James E. McGreevey
Governor

State of New Jersey
Department of Environmental Protection

Bradley M. Campbell
Commissioner

Directive Number 2003-01

IN THE MATTER OF THE LOWER PASSAIC RIVER **AND** **360 NORTH PASTORIA ENVIRONMENTAL CORPORATION;** **AMERADA HESS CORPORATION;** **AMERICAN MODERN METALS CORPORATION;** **APOLLO DEVELOPMENT AND LAND CORPORATION;** **ASHLAND INC.;** **AT&T CORPORATION;** **ATLANTIC RICHFIELD COMPANY;** **BAYER CORPORATION;** **BENJAMIN MOORE & COMPANY;** **BRISTOL MYERS-SQUIBB;** **CHEMICAL LAND HOLDINGS, INC.;** **CHEVRON TEXACO CORPORATION;** **DIAMOND ALKALI COMPANY;** **DIAMOND SHAMROCK CHEMICALS COMPANY;** **DIAMOND SHAMROCK CORPORATION;** **DILORENZO PROPERTIES COMPANY;** **DILORENZO PROPERTIES, L.P.;** **DRUM SERVICE OF NEWARK, INC.;** **E.I. DUPONT DE NEMOURS AND COMPANY;** **EASTMAN KODAK COMPANY;**	**DIRECTIVE NO. 1** **NATURAL RESOURCE INJURY ASSESSMENT** **AND** **INTERIM COMPENSATORY RESTORATION OF NATURAL RESOURCE INJURIES**

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INCORPORATED; :
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AND :
WILSON FIVE CORPORATION; :

Respondents.

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This Directive and Notice to Insurers (hereinafter "Directive") is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department") by N.J.S.A. 13:1D-1 et seq., and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and duly delegated to the Assistant Commissioner, Natural and Historic Resources, N.J.S.A. 13:1B-4.

FINDINGS

I. Site

1. The Passaic River, covering parts of northeastern New Jersey and southeastern New York, drains almost 935 square miles and is the second largest river in New Jersey, stretching approximately 85 miles from the Bernardsville Mountains and emptying into the Newark Bay.[1] The Lower Passaic River, from the Dundee Dam in Paterson to the mouth of the river at Newark Bay, drains a watershed of approximately 170 square miles.[2] There are 5 major tributaries to the 17 mile stretch of the Lower Passaic River: Third River, Saddle River, Second River, Frank's Creek, and Lawyers Creek. For the purpose of this Directive, the scope of the Lower Passaic River Site will be the 17 miles of the Lower Passaic River from the Dundee Dam in Paterson downstream to and including its confluence with Newark Bay.

2. The Passaic River watershed has been subject to numerous point and non-point discharges for over 100 years.[3] These discharges have included "heavy metals such as cadmium, copper, lead, mercury, and zinc; polycyclic aromatic hydrocarbons (PAHs); pesticides such as chlordane and dichlorodiphenyltrichloroethane (DDT); polychlorinated biphenyls (PCBs); polychlorinated dibenzo-*p*-dioxin and dibenzofurans (PCDD/Fs) . . .." The Department has determined that the water in the Lower Passaic River contains hazardous chemicals that have been discharged at sites in the Passaic River watershed, including, without limitation, polychlorinated biphenyls, dioxin, polyaromatic hydrocarbons, mercury, and lead.

3. The bottom sediments of the Lower Passaic River contain various hazardous substances, including, cadmium, copper, lead, mercury, nickel, zinc, polyaromatic hydrocarbons, bis(2-ethylhexyl), phthalate, polychlorinated biphenyls, dichlorodiphenyl-trichloroethate, and 2,3,7,8-Tetrachloro-dibenzo-p-dioxin.[4] "Many contaminants still reside in the sediments and aquatic

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[1]Tirza S. Wahrman, "Agent Orange in Newark: Time for a New Beginning," 29 *Seton Hall Law Review* 89, 90 (1998).

[2]U.S. Army Corps of Engineers, "Draft Project Management Plan, Lower Passaic River, New Jersey, Investigation and Feasibility Study for Remediation and Ecosystem Restoration," April 2003, p.3.

[3]New Jersey Department of Environmental Protection, *New Jersey Mercury Task Force, Volume II: Impacts of Mercury in New Jersey*, January 2002, p.91.

[4]In the Matter of the Diamond Alkali Site, Administrative Order on Consent, entered into between Occidental Chemical Corporation and USEPA, April 20, 1994.

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organisms of the River, and many are still being discharged."[5] "Surface and buried sediments (representing deposits from many years time) from the Passaic River contain a number of chemical contaminants that have degraded the sediment quality of the River. These toxic chemicals negatively impact the communities of bottom-dwelling invertebrates. These invertebrates are an important food source for fish, and impacts to the invertebrates would have been reflected in impacts to the fish."[6] The Department has determined that the sediment in the Lower Passaic River contains hazardous substances that have been discharged at sites within the Passaic River watershed, including, without limitation, polychlorinated biphenyls, dioxin, polyaromatic hydrocarbons, mercury, and lead.[7]

4. Many of the hazardous substances that are in sediment in the Lower Passaic River, specifically the dioxin, PCBs, DDT, heavy metals, and polyaromatic hydrocarbons, are persistent substances that remain in the environment long after discharge.

5. Many of the hazardous substances that are in sediment in the Lower Passaic River, specifically the dioxin, PCBs, DDT, heavy metals, and polyaromatic hydrocarbons bioaccumulate and/or biomagnify in the ecological food chain in this environment.

6. The Department has determined that dioxin is present in certain finfish and crustations in the Lower Passaic River.[8]

7. The Department has prohibited anyone to eat any fish or shellfish from the Lower Passaic River due to the presence of PCBs and dioxin.[9]

8. The Department and the Department of Health and Senior Services have issued fish

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[5]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p.94.

[6]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p.103.

[7]U.S. Environmental Protection Agency, *Incidence and Severity of Sediment Contamination of the United States–Volume 1: National Sediment Quality Survey*, EPA 823-R-97-006, U.S. Environmental Protection Agency, Office of Science and Technology, Washington, D.C. September 1997, pp. 4-7.

[8]New Jersey Department of Environmental Protection, *1996 Annual Report of the Clean Water Enforcement* Act, March 1997, p. 49.

[9]New Jersey Department of Environmental Protection, "Public Health Advisories and Guidance on Fish Consumption for Recreational Fishing: 2003 Fish Consumption Advisories for PCBs and Dioxin," Division of Science and Technology, http://www.nj.gov/dsr/pcb-dioxin-chart.htm.

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consumption advisories due to mercury contamination in fish in the Lower Passaic River.[10]

9. "[T]he lower Passaic River is not likely to support swimming for the forseeable future."[11]

10. The Lower Passaic River earned the poorest rating on the U.S. Environmental Protection Agency's Index of Watershed Indicators.[12]

11. The Lower Passaic River is a prime example of resource degradation at its worst.[13]

12. Great rivers–those that drain large or diverse watersheds or that offer unique or uniquely valuable ecological and human services–are among the most valuable natural resources on earth. The Passaic River was once a great river.[14]

13. Clearly, releases of chemical contaminants have adversely affected the Passaic River and reduced its ecological and human use services.[15]

II. Hazardous Discharge Sites that have Contaminated the Lower Passaic River

A. The Ashland Chemical Company Site - Program Identification No. 015006

1. Site

14. The Ashland Chemical Company Site is located at 221 Foundry Street, Newark, New Jersey, also designated as Block 5005, Lots 1, 6, 10, and 15 on the tax maps of the City of Newark,

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[10]New Jersey Department of Environmental Protection, "Guide to Mercury Health Advisories for Eating Fish from New Jersey Freshwaters – 2002 Update, http://www.state.nj.us/dep/dsr/advisory-updates-2002.htm.

[11]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p. 155.

