



PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

*State of New Jersey*  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 093  
TRENTON, NJ 08625-0093

GURBIR S. GREWAL  
*Attorney General*

MICHELLE L. MILLER  
*Director*

April 8, 2019

Via facsimile (973-656-3921) and Regular Mail  
Hon. Maritza Berdote Byrne, P.J. Ch.  
Morris County Superior Court  
Washington & Court Streets  
PO Box 910  
Morristown, NJ 07963

Re: NJDEP v. Joseph Wallace and Laura Wallace  
Docket No.: SSX-C-7-19

Dear Judge Berdote Byrne:

Please accept this letter that provides an update regarding the sampling and mapping conducted at the Wallace property as well as the status of compliance to date. Further, based on sampling and mapping results, NJDEP also renews its request for the relief as stated in the Order to Show Cause, as modified below.

Pursuant to the March 1, 2019 Consent Order, on March 14, 2019, NJDEP inspectors entered Mr. Wallace's property and took samples from eight locations. (Certification of David Ongaro, ¶ 7.) The samples were taken from the varied locations on the Wallace property along the slope of the pile of material varying in heights from six to fifteen feet above the ground below and varying in depths into the slope from six inches to three and a half feet. Id. ¶¶ 8-10. These samples show contaminants exceeding the NJDEP's residential soil standards, including PAHs, PCBs, and pesticides.



Sample Number	Compound Name	Analytical group	Result (ppm)	Residential Standard (ppm)
DA002 (DL2)	Bis(2-ethylhexyl) phthalate	SemiVoc	210	35
DA002 (DL2)	Benzo (a) pyrene	SemiVoc	1.9	0.5
DA004 (DL2)	Benzo (a) anthracene	SemiVoc	5.8	5.0
DA004 (DL2)	Benzo (a) pyrene	SemiVoc	4.6	0.5
DA004 (DL2)	Dibenzo(a,h)anthracene	SemiVoc	0.92	0.5
DA005	Benzo (a) pyrene	SemiVoc	0.51	0.5
DA005	Aroclor-1254	PCB	0.320	0.2
DA007	Benzo (a) pyrene	SemiVoc	0.62	0.5
DA007 (DL)	Chlordane	Pesticides	1.34	0.2



(Certification of John Dotterweich, Exhibit A<sup>1</sup>.) Due to these exceedances, these materials are considered solid waste and Mr. Wallace is operating an unlicensed solid waste facility in violation of N.J.A.C. 7:26-2.8(f).

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<sup>1</sup> Full and complete test results are available at request and have been provided to counsel.

These findings alleviate any concern that there is a missing nexus between the source of the contaminated material and the Wallace property clearly and convincingly. See Garden State Equality v. Dow, 216 N.J. 314 (2013). Therefore, NJDEP respectfully renews its request for relief as stated in its Order to Show Cause, as modified below. NJDEP continues to seek to prevent and prohibit any additional material of any kind from being brought onto the Wallace property.

NJDEP is renewing its request to have Defendants submit a schedule of characterization for the material, which shall complete characterization of the material within 60 days and shall include an estimated cost of removal. This characterization is for the purpose of determining what material meets the definition of solid waste as defined at N.J.A.C. 7:26-1.6. Thereafter, NJDEP requests complete and proper removal and disposal of all material that meets the definition of solid waste from the Wallace property within 120 days from the date characterization is completed. NJDEP requests that, within 60 days of entering an order, Mr. Wallace shall place sufficient funds into escrow or an attorney trust account to guarantee adequate funds for removal of the solid waste on-site.

During the March 14, 2019 inspection, NJDEP also noted that the pile of material is approximately 2.44 acres in area. (Certification of David Sumba, ¶ 6.) Because the disturbance is greater than one acre, Mr. Wallace must apply for and obtain a 5G3 stormwater permit in accordance with N.J.A.C. 7:14A-24.2. Thus, the pile of material on the Wallace property is in violation of the New Jersey Pollutant Discharge Elimination System regulations and the Water Pollution Control Act. N.J.A.C. 7:14A; N.J.S.A.

58:10A-1 to -73. Accordingly, NJDEP issued a Notice of Violation on or about March 21, 2019. Id. Ex. B. One of the elements of a 5G3 stormwater permit is the submission of a soil erosion and sediment control plan.

In addition, the pile is encroaching on neighboring parcels not owned by Mr. and Mrs. Wallace. Id. Ex. A. Due to the clear violation of the WPCA and its implementing regulations and the encroachment on neighboring properties, NJDEP requests the Court to immediately order the submission and implementation of a soil erosion and sediment control plan for this site and application for a 5G3 stormwater permit.

