



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §§6005(b)(2) and (b)(3)

Order No. 2021-WH-0029

Via Personal Service¹:

Facility Location:

F&F Auto Sales, LLC d/b/a
F&F Econo Tires
1861 South DuPont Highway
Dover, DE 19901
Attn: Mr. Frantzdy Gauthier

Via Certified Mail:

Property Owner

Ms. Fern Joseph
Mr. Frantzdy Gauthier
101 Wrens Way
Harrington, DE 19952

Via Personal Service:

Registered Agent:

Parkway Law, LLC
3171 DuPont Parkway, Suite B
Townsend, DE 19734

Via Certified Mail:

Facility Owner/Operator/Legal

Representative:

Ms. Fern Joseph
Mr. Frantzdy Gauthier
1861 South DuPont Highway
Dover, DE 19901

¹ All service made in person was effected by a DNREC Environmental Crimes Unit Officer.

The Department of Natural Resources and Environmental Control ("Department") has found F&F Auto Sales, LLC d/b/a F&F Econo Tires, facility operator and/or owner, and Ms. Fern Joseph and Mr. Frantzdy Gauthier, property owners, ("Respondents") in violation of 7 *Del. C.* Chapter 60 and 7 *Del. Admin. Code* § 1301, Delaware's *Regulations Governing Solid Waste* ("DRGSW"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order, pursuant to 7 *Del. C.* § 6005.

BACKGROUND

F&F Auto Sales, LLC d/b/a F&F Econo Tires, (hereinafter referred to as "F&F Econo Tires") and Ms. Fern Joseph and Mr. Frantzdy Gauthier, property owners, sell used passenger vehicle tires at a site located at 1861 South DuPont Highway, Dover, Delaware. During the operation of its site, F&F Econo Tires generates scrap tires. As such, F&F Econo Tires is classified as a qualifying business and is subject to compliance inspections conducted by the Department's Compliance and Permitting Section ("CAPS"), pursuant to DRGSW. The scrap tires located at F&F Econo Tires on the property owned by Ms. Fern Joseph and Mr. Frantzdy Gauthier will be referred to hereinafter as the "scrap tire facility" or "scrap tire pile."

On October 2, 2018, Department representatives conducted a scrap tire compliance inspection. Twelve (12) violations of DRGSW were identified. One violation was related to transporting solid waste (scrap tires) without a permit as required by DRGSW § 7.0, *Transporters*, and eleven (11) violations were related to the management of scrap tires per DRGSW § 12.0, *Scrap Tire Facilities*.

Based on the October 2, 2018 findings, on December 10, 2018, the Department issued a Secretary's Order to Cease and Desist. The Order required F&F Econo Tires to cease the transportation of scrap tires without a permit, and to cease its practice of accepting, storing, and processing scrap tires at its unpermitted facility. Additionally, Notice of Violation 18-SW-74 ("NOV") was issued for the violations identified on October 2, 2018.

On December 21 and 31, 2018, F&F Econo Tires complied with the NOV by submitting to the Department all required compliance documentation specified in the NOV, including a closure plan to remove the excess number of scrap tires from the property. On January 3, 2019, the Department issued an approval letter to F&F Econo Tires to begin the closure of its unpermitted scrap tire facility. Closure was to be completed by April 3, 2019.

On April 18, 2019, Ms. Fern Joseph, F&F Econo Tires' Co-Owner, emailed Department representatives, indicating that the closure was complete.

On August 8, 2019, Department representatives conducted a follow-up scrap tire compliance inspection. That inspection resulted in thirteen (13) identified violations of DRGSW §12.0, *Scrap Tire Facilities*. F&F Econo Tires had not maintained compliance with the compliance documentation submitted in late 2018 and early 2019.

On March 25, 2021, Department representatives conducted another scrap tire compliance inspection. That inspection also resulted in thirteen (13) identified violations of DRGSW §12.0, *Scrap Tire Facilities*.

