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ATTORNEY GENERAL OF NEW JERSEY
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DEPUTY CLERK
SUPERIOR COURT
BURLINGTON COUNTY

2006 AUG 28 A 9:17

FILED & RECEIVED

By: Evan Greenstein
Deputy Attorney General
(609) 984-5189

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BURLINGTON COUNTY
DOCKET NO.

L -002473 06

NEW JERSEY DEPARTMENT OF :
ENVIRONMENTAL PROTECTION and : Civil Action
THE ADMINISTRATOR OF THE NEW :
JERSEY SPILL COMPENSATION : COMPLAINT
FUND, :
 :
Plaintiffs, :
 :
v. :
 :
IMO INDUSTRIES, INC.; :
"ABC CORPORATIONS" 1-10 (Names :
Fictitious); and :
"JOHN DOES" 1-10 (Names :
Fictitious), :
 :
Defendants. :
 :

Plaintiffs New Jersey Department of Environmental Protection ("DEP"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "the Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by way of Complaint against the above-named defendants ("the Defendants"), say:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, and the common law, for reimbursement of the cleanup and removal costs they have incurred, and will incur, as a result of the discharge of hazardous substances at the Delaval Condenser site, Florence Township, Burlington County. Plaintiff DEP further brings this action pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 to -116 ("Sanitary Landfill Act"), for reimbursement of the damages it has incurred, and will incur, as a result of the operation and/or improper closure of the sanitary landfill facility located at the Delaval Condenser site. The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances and the operation and/or improper closure of the sanitary landfill facility at the Delaval Condenser site. The Plaintiffs further seek an order compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances, and the operation and/or improper closure of the sanitary landfill facility at the Delaval Condenser site.

THE PARTIES

2. Plaintiff DEP is a principal department within the Executive Branch of the State government, vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.

3. In addition, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, for which plaintiff DEP is vested with the authority to protect this public trust and to seek compensation for any injury to the natural resources of this State. N.J.S.A. 58:10-23.11a.

4. Plaintiff Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("the Spill Fund"). N.J.S.A. 58:10-23.11j. As chief executive officer of the Spill Fund, plaintiff Administrator is authorized to approve and pay any cleanup and removal costs plaintiff DEP incurs, N.J.S.A. 58:10-23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d.

5. Defendant IMO Industries, Inc. ("IMO Industries") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 997 Lenox Drive, Lawrenceville, New Jersey 08648-0550.

6. In 1977, IMO Industries, then known as Delaval Turbine, Inc. ("Delaval Turbines") changed its name to Delaval Turbine, Inc. ("Delaval Turbine").

7. In 1979, Delaval Turbine changed its name Transamerica Delaval, Inc. ("Transamerica Delaval").

8. Prior to 1986, defendant IMO Industries was a wholly-owned subsidiary of Transamerica Corporation.

9. In 1986, Transamerica Corp. distributed all shares of common stock of Transamerica Delaval to the shareholders of record of Transamerica Corp. common stock.

10. Transamerica Delaval subsequently changed its name to IMO Delaval, Inc. ("IMO Delaval"), which Transamerica Corp. then spun off, making IMO Delaval a separate entity.

11. IMO Delaval subsequently changed its name to IMO Industries, Inc., as the Defendant is named herein.

12. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, or are otherwise related to, defendant IMO Industries.

13. Defendants "John Does" 1-10, these names being fictitious, are individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners,

officers, directors, and/or responsible corporate officials of, or are otherwise related to, defendant IMO Industries and one or more of the ABC Corporation defendants.

AFFECTED NATURAL RESOURCE

Ground Water

14. Ground water is an extremely important natural resource for the people of New Jersey, supplying more than 900 million gallons of water per day, which provides more than half of New Jersey's population with drinking water.

15. Not only does ground water serve as a source of potable water, it also serves as an integral part of the State's ecosystem.

16. Ground water provides base flow to streams and other surface water bodies, and influences surface water quality and wetland ecology and the health of aquatic ecosystems.

17. Ground water provides cycling and nutrient movement, prevents salt water intrusion, provides ground stabilization, prevents sinkholes, and provides maintenance of critical water levels in freshwater wetlands.

18. Ground water is a unique resource that supports the State's tourism industry, and is also used for commercial, industrial and agricultural purposes, all of which help sustain the State's economy.

