

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Richard J. Hughes Justice Complex
25 Market Street
PO Box 093
Trenton, NJ 08625-0093
Attorney for Defendant Bob Martin

By: Edward Devine
Deputy Attorney General
(609) 984-5016

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
TRENTON VICINAGE

LITGO NEW JERSEY, INC.	:	
and SHELDON GOLDSTEIN,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	Civil Action No.
BOB MARTIN, Commissioner,	:	06-2891(AET)(TJB)
NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION, et al.,	:	
	:	
Defendants.	:	

CONSENT JUDGMENT

This matter was opened to the Court by Paula T. Dow, Attorney General of New Jersey, Edward Devine and A. Paul Stofa, Deputy Attorneys General, appearing, attorneys for defendant Bob Martin, in his official capacity as Commissioner of the New

Jersey Department of Environmental Protection ("NJDEP"); and by Patton Boggs, LLP, John McGahren, Esq., appearing, attorneys for Litgo New Jersey, Inc. and Sheldon Goldstein. The Parties (as defined below) have amicably resolved their dispute pursuant to the terms of this Consent Judgment as set forth herein.

I. BACKGROUND

A. Plaintiffs initiated this action on June 26, 2006, by filing a complaint in the United States District Court, District of New Jersey, against the Commissioner of NJDEP ("Commissioner") pursuant to the Resource Conservation and Recovery Act, ("RCRA") 42 U.S.C.A. 6901, et seq.

B. Plaintiffs filed five Amended Complaints, naming additional defendants to the lawsuit, and adding claims against the newly-added defendants pursuant to RCRA, as well as the Comprehensive Environmental Response Compensation and Liability Act, ("CERCLA") 42 U.S.C.A. 9601, et seq., and State environmental laws.

C. Plaintiffs, in their Fifth Amended Complaint, sought injunctive relief pursuant to RCRA requiring the Commissioner, and others, to remediate the Litgo Property (as defined below) located in Somerville, New Jersey, as well as attorneys' fees

and costs, as well as relief against the other defendants pursuant to CERCLA and State environmental laws.

D. The Settling Defendant and other defendants subsequently filed responsive pleadings in which they denied liability and asserted various defenses to the allegations contained in the Plaintiffs' complaints.

E. By entering into this Consent Judgment with Plaintiffs, the Settling Defendant does not admit any liability arising from the transactions or occurrences Plaintiffs allege in the Fifth Amended Complaint filed in this action.

F. The Plaintiffs allege that "hazardous wastes," as defined in RCRA, 42 U.S.C.A. § 6903, have been transported, handled, stored, disposed of and discharged at the Litgo Property, and that the Commissioner has legal responsibility to remediate those wastes. The Commissioner denies any legal responsibility to remediate those wastes.

G. The Parties to this Consent Judgment recognize, and this Court by entering this Consent Judgment finds, that the Parties to this Consent Judgment have negotiated this Consent Judgment in good faith; that the implementation of this Consent Judgment will allow the Parties to this Consent Judgment to avoid continued, prolonged and complicated litigation; and that

this Consent Judgment is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Consent Judgment, it is hereby ORDERED and ADJUDGED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.A. § 1331, 42 U.S.C.A. § 1367, and 42 U.S.C.A. § 6972(a)(1)(B). This Court also has personal jurisdiction over the Parties to this Consent Judgment, solely for the purposes of implementing this Consent Judgment and resolving the claims against the Commissioner.

2. The Parties to this Consent Judgment waive all objections and defenses they may have to jurisdiction of this Court, or to venue in this District in connection with the entry hereof. The Parties shall not challenge the Court's jurisdiction to enter and enforce this Consent Judgment.

III. PARTIES BOUND

3. This Consent Judgment shall apply to and be binding upon the Settling Defendant and Plaintiffs.

4. Notwithstanding any other provisions of this Consent Judgment, all of the rights, benefits and obligations conferred upon Plaintiffs under this Consent Judgment may be assigned or

transferred to any person with the prior written consent of NJDEP.

5. In the event of an assignment or transfer of the Litgo Property, Plaintiffs shall continue to be bound by all terms and conditions, and subject to all benefits, of this Consent Judgment except as NJDEP and Plaintiffs agree otherwise and modify this Consent Judgment, in writing, accordingly.