FINDINGS OF FACT AND VIOLATIONS INCLUDING REGULATORY REQUIREMENTS

1. According to Section 6040(a)(1) of Title 7 of the Delaware Code, F&F Auto Sales, LLC d/b/a F&F Econo Tires, 1861 South DuPont Highway, Dover, Delaware 19901, is the operator of a scrap tire facility or scrap tire pile.

“Operator” means any person or entity who has or had a contractual or other responsibility for security, maintenance, sales or operations of a scrap tire pile or of any real property on which a scrap tire pile is located, at any time after July 20, 1999; provided that this definition does not include a person or entity whose only ownership interest is as a mortgagee.

2. According to Section 6040(a)(2) of Title 7 of the Delaware Code, Ms. Fern Joseph and Mr. Franztdy Gauthier, are the owners of real property located at 1861 South DuPont Highway, Dover, Delaware, 19901, on which a scrap tire pile is located.

“Owner” means any person or entity who has or had legal or equitable ownership interest in a scrap tire pile, or in any real property on which a scrap tire pile is located, at any time after July 20, 1999.

3. At the time of the compliance inspections, F&F Econo Tires had a Group 3 Scrap Tire Facility consisting of one (1) semi-trailer and one (1) box truck. The semi-trailer and box truck were completely filled with scrap tires. In addition, scrap tires were observed being stored on the ground next to the box truck, inside the fenced area directly behind the building, and in front of the building. Failure to maintain scrap tires in the on-site trailers is a violation of DRGSW §12.3.2.2.2, which reads:

“Maintain scrap tires in a facility enclosed by a trailer(s).”

4. At the time of the compliance inspections, the scrap tire facility did not meet the minimum setback between the scrap tire facility and all public roads and property boundaries. This is a violation of DRGSW §12.5.1.1.2.1, which reads:

“A minimum 100-foot setback between the scrap tire facility and all public roads and property boundaries.”

5. At the time of the compliance inspections, the Group 3 Scrap Tire Facility on the property did not meet the minimum setback of 300-feet from residences in existence at the time the site notified of the existence of its scrap tire facility. This is a violation of DRGSW §12.5.1.1.2.2, which reads:

“A minimum 300-foot setback between the scrap tire facility and residences in existence at the time the application is filed.”

6. At the time of the compliance inspections, the Group 3 Scrap Tire Facility did not meet the 300-foot setback from off-site drinking water wells. This is a violation of §12.5.1.1.2.3, which reads:

"A minimum 300-foot setback between the scrap tire facility and off-site drinking water supply wells and water supply springs in existence at the time the application is filed."

7. At the time of the March 25, 2021 compliance inspection, F&F Econo Tires' Group 3 Scrap Tire Facility had vehicles, a propane tank, and a pile of scrap tires in the required 50-foot fire break. This is a violation of DRGSW §12.5.1.4.5, which reads:

"For Group 3, owners/operators of... two (2) trailers must maintain a 50-foot fire break around the perimeter of the trailers. The fire break shall consist of either a mineral strip free of combustible materials or well maintained, regularly mowed grass."

8. At the time of the March 25, 2021 compliance inspection, Department representatives inquired with an unidentified employee if he had been trained regarding the scrap tire facility. The unidentified employee replied he had not been trained. Failure to provide training and maintain training records are violations of DRGSW §12.7.1.1, which reads:

"The owner/operator shall take whatever measures are necessary to familiarize all personnel responsible for operation of the scrap tire facility with relevant sections of the operations manual required in subsection 12.7.2, including training on the procedures to be followed in case of an emergency, including, but not limited to, fires."

