

**FILED**

**MAY 24 2019**

Jeffrey R. Jablonski, P.J.Ch.

CASTANO QUIGLEY LLC  
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TOWN OF KEARNY,  
*Plaintiff,*

v.

NEW JERSEY SPORTS AND EXPOSITION  
AUTHORITY and NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION,  
*Defendants.*

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
HUDSON COUNTY  
DOCKET NO. HUD-C- **72-191**

Civil Action

**ORDER**

THIS MATTER opened to the Court by the Town of Kearny through its attorneys, CASTANO QUIGLEY LLC, Gregory J. Castano Jr. appearing, pursuant to R. 4:52-1(a) and/or R. 4:67-1(a) and/or R. 4:67-1(b) seeking amendment to and/or reformation of the March 21, 2019 Administrative Consent Order (“ACO”) between the New Jersey Sports and Exposition Authority (“NJSEA”) and the New Jersey Department of Environmental Protection (“NJDEP”) regarding violations at the Keegan Landfill related to discharges of hydrogen sulfide in excess of regulated levels, *inter alia*, based upon the facts and exhibits set forth in the verified complaint, and the Court having considered the matter and for good cause appearing, it is

On this 24th day of ~~April, 2019~~, May, 2019

ORDERED:

1. The NJSEA is temporarily restrained from continuing to operate the Keegan Landfill ~~and must immediately begin the installation of an impermeable cap to prevent further discharges of hydrogen sulfide~~ until further order of this court.

~~2. The ACO is amended and reformed to provide the Town of Keegan is a party.~~

3. The Town shall receive simultaneous "real time" copies of any and all correspondence, including e-mails, between the NJDEP and the NJSEA. and \*
4. The Town shall have the right to review and to provide input ~~to be meaningfully and reasonably considered~~ by the NJDEP and NJSEA regarding proposed workplans to address sources of odors from the Keegan Landfill.
5. The Town shall have the right to access the Keegan Landfill during NJDEP and/or County Health Department visits and inspections. and upon reasonable notice to the NJSEA
6. The Town shall have the right to retain an independent environmental monitor, the ~~costs of which are to be paid by the NJSEA,~~ to aid the Town in:
  - a. Informed participation in the regulatory process (including compliance with the ACO and any amendments), review and evaluation of any proposed workplan(s), applications for permits, etc.
  - b. Review and evaluation of data collected by air monitoring system.
  - c. Review of overall compliance by the NJSEA in the operation and maintenance of the Keegan Landfill.
  - d. Evaluation of the effectiveness of remedial measures implemented to minimize the generation of odors and to provide recommendations for improvements or additional measures.
  - e. Participation in all communications by and between the NJDEP, NJSEA and their consultants regarding proposed workplans, evaluation of air data collected, evaluation of effectiveness of remedial measures taken to minimize generation of odors, etc.

- f. Review and evaluation of data collected independently at existing air monitoring station outside of Keegan Landfill (to act as a "sentinel" point).
7. The NJSEA and NJDEP shall cooperate with the independent environmental monitor and provide whatever information and/or site access that is reasonably needed to be able to properly advise the Town.

~~8. The NJSEA must reimburse the Town for all past and future costs associated with the Town's participation and oversight of the remediation including the independent air monitoring system, environmental professionals and attorneys.~~

9. This Court retains jurisdiction to enforce this Order.

  
Jeffrey R. Jablonski, P.J.Ch.

The request for a summary disposition of this matter is denied.

The relief granted here is a temporary restraining order. This court finds, for the more detailed reasons set forth on the record on May 24, 2019, that immediate and irreparable harm will occur in the absence of the relief requested (that being the continuous and unabated discharge of hydrogen sulfide) that the claim is based on a settled legal right of the Plaintiff; that the material facts are uncontroverted; and that the Plaintiff (that seeks to protect the health of its citizens) will suffer greater harm if the condition is not mitigated nor abated, than the protection the solely financial interest of the Defendant in the site.

This matter shall return on July 25, 2019, at 9:00 a.m. for a plenary hearing following the discovery generated pursuant to this order for this court to consider whether the temporary closure should be made permanent.

The NJSEA has applied orally to this court for a stay of its order pending Appellate review. That application is denied for the reasons set forth on the record on May 24, 2019.

The NJDEP is dismissed from this litigation.

\* and shall receive the documents previously requested from the NJDEP and the NJSEA on or before May 29, 2019.