19. There are more than 6,000 sites in New Jersey confirmed as having ground water contaminated with hazardous substances.

GENERAL ALLEGATIONS

20. The Delaval Condenser site consists of approximately 19 acres of real property located next to the Delaware River at 1100 West Front Street, Florence Township, Burlington County, New Jersey, this property being also known and designated as Block 179, Lot 1.01, on the Tax Map of Florence Township ("the Delaval Condenser Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. 014145.

21. The now-defunct R.D. Wood Band Company owned the Delaval Condenser Property from at least 1940 through June 30, 1964.

22. From on or about June 30, 1964 through September 30, 1965, Amsted Industries, Inc. ("Amsted") owned the Delaval Condenser Property.

23. On or about September 30, 1965, Amsted sold the Delaval Condenser Property to defendant IMO Industries, then known as Delaval Turbine, Inc.

24. On February 19, 1999, defendant IMO Industries sold the Delaval Condenser Property to D.C. Fabricators, Inc. ("D.C. Fabricators").

25. As of the filing of this Complaint, D.C. Farbicators is the owner of record of the Delaval Condenser Property.

26. During the time that the defendant IMO Industries, one or more of the ABC Corporation defendants, and/or one or more of the John Doe defendants, owned the Delaval Condenser Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included tetrachloroethane, mercury, phenols, trichloroethane, polycyclic aromatic hydrocarbons, and base neutral organic compounds.

27. From approximately October 1965 through February 1999, defendant IMO Industries manufactured steam condensers at the Delaval Condenser Property, which activities involved the generation, storage and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included tetrachloroethane, mercury, phenols, trichloroethane, polycyclic aromatic hydrocarbons, and base neutral organic compounds.

28. At various times from 1940 through February 1999, one or more of the ABC Corporation defendants and/or one or more of the John Doe defendants engaged in activities at the Delaval Condenser Property, which activities involved the generation, storage and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b.

29. From approximately 1965, and possibly before, through February 1980, "solid wastes," within the meaning of N.J.S.A. 13:1E-3a., were "disposed of" at the Delaval Condenser Property, within the meaning of N.J.S.A. 13:1E-3c.

30. Certain of the solid wastes disposed of at the Delaval Condenser Property were deposited on, or in, the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, thereby creating a "sanitary landfill facility" at the Delaval Condenser Property within the meaning of N.J.S.A. 13:1E-3q.

31. In 1986, Transamerica Corp.'s spinning off defendant IMO Industries, and defendant IMO Industries' accompanying name change, triggered the company's obligations under the Environmental Cleanup Responsibility Act, now known as the Industrial Site Recovery Act ("ISRA"), N.J.S.A. 13:1K-6 to -14.

32. On various occasions from 1986 through 1994, plaintiff DEP inspected the Delaval Condenser Property, during which

plaintiff DEP sampled the ground water from various monitoring wells on the premises.

33. Sampling results revealed the presence of various hazardous substances in the ground water at concentrations exceeding plaintiff DEP's cleanup criteria, which substances included tetrachloroethane, mercury, phenols, trichloroethane, polycyclic aromatic hydrocarbons, and base neutral organic compounds.

34. On December 17, 1986, Transamerica Corp., defendant IMO Industries, then known as Transamerica Delaval, and plaintiff DEP, entered into an administrative consent order, pursuant to which Transamerica Corp. and IMO Industries agreed to submit a groundwater sampling plan to plaintiff DEP, which Transamerica Corp. and IMO Industries subsequently submitted to DEP for consideration.

35. In September 1988, plaintiff DEP noted in an addendum to the proposed sampling plan that the Delaval Condenser Property had 27 areas of environmental concern, including aboveground and underground storage tanks used for gasoline and fuel oil, septic systems and leaching fields, drum storage areas, transformers, boiler "blowdown" condensate discharge areas, and a dumping area.

36. On May 14, 1993, plaintiff DEP issued Transamerica Corp. and defendant IMO Industries a No Further Action Letter pursuant to

N.J.A.C. 7:26C-2.6, informing defendant IMO Industries and Transamerica Corp. that no additional remedial activities were necessary to address the groundwater contamination at the Site.

37. On June 26, 1995, DEP approved Transamerica Corp. and defendant IMO Industries' Remedial Action Selection Report for the Site pursuant to N.J.S.A. 58:10-23.11f.a. and N.J.A.C. 7:26E-5.2, which described the proposed remedial action to address the contamination, and how the proposed remedial action was the most appropriate alternative for the Site.