Mr. Wallace agreed in paragraph 2e of the March 1, 2019 Consent Order, to provide NJDEP with full and complete documentation setting forth the source and nature of the material brought onto the site within 30 days of the order. More than 30 days have passed and, to date, Mr. Wallace has failed to submit any documentation to NJDEP or its counsel. The State therefore asks the Court to order Mr. Wallace to immediately submit a full and complete documentation setting forth the source and nature of the material brought onto site.

Due to these findings and the failure to timely comply with the Court's Order to provide documentation, NJDEP requests the Court to accelerate the hearing schedule on the Order to Show Cause currently returnable on May 30, 2019, as there is no need for further fact finding.

Respectfully Submitted,

April 8, 2019

Page 5

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: 

Matthew D. Knoblauch  
Deputy Attorney General

Cc: Jeffrey M. Patti, Esq. (via fax 973-729-4367)

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625  
Attorney for State of New Jersey,  
Department of Environmental Protection

By: Matthew D. Knoblauch  
Deputy Attorney General  
Attorney ID: 201692016  
(609) 633-8713

SUPERIOR COURT OF NEW JERSEY

STATE OF NEW JERSEY,	:	
DEPARTMENT OF ENVIRONMENTAL	:	
PROTECTION,	:	
	:	
Plaintiff,	:	CERTIFICATION OF
	:	DAVID ONGARO
v.	:	
	:	
JOSEPH WALLACE and LAURA	:	
WALLACE,	:	
	:	
Defendants.	:	

I, David Ongaro, of full age hereby certify as follows:

1. I am an environmental specialist with the Bureau of Solid Waste Compliance and Enforcement in the Division of Waste Enforcement, Pesticides, and Release Prevention for the New Jersey Department of Environmental Protection ("DEP" or "the Department"). I submit this certification based on my personal knowledge in support of the Department's filings regarding the Order to Show Cause against Joseph Wallace ("Wallace") and Laura

Wallace currently returnable on May 30, 2019, who reside at Block 130, Lot 1.05, 3 Silver Spruce Drive, Vernon Township, Sussex County, New Jersey ("Wallace Property").

2. I graduated from Kean University with a Bachelor of Sciences in Biotechnology in 2012. I am presently pursuing an MBA in Environmental Sustainability from Wilmington University.

3. I am presently employed by DEP as an Environmental Specialist. I have been employed in this capacity since 2013. My present job duties include engaging in site inspections to determine compliance with the State's solid waste and related statutes and regulations, and when appropriate, taking enforcement actions, such as issuing notices of violation and administrative orders.

4. Part of my responsibilities during solid waste inspections are to collect samples for laboratory analysis. I have received formal training in the procedures of collecting samples on at least four occasions dating back to 2013 as well as regular informal training provided by the Department.

5. On January 31, 2019, I, along with other representatives of the Department, sampled material that I determined had originated on the Wallace property. Although the material itself was on 1 Silver Spruce Drive, its location was immediately adjacent to the Wallace Property and it was of the same color, composition, and consistency of the large volume of material on the Wallace

Property. That sample produced levels of polycyclic aromatic hydrocarbons and lead that exceeded residential standards.

6. On March 14, 2019, after being permitted to enter the Wallace Property pursuant to the March 1, 2019 Consent Order (Exhibit A), I along with other DEP inspectors, including John Dotterweich, returned to the Wallace Property to conduct further sampling.

7. There, we took samples at eight different locations from the material along the edge of the large pile of material on the side of the Wallace Property that faces 1 Silver Spruce Drive. (See Certification of David Sumba, Exhibit A.) We decided on sampling at eight different locations due to the large volume of material on the property.

8. We entered the area near the border between the Wallace Property and the adjacent lot, 1 Silver Spruce Drive, because there is an access road. From there, we entered the Wallace Property and climbed up the pile of material. I placed eight flags corresponding to each of the eight sample locations.

9. All of the samples were taken along the slope of the material at a height varying from six to fifteen feet from the ground below. All of the samples came from the pile of material.

10. All of the equipment that we utilized was designated and sterilized to prevent any cross contamination. Seven of the eight samples were taken with augers and one was taken with a scoop. The



scoop was used due to the difficulty of penetrating into the material in one location. Generally, the material was difficult to penetrate as it was filled with stone, brick, and other obstructions. The augers penetrated approximately 1½ to 3½ feet into the side of the material and the scoop penetrated up to six inches.