IV. DEFINITIONS

6. Unless otherwise expressly provided, terms used in this Consent Judgment that are defined in RCRA, CERCLA or in State environmental statutes, or in the regulations promulgated under those statutes, shall have their statutory or regulatory meaning. Whenever the terms listed below are used in this Consent Judgment, the following definitions shall apply:

"Consent Judgment" shall mean this Consent Judgment and any appendices identified in Section XIX.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or State holiday. In computing time under this Consent Judgment, where the last day would fall on a Saturday, Sunday, or State holiday, time shall run until the close of business of the next working day.

"Future Cleanup and Removal Costs" shall mean all costs, including direct and indirect costs, that the NJDEP or the Administrator of the Spill Compensation Fund ("Spill Fund") may incur to Remediate the Litgo Site after entry of this Consent Judgment.

"Litgo Property" shall mean the F Sharp Screw Parcel, which is approximately seven acres of vacant land situated at 40 Haynes Street, referred to on local tax maps at Block 50, Lots 3, 13 and 14, and which is bordered to the south by a New Jersey Transit rail line, to the west by a parcel owned by Truckform, Inc., to the north by several residential buildings, and to the east by a 2.5 acre parcel, which currently is occupied by an office building and a parking lot. The Litgo Property is also known and referred to as DEP Program Interest No. G000009551.

"Natural Resources," as used in this Consent Judgment, includes all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust, or otherwise controlled, by the State of New Jersey.

"Natural Resource Damages," as used in this Consent Judgment, includes all claims arising from discharges at the Litgo Property that occurred prior to the effective date of this Consent Judgment, and that are recoverable by NJDEP as natural

resource damages for injuries to Natural Resources under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. ("Spill Act"), the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -24, the Oil Pollution Act, 33 U.S.C.A. §§ 2701 to -2761, the Clean Water Act, 33 U.S.C.A. §§ 1251 to -1387, CERCLA, 42 U.S.C.A. §§ 9601 to -9675, or any other state or federal common law, statute, or regulation.

"Non-Settling Defendants" shall mean:

"United States Defendants" shall mean the United States of America, and all its departments, agencies and instrumentalities, including the United States Department of the Army, the United States Department of the Air Force, and the United States Department of the Navy.

"Sanzari Defendants" shall mean Alfred Sanzari Enterprises and Mary Sanzari.

"Paragraph" shall mean a portion of this Consent Judgment identified by an arabic numeral or an upper case letter.

"Party" or "Parties" shall mean plaintiffs Litgo New Jersey, Inc. and Sheldon Goldstein, and defendant Commissioner.

"Past Cleanup and Removal Costs," as used in this Consent Judgment, shall mean all costs, including direct and indirect costs, the NJDEP or the Spill Fund incurred on or before the

entry of this Consent Judgment, to Remediate the Litgo Site.

"Plaintiffs" shall mean Litgo New Jersey, Inc. and Sheldon Goldstein.

"Remediate" or "Remediation" shall mean all necessary actions and oversight to investigate and clean up to applicable standards or to respond to any known, suspected, or threatened discharge consistent with applicable law, including any payment of compensation for damage to, injury to, destruction of, loss of or lost use of Natural Resources, and including any work, or oversight of such work, to assess injuries to Natural Resources or restore or otherwise address injured Natural Resources.

"Section" shall mean a portion of this Consent Judgment identified by a roman numeral.

"Settling Defendant" shall mean defendant Commissioner Bob Martin, NJDEP and the Administrator of the Spill Fund, and any successor, department, agency or official thereof. Although NJDEP and the Administrator of the Spill Fund are not parties to the underlying litigation between Plaintiffs and the Commissioner, NJDEP and the Administrator of the Spill Fund are parties to this Consent Judgment and fall within the definition of "Settling Defendant" for purposes of this Consent Judgment.

"Site" or "Litgo Site" shall mean the Litgo Property, and

all other areas where any hazardous substance, waste, pollutant or contaminant discharged there has come to be located.

V. PARTIES' OBJECTIVES

7. The Parties' objectives in entering into this Consent Judgment are to protect public health and safety and the environment by the Settling Defendant agreeing to have NJDEP perform a Remedial Investigation and, if indicated, further Remediation of the western contaminant plume on or adjacent to the Litgo Property, and in return for the Plaintiffs agreeing to resolve all of their claims against the Settling Defendant concerning the Litgo Property as stated in the Fifth Amended Complaint and this Consent Judgment.