38. The remedial action plaintiff DEP approved for the Site primarily provided for the sealing of all monitoring wells on the Delaval Condenser Property, and for defendant IMO Industries to record a Declaration of Environmental Restriction for the Delaval Condenser Property pursuant to ISRA and the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31, and the regulations promulgated thereunder, specifically N.J.A.C. 7:26B-1.1 to -8.4.

39. The Declaration of Environmental Restriction that defendant IMO Industries recorded for the Site, restricted human activities at or near the Delaval Condenser Property because contaminant concentrations exceeding the applicable cleanup standards still remained in the soil.

40. On July 30, 1996, plaintiff DEP issued a second No Further Action Letter to defendant IMO Industries pursuant to N.J.A.C. 7:26C-2.6, informing defendant IMO Industries that no additional remedial activities were necessary to address the soils contamination, a condition of which required the defendant IMO Industries to seal all monitoring wells at the Site, and to submit the requisite well abandonment forms to plaintiff DEP.

41. In August 1996, defendant IMO Industries submitted 13 well abandonment forms to plaintiff DEP as plaintiff DEP required defendant IMO to do in the July 30, 1996 No Further Action Letter.

42. Although plaintiff DEP has issued two No Further Action Letters to defendant IMO Industries for the Site, the soil contamination continues, as provided in the Declaration of Environmental Restriction defendant IMO Industries has recorded for the Delaval Condenser Property.

FIRST COUNT

Spill Act

43. Plaintiffs DEP and Administrator repeat each allegation of paragraph nos. 1 through 42 above as though fully set forth in its entirety herein.

44. Each defendant is a "person" within the meaning of N.J.S.A. 58:10-23.11b. Plaintiff DEP has incurred, and/or will

incur, costs as a result of the discharge of hazardous substances at the Delaval Condenser Property.

45. Plaintiff Administrator has certified, or may certify, for payment, valid claims made against the Spill Fund concerning the Site, and, further, has approved, or may approve, other appropriations for the Site.

46. The Plaintiffs have incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Delaval Condenser Property.

47. The costs and damages the Plaintiffs have incurred, and will incur, for the Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

48. Defendant IMO Industries, one or more of the ABC Corporation defendants, and/or one or more of the John Doe defendants, are the dischargers of hazardous substances at the Delaval Condenser Property, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous

substances at the Delaval Condenser Property. N.J.S.A. 58:10-23.11g.c.(1).

49. Defendant IMO Industries, one or more of the ABC Corporation defendants, and/or one or more of the John Doe defendants, as the owners of the Delaval Condenser Property at the time hazardous substances were discharged there, also are persons in any way responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Delaval Condenser Property. N.J.S.A. 58:10-23.11g.c.(1).

50. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); natural resource restoration and replacement costs, N.J.S.A. 58:10-23.11u.b.(4); and for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

51. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs or damages paid from the Spill Fund.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;

- c. Enter judgment against the Defendants compelling the Defendants to perform any further cleanup of hazardous substances discharged at the Delaval Condenser Property under plaintiff DEP's oversight;
- d. Enter judgment against the Defendants, jointly and severally, without regard to fault, compelling the Defendants to restore any injured natural resource to its pre-discharge condition, and to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Delaval Condenser Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory restoration of any natural resource injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;
- e. Order the Defendants to pay plaintiff DEP all penalties to which plaintiff DEP is entitled;
- f. Award the Plaintiffs their costs and fees in this action;
and
- g. Award the Plaintiffs such other relief as this Court deems appropriate.

SECOND COUNT

Sanitary Landfill Act

52. Plaintiffs DEP and Administrator repeat each allegation of paragraph nos. 1 through 51 above as though fully set forth in its entirety herein.

53. Defendant IMO Industries, one or more of the ABC Corporation defendants, and/or one or more of the John Doe defendants, are persons who "owned" and/or "operated" the sanitary landfill facility located at the Delaval Condenser Property within the meaning of N.J.S.A. 13:1E-102b.

54. Plaintiff DEP has incurred, or will incur, costs resulting from the operation and/or improper closure of the sanitary landfill facility located at the Delaval Condenser Property.

55. Plaintiff DEP has also certified, or may certify, for payment, valid claims made against the Sanitary Landfill Facility Contingency Fund concerning the sanitary landfill facility at the Delaval Condenser Property.

