



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

GRANTING SUMMARY DECISION

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION -
SITE REMEDIATION COMPLIANCE AND
ENFORCEMENT,**

Petitioner,

v.

**FRAGALE'S BAKING CO., INC. SITE AND
Q.R.I. FRAGALE'S BAKING, INC.**

OAL DKT. NO. ESR 17293-15

AGENCY DKT. NO. PEA140001-031866

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION -
SITE REMEDIATION COMPLIANCE AND
ENFORCEMENT,**

Petitioner,

v.

**FRAGALE'S BAKING CO., INC. SITE AND
ROSARIA FRAGALE,**

Respondent.

OAL DKT. NO. ESR 00231-16

AGENCY DKT. NO. PEA140002-031866

Elsbeth Hans, Deputy Attorney General, for petitioner

(Christopher Porrino, Acting Attorney General of New Jersey, attorney)

Daniele Cervino, Esq, for respondent (Golub, Isabel & Cervino, P.C., attorneys)

Record Closed: April 26, 2016

Decided: June 28, 2016

BEFORE **JEFFREY A. GERSON**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

A hearing was conducted in the form of a Summary Decision which was unopposed by the respondent resulting in the following **FINDINGS**:

FACTS

1. Respondents triggered the requirements of direct oversight by failing to submit a complete Remedial Investigation Report by May 7, 2014, and subsequently failed to conduct and submit a feasibility study, submit an initial remediation cost review, established a remediation trust fund, pay an annual remediation surcharge; and submit a proposed public participation plan. Respondents', Q.R.I. Fragale's Bakery Inc. and Rosaria Fragale, are therefore liable for violating the Site Remediation Reform Act ("SRRA") and the regulations promulgated thereto by failing to comply with the requirements for direct oversight as provided at N.J.S.A. 58:10C-27, N.J.A.C. 7:26C, and N.J.A.C. 7:26E following the occurrence of an event listed in N.J.A.C. 7:26C-14.2(a)(1)-(3). .

2. Respondent Q.R.I. Fragale's Bakery Inc. is liable for a civil administrative penalty in the amount of \$25,000 for the above violations, as assessed in the September 23, 2014 AONOCAPA.

3. Respondent Rosaria fragale is liable for a civil administrative penalty in the amount of \$25,000 for the above violations, as assessed in the October 29, 2014 AONOCAPA.

4. Respondents shall comply with the following:

- a. Conduct the remediation of the contaminated Site with Department oversight and approval in accordance with N.J.A.C. 7:26C-2.3(a)(3)(i)(2) and N.J.A.C. 7:26C-14.2(b).
- b. Proceed as the Department directs to remediate all discharges at the Site in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E, including without limitation, the following:
 - i. Within 90 days of the date of this Order, submit to the Department a proposed public participation plan, with a schedule, pursuant to N.J.S.A. 58:10C-27(c)(7) that contains a strategy for soliciting public comment concerning the remediation of the discharges at the Site from members of the public.
 - ii. Within 90 days of this Order, submit an initial cost review prepared and certified by a Licensed Site Remediation Professional (“LSRP”) pursuant to N.J.A.C. 7:26C-5.10(a).
 - iii. Within 90 days of this Order, establish and maintain a remediation trust fund, pursuant to N.J.A.C. 7:26C-5.2(k) in the amount of the cost of remediation.
 - iv. Within 90 days of the date of this Order, pay an annual remediation funding surcharge pursuant to N.J.A.C. 7:26C-5.9 in the amount of 1.0% of the cost of the remediation; and
 - v. Within 90 days of this Order, submit a Case Inventory Document and case status summary.
- c. Respondent Q.R.I. Fragale’s Bakery Inc. shall pay to the Department a Civil administrative penalty in the amount of \$25,000.
- d. Respondent Rosaria Fragale shall pay to the Department a civil administrative penalty in the amount of \$25,000.

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

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 a final decision in this matter. If the Commissioner of the Department of Environmental Protection does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended 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 recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, OFFICE OF LEGAL AFFAIRS, DEPARTMENT OF ENVIRONMENTAL PROTECTION, 401 East State Street, 4th Floor, West Wing, PO Box 402, Trenton, New Jersey 08625-0402**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 28, 2016



DATE

JEFFREY A. GERSON, ALJ

Date Received at Agency:

June 28, 2016

Date Mailed to Parties:

sej