VI. SETTLING DEFENDANT'S COMMITMENTS

8. Within twelve months of the Effective Date of this Consent Judgment, the NJDEP shall begin a Remedial Investigation (RI) of the western plume in groundwater beneath and/or adjacent to the Litgo Property.

VII. SETTLING DEFENDANT'S COVENANT & RELEASE

9. Except as otherwise provided in Section VIII, below, the Settling Defendant fully and forever releases, covenants not to sue and not to take judicial or administrative action against Plaintiffs for reimbursement of Past and Future Cleanup and

Removal Costs or Natural Resource Damages.

10. The Settling Defendant fully and forever releases and covenants not to sue, and agrees not to otherwise take judicial or administrative action against, Plaintiffs for any and all claims and causes of actions that the Settling Defendant may have against Plaintiffs pursuant to RCRA, CERCLA, the Spill Act and the Industrial Site Recovery Act, N.J.S.A. 13:1K et seq. ("ISRA"), including, but not limited to, claims or causes of action for reimbursement of Past and Future Cleanup and Removal Costs or Natural Resource Damages.

11. The covenants and releases contained in Paragraphs 9 and 10, above, shall take effect upon the Court's entry of this Consent Judgment.

12. The covenants and releases contained in Paragraphs 9 and 10, above, shall also extend to any and all officers, directors, employees, predecessors, parents, successors, shareholders, subsidiaries, agents, heirs, assigns, trustee in bankruptcy, or receiver appointed pursuant to a proceeding in law of equity ("Related Entity"), but only to the extent that any alleged liability of any Related Entity is based on its status and in its capacity as a Related Entity, and not to the extent that the alleged liability of the Related Entity arose

independently of its status and capacity as a Related Entity, as well as any assignee or transferee of Litgo Property as limited by paragraph 18 herein.

13. In further consideration of this settlement, the Commissioner shall dismiss, with prejudice, his counterclaim against Plaintiffs.

VIII. SETTLING DEFENDANT'S RESERVATIONS

14. The covenants contained in Section VII, above, do not pertain to any matters other than those expressly stated. The Settling Defendant reserves, and this Consent Judgment is without prejudice to, all rights against the Plaintiffs concerning all other matters, including the following:

- a. claims based on Plaintiffs' failure to satisfy any term or provision of this Consent Judgment;
- b. claims based on Plaintiffs' failure to make payment to satisfy any outstanding invoices issued by NJDEP in the course of Plaintiffs' activities at the Litgo Property for which NJDEP has incurred any oversight costs;
- c. liability arising from Plaintiffs' past, present or future discharge or unsatisfactory storage or containment of any hazardous substance outside the

Litgo Property;

- d. liability for any future discharge or unsatisfactory storage or containment of any hazardous substance by Plaintiffs at the Litgo Property, other than as ordered or approved by the Commissioner;
- e. criminal liability;
- f. liability for any violation by Plaintiffs of federal or state law that occurs during or after the remediation of the Litgo Property;
- g. liability for any claim pending or filed on or after the effective date of this Consent Judgment against the Spill Fund concerning the Litgo Property.

15. Independent of the reservations set forth in paragraph 14 above, the Settling Defendant reserves all rights to assert any and all claims for Future Cleanup and Removal Costs incurred by NJDEP for the investigation and remediation of the Western Plume against any other person, entity, or government instrumentality, except the Plaintiffs and their Related Entities, including any assignee or transferee of Litgo Property. The Settling Defendant further reserves all rights to conduct further investigation of the Eastern Plume located at the Litgo Property, and assert any and all claims for Future

Cleanup and Removal Costs incurred by NJDEP for the investigation of the Eastern Plume against any other person, entity or government instrumentality, except the Plaintiffs and their Related Entities, including any assignee or transferee of Litgo Property as limited by paragraph 18 herein.

16. Independent of the reservations set forth in paragraph 13 above, the Settling Defendant further reserves all rights to assert any and all claims for Natural Resource Damages with respect to the Litgo Site against any other person, entity or government instrumentality, except the Plaintiffs and their Related Entities, including any assignee or transferee of the Litgo Property as limited by paragraph 18 herein.