11. We collected three sample jars from each location. The jars were then bagged, taped, wrapped, and sent to a certified laboratory in taped coolers with ice. Throughout this process, we maintained appropriate chain of custody procedures.

12. The coolers were received by TestAmerica with the chain of custody seals intact. The Department requested that the samples be analyzed for target compound list semi-volatile organics, pesticides, and PCBs.

13. Laboratory results received from TestAmerica revealed concentrations of semi-volatile organics, such as Benzo[a]pyrene and Benzo[a]anthracene, a pesticide, chlordane, and a PCB, Aroclor-1254, above residential standards as set forth in N.J.A.C. 7:26D. (Certification of John Dotterweich, Exhibit A.)

14. Because of the exceedances of the residential standards, the fill pile contains materials that are considered to be solid waste. Accordingly, because solid waste is imported and stored on the Wallace Property, it is an unlicensed solid waste facility in violation of N.J.A.C. 7:26-2.8(f).

CERTIFICATION

I certify that the foregoing statements made by me are true. I further certify that any exhibits attached hereto are true and correct copies of records in the possession of the New Jersey Department of Environmental Protection or its counsel. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



---

David Ongaro  
Environmental Specialist

Date: April 5, 2019

# **EXHIBIT A**

COPY

FILED

MAR 01 2019

Maritza Berdote Byrne, P.J.Ch.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625  
Attorney for Plaintiff State of New Jersey  
Department of Environmental Protection

By: Kevin J. Fleming (026932009)  
Matthew D. Knoblauch (201692016)  
Deputy Attorneys General  
(609) 633-8713

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - SUSSEX COUNTY  
DOCKET NO. SSX C-7-19

STATE OF NEW JERSEY, DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

JOSEPH WALLACE, and LAURA  
WALLACE,

Defendants.

Civil Action

Order to Show Cause

*by Consent*

THIS MATTER being brought before the Court by Gurbir S. Grewal, Attorney General of New Jersey, attorney for the Plaintiff, State of New Jersey, Department of Environmental Protection (the "Department" or "NJDEP"), (Kevin J. Fleming and Matthew D. Knoblauch, Deputy Attorneys General, appearing), seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon the facts set forth in the verified complaint filed herewith; and the Court having determined that this matter may be commenced by order

to show cause as a summary proceeding pursuant to the Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-9(d), and for good cause shown:

IT IS on this 1 day of March, 2019, ORDERED that the Defendants, Joseph Wallace and Laura Wallace, appear and show cause on the 30 day of May, 2019 before the Superior Court at the Morris County Courthouse in Morristown, New Jersey at 11:30 or as soon thereafter as counsel can be heard, why judgment should not be entered for the Plaintiff by way of:

1. An Order finding that Defendants Joseph Wallace and Laura Wallace are in violation of the SWMA, N.J.S.A. 13:1E-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:26-2.8(f), by operating a solid waste facility without a permit and specifically N.J.S.A. 13:1D-9d., by failure to allow access to inspect the Wallace Property; and that
2. An Order finding that Defendants Joseph Wallace and Laura Wallace shall:

a. Immediately cease receiving any and all fill material and/or solid waste onto the property at Block 130, Lot 1.05, also known as 3 Silver Spruce Drive, Vernon, New Jersey (the "site"); by consent

b. Immediately provide access by NJDEP and/or individuals on behalf of the Department to delineate the area of disturbance and extent of the fill material brought onto the site, to perform any sampling of the material on site, and/or perform

any other inspections of the property as the Department deems necessary to determine compliance with the SWMA, the Water Pollution Control Act, and the Highlands Water Protection and Planning Act; *by consent* ~~allow the DEP to~~

*Denied*  
c. Within thirty days of this order, characterize all fill material to determine if it meets the definition of solid waste as defined at N.J.A.C. 7:26-1.6 and provide NJDEP an estimate for the cost of removal of the solid waste;

*Denied*  
d. Within ninety days of this order, remove and properly dispose (in accordance with applicable New Jersey laws) of all fill material which meets the definition of solid waste on the site;

*30*  
e. Within 10 days of this order, provide NJDEP with full and complete documentation setting forth the source and nature of the material brought onto the site since 2009, including but not limited to all analytical results, receipts, bills of lading, and identification of all transporting haulers;

*by consent*  
*Denied*  
f. Within 45 days of this order, place sufficient funds into escrow or an attorney trust account, to be identified by this Court, to guarantee adequate funds for removal of the solid waste on-site.