And DRGSW §12.7.3.1.1, which reads:

*"The following records must be maintained for a period of three (3) years and made available for inspection by the Department upon request.
12.7.3.1.1 Documentation of personnel training required in subsection 12.7.1.1."*

9. At the time of the March 25, 2021 compliance inspection, Department representatives observed scrap tires mixed with the used tires that Mr. Gauthier indicated are dropped off at F&F Econo Tires for reuse. Department representatives advised Mr. Gauthier that F&F Econo Tires cannot accept scrap tires, whether on purpose or inadvertently from any other business or individual. Managing scrap tires not generated by F&F Econo Tires is a violation of DRGSW §12.7.1.4, which reads:

"Only scrap tires generated by or from the qualifying business may be present on the scrap tire facility owned/operated by the qualifying business."

10. At the time of the March 25, 2021 compliance inspection, the Department observed F&F Econo Tires could not secure its scrap tire facility during non-business hours. Failure to implement measures to secure a scrap tire facility during non-business hours is a violation of DRGSW §12.7.1.5, which reads:

"The scrap tire facility is required to be secured at all times during non-business hours. For completely enclosed containers, such as trailers, security can be achieved by locking the trailer. For all other situations, the facility must be enclosed by a locked security fence."

11. At the time of the compliance inspections, F&F Econo Tires was not performing inspections of its scrap tire facility and therefore could not produce records documenting its inspections. Inspections must be conducted at least monthly. Failure to conduct and maintain documentation of facility inspections are violations of DRGSW §12.7.1.8, which reads:

"The following inspections must be conducted at least monthly:

12.7.1.8.1 The owner/operator must inspect the scrap tire facility for litter and unauthorized materials. All litter and unauthorized materials must be removed from the scrap tire facility.

12.7.1.8.2 The owner/operator must inspect the fire break constructed around the perimeter of the scrap tire facility to ensure it meets the requirements in subsection 12.5.1.4.

12.7.1.8.3 The owner/operator must inspect the scrap tire facility and the surrounding area to ensure emergency equipment identified in its Operations Manual as required by subsection 12.7.2.1.3.2 is available and accessible.

12.7.1.8.4 The owner/operator must inspect the scrap tire facility to ensure the perimeter is secure in accordance with subsection 12.7.1.5."

And DRGSW §12.7.3.1.6, which reads:

"The following records must be maintained for a period of three (3) years and made available for inspection by the Department upon request...

12.7.3.1.6 Documentation of inspections as required by subsection 12.7.1.8."

12. At the time of the compliance inspections, F&F Econo Tires was unable to produce a paper copy of its operations manual. Failure to do so is a violation of DRGSW §12.7.2.1, which reads:

"The owner/operator must develop and implement an operations manual. A paper copy of the operations manual must be readily available on-site. The manual must include:

12.7.2.1.1 Procedures for clean-up and maintenance of the facility;

12.7.2.1.2 Procedures to ensure compliance with the operational requirements of subsections 12.7.1 and 12.7.3.

12.7.2.1.3.3 Procedures to be followed by facility personnel from discovery of the emergency until the situation is corrected;

12.7.2.1.3 Emergency procedures, including, but not limited to:

12.7.2.1.3.1 A list of names and telephone numbers of persons to be contacted in an emergency, including, but not limited to, the scrap tire facility's emergency coordinator, the Department's emergency number (1-800-662-8802) and 9-1-1.

12.7.2.1.3.2 A list of emergency response equipment present at the scrap tire facility or available for use at the facility and the location of the equipment;

12.7.2.1.3.3 Procedures to be followed by facility personnel from discovery of the emergency until the situation is corrected;

12.7.2.1.3.4 Location of known water supplies, fire hydrants, dry chemical extinguishers, or other materials that may be used for fire fighting purposes;"

13. At the time of the compliance inspections, F&F Econo Tires could not produce receipts demonstrating delivery of scrap tires to an authorized treatment, storage, disposal, or recycling facility (TSDRF). Further, while provided additional time to produce receipts, no records were submitted by the deadline of March 29, 2021, provided by the Department in an e-mail sent to Ms. Fern Joseph on March 24, 2021. Failure to maintain receipts or other documentation demonstrating delivery of scrap tires to an authorized treatment, storage, disposal, or recycling facility (TSDRF) is a violation of §12.7.3.1.3, which reads:

“Documentation demonstrating delivery (e.g., tolling agreement, letter of acceptance, manifest or other documentation deemed acceptable by the Department) to the TSDRF as required by subsection 12.7.1.7.”