IX. PLAINTIFFS' COMMITMENTS

17. Plaintiffs shall not sell the Litgo Property until the remediation of soils is completed and sources of contamination at the Litgo Property have been eliminated.

18. After the conclusion of the remediation of soils at the Litgo Property, exclusive of operation and maintenance, Plaintiffs shall use all reasonable effort to sell the Litgo Property to a third-party unrelated to and unaffiliated with Plaintiffs for fair market value as determined by an appraisal of the Litgo Property as if it was remediated.

19. Plaintiffs shall convey 35% of the net proceeds of the sale of the Litgo Property (after payment of transaction costs, including, but not limited to broker commissions, attorneys fees, costs, taxes and charges by Plaintiffs) to NJDEP.

X. PLAINTIFFS' COVENANTS

20. Plaintiffs covenant not to oppose entry of this Consent Judgment by this Court, or to challenge any provision of this Consent Judgment, unless Plaintiffs notify the Commissioner, in writing, that they no longer support entry of the Consent Judgment.

21. Plaintiffs further covenant, subject to Paragraph 23, below, not to sue or assert any claim or cause of action against the State, including any department, agency, instrumentality, or official of the State, concerning the Litgo Property. This covenant shall include the following:

- a. any direct or indirect claim for reimbursement from the Spill Fund concerning the Litgo Property;
- b. any claim or cause of action concerning the Remediation of the Litgo Property, including the NJDEP's selection, performance or oversight of the remediation, or approval of the plans for the remediation, or any selection by NJDEP of engineering

and/or institutional controls as part of the remediation at the Litgo Property; and

- c. all of Plaintiffs' claims and causes of action against the Commissioner in this matter, including any claim for Plaintiffs' attorneys' fees incurred during the prosecution of this matter.

X. PLAINTIFFS' RESERVATIONS

22. Plaintiffs reserve, and this Consent Judgment is without prejudice to, claims against the State of New Jersey, subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 to -12-3; the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 to 13-10; the New Jersey Constitution, N.J. Const. art. VIII, §2, ¶2; or any other applicable provision of law, for money damages and/or injunctive relief for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any State employee in relation to the Litgo Property while acting within the scope of his office or employment under circumstances where the State, if a private person, would be liable to the claimant. Any such claim, however, shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a State employee as that

term is defined in N.J.S.A. 59:1-3; nor shall it include any such claim concerning the Litgo Property, including the selection of the remediation or oversight or approval of the NJDEP's plans or activities relating to the remediation. The foregoing applies only to claims that Plaintiffs may bring pursuant to any statute other than the Spill Act and for which the waiver of sovereign immunity is found in a statute other than the Spill Act.

23. Nothing in this Consent Judgment shall be deemed to constitute preauthorization of a claim against the Spill Fund within the meaning of N.J.S.A. 58:10-23.11k. or N.J.A.C. 7:1J.

XII. ACCESS

24. Commencing upon the effective Date of this Consent Judgment, Plaintiffs agree to provide the NJDEP, and its representatives and contractors, access at all reasonable times to the Litgo Property and any other property to which access is required for the implementation of this Consent Judgment, to the extent access to the property is controlled by Plaintiffs, for the purposes of conducting any remediation at the Litgo Site, or any other activity related to this Consent Judgment.

25. To the extent that the Litgo Property or any other property to which access is required for the implementation of

this Consent Judgment is owned or controlled by persons other than Plaintiffs, Plaintiffs shall use best efforts to secure from such persons access for the NJDEP, as well as for its representatives and contractors, as necessary to effectuate this Consent Judgment.

26. The Plaintiffs shall ensure that any sale or transfer of the Litgo Property is conditioned upon NJDEP and its representatives and contractors having continuing access for the purposes stated in Paragraph 24 above.

27. Notwithstanding any provision of this Consent Decree, the NJDEP retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

XIII. FINDINGS & ADMISSIONS OF LIABILITY

28. Nothing contained in this Consent Judgment shall be considered an admission by the Settling Defendant or Plaintiffs of any wrongdoing or liability on the Settling Defendant's part or on the Plaintiffs' for anything that occurred at the Litgo Property.

