

SUPREME COURT OF THE STATE OF NEW YORK
DUTCHESS COUNTY

STATE OF NEW YORK, AMANDA LEFTON as
Commissioner of the New York State Department
of Environmental Conservation, and the NEW
YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Plaintiffs,

v.

TEN MILE RIVER, LLC and SALVATORE
CASCINO

Defendants.

**STIPULATION and
ORDER
MODIFYING CONSENT
JUDGMENT AND ORDER**

Index No. 2025-80009

Hon. Christi J. Acker

**A. THE JUNE 2009 COMPLAINT, AND THE FEBRUARY 2019 CONSENT
JUDGMENT AND ORDER**

WHEREAS, Plaintiffs State of New York, Alexander B. Grannis as Commissioner of the New York State Department of Environmental Conservation and the New York State Department of Environmental Conservation ("DEC" or collectively, the "State" or "Plaintiffs"), commenced this action on June 22, 2009 against Defendants Ten Mile River, LLC and Salvatore Cascino ("Cascino"), by filing a verified complaint ("Complaint") under Index No. 4544/2009 alleging that Defendants violated the solid waste and freshwater wetland provisions of New York State's Environmental Conservation Law ("ECL") by operating a solid waste landfill on their 17.9-acre property, located at 42 Midfield Lane, Dover Plains, New York (the "Site") without a permit from DEC and by dumping fill in a freshwater wetland and its adjacent area without a permit from DEC.

WHEREAS, the Complaint sought a judgment, by way of injunctive relief: (a) requiring Defendants to: (i) cease their filling of a New York State regulated freshwater wetland and freshwater wetland adjacent area located within the Site, and restore the affected wetland and adjacent area according to a remedial plan approved by Plaintiffs; (ii) cease their disturbance of the bed and banks of the Ten Mile River and restore the disturbed bed and banks according to a remedial plan approved by Plaintiffs; and (iii) cease construction activity on the Site until Defendants receive coverage under the DEC General Permit for Stormwater Discharges from Construction Activity; as well as (b) prohibiting them from owning or operating a solid waste disposal facility at the Site unless and until they receive a permit from DEC, and requiring them to remediate the Site pursuant to a remedial

plan approved by Plaintiffs and properly close the landfill in compliance with all applicable closure regulations.

WHEREAS, the Complaint additionally sought civil penalties for Defendants' violations of the New York State's Freshwater Wetlands Act and regulations (ECL Article 24), Water Resources Law and regulations (ECL Article 15), Water Pollution Control Act (ECL Article 17), and Solid Waste Act and regulations (ECL Article 27).

WHEREAS, in or around June 2015, Defendants moved to enforce a purported settlement of the First Cause of Action (alleging violations of the Freshwater Wetlands Law) and for partial summary judgment on Plaintiffs' Fourth Cause of Action (to enforce DEC's solid waste regulations) as unconstitutionally vague. By Decision and Order dated September 3, 2015, the Court (Sproat, J.) denied Defendants' motion.

WHEREAS, on February 14, 2019, the Court (Acker, J.) approved a consent judgment and order (the "Consent Judgment") resolving Plaintiffs' causes of action. The Consent Judgment required, among other things, that Defendants submit a proposed Wetland Remedial Plan and Solid Waste Remedial Plan (together, "Work Plan") to correct the freshwater wetland and solid waste violations at the Site, then implement the Work Plan as approved by DEC in accordance with an approved implementation schedule ("Implementation Schedule"). Defendants also agreed to a deed restriction describing the solid waste violations and the planned remedial actions (paragraph 34). Defendants also agreed to fund a monitor hired by DEC to oversee implementation of the Work Plan (paragraphs 20 and 25), and a \$25,000 environmental benefit project to be selected and implemented by the Town of Dover, subject to DEC approval (paragraph 35).

WHEREAS, the Consent Judgment (at paragraphs 37 and 38) assessed an agreed-upon penalty of \$225,000, with \$90,000 payable within one year of entry, and the balance of \$135,000 suspended for so long as Defendants strictly complied with the Consent Judgment's terms. The Consent Judgment additionally imposed stipulated penalties of \$100 per day for violation of its terms (paragraph 29).