14. On December 20, 2018, F&F Econo Tires submitted documentation to the Department demonstrating that the fire department had been notified so as to familiarize it with the facility layout and the location where personnel will be working. However, at the time of the March 25, 2021 compliance inspection, records of the notification were not available. Further, while provided additional time to produce the records, no records were submitted by the deadline of March 29, 2021, provided by the Department in an e-mail sent to Ms. Fern Joseph on March 24, 2021. Failure to maintain records of the required notification and make them available upon Department request is a violation of DRGSW §12.7.3.1.4, which reads:

“The following records must be maintained for a period of three (3) years and made available for inspection by the Department upon request....

12.7.3.1.4 Documentation of arrangements with fire departments, as required in subsection 12.5.1.4.6.”

15. F&F Econo Tires has not submitted an annual report for calendar year 2020. The annual report was to be submitted no later than March 1, 2021. Failure to submit the required annual report by the deadline is a violation of DRGSW § 12.7.4.1, which reads:

“The owner/operator must prepare and submit an annual report to the Department by March 1st of each calendar year. The report shall be submitted on a form provided by the Department and is to cover scrap tire facility activities during the previous calendar year.”

CONCLUSIONS

Despite the Department's multiple efforts to notify F&F Econo Tires of its regulatory obligations and to assist F&F Econo Tires in achieving compliance, the Department has concluded that F&F Econo Tires has violated and continues to violate the above-cited regulatory provisions.

SECRETARY'S ORDER

F&F Econo Tires has failed to comply with the requirements of DRGSW § 12.0, *Scrap Tire Facilities*. Therefore, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 Del. C. § 6005(b)(2), that F&F Econo Tires shall achieve compliance with all applicable laws and regulatory requirements by submitting the following within thirty (30) days:

1. A photograph demonstrating F&F Econo Tires has placed all of its scrap tires into its designated Group 3 Scrap Tire Facility and written affirmation that F&F Econo Tires will place all scrap tires in its designated Group 3 Scrap Tire Facility at the end of each day.
2. A photograph demonstrating that F&F Econo Tires has created and maintained the 100-foot setback requirement from all public roads and property boundaries. In the event the 100-foot setback requirement cannot be achieved, an explanation as to why it cannot be achieved and a statement from a regulating entity documenting a less stringent requirement may be considered by the Department in accordance with DRGSW § 12.5.1.6.

3. A photograph demonstrating that F&F Econo Tires has created and maintained a 300-foot setback from all residences, as required for a two-trailer Group 3 Scrap Tire Facility. In the event the 300-foot setback requirement cannot be achieved, an explanation as to why it cannot be achieved and a statement from a regulating entity documenting a less stringent requirement may be considered by the Department in accordance with DRGSW §12.5.1.6.
4. A diagram demonstrating that F&F Econo Tires' Group 3 Scrap Tire Facility meets the 300-foot setback requirement from off-site drinking water wells. In the event the 300-foot setback requirement cannot be achieved, an explanation as to why it cannot be achieved and a statement from a regulating entity documenting a less stringent requirement may be considered by the Department in accordance with DRGSW §12.5.1.6.
5. A photograph demonstrating that F&F Econo Tires has created and maintained a 50-foot firebreak around its two-trailer Group 3 Scrap Tire Facility.
6. A copy of the training that F&F Econo Tires provided all current employees and will provide to new employees related to the Group 3 Scrap Tire Facility trailers and emergency procedures. New employees must receive the training before beginning work involving F&F Econo Tires' scrap tire facility. Documentation, such as a sign-in sheet or log, demonstrating that the training has been completed by all employees is also required. Additionally, F&F Econo Tires must submit a procedure to document how employee training records will be maintained for at least three (3) years and made available when requested by a Department representative.
7. Written affirmation that F&F Econo Tires will manage only those scrap tires generated by F&F Econo Tires at the business location of 1861 South DuPont Highway, Dover, Delaware, and that no other scrap tires will be accepted or managed from any other individuals or businesses.