56. Plaintiff DEP has incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State that has been, or may

be, injured as a result of the disposal of solid wastes at the Delaval Condenser Property.

57. As the owners of the sanitary landfill facility at the Delaval Condenser Property, defendant IMO Industries, one or more of the ABC Corporation defendants, and/or one or more of the John Doe defendants, are liable, jointly and severally, for the sanitary landfill facility's proper operation and closure as required by law, and for any damages, either direct or indirect, proximately resulting from the operation of the sanitary landfill facility at the Delaval Condenser Property, including claims paid from the Sanitary Landfill Facility Contingency Fund, and including any lost value and reasonable assessment costs that plaintiff DEP has incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the operation of the sanitary landfill facility at the Delaval Condenser Property. N.J.S.A. 13:1E-103.

58. As the operators of the sanitary landfill facility at the Delaval Condenser Property, defendant IMO Industries, one or more of the ABC Corporation defendants and/or one or more of the John Doe defendants, are liable, jointly and severally, for the sanitary landfill facility's proper operation and closure as required by law, and for any damages, either direct or indirect, proximately resulting from the operation of the sanitary landfill facility at the Delaval Condenser Property, including claims paid from the

Sanitary Landfill Facility Contingency Fund, and including lost value and reasonable assessment costs, that the plaintiff DEP has incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the operation of the sanitary landfill facility at the Delaval Condenser Property. N.J.S.A. 13:1E-103.

59. Pursuant to N.J.S.A. 13:1E-9b. and d., plaintiff DEP may bring an action in the Superior Court for the costs of any investigation, inspection or monitoring survey, and the reasonable costs of preparing and litigating the case, N.J.S.A. 13:1E-9d. (2); the costs to remove, correct or terminate any adverse effects upon water and air quality, N.J.S.A. 13:1E-9d. (3); compensatory damages, including the lost value and assessment costs, that plaintiff DEP incurs for any natural resource of this State that has been, or may be, injured as a result of the operation of the sanitary landfill facility located at the Delaval Condenser Property, N.J.S.A. 13:1E-9d. (4); and for any other actual damages. N.J.S.A. 13:1E-9d. (4).

PRAYER FOR RELIEF

WHEREFORE, plaintiff DEP prays that this Court:

- a. Order the Defendants to reimburse plaintiff DEP, jointly and severally, for all direct and indirect damages, including claims paid from the Sanitary Landfill Facility Contingency Fund, and including lost value and reasonable

assessment costs for any natural resource of this State injured as a result of the operation and/or closure of the sanitary landfill facility at the Delaval Condenser Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants, jointly and severally, for all direct and indirect damages, including claims to be paid from the Sanitary Landfill Facility Contingency Fund, and including lost value and reasonable assessment costs that plaintiff DEP will incur for any natural resource of this State injured as a result of the operation and/or closure of the sanitary landfill facility at the Delaval Condenser Property;
- c. Award plaintiff DEP its costs and fees in this action; and
- d. Award plaintiff DEP such other relief as the Court deems appropriate.

THIRD COUNT

Public Nuisance

60. Plaintiffs repeat each allegation of paragraph nos. 1 through 59 above as though fully set forth in its entirety herein.

61. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

62. The use, enjoyment and existence of uncontaminated natural resources are rights common to the general public.

63. The groundwater contamination at the Site constitutes a physical invasion of public property and an unreasonable and substantial interference, both actual and potential, with the exercise of the public's common right to this natural resource.

64. Until the ground water is restored to its pre-injury quality, the Defendants are liable for the creation, and continued maintenance, of a public nuisance in contravention of the public's common right to clean ground water.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;
- c. Enter judgment against the Defendants compelling the Defendants to abate the nuisance by performing any further cleanup of hazardous substances discharged at the Delaval Condenser Property under plaintiff DEP's oversight;
- d. Enter judgment against the Defendants, compelling the Defendants to restore any injured natural resource to its pre-discharge condition, and to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Delaval Condenser Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory restoration of any natural resource injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;

- e. Award the Plaintiffs their costs and fees in this action;
and
- f. Award the Plaintiffs such other relief as this Court
deems appropriate.

FOURTH COUNT

Trespass

65. Plaintiffs repeat each allegation of paragraph nos. 1 through 64 above as though fully set forth in its entirety herein.

66. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

67. The Defendants are liable for trespass, and continued trespass, since hazardous substances were discharged at the Delaval Condenser Property.

68. As long as the ground water remains contaminated, the Defendants' trespass continues.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and

reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;
- c. Enter judgment against the Defendants compelling the Defendants to cease the trespass by performing any further cleanup of hazardous substances discharged at the Delaval Condenser Property under plaintiff DEP's oversight;
- d. Enter judgment against the Defendants compelling the Defendants to restore any injured natural resource to its pre-discharge condition, and to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Delaval Condenser Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory

restoration of any natural resource injured as a result of the discharge of hazardous substances at the Delaval Condenser Property;

- e. Award the Plaintiffs their costs and fees in this action; and
- f. Award the Plaintiffs such other relief as this Court deems appropriate.

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: *Evan S. Greenstein*

Evan S. Greenstein
Deputy Attorney General

Dated: *Aug 24, 2006*

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Evan S. Greenstein, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b) (2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to the Plaintiffs at this time, nor is any non-party known to the Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b) (2).

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Evan S. Greenstein

Evan S. Greenstein
Deputy Attorney General

Dated: Aug. 24, 2006

Transamerica Complaint latest.frm

CIVIL CASE INFORMATION STATEMENT

(CIS)

FOR USE BY CLERK'S OFFICE ONLY

Use for initial pleadings (not motions) under R. 4:5-1.

Pleadings will be rejected for filing under R. 1:5-6(c) if information above the black bar is not completed or if attorney's signature is not affixed.

PAYMENT TYPE: CK CG CA

CHG/CK NO.:

AMOUNT:

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME: Evan Greenstein,
Deputy Attorney General

TELEPHONE NO.:
(609) 984-5189

COUNTY OF VENUE: Burlington

FIRM NAME (If Applicable): NEW JERSEY ATTORNEY GENERAL

DOCKET NUMBER (When Available):

OFFICE ADDRESS:
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, NJ 08625-0093

DOCUMENT TYPE: Complaint

JURY DEMAND: YES NO

NAME OF PARTY (e.g., John Doe, Plaintiff):
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION and THE ADMINISTRATOR OF THE
NEW JERSEY SPILL COMPENSATION FUND,
Plaintiff
IMO INDUSTRIES, INC., Defendant

CAPTION: NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,
et al. v. IMO INDUSTRIES, INC., et al.

CASE TYPE NUMBER
(See reverse side for listing): 156

IS THIS A PROFESSIONAL MALPRACTICE CASE? YES NO

If You Have Checked "Yes," See N.J.S.A. 2A:53A-27 and
Applicable Case Law Regarding Your Obligation to File an
Affidavit of Merit.

RELATED CASES PENDING? YES NO

IF YES, LIST DOCKET NUMBERS:

DO YOU ANTICIPATE ADDING ANY PARTIES (arising
out of the same transaction or occurrence)?

YES NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

NONE UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO THE PARTIES HAVE IF YES, IS THAT EMPLOYER-EMPLOYEE FRIEND-NEIGHBOR X OTHER (explain)
A CURRENT, PAST OR RELATIONSHIP: REGULATORY
RECURRENT RELATIONSHIP?

YES NO FAMILIAL BUSINESS

B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE X YES NO
FOR PAYMENT OF FEES BY THE LOSING PARTY?

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL
MANAGEMENT OR ACCELERATED DISPOSITION.

DO YOU OR YOUR CLIENT NEED ANY DISABILITY
ACCOMMODATIONS?

YES NO

IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:

WILL AN INTERPRETER BE NEEDED? YES NO

IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE:

Evan D. Greenstein

IMOIndustriescomplaintCISform.frm

BURLINGTON COUNTY
SUPERIOR COURT
49 RANCOCAS ROAD
MT HOLLY NJ 08060

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (609) 518-2815
COURT HOURS

DATE: AUGUST 28, 2006
RE: NEW JERSEY DEPT OF ENVIRONMENTAL VS IMO INDUSTRIES
DOCKET: BUR L -002473 06

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON MARC M. BALDWIN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (609) 518-2815.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:5A-2.

ATTENTION:

ATT: EVAN GREENSTEIN
ATTORNEY GENERAL DEPT ENV
RJ HUGHES JUSTICE COMPLEX
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JUDOM7