WHEREAS, under the Consent Judgment this "Court retains jurisdiction over this action for the purpose of enforcing the terms of the Consent Judgment" and that "[a] dispute with respect to any determination or directive by DEC under this Consent Judgment, including a failure to timely make any determination and interpreting the terms of implementation of the Consent Judgment, is subject to Court review" (paragraph 50).

B. THE NOTICE OF VIOLATION ISSUED ON MARCH 3, 2025

WHEREAS, between May 2019 and August 2022, Defendants' consultants worked to develop an approvable Work Plan for remediation of the environmental violations at the Site under DEC oversight. The consultants submitted a Final Remedial Action Plan dated August 2022, and the State approved the final Work Plan (labeled the "Final Remedial Action Plan") on August 26, 2022.

WHEREAS, the Implementation Schedule approved by DEC contemplated a series of milestones by Defendants, starting with advertising for construction bids (to be completed no later than 30 days from the approval of the Final Remedial Action Plan) to maintenance of the fully-remediated Site, with completion of the pre-construction phase of the Work Plan anticipated by no later than December 24, 2022 and the full Work Plan anticipated by no later than mid-May 2024.

WHEREAS, DEC staff inspected the Site on September 26, 2024 to evaluate Defendants' progress on implementing the approved Work Plan. Representatives for Defendants were present during the inspection. DEC staff also reviewed available aerial photography of the Site. At that inspection DEC staff observed conditions that revealed Defendants have failed to implement the Work Plan in accordance with the Implementation Schedule, and observed other conditions that DEC alleges constitute additional violations of the ECL and regulations had occurred at the Site.

WHEREAS, in accordance with paragraphs 29 and 30 of the Consent Judgment, the State issued Defendants a Notice of Violation on March 3, 2025 (the "March 2025 NOV"). The March 2025 NOV described the alleged violations of the Consent Judgment identified by DEC, including newly discovered solid waste violations, i.e., new solid waste at the back of the Site containing construction & demolition debris, such as concrete, asphalt pavement, wood, and an unrecognizable component, that was placed as fill and graded within portions of the 100-foot adjacent area of New York State regulated freshwater wetland DP-01.

WHEREAS, the March 2025 NOV assessed the \$135,000 suspended portion of the Consent Judgment penalty, plus \$64,200 in stipulated daily penalties accumulated between December 24, 2022 and September 26, 2024 (642 days). The March 2025 NOV also demanded \$23,064 in unpaid and overdue invoices for DEC monitor services under the Consent Judgment.

WHEREAS, Defendants paid the overdue DEC monitor fees to DEC on or around March 24, 2025, as well \$11,533 in DEC monitoring fees for the 2025-2026 fiscal year, bringing Defendants up to date.

WHEREAS, Defendants' consultant submitted a proposed remedial schedule to DEC on April 3, 2025 to perform the remedial activities previously approved by

the State in August 2022, and bring Defendants into compliance. Defendants also disclosed to Plaintiffs that a substantial portion of DEC-approved waste capping material previously obtained from a site in Valhalla, New York was improperly depleted by Defendant Cascino. In an April 23, 2025 letter, DEC provided comments on Defendants' proposed remedial schedule, and on the proposed source for replacement capping material identified by Defendants' consultant. In an April 29, 2025 letter, Defendants' consultant provided additional information about the proposed source for replacement capping material.

WHEREAS, under paragraph 31 of the Consent Judgment Defendants were entitled to challenge the March 2025 NOV within 30 days of service, by April 2, 2025. In light of Defendants' payment of overdue monitoring fees and their consultant's submission of the proposed revised remedial schedule, and to allow time for DEC and the consultant to finalize an approvable schedule, the State agreed to extend Defendants' deadline for challenging the March 2025 NOV in this Court under paragraph 31 of the Consent Judgment from April 2, 2025 to April 16, 2025, then to April 30, 2025, then to May 14, 2025, then to May 28, 2025, then to June 11, 2025, and then to June 18, 2025.

WHEREAS, Amanda Lefton is currently Commissioner of DEC and should replace former DEC Commissioner Alexander B. Grannis in the case caption pursuant to CPLR § 1019.