XIV. EFFECT OF SETTLEMENT & CONTRIBUTION PROTECTION

29. Nothing in this Consent Judgment shall be construed to create any rights in, or grant any cause of action to, any

person not a Party to this Consent Judgment, except as set forth in Paragraph 12 herein. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Consent Judgment may have under applicable law.

30. Plaintiffs expressly reserve all rights, including any right to contribution, defenses, claims, demands, and causes of action that Plaintiffs may have concerning any matter, transaction, or occurrence concerning the Litgo Property against any person not a Party to this Consent Judgment.

31. When entered, this Consent Judgment will constitute a judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b) and 42 U.S.C.A. § 9613(f)(2) for the purpose of providing protection to the Plaintiffs and their Related Entities from contribution actions. The Parties agree, and by entering this Consent Judgment this Court finds, that Plaintiffs and their Related Entities are entitled, upon fully satisfying their obligations under this Consent Judgment, to protection from contribution actions or claims for matters addressed in this Consent Judgment. Nothing in this Consent Judgment shall be interpreted to require that United States Defendants or the Sanzari Defendants pay more than their

equitable allocation shares, as determined by this Court's Opinion and Order, Doc. 382 (Jan. 7, 2011), or any modified versions of the Opinion and Order made by the Court in the future, of past or future cleanup, remedial, removal, or response costs incurred concerning the environmental conditions at or around the Litgo Property by the Commissioner, NJDEP, the Administrator, Plaintiffs, or any other person or entity.

32. In order for Plaintiffs and their Related Entities to obtain protection under N.J.S.A. 58:10-23.11.f.b. from contribution claims concerning the matters addressed in this Consent Judgment, NJDEP published notice of this Consent Judgment in the New Jersey Register and on the NJDEP website on April 4, 2011, in accordance with N.J.S.A. 58:10-23.11e.2. Such notice included the following information:

- a. the caption of this case;
- b. the name and location of the Litgo Property;
- c. the names of the Parties; and
- d. a summary of the terms of this Consent Judgment

33. The Plaintiffs also published legal notices in three newspapers of general circulation in the area of the Litgo Property for a period of not less than three days, which notices contained the following information:

- a. the name and location of the Litgo Property;
- b. the names of the Parties;
- c. a summary of the terms of this Consent Judgment;
- d. the date public notice was published in the New Jersey Register.

34. The Plaintiffs, in accordance with N.J.S.A. 58:10-23.11e2, arranged for written notice of the Consent Judgment to all other potentially responsible parties of whom Plaintiffs had notice as of the date NJDEP published notice of the proposed settlement in this matter in the New Jersey Register in accordance with Paragraph 32.

35. At the conclusion of a 30-day public comment period following publication of notice in the New Jersey Register, Plaintiffs will submit this Consent Judgment to the Court for entry pursuant to Paragraph 53, below, unless, as a result of the notice of this Consent Judgment pursuant to Paragraphs 32 through 34, above, NJDEP receives information that discloses facts or considerations that indicate to it, in its sole discretion, that the Consent Judgment is not in the public interest.

36. In any subsequent administrative or judicial proceeding initiated by the Settling Defendant pursuant to

Section VIII for injunctive relief, recovery of cleanup costs, or other appropriate relief concerning the Site, Plaintiffs shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine or other defenses based upon any contention that the claims the Settling Defendant raises in the subsequent proceeding were or should have been brought in this case; provided, however, that nothing in this Paragraph affects the enforceability of this Consent Judgment.

XV. ACCESS TO INFORMATION

37. Upon receipt of a written request by the NJDEP, Plaintiffs shall submit or make available to the NJDEP all information Plaintiffs have concerning the Litgo Property, including technical records and contractual documents.

38. Plaintiffs may assert a claim of confidentiality or privilege for any information submitted to NJDEP pursuant to this Consent Judgment. Plaintiffs, however, agree not to assert any privilege or confidentiality claim concerning data related to site conditions, sampling, or monitoring.

XVI. RETENTION OF RECORDS

39. Plaintiffs shall preserve during the pendency of this Consent Judgment and for a minimum of seven (7) years after its effective date, all data and information, including technical records, potential evidentiary documentation and contractual documents, in Plaintiffs' possession or in the possession of its divisions, employees, agents, accountants, contractors, or attorneys, which in any way concern the Litgo Property, despite any document retention policy to the contrary.

