

Christopher O'Neill - Fwd: cole

From: Jill Phillips
To: O'Neill, Christopher
Date: 8/29/2013 10:13 AM
Subject: Fwd: cole
Attachments: Notice of Entry with signed Order.PDF

Hi Chris,

Just wanted to let you know that I heard from the AG's Office this morning and Mr. Cole has been personally served. We can finally begin clean-up! If he gives anyone any problems Joe has asked us to let him know.

Thanks!
Jill

>>> Joseph Kowalczyk <Joseph.Kowalczyk@ag.ny.gov> 8/28/2013 3:58 PM >>>
[Decision and order attached.](#)

From: Scott Crisafulli [swcrisaf@gw.dec.state.ny.us]
Sent: Wednesday, August 28, 2013 3:33 PM
To: Joseph Kowalczyk
Cc: Jill Phillips
Subject: Re: contact info

2-9512 will get you close. She is cc:'d on this E-mail.

>>> Joseph Kowalczyk <Joseph.Kowalczyk@ag.ny.gov> 08/28/13 2:53 PM >>>

Email address and direct line for Jill Phillips?

Joseph M. Kowalczyk
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Environmental Protection Bureau
NYS Office of the Attorney General
The Capitol, Albany, NY 12224-0341
P - 518.474.8480
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

New York State Department of
Environmental Conservation, by
its Commissioner, Joseph J. Martens,

Petitioner,

- against -

Shaun Cole and Ultimate, LLC,

Respondents.

NOTICE OF ENTRY

Index No. 989-13

RJI No. 01-13-109339

PLEASE TAKE NOTICE that a Decision, Order and Judgment to Permit Entry Upon Land and Imposing Civil Penalty, a copy of which is attached, was signed on July 19, 2013 by the Honorable Kimberly A. O'Connor, J.S.C. and filed and entered in the Office of the Clerk of Albany County on July 24, 2013.

Dated: July 24, 2013
Albany, New York

To: Shaun Cole
85 Skyway Drive
Scotia, New York 12302

Ultimate LLC
99 Freemans Bridge Road
Scotia, New York 12302

ERIC T. SCHNEIDERMAN
Attorney General of New York
Attorney for Petitioner

By:



MICHAEL J. MYERS
Assistant Attorney General
Environmental Protection Bureau
The Capitol
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

Albany County Clerk
Document Number 11442685
Rcvd 07/24/2013 11:11:18 AM



New York State Department of
Environmental Conservation, by
its Commissioner, Joseph J. Martens,

Index No. 989-13

RJI No. 01-13-109339

Petitioner,

- against -

Shaun Cole and Ultimate, LLC,

Acting Justice
Kimberly A. O'Connor

Respondents.

DECISION, ORDER AND JUDGMENT
TO PERMIT ENTRY UPON LAND
AND IMPOSING CIVIL PENALTY

WHEREAS, the petitioner, New York State Department of Environmental Conservation ("DEC"), by its Commissioner Joseph Martens, having moved by a February 20, 2013 Notice of Petition and Verified Petition as well as the papers listed below for an order pursuant to Environmental Conservation Law ("ECL") § 27-2727 and § 27-1313 to enter upon the real property of the respondent herein, Ultimate, LLC, ("Ultimate") located at 107 Freemans Bridge Road, Schenectady, New York, ("Site") for the purpose of investigating and remediating hazardous waste at the Site as well as for an order imposing civil penalties on Ultimate and respondent Shaun Cole ("Cole") for obstruction of access to the Site by DEC and its authorized agents; and

WHEREAS neither respondent filed any papers in opposition to the Notice of Petition and Verified Petition nor requested oral argument; and

WHEREAS the Court having read and considered all papers submitted and having had due deliberation thereon, this Court finds that petitioner and its authorized agents are entitled to enter onto and have full access to the Site, an inactive hazardous waste disposal site, to perform activities authorized under ECL Article 27, Title 13; and

WHEREAS the undisputed evidence is that both respondents have obstructed such access to the Site;

NOW, THEREFORE, it is hereby

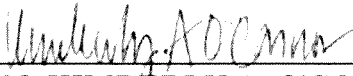
ORDERED that the petitioner DEC, its employees, agents, contractors and/or designated representatives, are authorized to enter upon the real property owned by respondent Ultimate located at 107 Freemans Bridge Road, Schenectady, New York, to inspect, investigate, and perform remediation and all activities authorized by Article 27 of the ECL; and it is further

ORDERED that neither respondent Ultimate nor Respondent Cole shall impede, block, delay, stall or otherwise hinder or interfere with DEC, its employees, agents, designated representatives and/or contractors at any time as they enter upon, occupy or depart respondent's property pursuant to this Order, or allow others to do so; and it is further

ORDERED and ADJUDGED that respondents Ultimate and Cole are jointly and severally liable to petitioner in the amount of \$10,000, as a civil penalty

for past obstruction of DEC's statutory right of access to the Site, and are indebted to petitioner for same, and judgment is entered in favor of petitioner.

Dated: Albany, New York
July 19, 2013


HON. KIMBERLY A. O'CONNOR
Justice of the Supreme Court, Acting

Papers Considered:

1. February 20, 2013 Notice of Petition;
2. February 20, 2013 Verified Petition;
3. February 20, 2013 Affirmation of Assistant Attorney General Kevin P. Donovan with attached exhibits;
4. February 15, 2013 Affidavit of Christopher O'Neill, P.E. with attached exhibits;
5. February 20, 2013 Memorandum of Law in Support of the Petition