WHEREAS, in consideration of the mutual promises and agreements described above, the Plaintiffs and Defendants have each consented to the making and entering of this modification to the Consent Judgment without further litigation, hearing or adjudication of any issues of fact or law, and it being in the public interest;

NOW, THEREFORE, IT IS HEREBY STIPULATED, ORDERED AND DECREED THAT:

I. JURISDICTION & DEFINITIONS

1. The Court shall continue to have jurisdiction over the subject matter of this action and the parties to this Stipulation and Order Modifying Consent Order and Judgment ("Stipulation and Order").

2. This Stipulation and Order may be entered with the Clerk of the Court without a hearing.

3. The Court retains jurisdiction over this action for the purpose of enforcing the terms of the Stipulation and Order. A dispute with respect to any determination or directive by DEC under this Stipulation and Order, including a failure to timely make any determination and interpreting the terms of implementation of the Stipulation and Order, is subject to Court review, except as otherwise provided.

4. The Defendants are ordered to and shall comply with the terms and conditions in this Stipulation and Order. All the actions required of the Defendants by this Stipulation and Order shall be performed to the reasonable satisfaction and approval of DEC and in accordance with the time schedule set forth herein.

5. The definitions in this Stipulation and Order shall, unless otherwise specified, be the same as the definitions in the Consent Judgment.

II. DEFENDANTS' REMEDIAL OBLIGATIONS

6. Defendants shall implement, under DEC oversight, the DEC-approved Final Remedial Action Plan approved by DEC on August 26, 2022, as modified by the Revised Implementation Schedule.

7. The Revised Implementation Schedule shall be as follows:

ACTION	COMPLETE
Mobilize Equipment to Site	No Later Than ("NLT") June 16, 2025
Excavate Front of Site	NLT 75 days from Mobilization
Fill and Cap Back of Site ¹	NLT 75 days from Front-of-Site Excavation Completion
Wetland planting and restoration	NLT 90 days from Front-of-Site Excavation

¹ The source of new capping soil is subject to final approval by DEC.

Completion*

Cap planting and stabilization²NLT 30 days from Back-of-Site Capping
Completion*

Maintenance

NLT 180 days from Planting completion

* Consistent with planting season

III. CIVIL PENALTIES

8. Defendants shall pay Plaintiffs \$100,000 of the \$135,000 suspended civil penalty assessed in the March 2025 NOV, by making four equal payments of \$25,000 each. Within 14 days of the Effective Date (as defined in paragraph 14 below) of this Stipulation and Order, Defendants or their counsel shall mail the first payment in the form of a bank check in the amount of Twenty-Five Thousand Dollars (\$25,000) made out to "NYS Department of Environmental Conservation" with the following in the "memo" line: "Ten Mile River LLC / Cascino Site" to counsel for Plaintiffs at the following address:

Max Shterngel
Assistant Attorney General
New York State Office of the Attorney General
Environmental Protection Bureau
28 Liberty Street, 19th Floor
New York, NY 10005

Defendants or their counsel shall mail the second \$25,000 payment, by bank check as specified above and mailed to Plaintiffs' counsel at the address specified above, within 90 days of the date when Defendants' first payment is mailed. Defendants or

² In the event that capping at the rear of the Site is not completed in time to allow for germination and survival before the onset of winter, a soil stabilization plan will be submitted to DEC and, subject to DEC's approval, implemented.

their counsel shall mail the third \$25,000 payment, by bank check as specified above and mailed to Plaintiffs' counsel at the address specified above, within 180 days of the date when Defendants' first payment is mailed. Defendants or their counsel shall mail the fourth \$25,000 payment, by bank check as specified above and mailed to Plaintiffs' counsel at the address specified above, within 270 days of the date when Defendants' first payment is mailed.

9. The \$35,000 remaining portion of the suspended penalty assessed in the March 2025 NOV shall be combined with the \$64,200 in stipulated daily penalties also assessed in the March 2025 NOV, and this combined amount of Ninety-Nine Thousand and Two Hundred Dollars (\$99,200.00) shall become a new suspended penalty which shall remain suspended provided Defendants strictly adhere to the terms of this Stipulation and Order and the Consent Judgment ("New Suspended Penalty").

