands Site, Contract X-25867, 1993 N.J. Super. Lexis 10, at *3 (App. Div., April 21, 1993). In concluding that the remediation company was not a solid waste transporter, the court found that “the non-

⁷ NJDEP urges deference be paid to the agency’s interpretation of its own regulations, but it is also urging application of the definition of “broker” that was not effective until months after the AONOCAPA was issued. See Respondent’s Br. at 7-8.

⁸ As the Legislative History makes clear, brokers are now required to obtain A-901 licenses. Cyprex will likely continue to argue that it is not a broker, but I make no findings with respect to the activities of Cyprex after the AONOCAPA was issued.

transportation work" was "substantial," and described numerous activities performed by the remediation company which were unrelated to moving the hazardous waste. Ibid.⁹

In contrast, a company could not avoid liability simply by holding itself out as a broker and was found to have "placed itself directly in the middle of the removal process," and was therefore liable under the SW Management Act and the SW Control Act for engaging in the business of solid waste without a license. Dept. of Env't'l. Prot. v. Adamo Container Servs., et al., OAL Dkt. No. ESW 08241-00S, Initial Decision, (October 4, 2001), adopted, Comm'r. (November 28, 2001). While "[a] broker is generally an intermediary," Adamo exercised control over all aspects of the process, including seeking customers who generated waste, setting prices for disposal containers, negotiating with collectors and arranging for delivery and removal of containers at customer sites, billing customers and even suing for non-payment by customers. Id. at *4.

Similarly, in another unreported opinion, a company which argued it simply brokered transportation or disposal of solid waste was found to have "exercised significant control over solid waste collection" and was subject to the licensing requirements. NJDEP v. Amco Resource Recovery, Inc., et al., Dkt. No. 5926-89T3, *3 (June 4, 1991). Amco "contracted with several retail chains to remove waste from work sites," chose the subcontractors who handled collection, "supervised all aspects of the collection, provided . . . containers, handled customer complaints and negotiated the contract prices directly with the customers." Id. at *2-3.

Here, the undisputed facts are that Cyprexx was paid by the owners of the Site to supervise a multitude of services related to cleaning up and restoring the property, not all of which generated waste and most of which were unrelated to the collection and disposal of solid waste. Based on the undisputed facts, I **CONCLUDE** that Cyprexx did not engage in the business of solid waste by virtue of its property preservation services.

⁹ The court found that the subcontractor, the disposal company, was separately subject to the regulatory requirements. Id. at *4. This is consistent with the action of NJDEP in issuing an AONOCAPA and NPA to Greenscapes.

Cyprex hired Greenscapes, and paid Greenscapes directly, to collect, transport and dispose of the waste generated at the Site. There is no evidence that once Cyprex retained Greenscapes, it asserted any control over the manner in which Greenscapes performed its job. On the other hand, there is little evidence that Cyprex acted as a broker, was merely hired to find a vendor to handle solid waste transport and disposal, was paid a fee by 407 Fresh Ponds, and then stepped aside. I **CONCLUDE** that in July 2019, Cyprex did not engage in the business of solid waste by brokering the collection, transport and disposal of solid waste.¹⁰ For that reason, Cyprex was not required to hold an A-901 license or a certificate of public convenience and necessity.

The Legislature, as urged by the courts and the Attorney General's Office, amended the A-901 Law to ensure that as of January 2020, companies which directly or indirectly arrange for collection, transportation and disposal of solid waste must be licensed. I agree with the NJDEP that because of that amendment, brokers must now be licensed, and the guidance of the Appellate Division in Burnt Fly Bog-Uplands may no longer apply. However, as of 2019, when the AONOCAPA was issued, I **CONCLUDE** that the preponderance of the credible, undisputed evidence does not prove that respondents violated the SW Management Act and the SW Control Act.

ORDER

It is **ORDERED** that the application for summary decision by respondents Cyprex Services, LLC and Ed Mullen is **GRANTED** and the cross-motion of petitioner NJDEP is **DENIED**. I further **ORDER** that the Administrative Order and Notice of Civil Penalty Assessment and Notice of Civil Administrative Penalty Assessment issued by the NJDEP be **DISMISSED WITH PREJUDICE**.

I hereby **FILE** my initial decision with the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** for consideration.

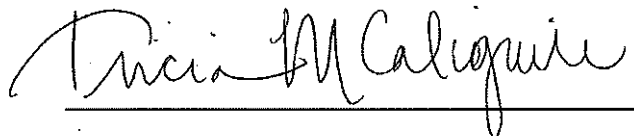
¹⁰ Even if Cyprex's only connection to the Site was to serve as a broker for disposal services, it is questionable whether the law in effect in July 2019, required brokers to be licensed, as discussed above.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, who by law is authorized to make the final decision in this matter. If the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** does not adopt, modify or reject this order within forty-five days and unless such time limit is otherwise extended, this initial decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this order was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

September 7, 2023

DATE



TRICIA M. CALIGUIRE, ALJ

Date Received at Agency:

September 7, 2023

Date Mailed to Parties:

September 7, 2023

TMC/kl/mph