3. An order granting such other relief as the Court deems just and proper.

And it is further ORDERED that:

*moot*  
1. A copy of this Order to Show Cause, Verified Complaint and all supporting affidavits or certifications submitted in support

of this application be served upon the Defendants, Joseph Wallace and Laura Wallace, by personal service, certified mail or other means allowed by the Rules of Court, within \_\_\_ days before the return date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

2. The Plaintiff must file with the court its proof of service of the pleadings on Defendants, no later than three (3) days before the return date.

3. Defendants Joseph Wallace and Laura Wallace shall file and serve a written answer to this Order to Show Cause and the relief requested in the Verified Complaint and proof of service of the same by May 10, 2019. The answer must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of Judge

Berdote Byrne

4. The Plaintiff must file and serve any written reply to the Defendants' order to show cause opposition by May 24, 2019. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of

Judge Berdote Byrne.

5. If Defendants Joseph Wallace and Laura Wallace do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be

granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with the self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

7. Defendants Joseph Wallace and Laura Wallace must take notice that the Plaintiff has filed a Verified Complaint against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this Complaint, you, or your attorneys, must file a written answer and proof of service before the return date of the Order to Show Cause.

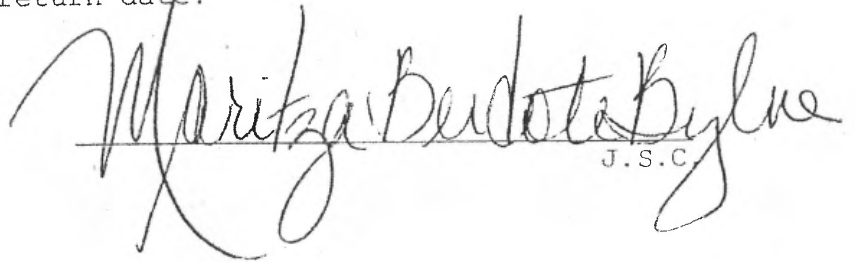
8. These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include the appropriate filing fee payable to the "Treasurer, State of New Jersey." You must also send a copy of your answer to the Plaintiff's attorneys whose name and address appear above. A telephone call will not protect your rights; you must file and serve your answer (with the fee) or judgment may be entered against you by default.

9. If you cannot afford an attorney, you may call the Legal



Services office in the county in which you live. A list of such an office is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

10. The Court will entertain oral argument, but not testimony, on the return date of the Order to Show Cause, unless the court and all parties are advised to the contrary no later than 3 days before the return date.

  
J.S.C.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625  
Attorney for State of New Jersey,  
Department of Environmental Protection

By: Matthew D. Knoblauch  
Deputy Attorney General  
Attorney ID: 201692016  
(609) 633-8713

SUPERIOR COURT OF NEW JERSEY

STATE OF NEW JERSEY,	:	
DEPARTMENT OF ENVIRONMENTAL	:	
PROTECTION,	:	
	:	
Plaintiff,	:	CERTIFICATION OF
	:	JOHN DOTTERWEICH
v.	:	
	:	
JOSEPH WALLACE and LAURA	:	
WALLACE,	:	
	:	
Defendants.	:	

I, John Dotterweich, of full age hereby certify as follows:

1. I am an Environmental Scientist in the Division of Waste Enforcement, Pesticides and Release Prevention for the New Jersey Department of Environmental Protection ("DEP" or "the Department"). I submit this certification based on my personal knowledge in support of the Department's filings regarding the Order to Show Cause against Joseph Wallace and Laura Wallace currently returnable on May 30, 2019, who reside at Block 130, Lot

1.05, 3 Silver Spruce Driver, Vernon Township, Sussex County, New Jersey ("Wallace Property").

2. I am presently the Sampling Coordinator for the Sampling and Quality Assurance Program for several bureaus within the Division of Waste Enforcement, Pesticides and Release Prevention. In this role, I prepare and review sampling plans and supervise DEP inspectors during the course of sampling. These duties involve a diverse set of responsibilities, including ensuring environmental health and safety compliance, determining the appropriate chemical analyses to perform, establishing the proper laboratory protocols to adhere to, and evaluating and guiding proper field sampling techniques.