10. If Defendants fail to timely pay the \$100,000 new payable penalty (as provided in paragraph 8) Plaintiffs shall be entitled to enter judgment with the Clerk for any unpaid portion, without further notice.

11. If Defendants violate any other material term of this Stipulation and Order (other than payment requirements) or the Consent Judgment, including but not limited to failure to meet any milestone in the Revised Implementation Schedule by more than 10 days, Plaintiffs shall be entitled to enter judgment with the Clerk for the entire New Suspended Penalty of Ninety-Nine Thousand and Two Hundred Dollars (\$99,200.00) without further notice upon proof that (a) Plaintiffs

have provided the written notification of violations to the Defendants in the form of a Notice of Violation and; (b) Defendants have either not challenged the Notice of Violation within 30 days of its receipt or have timely commenced a challenge and the challenge has failed, including available appeals.

IV. COMMUNICATIONS BETWEEN THE PARTIES

12. All of Defendants' submissions, notices, plans and correspondence under this Consent Judgment shall be sent by email to the following:

Ashley Johnson
Regional Attorney
New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, New York 12561
Email: ashley.johnson@dec.ny.gov

Office of the Attorney General of the State of New York
Environmental Protection Bureau
Attention: Assistant Attorney General Max Shterngel
28 Liberty Street
New York, New York 10005
Tel.: (212) 416-6692
Email: max.shterngel@ag.ny.gov

The State reserves the right to designate alternate or additional personnel.

13. All notices and correspondence to the Defendants shall be sent by overnight or regular mail to the following:

Salvatore Cascino
13 Lackawanna Road
Copake, New York 12516

And simultaneously by email or regular mail to:

Peter Cascino
909 Midland Avenue, 3rd Floor

Yonkers, NY 10704
cascinop333@gmail.com

And simultaneously by email to counsel:

Jonathan A. Murphy, Esq.
Bleakley Platt & Schmidt, LLP
One North Lexington Avenue
White Plains, NY 10601
Tel.: (914) 287-6165
jamurphy@bpslaw.com

V. MISCELLANEOUS PROVISIONS

14. The effective date of this Stipulation and Order (“Effective Date”) is the date the Court-approved Stipulation and Order showing entry by the County Clerk is filed on the NYSCEF docket.

15. This Stipulation and Order shall modify the Consent Judgment with respect to: (a) all penalties that have accrued as of the Effective Date, as set forth in paragraphs 8 and 9 above; and (b) the Revised Implementation Schedule set forth in paragraph 7, which shall become the binding remediation schedule moving forward. The remaining terms of the Consent Judgment shall remain in full force and effect.

16. This Stipulation and Order, as a modification of the Consent Judgment, embodies the entire agreement between the Plaintiffs and Defendants concerning penalties due as of the Effective Date, and the remedial requirements approved hereunder, and no provision of this agreement shall be deemed waived or modified without the written agreement of the parties and the approval of the Court.

17. This Stipulation and Order shall be deemed to have been jointly drafted by the parties, and in construing and interpreting it, no provision shall be construed

or interpreted for or against any of the parties because such provision was purportedly prepared or requested by such party.

18. This Stipulation and Order may be executed in counterparts, all of which when taken together, shall constitute an original of this Stipulation and Order, and by electronic signature. Copies of signatures, including copies transmitted electronically, shall be treated as originals.

VI. COMPLIANCE WITH FEDERAL TAX REPORTING REQUIREMENTS

19. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the Office of Attorney General of the State of New York ("OAG") is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including consent judgments), that require a payor to pay an aggregate amount that OAG reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." OAG is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject parties to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1.