8. A written procedure to be shared with F&F Econo Tires' employees, as to how it will secure the scrap tire facility during non-working hours (e.g., storing scrap tires within a locked trailer), and a photograph demonstrating that the procedure has been implemented.
9. A written procedure detailing how inspections will be performed at least once a month, including inspections of the scrap tire facility, its fire break, emergency equipment, and after-hours security of the scrap tire trailers. The procedure is to include how records of the inspections will be maintained on-site for a period of at least three (3) years and made available when requested by a Department representative. An example of a monthly inspection log is enclosed with this Order.
10. A statement affirming that F&F Econo Tires will maintain a copy of the completed operations manual on-site. F&F Econo Tires must acknowledge a copy of the operations manual will be made available when requested by a Department representative.
11. A written procedure as to how documentation demonstrating delivery of F&F Econo Tires' scrap tires to an authorized TSDRF will be maintained for a period of at least three (3) years and made available upon Department request.
12. Written affirmation that a copy of the local fire department notification and the Certified Mail Return Receipt Post Card or other document showing receipt by the local fire department will be maintained and made available upon Department request.
13. A written procedure to ensure a complete and accurate Scrap Tire Annual Report is submitted by March 1 of each calendar year. The procedure is to include conducting a scrap tire inventory on January 1 of each calendar year. For further information, enclosed is the *Scrap Tire Facility Percentage of Turnover: Guidance Document* and an example annual report form. An annual report form will be mailed to F&F Econo Tires each calendar year prior to the annual report due date.

Submit all documentation and correspondence to:

Tara C. Grazier
Department of Natural Resources and Environmental Control
Division of Waste and Hazardous Substances
Compliance and Permitting Section
89 Kings Highway
Dover, Delaware 19901
Tara.Grazier@delaware.gov

ASSESSMENT OF PENALTY AND COSTS

Pursuant to 7 *Del. C.* §6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Order. This is written notice to Respondents, that on the basis of its findings, the Department is assessing F&F Auto Sales, LLC d/b/a F&F Econo Tires, facility operator and/or owner, and Ms. Fern Joseph and Mr. Frantzdy Gauthier, property owners, jointly and severally, an administrative penalty for the violations identified in this Assessment and Order. In assessing the administrative penalty, 7 *Del. C.* §6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of each violation of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set out below.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. This Order identifies and describes 14 separate regulatory violations. Failing to ensure proper storage of scrap tires, proper staff training, and maintenance of proper records results in significant deviations from the statutory and regulatory requirements cited herein.

2. Respondents' Ability to Pay:

The record contains no information that Respondents do not have the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Respondents have had prior violations of these specific regulatory requirements, which warrants the assessed penalty. A Notice of Violation and a Secretary's Order to Cease and Desist were previously issued, neither assessing a monetary penalty.

4. Degree of Culpability:

The degree of culpability is significant, as Respondents were previously provided notice of these same regulatory violations and afforded the opportunity to comply. In addition, had Respondents employed reasonable oversight measures as required by the regulations, many of the violations could have been remedied sooner.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the Secretary did not find that Respondents incurred any meaningful economic benefit from these violations, and thus this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations and calculated so as to deter Respondents and those similarly situated from engaging in future violations.

Having considered these factors, an administrative penalty of \$10,000.00 is assessed for the violations identified in this Order.