3. The Solid Waste Management Act ("SWMA") N.J.S.A. 13:1E-1 to -48 is the State's premiere solid waste-related statute. In enacting this legislation, the Legislature found "that the collection, disposal and utilization of solid waste is a matter of grave concern to all citizens and is an activity thoroughly affected with the public interest" and "that the management of solid waste in New Jersey consists largely of piecemeal, uncoordinated activities" to the detriment of the public health and welfare. N.J.S.A. 13:1E-2a. Because of the uncoordinated activities of solid waste facilities, the SWMA's regulations provide that "[n]o person shall begin construction or operation of a solid waste facility without obtaining a SWF [solid waste

facility] Permit" subject to certain exceptions. N.J.A.C. 7:26-2.8(f).

4. Due to a suspicion that the Wallace Property was an illegal solid waste facility pursuant to N.J.A.C. 7:26-2.8(f), I assisted with the collection of samples of material from the area adjacent to the Wallace Property on January 31, 2019 and with collection of samples of material from the Wallace Property on March 14, 2019.

5. During the course of the sampling on March 14, 2019, I ensured that Environmental Specialist David Ongaro and all other DEP inspectors complied with all appropriate sampling and chain of custody procedures.

6. I and David Ongaro created a sampling plan that strived to get a diverse sampling of the material on the Wallace Property, to ensure that we were not getting results from the exact same location. We varied our sample locations by distance, elevation, and depth to further this purpose.

7. All DEP personnel utilized designated equipment for taking samples and there was no risk of cross contamination.

8. David Ongaro and other DEP personnel utilized appropriate sampling equipment and procedures by taking samples using augers and scoops, gathering the sample into jars, sealing and taping the jars, wrapping them with bubble wrap, and securing them in sealed coolers with ice. Thereafter, we used chain of

custody seals, which TestAmerica, the certified laboratory, received unopened and unaltered.

9. The TestAmerica laboratory results showed that concentrations of semi-volatile organics, such as Benzo[a]pyrene and Benzo[a]anthracene, a pesticide, chlordane, and a PCB, Aroclor-1254, above residential standards as set forth in N.J.A.C. 7:26D. The complete laboratory results are hundreds of pages long, but I reviewed them and prepared a summary of all exceedances present in the samples. (Exhibit A.)

CERTIFICATION

I certify that the foregoing statements made by me are true. I further certify that any exhibits attached hereto are true and correct copies of records in the possession of the New Jersey Department of Environmental Protection or its counsel. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

John Dotterweich  
John Dotterweich  
Environmental Scientist.3

Date: 4/4/2019

# **EXHIBIT A**

# Summary of Analyte Suites with Concentrations over Standards

## Samples Collected 3/4/19 of Fill Imported by Joseph Wallace, Silver Spruce Drive, Vernon Twp. Sussex County

ANALYTES	RDCSRS (ppm)	NRDCSRS (ppm)	Sample Identification		DA 1	DA 2	DA 3	DA 4	DA 5	DA 6	DA 7	DA 8
			Distance Into Sidewall (inches)		18-24	30-36	30-36	36-42	18-24	0-6	18-24	12-18
			Analytical Results (ppm)									
Benzo(a)anthracene	5	17			BS	BS <sub>D</sub>	BS	5.8 <sub>D</sub>	BS	BS	BS	BS
Benzo(a)pyrene	0.5	2			BS	1.9 <sub>D</sub>	BS	4.6 <sub>D</sub>	0.51	BS	0.62	BS
Bi(2-ethylhexyl)phthalate	35	140			BS	210 <sub>est</sub>	BS	BS <sub>D</sub>	BS	BS	BS	BS
Dibenzo(a,h)anthracene	0.5	2			BS	BS <sub>D</sub>	BS	0.92 <sub>D</sub>	BS	BS	BS	BS
Chlorodane	0.2	1			BS	BS	BS	BS	BS	BS	1.40 <sub>est</sub>	BS
Total PCBs	0.2	1			BS	BS	BS	BS	0.32	BS	BS	BS
Total Chromium	NS	NS	A criteria <sup>1</sup> of 20 ppm has been established by policy to trigger valency determination needed as 20 ppm hexavalent chromium would exceed criteria in a non-residential setting. Residential setting criteria is less stringent due to expectation of less dusts.									
			BC	BC	BC	BC	BC	22.7	20.0	BC	BC	

### KEY

Exceeds Residential Direct Contact Soil Remediation Standard (RDCSRS)

Exceeds both RDCSRS & Non-Residential Direct Contact Soil Remediation Standard (NRDCSRS)

Exceeds Concentration That Triggers Chromium Speciation Analyses to determine how much of the chromium is hexavalent vs. trivalent.

BS = Below The Most Stringent of the Department's Direct Contact Soil Remediation Standards

BC = Below Criteria

NS = No promulgated RDCSRS or NRDCSRS standard exists

E = Initial concentration exceeded the upper level of the calibration range of the instrument thus requiring sample dilution to confirm results shown.

J = estimated value

D = Analytical results presented for samples undergoing a secondary dilution to avoid damage to instrument resulting in higher minimum level of detection.

<sup>1</sup> = Chromium criteria based on Department policy and not a promulgated standard. Exceedance of criteria triggers valency determination requirement.

ppm = parts per million

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625  
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SUPERIOR COURT OF NEW JERSEY

STATE OF NEW JERSEY,	:	
DEPARTMENT OF ENVIRONMENTAL	:	
PROTECTION,	:	
	:	
Plaintiff,	:	CERTIFICATION OF
	:	DAVID SUMBA
v.	:	
	:	
JOSEPH WALLACE and LAURA	:	
WALLACE,	:	
	:	
Defendants.	:	

I, David Sumba, of full age hereby certify as follows:

1. I am an environmental specialist with the Bureau of Coastal and Land Use Compliance and Enforcement within the Division of Water and Land Use Enforcement for the New Jersey Department of Environmental Protection ("DEP" or "the Department"). I submit this certification based on my personal knowledge in support of the Department's filings regarding the Order to Show Cause against Joseph Wallace ("Wallace") and Laura Wallace currently returnable



on May 30, 2019, who reside at Block 130, Lot 1.05, 3 Silver Spruce Drive, Vernon Township, Sussex County, New Jersey ("Wallace Property").

2. I graduated from the Pennsylvania State University with a Bachelor of Sciences in Physical/Environmental Geography in 2003.

3. I am presently employed by DEP as an Environmental Specialist. I have been employed in this capacity since 2003. My present job duties include engaging in site inspections to determine compliance with the State's coastal and land use statutes and regulations, and when appropriate, taking enforcement actions, such as issuing notices of violation and administrative orders.

4. Part of my responsibilities during land use inspections are to collect Global Positioning Systems (GPS) data. I have received formal training in the procedures for collecting GPS data and I hold a certificate for GPS Mapping and GIS Data Collection from Rutgers University, dated June 2005.

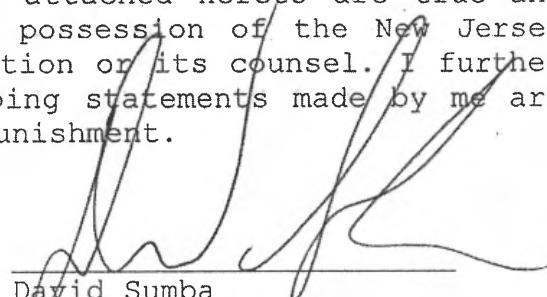
5. On March 14, 2019, I, along with other representatives of the Department, conducted a site inspection of the Wallace property with respect to compliance with the DEP's 5G3 stormwater requirements. Specifically, I procured GPS data of the limits of disturbance at the site by utilizing hand-held rangefinders and GPS units to plot a border and measure the entire footprint of the pile. Thereafter, I created a map of the property and shows the

extent of the pile of material and the location of the samples taken by other NJDEP inspectors on March 14, 2019. (Exhibit A.)

6. The GPS data that I procured determined that 2.44 acres of land has been disturbed by filling and grading activities in violation of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System (NJPDES) regulations (N.J.A.C. 7:14A-1 et seq.). On or about March 21, 2019, NJDEP issued a Notice of Violation for Mr. Wallace's failure to obtain a 5G3 permit and related violations. (Exhibit B.)

#### CERTIFICATION

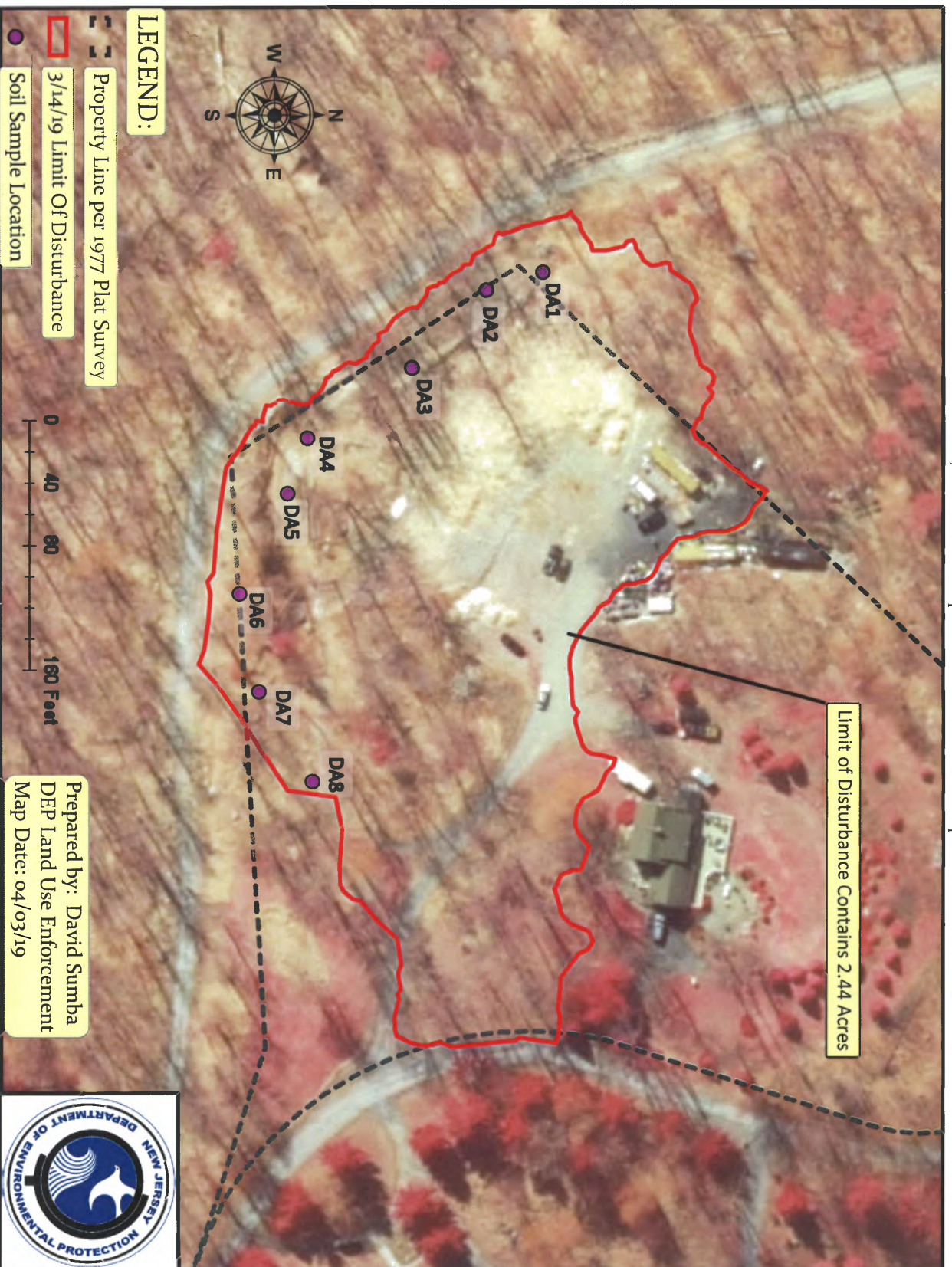
I certify that the foregoing statements made by me are true. I further certify that any exhibits attached hereto are true and correct copies of records in the possession of the New Jersey Department of Environmental Protection or its counsel. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
\_\_\_\_\_  
David Sumba  
Environmental Specialist 3

Date: 4/4/19

# **EXHIBIT A**

Wallace Site with 2015 Aerial Photograph - 3 Silver Spruce Drive, Block 130, Lot 1.05, Vernon Township, Sussex County, NJ  
March 14, 2019 DEP Compliance & Enforcement Inspection



# **EXHIBIT B**



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHIL MURPHY

*Governor*

SHEILA OLIVER

*Lt. Governor*

Northern Bureau of Water Compliance and Enforcement

7 Ridgedale Ave. Ste. 202

Cedar Knolls, New Jersey 07927-1112

Telephone (973) 656-4099 Fax (973) 656-4400

CATHERINE R. McCABE

*Commissioner*

**CERTIFIED MAIL**

**RETURN RECEIPT REQUEST**

7016 0910 0000 4005 8984

9590 9402 2095 6132 0575 85

Joseph Wallace, Property Owner  
3 Silver Spruce Drive  
Vernon, New Jersey 07462

March 21, 2019

Dear Mr. Wallace:

Re: Notice of Violation  
Wallace Property  
3 Silver Spruce Run  
Program Interest No.: 791555  
Compliance Activity No.: PEA 190001  
Vernon Township, Sussex County

Please find enclosed a Notice of Violation (NOV) for violation of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) for the failure to submit a Request For Authorization (RFA) to the New Jersey Department of Environmental Protection (Department) for a new stormwater discharge prior to the commencement of small construction activity and for discharging stormwater from the small construction activity without a valid NJPDES permit. Please note that you are required to respond to the Department as indicated in the enclosed NOV.

Should you have any questions concerning the enclosed NOV, please contact me at (973) 656-4099.

Very truly yours,

Spencer Dimock  
Environmental Specialist 1  
Northern Bureau of Water  
Compliance and Enforcement



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Water Compliance & Enforcement  
Northern Regional Office  
7 Ridgedale Avenue  
Cedar Knolls, NJ 07927  
Telephone: (973) 656-4099 Fax: (973) 656-4400

CATHERINE R. MCCABE  
*Commissioner*

### NOTICE OF VIOLATION

EA ID #: PEA190001 - 791555

Name of violator: Wallace, Joseph  
Location: 3 Silver Spruce Drive, Vernon Township, Sussex County, New Jersey 07462  
Identifying #: 791555  
Person interviewed and title: Joseph Wallace, Property Owner

You are hereby NOTIFIED that during a compliance evaluation investigation at the above location on March 14, 2019, the following violations of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System (NJPDES) regulations (N.J.A.C. 7:14A-1 et seq.) were observed:

Subject: Unpermitted Discharge

Requirement: Pursuant to N.J.A.C. 7:14A-24.2 et seq., and N.J.A.C. 7:14A-24.4(a)6, a Request For Authorization (RFA) for a NJPDES Permit for a new stormwater discharge associated with small construction activity must be submitted to the New Jersey Department of Environmental Protection (Department) and the NJPDES Permit obtained prior to the commencement of the land disturbance that may result in that discharge.

Description of Noncompliance: Failure to submit an RFA to the Department for a NJPDES Permit and obtain a NJPDES Permit for a new stormwater discharge associated with small construction activity, prior to the commencement of the land disturbance that may result in that discharge.

A compliance evaluation investigation of the Wallace property at the above noted location was conducted on March 14, 2019, with the Department's Bureaus of Solid Waste Compliance & Enforcement and Land Use Compliance & Enforcement. The purpose of the investigation was to collect soil samples of the stockpile and to measure the size of the land disturbance on the property to determine if the property requires a NJPDES 5G3 Construction Activity Stormwater General Permit.



The area of land disturbance at the Wallace property noted above was measured using two hand-held Trimble GPS units, which use GPS points to plot a border. A hand-held rangefinder was also used to determine the area of land disturbance of the top of the pile of material located at the site (not the entire footprint of the pile of material located at the site). The field measurements recorded during the site visit with the rangefinder for the top of the pile of material located at the site indicated the top of the pile limit of land disturbance was 300 feet by 165 feet, which is equal to 49,500 square feet or 1.13 acres. The field measurements recorded during the site visit with the GPS units for the entire footprint of the pile of material located at the site indicated the limit of land disturbance was 106,062 square feet or 2.44 acres.

An RFA submission to the Department and a NJPDES Permit is required for any stormwater discharge associated with small construction activity, which includes any clearing, grading, and excavating, that results in land disturbance of equal to or greater than one acre and less than five acres. Based on the field measurements noted above, a NJPDES Permit is required for the stormwater discharge associated with small construction activity for the Wallace property at the location noted above.

Requirement: Pursuant to N.J.A.C. 7:14A-2.1(d), it shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES Permit issued by the Department.

Description of Noncompliance: Discharging stormwater associated with small construction activity without a valid NJPDES Permit issued by the Department. See above Description of Noncompliance for the conditions which require a person to request and obtain a NJPDES Permit for the discharge of stormwater associated with small construction activity.

You must take the following corrective actions:

1. Comply with the requirements: on the effective date of this document.

Within **five (5)** calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken or will take to achieve compliance.

This Notice of Violation serves as notice that the NJDEP, Water Compliance and Enforcement, has determined that violations have occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative



and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You may appeal or contest such formal actions. Violations of the above regulations are subject to penalties of up to \$50,000 per day/offense.

Issued by:

Spencer Dimock  
Print Name

Date:

03/20/2019

Signature:

Spencer Dimock  
Sign Name