20. In order to provide OAG with sufficient information to enable it to fulfill

these reporting obligations to IRS, each defendant shall:

a. Complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

b. Within 30 days of the Effective Date of this Stipulation and Order (as defined in paragraph 14 above), email its completed IRS Form W-9 to Assistant Attorney General Max Shterngel at max.shterngel@ag.ny.gov, or mail the completed IRS Form W-9 to the following address:

Max Shterngel
New York State Office of the Attorney General
Environmental Protection Bureau
28 Liberty Street, 19th Floor
New York, NY 10005

c. In the event that a defendant has certified in its completed IRS Form W-9 that it has applied for a TIN and that the TIN has not been issued to a defendant within 30 days after the Effective Date of this Stipulation and Order (as defined in paragraph 14), then that defendant shall further:

i. notify OAG by e-mailing Assistant Attorney General Max Shterngel at max.shterngel@ag.ny.gov of this fact within 45 days after the Effective Date of this Stipulation and Order (as defined in paragraph 14); and

ii. within five days of that defendant's receipt of its TIN, provide that defendant's TIN via email to Assistant Attorney General Max Shterngel at max.shterngel@ag.ny.gov or mail that defendant's TIN to the address specified in paragraph 20.b above.

21. If Defendants cannot comply with a deadline or requirement of this

Stipulation and Order because of a natural disaster, war, terrorist attack, strike or other labor dispute, riot, judicial injunction, stop work order issued by an authority having jurisdiction, default by contractors performing the site work, supply chain delays, federal- or state-ordered state of emergency related to an epidemic or pandemic, or other, similar unforeseeable event which was not caused by the negligence or willful misconduct of Defendants and which could not have been avoided by the Defendants through the exercise of due care, Defendants shall, within a reasonable time after obtaining knowledge of such fact(s), apply in writing to Plaintiffs in accordance with paragraph 12 and request an extension or modification of the deadline or requirement. Defendants shall include in such application the measures taken by them to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to the New Suspended Penalty in accordance with paragraphs 9 and 11. Defendants shall have the burden of proving that an event is a defense to a claim of non-compliance with this Stipulation and Order pursuant to this subparagraph.

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ACCEPTED AND AGREED:**LETITIA JAMES**

Attorney General of the State of New York

Attorney for Plaintiffs

Office of the Attorney General

Environmental Protection Bureau

28 Liberty Street, 19th Floor

New York, New York 10005

Tel.: (212) 416-6692

max.shterngel@ag.ny.gov

BY: Dated: June 16, 2025

Andrew J. Gershon

Senior Counsel and Assistant Attorney General

Max Shterngel

Assistant Attorney General

~~**BLEAKLEY PLATT & SCHMIDT, LLP**~~~~*Attorneys for Defendants*~~~~One North Lexington Avenue~~~~White Plains, NY 10601~~~~Tel.: (914) 287-6165~~~~jamurphy@bpslaw.com~~

BY: _____

Dated: _____

Jonathan A. Murphy, Esq.

SALVATORE CASCINO*Defendant*

13 Lackawanna Road

Copake, New York 12516

BY: _____

Dated: _____

SALVATORE CASCINO

TEN MILE RIVER LLC*Defendant*

13 Lackawanna Road

Copake, New York 12516

BY: _____

Dated: _____

SALVATORE CASCINO

Tel.: (212) 416-6692
max.shterngel@ag.ny.gov

BY: _____

Dated: _____

Andrew J. Gershon
Senior Counsel and Assistant Attorney General
Max Shterngel
Assistant Attorney General

BLEAKLEY PLATT & SCHMIDT, LLP
Attorneys for Defendants
One North Lexington Avenue
White Plains, NY 10601
Tel.: (914) 287-6165
jamurphy@bpslaw.com

BY: _____

Dated: 6/16/2025

Jonathan A. Murphy
Jonathan A. Murphy, Esq.

SALVATORE CASCINO
Defendant
13 Lackawanna Road
Copake, New York 12516

BY: _____

Dated: 6/15/25

Salvatore Cascino
SALVATORE CASCINO

TEN MILE RIVER LLC
Defendant
13 Lackawanna Road
Copake, New York 12516

BY: _____

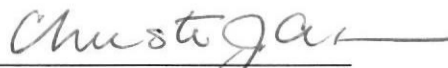
Dated: 6/15/25

Salvatore Cascino
SALVATORE CASCINO

COURT ENDORSEMENT ON NEXT PAGE

**Dated: Poughkeepsie, New York
June 20, 2025**

SO ORDERED AND ENTERED:



Christi J. Acker, J.S.C.