In addition, if full compliance with the requirements identified in this Assessment and Order is not achieved within thirty (30) days, Respondents, jointly and severally, shall pay a stipulated penalty of \$100.00 for each day of continued non-compliance.

In addition to the penalty assessment, Respondents, jointly and severally, are hereby assessed, pursuant to 7 *Del.C.* §6005(c), costs in the amount of \$934.31 which were incurred by the Department in the investigation of the noted violations.

Respondents shall submit one check to the Department in the amount of \$10,000.00 to pay the penalty and one check to the Department in the amount of \$934.31 to pay the Department's costs within 30 days from the receipt of this Assessment and Order.

The checks shall be made payable to the "State of Delaware" and shall be directed to: Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720.

PUBLIC HEARING AND APPEAL RIGHTS

This Assessment and Order is effective and final upon receipt by F&F Econo Tires, Ms. Fern Joseph or Mr. Frantzdy Gauthier. Pursuant to §6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Assessment and Order. In the alternative, within **30 days** of receipt of the Assessment and Order, F&F Econo Tires, Ms. Fern Joseph or Mr. Frantzdy Gauthier may request a public hearing, pursuant to 7 *Del.C.* §6005(b)(3), on the penalty assessment and Order. A hearing would be conducted pursuant to 7 *Del.C.* §6006, and the Secretary's Order following the hearing would be subject to appeal, pursuant to 7 *Del.C.* §6008, by any person substantially affected.

The Department reserves the right to take additional enforcement actions against F&F Econo Tires, Ms. Fern Joseph or Mr. Frantzdy Gauthier regarding these and other violations at the scrap tire facility, located at 1861 South DuPont Highway, Dover, DE 19901, including but not limited to one or more of the following: an action under 7 *Del.C.* §6005(b)(1) seeking penalties for past violations, an action under 7 *Del.C.* §6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del.C.* §6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del.C.* §§6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude, any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

To request a hearing, please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Ph: (302) 739-9000

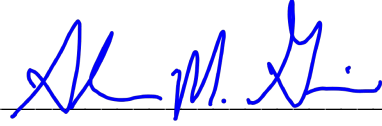
To submit an appeal to the Environmental Appeals Board, there is a \$50.00 filing fee, with a check made payable to the: "Environmental Appeals Board" and sent to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Ph: (302) 739-9000

If you have any questions, please contact Kayli H. Spialter, Deputy Attorney General at (302) 577-8508.

11/8/21

Date



Shawn M. Garvin, Secretary

WAIVER OF STATUTORY RIGHT TO A HEARING

F&F Auto Sales, LLC d/b/a F&F Econo Tires hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **F&F Auto Sales, LLC d/b/a F&F Econo Tires** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720; and
2. **F&F Auto Sales, LLC d/b/a F&F Econo Tires** will reimburse the Department in the amount of \$934.31 which represents the Department's estimated costs. The reimbursement shall be paid within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720.

F&F Auto Sales, LLC d/b/a F&F Econo Tires

Date: _____

By: _____

Title: _____

WAIVER OF STATUTORY RIGHT TO A HEARING

Ms. Fern Joseph hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **Ms. Fern Joseph** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720; and
2. **Ms. Fern Joseph** will reimburse the Department in the amount of \$934.31 which represents the Department's estimated costs. The reimbursement shall be paid within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720.

Ms. Fern Joseph

Date: _____

By: _____

Title: _____

WAIVER OF STATUTORY RIGHT TO A HEARING

Mr. Frantzdy Gauthier hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **Mr. Frantzdy Gauthier** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720; and
2. **Mr. Frantzdy Gauthier** will reimburse the Department in the amount of \$934.31 which represents the Department's estimated costs. The reimbursement shall be paid within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Kayli H. Spialter, Deputy Attorney General, Department of Justice, Environmental Unit, 391 Lukens Drive, New Castle, Delaware 19720.

Mr. Frantzdy Gauthier

Date: _____

By: _____

Title: _____