40. After the seven year period specified in Paragraph 39, above, Plaintiffs may request of the NJDEP, in writing, that they be allowed to discard any such documents. Such a request shall be accompanied by a description of the documents involved, including the name of each document, date, name and title of the sender and receiver and a statement of contents. Upon receiving written approval from the NJDEP, Plaintiffs may discard only those documents the NJDEP does not require Plaintiffs to preserve for a longer period.

XVII. NOTICES AND SUBMISSIONS

41. Except as otherwise provided in this Consent Judgment, whenever written notice or other documents are required to be submitted by one Party to another, they shall be directed to the

individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to Defendant Commissioner, NJDEP:

Ronald Corcory
Assistant Director, Site Remediation
New Jersey Department of Environmental Protection
401 E. State Street
Trenton, New Jersey 08625

As to Plaintiffs Litgo New Jersey, Inc. and Sheldon Goldstein:

John McGahren, Esq.
Patton Boggs
One Riverfront Plaza, 6th Floor
Newark, NJ 07102

42. All submissions shall be considered effective upon receipt, unless otherwise provided in this Consent Judgment.

43. The Parties shall not construe any informal advice, guidance, suggestions, or comments as relieving either Party of its obligation to obtain written approvals or modifications as required by this Consent Judgment.

XVIII. EFFECTIVE DATE

44. The effective date of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court.

XIX. RETENTION OF JURISDICTION

45. This Court retains jurisdiction over both the subject matter of this Consent Judgment and the Parties for the duration of the performance of the terms and provisions of this Consent Judgment for the purpose of enabling either of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Judgment, or to effectuate or enforce compliance with its terms.

46. Nothing in this Consent Judgment shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Judgment.

XX. MODIFICATIONS

47. This Consent Judgment represents the entire integrated agreement between the Plaintiffs and the Settling Defendant concerning the Litgo Property, and supersedes all prior negotiations, representations or agreements, either written or oral, unless otherwise specifically provided.

48. Any notices or other documents specified in this Consent Judgment may only be modified by agreement of the Parties. All such modifications shall be made in writing.

49. All notices or other documents either Party is required to submit under this Consent Judgment shall be enforceable under this Consent Judgment. All such approvals or modifications shall be in writing.

50. In the event the NJDEP approves or modifies a portion of a notice or other document that any Party is required to submit under this Consent Judgment, the approved or modified portion shall be enforceable under this Consent Judgment.

51. Nothing in this Consent Judgment shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Judgment that are made pursuant to this Section XX.

XXI. ENTRY OF THIS CONSENT JUDGMENT

52. Plaintiffs and Settling Defendant consent to the entry of this Consent Judgment without further notice.

53. Upon conclusion of the public comment period specified in Paragraph 32, above, Plaintiffs shall promptly submit this Consent Judgment to the Court for entry.

54. If for any reason the Court should decline to approve this Consent Judgment in the form presented, this agreement is voidable at the sole discretion of either Party and the terms of

the agreement may not be used as evidence in any litigation between the Parties.

XXII. SIGNATORIES/SERVICE

55. Each undersigned representative of a Party to this Consent Judgment certifies that he or she is authorized to enter into the terms and conditions of this Consent Judgment, and to execute and legally bind such party to this Consent Judgment.

56. This Consent Judgment may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Consent Judgment.

57. Each Party shall identify on the attached signature pages, the name, address and telephone number of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Judgment. The Parties agree to accept service in this manner, and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure, including service of a summons.

SO ORDERED this day of , 2010.

Anne B. Thompson, U.S.D.J.

COMMISSIONER
NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

By: _____
Ronald T. Corcory
Assistant Director
Site Remediation

Dated:

By: _____
Irene Kropp
Deputy Commissioner

Dated:

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Commissioner

By: _____
Edward Devine
Deputy Attorney General

Dated:

Plaintiffs Litgo New Jersey, Inc.
and Sheldon Goldstein

By: _____
Sheldon Goldstein
President, Litgo New Jersey, Inc.

Dated:

Person Authorized to Accept Service on Behalf of Commissioner:

Name:

Title:

Address:

Telephone No.: