



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF DISPUTE RESOLUTION

P.O. BOX 402, MAIL CODE 401-07, TRENTON, NEW JERSEY 08625-0402

609-633-7024

PHILIP D. MURPHY
Governor

SHAWN M. LATOURETTE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Prepared by: Linda L. Taylor

IN THE MATER OF	:	NJDEP PROGRAM INTEREST #: 031101
BRICK TOWNSHIP BOARD OF EDUCATION	:	
101 Hendrickson Avenue	:	
Brick Town, NJ 08724	:	
	:	SETTLEMENT AGREEMENT
V.	:	
	:	AND
NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION	:	WITHDRAW OF HEARING REQUEST
	:	
EA ID # NEA210001 – 031101	:	

This Settlement Agreement and Withdraw of Hearing Request (hereinafter "Settlement Agreement") is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (the "Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq., the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq. and duly delegated to the Chief, Bureau of UST Compliance and Enforcement pursuant to N.J.S.A.13:1B-4.

FINDINGS

1. Brick Township Board of Education (hereinafter "Brick Twp BOE") owns and operates a municipal transportation fueling station located at 346 Chambers Bridge Rd, Brick Town, Ocean County, NJ.
2. Brick Twp BOE maintains on-site "underground storage tank (UST) systems" as defined by N.J.A.C. 7:14B-1.6, consisting of one (1) – 20,000 gallon unleaded gasoline USTs; one (1) – 15,000 gallon light diesel fuel UST and associated appurtenances. (ID# 031101)
3. Pursuant to N.J.A.C. 7:14B-1.6, all grades of gasoline and diesel fuel are defined as "Motor Fuel" which are further defined as "Hazardous Substances".

4. As the result of a compliance evaluation conducted on October 13, 2016 and subsequent compliance review, the Department has alleged that Brick Twp BOE has violated the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq., and the regulations promulgated pursuant thereto, specifically, N.J.A.C. 7:27-8.3(b), N.J.A.C. 7:27 -16.3(d), and N.J.A.C. 7:14B-5.1(d)1.
5. On August 2, 2019, the Department issued an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) (EA ID No.: PEA190001-031101) to Brick Twp BOE.
6. On August 14, 2019, Brick Twp BOE requested an adjudicatory hearing at the Office of Administrative Law to contest the NJDEP's AONOCAPA.
7. As the result of a compliance evaluations conducted on September 24, 2019 and October 1, 2019, and compliance review conducted on April 24, 2020, the Department has alleged that Brick Twp BOE has violated the New Jersey 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. 7:27-16.3(e), N.J.A.C. 7:27 -16.3(i)1, N.J.A.C. 7:27-16.3(j)1, N.J.A.C. 7:27-16.3(j)3, N.J.A.C. 7:14B-5.11(a), N.J.A.C. 7:14B-4.1(a)3ii, N.J.A.C. 7:14B-5.10(a)1ii, N.J.A.C. 7:14B-5.4(d)7, N.J.A.C. 7:14B-5.9(a), and N.J.A.C. 7:14B- 6.1(a).
8. On October 14, 2019, A.H. Hoffman provided passing spill bucket tests and certified overfill prevention shut off valves to the Department on behalf of Brick Twp BOE.
9. On July 1, 2020, the Department issued an AONOCAPA (EA ID No.: PEA200001-031101) to Brick Twp BOE.
10. On July 31, 2021, Brick Twp BOE requested an adjudicatory hearing at the Office of Administrative Law to contest the NJDEP's AONOCAPA.
11. On September 9, 2020, Brick Twp BOE provided the Department with Test Results. These tests results and the results provide by A.H. Hoffman on October 14, 2019 returned the Brick Twp BOE to compliance.
12. As the result of a compliance evaluation conducted on September 10, 2020, the Department alleged that Brick Twp BOE has violated the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq., and the regulations promulgated pursuant thereto, specifically,

N.J.A.C. 7:7-16.3(j)3.

13. On September 16, 2020, the Department issued a Notice of Violation (NOV) (EA ID No.: PEA200002-031101) to Brick Twp BOE.
14. On September 30, 2020, Brick Twp BOE responded to the Department's NOV
15. On March 29, 2021, Brick Twp BOE requested Alternative Dispute Resolution to discuss settlement of both the August 2, 2019 and July 1, 2020 AONOCAPAs through the Department's Office of Dispute Resolution.
16. On June 15, 2021, the Department agreed to participate in Alternative Dispute Resolution.
17. On July 15, 2021, Brick Twp BOE and the Department participated in participated in mediation conference call. During this call the Department confirmed that Brick Twp BOE was in compliance with the two AONOACAPAs and NOV listed above.
18. The Signatories wish to resolve these matters without further adjudication and therefore have entered into this Settlement Agreement to settle the violations referenced in the above Findings without admission of fault or liability according to the terms set forth herein.

PENALTY

19. In full settlement of the violations identified in the AONOCAPA, Brick Twp BOE agrees to pay the sum of \$12,800.00. Payment will be due 30 calendar days after the execution of this agreement. Payment shall be made by certified check made payable to "Treasurer, State of New Jersey" and remit to the Division of Revenue at the address stated on the enclosed invoice.
20. If Brick Twp BOE fails to pay the above penalty in accordance with the terms and conditions of this Settlement Agreement, then the AONOCAPAs, dated August 2, 2019 in the amount of \$3,000.00 and dated July 1, 2020 in the amount of \$23,200.00, issued to Brick Twp BOE, shall become a Final Order and the full penalty along with costs and interest calculated pursuant to N.J. Court Rule 4:42 shall be immediately due and owing. The Department may bring a summary action in the Superior Court to collect the penalty and additional penalties pursuant to R.4:67-6, R.4:70 and/or file this Settlement Agreement as a judgment under the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq. and forward to a Collection Agency.

WITHDRAWAL OF REQUEST FOR HEARING

21. By execution of this Settlement Agreement, Brick Twp BOE hereby withdraws, with prejudice, the Administrative Hearing Request regarding the AONOCAPAs dated August 14, 2019 (PEA190001-031101) and July 31, 2020 (PEA200001-031101).

GENERAL PROVISIONS

22. Neither the entry into this Settlement Agreement nor payment of the settlement amount shall constitute any admission of liability by Brick Twp BOE.
23. Nothing in this Settlement Agreement shall preclude the Department from taking enforcement action against Brick Twp BOE for violations not set forth in this Settlement Agreement.
24. Nothing in this Settlement Agreement restricts the ability of the Department to raise the above findings contained in the AONOCAPAs in any other enforcement proceeding and Brick Twp BOE's right to raise all appropriate defenses and objections in such proceedings.
25. Brick Twp BOE reserves its rights against any other parties potentially responsible for the violations alleged by the Department and/or set forth in the previously issued AONOCAPAs dated August 2, 2019 (PEA19001-031101) and July 1, 2022 (PEA200001-031101) and NOV dated September 16, 2020 (PEA200002-031101).
26. No modification or waivers of this Settlement Agreement shall be valid except by written amendment duly executed by all parties hereto.
27. This Settlement Agreement shall be effective upon execution by both parties and may be executed in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document.
28. This Settlement Agreement shall become final upon signature of both parties.

SIGNATORIES ON NEXT PAGE

Brick Twp BOE

DATED: _____

BY: _____

NAME: _____

TITLE: _____

**By this signature, I certify that I have full
authority to execute this document on
behalf of Brick Twp BOE.**

New Jersey Dept. of Environmental Protection

DATED: _____

BY: _____

NAME: _____

TITLE: _____

**By this signature, I certify that I have full
authority to execute this document on
behalf of NJDEP.**