[12]U.S. Army Corps of Engineers, "Draft Project Management Plan, Lower Passaic River, New Jersey, Investigation and Feasibility Study for Remediation and Ecosystem Restoration," April 2003, p.10.

[13]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p.3.

[14]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p.23.

[15]Timothy J. Iannuzzi, David F. Ludwig, Jason C. Kinnell, Jennifer M. Wallin, William H. Desvousges, and Richard W. Dunford, *A Common Tragedy: History of an Urban River* (Amherst, MA: Amherst Scientific Publishers, 2002) p.96.

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Essex County.[16] The Ashland Chemical Company Site is assigned Program Identification No. 015006.

2. Responsible Parties

15. Ashland Inc. is a Kentucky corporation with principal offices at 50 East River Center Boulevard, P.O. Box 391, Covington, Kentucky.

3. Site Ownership

16. Ashland Chemical Company acquired the Ashland Chemical Company Site in June 1968. Ashland Chemical Company is the owner of record of the Ashland Chemical Company Site.

4. Site Operations

17. Ashland Chemical Company operated the Ashland Chemical Company Site from June of 1968 through November of 1990. Ashland Chemical Company manufactured alkyd resins, polyesters, and plasticizers at the Ashland Chemical Company Site.[17] Ashland Chemical Company also used, stored, generated, or otherwise managed hazardous wastes at the Ashland Chemical Company Site.[18]

18. Ashland Chemical Company reported to the Department that the soil at the Ashland Chemical Company Site was contaminated with various hazardous substances and that the ground water was contaminated with arsenic, cadmium, lead, and zinc.[19]

5. Discharge Liability

19. The Department has determined that hazardous substances were discharged at the Ashland Chemical Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.[20]

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[16]Letter, from Stephen W. Leermakers, Senior Litigation Counsel, Ashland Chemical Company, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[17]Ashland Chemical Company, Division of Ashland Oil & Refining Co., "Introduction;" Ashland Chemicals, "Product Catalog – 1981-1982 Edition."

[18]"RCRA Inspection Form," EPA ID# NJD060803905, January 20, 1983.

[19]Ashland Chemical Company, "Volume 1 – ECRA Sampling Findings and Proposed Remedial Action," ECRA Case no. 88695, May 19, 1989.

[20]Ashland Chemical Company, "Volume 1 – ECRA Sampling Findings and Proposed Remedial Action," ECRA Case no. 88695, May 19, 1989; Groundwater Technology, "Progress Report: Former Ashland Chemical Company IC&S Facility, 221 Foundry Street, Newark, New Jersey, ECRA Case no. 88695," 10 August 1994.

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20. The Department has determined that Ashland Inc. ("Respondent") is a person, pursuant to the Spill Compensation and Control Act, in any way responsible for the hazardous substances that were discharged at the Ashland Chemical Company Site.

B. The Hilton Davis Site - Program Identification No. 192995

1. Site

21. The Hilton Davis Site is located at 104-12 Lister Avenue (also referenced as 120 Lister Avenue) in Newark, New Jersey, also designated as Block 2438, Lot 56 on the tax maps of the City of Newark, Essex County.[21] The Hilton Davis Site has been subject to flooding from the Lower Passaic River.[22] The Hilton Davis Site is assigned Program Identification No. 192995.

2. Responsible Parties

22. 360 North Pastoria Environmental Corporation is a New York corporation with principal offices at 3400 Ridge Road, Suite 5-341, Rochester, New York.

23. Bayer Corporation is an Indiana corporation with principal offices at 100 Bayer Road, Pittsburgh, Pennsylvania.

24. Drum Service of Newark, Inc. is a New Jersey corporation with principal offices at 51 Stanton Street, Newark, New Jersey.

25. Eastman Kodak Company is a New Jersey corporation with principal offices at 343 State Street, Rochester, New York.

26. Freedom Chemical Company is a Delaware corporation with principal offices at 9911 Brecksville Road, Cleveland, Ohio.

27. H.D. Acquisition Corporation is a subsidiary of Plastics Manufacturing Corporation with principal offices at 2235 Langdon Farm Road, Cincinnati, Ohio 45237.

28. Hilton Davis Chemical Company is a Delaware corporation with principal offices at 2235 Langdon Farm Road, Cincinnati, Ohio. Hilton Davis Chemical Company is often referred to as

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[21]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996.

[22]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; Letter, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

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Hilton Davis Company.

29. Noveon Hilton Davis Inc. is an Ohio corporation with principal offices at 2235 Langdon Farm Road, Cincinnati, Ohio.

30. PMC Global Inc. is a Delaware corporation with principal offices at 12243 Branford Street, Sun Valley, California. Plastics Manufacturing Corporation, also known as PMC Inc., is a division of PMC Global Inc.

31. SDI Divestiture Corporation is an Ohio corporation with principal offices at One Mellon Center, Pittsburgh, Pennsylvania.

32. SmithKline Beecham Corporation is a Pennsylvania corporation with principal offices at One Franklin Plaza, Philadelphia, Pennsylvania.

33. STWB Inc. is a Delaware corporation with principal offices at 100 Bayer Road, Pittsburgh, Pennsylvania.

34. Thomasset Colors, Inc. was a New Jersey corporation.

35. In 1957, Hilton Davis Chemical Company, a division of Sterling Drug, Inc., acquired Thomasset Colors, Inc. Thomasset Colors, Inc. operated as part of the Hilton Davis Chemical Company division of Sterling Drug, Inc.

36. In October 1986, Sterling Drug, Inc. sold a portion of the business and assets of Hilton Davis Chemical Company to H.D. Acquisition Corporation (a division of the Plastics Manufacturing Corporation).[23]

37. In October 1986, a new company known as Hilton Davis Chemical Company was incorporated in Delaware, to continue the business that H.D. Acquisition Corporation acquired from Sterling Drug, Inc.

38. In 1987, the Hilton Davis Chemical Company changed its name to the SDI Divestiture Corporation. The SDI Divestiture Corporation was formed to represent the remainder of the company that operated at the Hilton Davis Site.

39. In or about 1988, Eastman Kodak Company acquired Sterling Drug, Inc.[24]

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[23]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996.

[24]SEC-10K Report, Eastman Kodak Co., 1991; ECRA Cleanup Plan, Implementation Report, Hilton Davis Site, Newark, New Jersey, ECRA Case Nos. 86941 and 88240, Environmental Resources Management, Inc., Dec. 12, 1994, p. 1.

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40. On October 1, 1991, Sterling Drug, Inc. changed its name to Sterling Winthrop, Inc.[25]

41. In or about 1993, Freedom Chemical Company purchased the business operations of Hilton Davis Chemical Company from H.D. Acquisition Corporation.[26]

42. In or about 1994, 360 North Pastoria Environmental Corporation, a wholly-owned subsidiary of Eastman Kodak Company, undertook the management of certain environmental liabilities of Sterling Winthrop, Inc. [27]

43. In 1994, Eastman Kodak Company sold a portion of the business of its Sterling Winthrop, Inc. subsidiary to SmithKline Beecham Corporation.

44. In or about 1994, Eastman Kodak Company sold a portion of the business of its Sterling Winthrop, Inc. subsidiary to Elf Sanofi S.A. Elf Sanofi S.A. changed its name to Sanofi S.A., a Delaware corporation, with principal offices at 90 Park Avenue, New York, New York.

45. In 1994, SmithKline Beecham Corporation acquired Sterling Winthrop, Inc., then immediately sold its interest in Sterling Winthrop Inc. to the Bayer Corporation.

46. In 1996, Sterling Winthrop, Inc. changed its name to STWB Inc.

47. In or about 1998, Hilton Davis Chemical Company changed its name to B.F. Goodrich Hilton Davis, Inc.[28]

48. In 2001, B.F. Goodrich Hilton Davis, Inc. changed its name to Noveon Hilton Davis Inc.

3. Site Ownership

49. In 1955, Thomasset Colors, Inc., purchased the Hilton Davis Site.

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[25]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996.

[26]ECRA Cleanup Plan, Implementation Report, Hilton Davis Site, Newark, New Jersey, ECRA Case Nos. 86941 and 88240, Environmental Resources Management, Inc., Dec. 12, 1994, p. 1.

[27]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Amelia Wagner, Office of Regional Counsel, U.S. Environmental Protection Agency.

[28]ECRA Cleanup Plan, Implementation Report, Hilton Davis Site, Newark, New Jersey, ECRA Case Nos. 86941 and 88240, Environmental Resources Management, Inc., Dec. 12, 1994, p. 1.

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50. In 1983, Sterling Drug, Inc. conveyed the land at the Hilton Davis Site to Hilton Davis Chemical Company.[29]

51. In September 1993, SDI Divestiture Corporation., formerly known as the Hilton Davis Chemical Company, transferred ownership of the land at the Hilton Davis Site to Hilton Davis Chemical Company.

52. In June 1997, the Hilton Davis Chemical Company transferred ownership of the land at the Hilton Davis Site to Drum Service of Newark, Inc.

4. Site Operations

53. Thomasset Colors, Inc. commenced operations at the Hilton Davis Site in June 1955.[30] Thomasset Colors, Inc. manufactured pigments and colors for use in food and cosmetic applications at the Hilton Davis Site.[31] Thomasset Colors, Inc. utilized barium sulfate, barium chloride, phthalic anhydride, phthalic anhydride, and phthalocyanine in the manufacture of pigments.[32] Thomasset Colors, Inc. blended and repackaged chromium oxide and chromium hydrate for resale.[33]

54. From 1963 to 1971, Thomasset Colors, Inc. discharged pigment waste at the Hilton Davis Site into the Lower Passaic River,[34] and installed a pipe to bypass the neutralization pits on-site and discharged process wastes directly into the Lower Passaic River.[35]

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[29]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; Letter, Bill Wiegele, Manager, Regulatory Compliance, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[30]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; Letter, Bill Wiegele, Manager, Regulatory Compliance, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[31]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996.

[32]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; "On-Site Material Storage - Thomasset Colors - Newark, N.J.," May 16, 1979.

[33]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996.

[34]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; Affidavit, Robert Malone, former employee of Thomasset Colors, March 27, 1996.

[35]Affidavit, Robert Malone, March 27, 1996.

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55. Hilton Davis Chemical Company operated at the Hilton Davis Site under the Hilton Davis name, beginning in December 1983.[36] Hilton Davis Chemical Company manufactured pigments and colorants at the Hilton Davis Site for the automobile, textile, drug, and cosmetic industries at the Hilton Davis Site.[37] Hilton Davis Chemical Company utilized several barium compounds, chrome oxide and chromium hydrate, phthalic anhydride, ferrous sulfate, and aluminum chloride in these processes.[38]

56. To comply with the 1986 administrative consent order entered into between the Department and Sterling Drug, Inc., in 1993, Sterling Drug, Inc. conducted an investigation at the Hilton Davis Site that included soil and groundwater sampling.[39]

57. In December 1994, Sterling Drug, Inc. reported that the soil at the Hilton Davis Site was contaminated with arsenic, chromium, copper, and lead, and that the ground water was contaminated with arsenic, chromium, and lead.[40]

5. Discharge Liability

58. The Department has determined that hazardous substances were discharged at the Hilton Davis Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

59. The Department has determined that Thomasset Colors, Inc., Hilton Davis Chemical Company, Sterling Winthrop, Inc., Freedom Chemical Company, 360 North Pastoria Environmental Corporation, Eastman Kodak Company, Drum Service of Newark, Inc., H.D. Acquisition Corporation, Noveon Hilton Davis Inc., SDI Divestiture Corporation, STWB Inc., PMC Global, Inc., Plastics Manufacturing Corporation, SmithKline Beecham Corporation, and Bayer Corporation ("Respondents") are persons, pursuant to the Spill Compensation and Control Act, in any way responsible for the hazardous substances that were discharged at Hilton Davis Site.

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[36]Letter, Joseph G. Gabriel, 360 North Pastoria Environmental Corporation, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, January 4, 1996; Letter, Bill Wiegele, Manager, Regulatory Compliance, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[37]Letter, Bill Wiegele, Manager, Regulatory Compliance, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[38]Letter, Bill Wiegele, Manager, Regulatory Compliance, Hilton Davis, to Lance Richman, Emergency & Remedial Response Division, U.S. Environmental Protection Agency, February 20, 1995.

[39]ECRA Cleanup Plan, Implementation Report, Hilton Davis Site, Newark, New Jersey, ECRA Case Nos. 86941 and 88240, Environmental Resources Management, Inc., Dec. 12, 1994, p. 1.

[40]ECRA Cleanup Plan, Implementation Report, Hilton Davis Site, Newark, New Jersey, ECRA Case Nos. 86941 and 88240, Environmental Resources Management, Inc., Dec. 12, 1994, p. 1.

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C. The Benjamin Moore & Company Site - Program Identification No. G000002021

1. Site

60. The Benjamin Moore & Company Site is located at 134 Lister Avenue, Newark, New Jersey.[41] The facility is comprised of Block 2438, Lots 34, 40, and 62 on the tax maps of the City of Newark, Essex County.[42] The Benjamin Moore & Company Site is assigned Program Identification No. G000002021.

2. Responsible Parties

61. Benjamin Moore & Company is a New Jersey corporation with principal offices at 51 Chestnut Ridge Road, Montvale, New Jersey.

3. Site Ownership and Operations

62. Since approximately 1925, Benjamin Moore & Company owned and operated at the Benjamin Moore & Company Site.[43]

63. Benjamin Moore & Company is a manufacturer and distributer of water-based paints and solvent-based paints.[44] Benjamin Moore & Company utilized various hazardous substances at the Benjamin Moore & Company Site in its manufacturing processes including cobalt, glacial methacrylate, butyl acrylate, vinyl acetate, iron oxide, titanium dioxide, zinc, manganese, sodium hydroxide, mercury, lead, and copper.[45]

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[41]Letter, Charles Ilsley, Jr., Benjamin Moore & Co., to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 21, 1995.

[42]Letter, Charles Ilsley, Jr., Benjamin Moore & Co., to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 21, 1995.

[43]Letter, Charles Ilsley, Jr., Benjamin Moore & Co., to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 21, 1995.

[44]Community Right to Know Survey for 1992, Benjamin Moore & Company, 134 Lister Avenue, Newark, New Jersey.

[45]Letter, Charles Ilsley, Jr., Benjamin Moore & Co., to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 27, 1995; Letter, Carl B. Minchew, Plant Manager, Benjamin Moore & Co., to Passaic Valley Sewerage Commissioners, August 17, 1988; "1992 Hazardous Waste Report," Benjamin Moore & Company, 1992; Letter, Charles Ilsley, Jr., Regulatory Affairs Supervisor, Benjamin Moore & Company to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 21, 1995; Community Right to Know Survey for 1992, Benjamin Moore & Company, 134 Lister Avenue, Newark, New Jersey; Letter, Charles Ilsley, Jr., Benjamin Moore & Company, to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996.

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64. On August 15, 1969, the New Jersey Department of Health issued an Administrative Order to Benjamin Moore & Company, alleging that Benjamin Moore & Company was "discharging industrial waste and other polluting matter into the Passaic River" and "discharging harmful, deleterious and polluting material from a sewer or drain into the Passaic River."[46]

65. On March 13, 1978, the United States Coast Guard observed the contents of a punctured 55-gallon drum at the Benjamin Moore & Company Site discharging into the Passaic River.[47] During the investigation, it was discovered that Benjamin Moore & Company's storm sewer system discharged all of the surface water at the Benjamin Moore & Company Site into the Passaic River.[48] It was subsequently discovered that Benjamin Moore & Company used a discharge pipe, which lead directly to the Passaic River, as the outfall for the backup storm water discharge system.[49]

66. On July 8, 1980, Benjamin Moore & Company reported to the Passaic Valley Sewage Commission that a valve malfunction spilled 3,000 gallons of wash solvent into a retainage dike on the Benjamin Moore & Company Site.[50]

67. On April 14, 1982, during a delivery to the Benjamin Moore & Company Site, a valve on a tank wagon malfunctioned, resulting in the discharge of 3,300 gallons of butyl acrylate.[51] An estimated 5 to 10 gallons of this hazardous substance discharged into the Passaic River.[52]

4. Discharge Liability

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[46]Administrative Order, issued to Benjamin Moore & Company by the New Jersey State Department of Health, August 15, 1969.

[47]Letter, Charles Ilsley, Jr., Benjamin Moore & Company, to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996; Internal Memorandum, Benjamin Moore & Company, March 23, 1978.

[48]Internal Memorandum, Benjamin Moore & Company, March 23, 1978.

[49]Charles Ilsley, Jr., Benjamin Moore & Company, to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996.

[50]Letter, Benjamin Moore & Company Engineering Dept., to L.N. Berg, July 9, 1980; Letter, Charles Ilsley, Jr., Benjamin Moore & Company, to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996.

[51]Memorandum, Benjamin Moore & Company Engineering Department, April 14, 1982; Benjamin Moore & Company memorandum, April 14, 1982; Letter, Charles Ilsley, Jr., Benjamin Moore & Co., to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996.

[52]Memorandum, Benjamin Moore & Company Engineering Department, April 14, 1982; Memorandum, Benjamin Moore & Company, April 14, 1982; Letter, Charles Ilsley, Jr., Benjamin Moore & Company, to Pasquale Evangelista, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, November 22, 1996.

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68. The Department has determined that hazardous substances were discharged at the Benjamin Moore & Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

69. The Department has determined that Benjamin Moore & Company ("Respondent") is a person, pursuant to the Spill Compensation and Control Act, in any way responsible for the hazardous substances that were discharged at the Benjamin Moore & Company Site.

D. The Diamond Alkali Site - Program Identification No. G000004488

1. Site

70. The Diamond Alkali Site includes the former pesticide manufacturing plant and surrounding properties at 80 and 120 Lister Avenue, Newark.[53] The Diamond Alkali Site is bounded on the north by the Passaic River, on the east by the former Sergeant Chemical Company (subsequently purchased by Diamond), at the southwest corner by the Duralak Company property, and on the south and west by the Sherwin Williams property.[54] The Diamond Alkali Site is located in a flood zone.[55] The Diamond Alkali Site is assigned Program Identification No. G000004488.

2. Responsible Parties

71. Diamond Alkali Company was a Pennsylvania corporation.

72. On September 21, 1967, Diamond Alkali Company, as a result of a merger with Shamrock Oil and Gas Company, changed its name to Diamond Shamrock Corporation.[56]

73. In September 1983, Diamond Shamrock Corporation created a subsidiary, Diamond Shamrock Chemicals Company.[57]

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[53]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf; Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 181 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993).

[54]Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 181 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993).

[55]Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 181 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993)

[56]Letter from W.E. Notestine, Vice President and General Counsel, Maxus Energy Corporation, to Thomas McKee, Responsible Party Cleanup Element, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, December 13, 1998.

[57]Letter from W.E. Notestine, Vice President and General Counsel, Maxus Energy Corporation, to Thomas McKee, Responsible Party Cleanup Element, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, December 13, 1998.

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74. On September 4, 1986, Diamond Shamrock Corporation sold all of the outstanding stock in Diamond Shamrock Chemicals Company to Oxy-Diamond Alkali Corporation, a subsidiary of Occidental Petroleum Corporation. Oxy-Diamond Alkali Corporation agreed to indemnify Occidental Petroleum Corporation for Diamond Shamrock Corporation's manufacturing liabilities.

75. Subsequent to the sale referenced in the preceding paragraph, Diamond Shamrock Chemicals Company merged with Oxy-Diamond Alkali Corporation and was renamed Occidental Electrochemicals Corporation.[58]

76. On April 30, 1987, Diamond Shamrock Corporation changed its name to Maxus Energy Corporation.[59] Maxus Energy Corporation is a Delaware corporation with principal offices at 717 North Harwood Street, Dallas, Texas.

77. Tierra Solutions, Inc. is a Delaware corporation with principal offices at 717 North Harwood Street, Dallas, Texas. Tierra Solutions, Inc. is a subsidiary of Maxus Energy Corporation and manages its environmental projects and claims.

78. On November 30, 1987, Occidental Electrochemicals Corporation merged into Occidental Chemical Corporation, a subsidiary of Occidental Petroleum Corporation. Occidental Chemical Corporation is a New York corporation with principal offices at principal place of business at 5005 LBJ Freeway, Dallas, Texas.

79. Effective November 30, 1987, Occidental Electrochemicals Corporation was merged into Occidental Chemical Corporation. Occidental Chemical Corporation is a subsidiary of Occidental Petroleum Corporation and operates the corporation's chemical business.[60]

80. Occidental Petroleum Corporation is a Delaware corporation with principal offices at 10889 Wilshire Boulevard, Los Angeles, California.

81. Chemical Land Holdings, Inc. is a Delaware corporation with principal offices at 1330 Lake Robbins, Suite 300, Woodlands, Texas.

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[58]Letter from W.E. Notestine, Vice President and General Counsel, Maxus Energy Corporation, to Thomas McKee, Responsible Party Cleanup Element, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, December 13, 1998.

[59]Letter from W.E. Notestine, Vice President and General Counsel, Maxus Energy Corporation, to Thomas McKee, Responsible Party Cleanup Element, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, December 13, 1998.

[60]Letter from W.E. Notestine, Vice President and General Counsel, Maxus Energy Corporation, to Thomas McKee, Responsible Party Cleanup Element, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, December 13, 1998.

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82. Tierra Solution Incorporated was a Texas corporation established as a company for holding the liabilities of Chemical Land Holdings, Inc.

3. Site Ownership and Operations

83. From the 1940s to the late 1950s, Diamond Alkali Company and its predecessors manufactured or processed chemicals at the Diamond Alkali Site including dichlorodiphenyl trichloroethane ("DDT") and the phenoxy herbicides.[61]

84. Diamond Alkali Company owned and operated the pesticides manufacturing plant at the Diamond Alkali Site until the late 1960s.[62] Diamond Alkali Company discharged waste into the Passaic River, and thereby creating a mountain of DDT in the middle of the Passaic River.[63] Other hazardous substances migrated from the Diamond Alkali Site into the Passaic River.[64]

85. In 1987, Chemical Land Holdings, Inc. took ownership of the Diamond Alkali Site.

86. The Diamond Alkali Site and the Lower Passaic River adjacent to the Diamond Alkali Site are contaminated with dioxin, a byproduct of the manufacture of certain chemicals manufactured at the Diamond Alkali Site.[65] Pesticides and other hazardous substances were also found in the soil at the Diamond Alkali Site.[66] Dioxin, pesticides, and other hazardous substances have been found in ground water at the Diamond Alkali Site, and have migrated into the Passaic River.[67]

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[61]Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 181 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993); EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf.

[62]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf.

[63]Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 183-84 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993).

[64]Diamond Shamrock Chem. Co. v. Aetna Cas. & Sur. Co., 258 N.J. Super. 167, 184-85 (App.Div. 1992), *certif. den.*, 134 N.J. 481 (1993).

[65]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf.

[66]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf.

[67]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf.

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87. Dioxin is present in sediment in the Passaic River and in nearby waterways.[68]

4. Discharge Liability

88. The Department has determined that hazardous substances were discharged at the Diamond Alkali Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

89. The Department has determined that Diamond Shamrock Chemicals Company, Diamond Alkali Company, Diamond Shamrock Corporation, Maxus Energy Corporation, Occidental Electrochemicals Corporation, Occidental Petroleum Corporation, Occidental Chemical Corporation, Chemical Land Holdings, Inc., Tierra Solution Incorporated, Tierra Solutions, Inc. and Oxy-Diamond Alkali Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Diamond Alkali Site.

E. The Pitt-Consol Chemical Company Site - Program Identification No. G000002172

1. Site

90. The Pitt-Consol Chemical Company Site is located at 191 Doremus Avenue, Newark, New Jersey.[69] The Pitt-Consol Chemical Company Site is also designated as Block 5010, Lot 10 and Block 5016, Lot 1 on the tax maps of the City of Newark, Essex County. The Pitt-Consol Chemical Company Site is located on flatlands bordering the Passaic River and Newark Bay.[70] The ground water table at the Pitt-Consol Chemical Company Site discharges into Passaic River and Newark Bay.[71] The Pitt-Consol Chemical Company Site is assigned Program Identification No. G000002172.

2. Responsible Parties

91. E.I. du Pont de Nemours and Company is a Delaware corporation with principal offices at 1007 Market Street, Wilmington, Delaware.

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[68]EPA Region 2, Diamond Alkali Co. Superfund Site Description, New Jersey, at www.epa.gov/region02/superfund/npl/0200613c.pdf; In the Matter of the Diamond Alkali Site, Administrative Order on Consent, entered into between Occidental Chemical Corporation and USEPA, April 20, 1994.

[69]Letter, Bernard Reilly, Du Pont, to Lance Richman, U.S. Environmental Protection Agency, December 1, 1995.

[70]"Potential Hazardous Waste Site, Site Inspection Report," U.S. Environmental Protection Agency, March 2, 1983.

[71]"Potential Hazardous Waste Site, Site Inspection Report," U.S. Environmental Protection Agency, March 2, 1983.

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92. Pitt-Consol Chemical Company is a Delaware corporation with principal offices at 1007 Market Street, Wilmington, Delaware.

93. E.I. du Pont de Nemours and Company is the current owner of Pitt-Consol Chemical Company.

3. Site Ownership

94. The Pitt-Consol Chemical Company purchased the Pitt-Consol Chemical Company Site in 1955.[72]

95. The Pitt-Consol Chemical Company is the current owner of the Pitt-Consol Chemical Company Site.

4. Site Operations

96. The Pitt-Consol Chemical Company manufactured chemicals and petrochemicals at the Pitt-Consol Chemical Company Site, primarily alkylated phenols and methyl phenol (cresol) until 1983.[73]

97. The Pitt-Consol Chemical Company used or produced anisoles, 2,6 dimethyl anisol, dibutyl para cresol (DBC or BHT), dinonyl ortho cresol, m,p-cresol, monobutyl meta cresol, 0-cresol, and thiocresols at the Pitt-Consol Chemical Company Site.[74]

98. The Pitt-Consol Chemical Company stored raw materials in tank farms while byproducts and storm water were stored in seven unlined lagoons at the Pitt-Consol Chemical Company Site.[75] Aerial photographs taken in 1954 indicate that run-off from the tank farm area was draining into two lagoons.[76] Liquids in a third lagoon appeared to overflow to the northern bank which drained into

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[72]Letter, Bernard J. Reilly, DuPont, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 27, 1995.

[73]Draft Phase I Report Preliminary Assessment of Environmental Impacts, Pitt-Consol Chemical Co., Woodward-Clyde Consultants, January 1985; Letter, John Trela, New Jersey Department of Environmental Protection, to Pitt-Consol Chemical c/o E.I. du Pont de Nemours & Co., April 8, 1986; Letter, Bernard J. Reilly, DuPont, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 27, 1995.

[74]"Phase I Report Preliminary Assessment of Environmental Impacts - Pitt-Consol Chemical Co., Newark, New Jersey," Woodward-Clyde Consultants, January 21, 1985.

[75]Letter, Bernard J. Reilly, DuPont, to Lance R. Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 27, 1995.

[76]Draft Phase I Report Preliminary Assessment of Environmental Impacts, Pitt-Consol Chemical Co., Woodward-Clyde Consultants, January 1985.

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a shallow ditch that emptied into the Lower Passaic River.[77] In 1983, tar wastes were observed spread over the entire Pitt-Consol Chemical Company Site.[78]

99. In 1987, as part of the RCRA closure, an analysis of tar material recovered at the Pitt-Consol Chemical Company Site during tank closure revealed phenanthrene, anthracene, pyrene, benzo (a) anthracene, benzo (b) fluoranthene, benzo (a) pyrene (BAP), and lead.[79] PCBs were present in hot oil heat transfer systems at the Pitt-Consol Chemical Company Site.[80]

100. In 2000, E.I. duPont de Nemours & Company reported that soil at the Pitt-Consol Chemical Company Site was contaminated with benzo(a)anthracene, benzo(a) pyrene, benzo(b) fluoranthene, chrysene, dibenz(a,h) anthracene, aluminum, antimony, arsenic, barium, lead, and zinc. Ground water was contaminated with arsenic, lead, and PAHs.[81]

5. Discharge Liability

102. The Department has determined that hazardous substances were discharged at the Pitt-Consol Chemical Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

103. The Department has determined that the E.I. du Pont de Nemours and Company and the Pitt-Consol Chemical Company ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Pitt-Consol Chemical Site.

F. The Lucent Technologies Site - Program Identification No. 0034080

1. Site

104. The Lucent Technologies Site is located at 100 Central Avenue, Kearny, New Jersey, also designated as Block 288, Lot 10.01 on the tax maps of Kearny, Hudson County. The Lucent

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[77]Draft Phase I Report Preliminary Assessment of Environmental Impacts, Pitt-Consol Chemical Co., Woodward-Clyde Consultants, January 1985.

[78]United States Environmental Protection Agency Site Inspection Report, March 2, 1983.

[79]Letter, Bernard J. Reilly, DuPont, to Emergency and Remedial Response Division, U.S. Environmental Protection Agency, February 27, 1995.

[80]Letter, H. Garrison, Plant Manager, Conoco Inc./Pitt-Consol Chemicals, to Fred Haber, US/EPA, August 25, 1983.

[81]Site Investigation/Remedial Investigation Report Volume I - Report, duPont Pitt-Consol Site, Newark, New Jersey, duPont Corporate Remediation Group, May 26, 2000.

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Technologies Site is comprised of 147 acres on the South Kearny Peninsula. The property is under a 100-year flood plain elevation and has been subject to numerous floodings from the Passaic River. The Lucent Technologies Site is assigned Program Identification No. 0034080.

2. Responsible Parties

105. AT&T Corporation is a New York corporation with principal offices at 32 Avenue of the Americas, New York, New York.

106. In 1984, AT&T Corporation divested its local telephone companies, and as part of this divestiture, Western Electric Manufacturing Company's charter was assumed by a new unit of AT&T Corporation known as AT&T Technologies.[82]

107. In 1989, AT&T Technologies branched into several business units that were later combined to become Lucent Technologies, Inc.[83]

108. Lucent Technologies, Inc. is a Delaware corporation with principal offices at 600 Mountain Avenue, Murray Hill, New Jersey.

109. RTC Properties, Inc., a New York corporation, was formerly known as Union Minerals and Alloys Corporation. RTC Properties, Inc. has principal offices at 1185 Avenue of the Americas, New York, New York.

3. Site Ownership

111. Western Electric purchased the Lucent Technologies Site in 1925 and operated it until January 1984, when the company changed its name to AT&T Technologies, Inc.[84]

112. In July 1985, AT&T Technologies sold the Lucent Technologies Site to The Union Minerals and Alloys Corporation.[85]

113. RTC Properties, Inc. took ownership of the Lucent Technologies Site by deed dated March 8, 1994.

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[82]AT&T Corp. History at www.att.com/history/history1.html.

[83]AT&T Corp. History at www.att.com/history/history1.html.

[84]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997.

[85]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997.

OCCNJ0023412

4. Site Operations

114. Lucent Technologies, Inc. and its predecessors used the Lucent Technologies Site primarily for the assembly of electro-mechanical devices utilized to interconnect the national telephone network.[86]

115. From 1925 to 1984, Western Electric manufactured switchboards, wiring, and related telecommunications equipment.[87]

116. Western Electric used PCBs, chromium, copper, lead, nickel zinc, cyanide, beryllium, silver, asbestos, and PCBs at the Lucent Technologies Site from 1925 to 1984.[88]

117. Western Electric discharged untreated waste directly to the municipal sewer from 1925 to 1984.[89] At least six drains discharged to the Lower Passaic River.[90] Western Electric reported that in 1972, zinc, total dissolved solids, ammonia, chromium, copper, nickel, fluoroborate, chloride, and sodium were discharged from the Lucent Technologies Site.[91] Oil and grease were also detected in discharges from the facility.[92]

5. Discharge Liability

118. The Department has determined that hazardous substances were discharged at the Lucent Technologies Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

119. The Department has determined that Lucent Technologies, Inc., AT&T Corporation, and RTC Properties, Inc. ("Respondents") are persons in any way responsible, pursuant to the Spill

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[86]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997.

[87]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997.

[88]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997; "Selected Substance Report," Western Electric Company, Inc., submitted to NJDEP, July 1, 1980.

[89]Letter, Ralph L. McMurry, Corporate Counsel, Lucent Technologies, to Pat Evangelista, Emergency and Remedial Response Division, USEPA, February 28, 1997.

[90]"Compliance Monitoring Report: Western Electric Co., Inc.," Interstate Sanitation Commission, October 1982.

[91]"Final Report - Environmental Information Survey of 1972," Western Electric (June 1, 1973).

[92]"Final Report - Environmental Information Survey of 1972," Western Electric (June 1, 1973).

OCCNJ0023413

Compensation and Control Act, for the hazardous substances that were discharged at the Lucent Technologies Site.

G. The Monsanto Company Site - Program Identification No. 00043500

1. Site

120. The Monsanto Company Site is located on Pennsylvania Avenue in the Township of Kearny, Hudson County, New Jersey,[93] and is designated as Lot 49, Block 284 and Lot 19, Block 289 on the tax maps of the Township of Kearny, Hudson County.[94] The Monsanto Company Site is bordered by the Passaic River on the west and by the Conrail Railroad yard on the north.[95] The Monsanto Company Site is assigned Program Identification No. 00043500.

2. Responsible Parties

121. The Monsanto Company is a Delaware corporation with principal offices at 800 North Lindbergh Boulevard, St. Louis, Missouri.

122. Motor Carrier Services Corporation is a New Jersey corporation with principal offices at Foot of Pennsylvania Avenue, South Kearny, New Jersey.

3. Site Ownership

123. From 1954 through 1958 Monsanto Chemical Company purchased the Monsanto Company Site.

124. In 1994, Monsanto Company sold the Monsanto Company Site to Motor Carrier Services Corporation.[96]

4. Site Operations

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[93]Passaic Valley Sewerage Commissioners Waste Effluent Survey dated April 12, 1972; Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company.

[94] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company.

[95] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company.

[96] Response of Monsanto Company, dated February 3, 1995, to the Request for Information from the United States Environmental Protection Agency Under 42 U.S.C.§ 9601 et seq. in regard to the Diamond Alkali Site, Passaic River Study Area.

OCCNJ0023414

125. Monsanto Chemical Company began operations at the Monsanto Company Site in or about 1955 and manufactured phosphoric acid, sodium tripolyphosphate, steroxes, and alkylphenols, surfactants, alkylphenols, and phosphates.[97]

126. Monsanto Chemical Company used, stored, generated, distributed, or otherwise managed hazardous substances at the Monsanto Company Site.[98]

127. Monsanto Chemical Company used PCBs in its production processes as a heat transfer fluid until in the mid-1960s.[99] Monsanto Chemical Company discharged polychlorinated biphenyls into an unlined pit on the Monsanto Company Site in the mid-1960s.[100] Monsanto Chemical Company discharged hazardous substances directly into the Lower Passaic River.[101] Monsanto Chemical Company also discharged hazardous substances into the Lower Passaic River via a storm sewer pipe, which discharged directly to the Lower Passaic River.[102] Monsanto Chemical Company discharged liquid containing PCBs in an unlined pit on the Monsanto Company Site.[103]

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[97] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company.

[98] 1989 Toxic Chemical Release Inventory Report; New Jersey Department of Environmental Protection Generator Inspection Report; 1990 Hazardous Waste Inspection Report; Response of Monsanto Company dated December 29, 1995 to the Request for Information from the United States Environmental Protection Agency Under 42 U.S.C. sec. 9601 et seq. in regard to the Diamond Alkali Site, Operable Unit 2.

[99] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company; Response of Monsanto Company dated February 3, 1995 to the Request for Information from the United States Environmental Protection Agency Under 42 U.S.C. sec. 9601 et seq. in regard to the Diamond Alkali Site, Passaic River Study Area; EPA Notification of PCB Activity, 11/29/90.

[100] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company.

[101] Excerpt from Report on the Quality of the Interstate Waters of the Lower Passaic River and Upper and Lower Bays of New York Harbor; PVSC Monthly Report for April, 1961.

[102] Passaic Valley Sewerage Commissioners Annual Reports for the Years 1972, 1973, 1974, 1975, and 1976; Response of Monsanto Company dated December 29, 1995 to the Request for Information from the United States Environmental Protection Agency Under 42 U.S.C. § 9601 et seq. in regard to the Diamond Alkali Site, Operable Unit 2.

[103] Administrative Consent Order dated 7/24/89 entered into between the New Jersey Department of Environmental Protection and Monsanto Chemical Company; Response of Monsanto Company dated December 29, 1995 to the Request for Information from the United States Environmental Protection Agency Under 42 U.S.C. § 9601 et seq. in regard to the Diamond Alkali Site, Operable Unit 2.

OCCNJ0023415

128. From 1967 to 1968, and in 1972, Monsanto Chemical Company discharged the contents of its heat transfer system onto the ground at the Monsanto Company Site, approximately 4000 gallons of PCB thermal fluid.[104]

129. The soil at the Monsanto Chemical Company Site is contaminated with PCBs up to 507,000 parts per million.[105] Ground water at the Monsanto Chemical Company Site is contaminated with PCBs up to 131,000 parts per billion.[106]

130. In 1991, Monsanto Chemical Company reported that soil at the Monsanto Chemical Company Site was contaminated with benzo(a)anthracene, benzo(a)pyrene, antimony, arsenic, beryllium, chromium, copper, lead, mercury, nickel, zinc, and PCBs, and that ground water was contaminated with aluminum, arsenic, iron, manganese, mercury, lead, silver, and PCBs.[107]

5. Discharge Liability

131. The Department has determined that hazardous substances were discharged at the Monsanto Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

132. The Department has determined that Monsanto Company and Motor Carrier Services Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Monsanto Company Site.

H. The Public Service Electric and Gas Company Essex Site - Program Identification Nos. CG-00585211015 and CG-033951

1. Site

133. The Public Service Electric and Gas Essex Site is located at 155 Raymond Boulevard, north of the Pulaski Skyway at a Passaic River location commonly referred to as "Point No Point",

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[104]Site Evaluation Submission, ECRA Case File No. 91565, Monsanto Kearny Plant, Roux Associates, October 25, 1991, at p. 4.

[105]Site Evaluation Submission, ECRA Case File No. 91565, Monsanto Kearny Plant, Roux Associates, October 25, 1991.

[106]Site Evaluation Submission, ECRA Case File No. 91565, Monsanto Kearny Plant, Roux Associates, October 25, 1991.

[107]Site Evaluation Submission, ECRA Case File No. 91565, Monsanto Kearny Plant, Roux Associates, October 25, 1991.

OCCNJ0023416

in Newark, Essex County, New Jersey.[108] The Public Service Electric and Gas Essex Site is comprised of numerous blocks and lots in Newark.[109] The Public Service Electric and Gas Essex Site is assigned Program Identification Nos. CG-00585211015 and CG-033951.

2. Responsible Parties

134. Public Service Electric and Gas Company is a New Jersey corporation with principal offices at 80 Park Plaza, Newark, New Jersey.

135. In 1985, Public Service Electric and Gas Company reorganized as Public Service Enterprise Group, Inc., a New Jersey Corporation, with principle offices at 80 Park Plaza, Newark, New Jersey.[110]

3. Site Ownership

136. Public Service Electric and Gas Company acquired the Public Service Electric and Gas Company Essex Site through a series of transactions from 1915 through 1987.[111]

4. Site Operations

137. The Public Service Electric and Gas Company is engaged in the generation, transmission, distribution, and sale of electric and gas energy services in New Jersey.[112]

138. Public Service Electric and Gas utilized the Public Service Electric and Gas Essex Site as a steam electric generation station.[113]

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[108]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[109]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[110]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[111]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[112]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[113]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

OCCNJ0023417

139. At the Public Service Electric and Gas Company Essex Site, the Public Service Electric and Gas Company utilized coal, fuel oil, and iron, among other substances.[114] Coal, ash, and wastes from processes used by Public Service Electric and Gas Company at the Public Service Electric and Gas Company Essex Site contained anthracene, antimony, arsenic, barium, benzidine, benzo(a)pyrene, beryllium, cadmium, chromium, chrysene, copper, dibenzo(a,h)anthracene, dibenzofuran, lead, mercury, nickel, selenium, silver, thallium, vanadium, and zinc, among other substances.[115]

140. Public Service Electric and Gas Company used water from the Passaic River for non-contact cooling of turbine exhaust steam.[116] The Public Service Electric and Gas Company used water from the Lower Passaic River in the cooling water process, chlorinated it, then pumped it through condensers, and back into the Lower Passaic River.[117] Water and sludge from lube oil filters and drains from a lube oil storage tank at the Public Service Electric and Gas Company Essex Site flowed into the cooling water which discharged into the Lower Passaic River.[118] The Public Service Electric and Gas Company discharged process waste waters including those from a coal ash pit and from condenser and boiler cleansing into the Lower Passaic River.[119] Public Service Electric and Gas Company used hydrochloric acid, copper, zinc, and cyanide in its cleaning processes and discharged these substances into the Lower Passaic River.[120]

141. In January 1973, the Public Service Electric and Gas Company discarded approximately eight 5-gallon cans of tar into the Passaic River.[121] In June and July 1973, the Public Service Electric and Gas Company reported that it had discharged 20 gallons of oil leaked into the Passaic River.[122]

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[114]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[115]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[116]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[117]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[118]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[119]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[120]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[121]"Annual Report for the Year 1973," Passaic Valley Sewerage Commissioners.

[122]"Annual Report for the Year 1973," Passaic Valley Sewerage Commissioners.

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In November 1974, the Public Service Electric and Gas Company discharged fuel oil from heater at the Public Service Electric and Gas Company Essex Site to the Public Service Electric and Gas Company Essex Site's drain system and into the Passaic River.[123] In January 1976, the Passaic Valley Sewerage Commissioners observed Public Service Electric and Gas Company employees pumping a black oily liquid from a manhole near the Public Service Electric and Gas Essex Site to the ground where it flowed to Lawyer's Creek, a tributary of the Passaic River.[124] In January 1991, 13,000 gallons of kerosene leaked through an underground fill line at the Public Service Electric and Gas Company Essex Site and commenced discharge into the Passaic River.[125]

5. Discharge Liability

142. The Department has determined that hazardous substances were discharged at the Public Service Electric and Gas Company Essex Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

143. The Department has determined that the Public Service Electric and Gas Company and the Public Service Enterprise Group, Inc. ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Public Service Electric and Gas Company Essex Site.

I. The Public Service Electric and Gas Harrison Site - Program Identification No. CG-004160

1. Site

144. The Public Service Electric and Gas Company Harrison Site is located at 2000 Frank E. Rodgers Boulevard (formerly South 4th Street), Harrison, Hudson County, New Jersey, and is designated as Block 78, Lot 1 on the tax map of the Township of Harrison, Hudson County.[126] The Public Service Electric and Gas Company Harrison Site is comprised of approximately 30 acres on the east side of the Passaic River between Frank E. Rodgers Boulevard and the former Newark Penn-

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[123]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[124]"Monthly Report," Passaic Valley Sewerage Commissioners, March 15, 1976.

[125]"Duty Officer Notification Report," New Jersey Department of Environmental Protection, January 28, 1991; "Investigation Report," New Jersey State Police, February 2, 1991; "Investigation Report," New Jersey Department of Environmental Protection, February 23, 1991; Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[126]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

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Central Railroad Line.[127] The Public Service Electric and Gas Company Harrison Site has experienced flooding from the Passaic River.[128] The Public Service Electric and Gas Company Harrison Site is assigned Program Identification No. CG-004160.

2. Responsible Parties

145. Public Service Electric and Gas Company is a New Jersey corporation with principal offices at 80 Park Plaza, Newark, New Jersey.

146. In 1985, Public Service Electric and Gas Company reorganized as Public Service Enterprise Group, Inc., a New Jersey Corporation.[129]

3. Site Ownership

147. Public Service Corporation of New Jersey acquired the Public Service Electric and Gas Company Harrison Site in 1903 from the Essex and Hudson Gas Company.[130]

4. Site Operations

148. The Public Service Electric and Gas Company is engaged in the generation, transmission, distribution, and sale of electric and gas energy services in New Jersey.[131]

149. Commencing in 1902 through 1926, when the Public Service Electric and Gas Company Harrison Site commenced commercial operations, the Public Service Electric and Gas Company Harrison Site was a satellite facility utilized for the storage of oil and manufactured gas.[132]

150. In 1926, the Public Service Electric and Gas Company built a gas manufacturing plant at the Public Service Electric and Gas Company Harrison Site and commenced commercial

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[127]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[128]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[129]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[130]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[131]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[132]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

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operations.[133] Such operations included a generator, carburetor, superheater, and non-contact cooling water system.[134]

151. In 1988, the Public Service Electric and Gas Company commenced the dismantlement of the gas manufacturing plant.[135]

152. The Public Service Electric and Gas Company currently operates a natural gas metering and regulating station at the Public Service Electric and Gas Company Essex Site and continues to receive liquefied petroleum gas/air peak shaving gases to supplement natural gas supplies during periods of peak demand.[136]

153. The Public Service Electric and Gas Company utilized in its manufacturing processes at the Public Service Electric and Gas Company Harrison Site, among other substances, coke (a coal derivative), various types of oil, soda ash, caustic soda, nickel sulfate, ferrous sulfate, manganous sulfate, arsenic trioxide, iron oxide, and anhydrous ammonia.[137] Coke contains carbon, sulfur, chlorine, PAHs, among other substances.[138] Various oils utilized by the Public Service Electric and Gas Company contained nickel, vanadium, zinc, lead, chromium, as well as PAHs such as fluoranthene, chrysene, benz(a)anthracene, benzofluoranthene, benzo(a)pyrene, indeno (1,2,3,)pyrene, benzo(ghi)perylene, and dibenz(a,h)anthracene, among other substances.[139] Tars utilized at the Public Service Electric and Gas Company Harrison Site by the Public Service Electric and Gas Company contained arsenic, beryllium, cadmium, chromium, cyanides, lead, nickel, selenium, vanadium, and PAHs including naphthalene, fluorene, anthracene, pyrene, chrysene,

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[133]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[134]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[135]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[136]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[137]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[138]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[139]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

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benz(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoroanthene, benzo(a)pyrene, dibenz(a,h)anthracene, among other substances.[140]

154. The Public Service Electric and Gas Company diverted water from the Passaic River to the Public Service Electric and Gas Company Harrison Site for use in various processes including cooling condensers and gas and quenching ash from boilers, and discharged such water, along with effluent from a liquid purification system, and waters from a boiler blowdown system and ash pit, into the Lower Passaic River.[141]

155. In October 1969, the New Jersey Department of Health performed a site inspection and observed oil collection ponds on the Public Service Electric and Gas Company Harrison Site.[142] The New Jersey Department of Health determined that an oil slick on the Lower Passaic River emanated from the Public Service Electric and Gas Harrison Site and issued an Administrative Order to the Public Service Electric and Gas Company.[143] The New Jersey Department of Health concluded that the Public Service Electric and Gas Company was discharging harmful, deleterious and polluting matter from a sewer or drain into the Lower Passaic River.[144]

156. In January 1977, discolored oily water was observed discharging into the Passaic River from the Public Service Electric and Gas Company Harrison Site.[145] In December 1979, a leaking fuel line at the Public Service Electric and Gas Company Harrison Site discharged kerosene to subsurface soil then to a storm drain and the Public Service Electric and Gas Company Harrison Site's drain system and into the Lower Passaic River.[146] In July 1981, a transfer line containing tar discharged tar into the Public Service Electric and Gas Company Harrison Site's drain system and

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[140] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[141] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[142] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[143] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996; "Order," New Jersey Department of Health, October 3, 1969.

[144] "Order," State of New Jersey Department of Health, October 3, 1969.

[145] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[146] Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

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into the Passaic River.[147] In October 1983, a transfer line containing tarry water discharged tarry water into the Public Service Electric and Gas Company Harrison Site's drain system and into the Lower Passaic River.[148] In May and August of 1994, an oil seep emanating from the Public Service Electric and Gas Company Harrison Site was observed on the banks of the Lower Passaic River.[149]

157. In 1987, Public Service Electric and Gas Company reported that soil at the Public Service Electric and Gas Company Harrison Site was contaminated with tars and oxides.[150] In 1995, Public Service Electric and Gas Company reported that soil was also contaminated with PAHs.[151]

5. Discharge Liability

158. The Department has determined that hazardous substances were discharged at the Public Service Electric and Gas Company Harrison Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

159. The Department has determined that the Public Service Electric and Gas Company and the Public Service Enterprise Group, Inc. ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Public Service Electric and Gas Company Harrison Site.

J. The Sherwin Williams Company Site - Program Identification No. 015023

1. Site

160. The Sherwin Williams Company Site is located at 60 Lister Avenue, Newark, New Jersey, also designated as Block 2437, Lot 62 and Block 2438, Lot 1 on the tax maps of the City of Newark, Essex County. The Sherwin Williams Company Site is assigned Program Identification No. 015023.

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[147]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[148]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[149]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[150]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

[151]Letter, Hugh Mahoney, Public Service Electric and Gas Company, to Lance Richman, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, August 13, 1996.

OCCNJ0023423

2. Responsible Parties

161. Sherwin Williams Company is an Ohio corporation with its principal offices at 101 Prospect Avenue, Cleveland, Ohio.

3. Site Ownership

162. Sherwin Williams Company is the current owner of the Site.

4. Site Operations

163. Sherwin Williams Company has operated at the Sherwin Williams Company Site since approximately 1902.[152] Sherwin Williams Company manufactured paint and varnish products at the Sherwin Williams Company Site.[153] As part of these processes, Sherwin Williams Company generated hazardous substances, including cadmium, copper, chromium, and lead, and may have also utilized or generated pentachlorophenol, mercury, and zinc.[154] Sherwin Williams Company also manufactured DDT from prior to 1945 until the 1950's.[155]

164. Sherwin Williams Company discharged waste into the Lower Passaic River.[156] Sherwin Williams Company discharged latex-like materials directly into Lower Passaic River via the Passaic Valley Sewerage Commission sewer on Brown Street.[157] Cleaning solution used to clean paint mixing tanks was discharged into the sewer system that discharged directly to the Lower Passaic

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[152]Letter, from Donald J. McConnell, Environmental Counsel, Sherwin Williams, to Patricia Hick, Esq., Office of Regional Counsel, U.S. Environmental Protection Agency, March 3, 1995.

[153]"Waste Effluent Survey," Passaic Valley Sewerage Commissioners, May 16, 1972.

[154]"Waste Effluent Survey," Passaic Valley Sewerage Commissioners, May 16, 1972; Letter, from Donald J. McConnell, Environmental Counsel, Sherwin Williams, to Patricia Hick, Esq., Office of Regional Counsel, U.S. Environmental Protection Agency, March 3, 1995.

[155]Affidavit, Theodore Danielak, August 4, 1993.

[156]"Report on the Quality of the Interstate Waters of the Lower Passaic River and Upper and Lower Bays of New York Harbor," Department of Interior, November 1969.

[157]"Annual Report", Passaic Valley Sewerage Commissioners, 1974; "Incident Notification Report," New Jersey Department of Environmental Protection, June 17, 1986; Letter, from Carmine T. Perrapato, Executive Director, Passaic Valley Sewerage Commissioners, to Allan Petee, Sherwin Williams Co., June 3, 1997.

OCCNJ0023424

River.[158] Paint spills at the Sherwin Williams Company Site discharged in to the storm sewer and into the Lower Passaic River.[159]

5. Discharge Liability

165. The Department has determined that hazardous substances were discharged at the Sherwin Williams Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

166. The Department has determined that Sherwin Williams Company ("Respondent") is a person in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Sherwin Williams Company Site.

K. American Modern Metals Corporation Site - Program Identification No. 00007216

1. Site

167. The American Modern Metals Corporation Site is located at 65 Passaic Avenue, Kearny, New Jersey, also designated as Block 1, Lots 9, 10, and 11 and Block 14, Lots 3 and 4 on the tax maps of the Township of Kearny, Hudson County. The American Modern Metals Corporation Site is assigned Program Identification No. 00007216.

2. Responsible Parties

168. American Modern Metals Corporation is a New Jersey corporation with principal offices at 25 Belgrove Drive, Kearny, New Jersey.

169. DiLorenzo Properties, L.P. is a New York limited partnership with principal offices at 1040 2nd Avenue, New York, New York. DiLorenzo Properties, L.P. was formerly known as DiLorenzo Properties Company.

170. Kearny Industrial Associates, L.P. is a New Jersey limited partnership with principal offices at 25 Belgrove Drive, Kearny, New Jersey.

171. S&A Realty Corporation is a New Jersey corporation with principal offices at 55 Passaic Avenue, Kearny, New Jersey.

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[158]Affidavit, Wallace Oakley, July 20, 1993.

[159]Affidavit, Raymond A. Cebulski, July 23, 1993; Letter, from John L. Mihatov, Lt., Bureau of Law Enforcement, N.J. Department of Environmental Protection, to Plant Manager, Sherwin Williams, Sept. 10, 1986.

OCCNJ0023425

172. Marshall Clark Manufacturing Corporation is a New Jersey corporation with principal offices at 20-40 Marshall Street, Kearny, New Jersey.

3. Site Ownership

173. On September 16, 1963, Sol Goldman purchased the property located at 65 Passaic Avenue, Kearny, New Jersey, also designated as Block 1, Lots 9, 10, and 11 and Block 14, Lots 3 and 4 on the tax maps of the Town of Kearny, Hudson County.[43]

174. In 1988, the executor of Sol Goldman's Estate sold the American Modern Metals Corporation Site to DiLorenzo Properties Company.

175. In 1992, DiLorenzo Properties Company sold the American Modern Metals Corporation Site to Kearny Industrial Associates.

176. In 2001, Kearny Industrial Associates sold Block 1, Lots 9 and 11 to S&A Realty Corporation.

177. S&A Realty Corporation is the current owner of Block 1, Lots 9 and 11.

178. Kearny Industrial Associates is the current owner of Block 14, Lots 3 and 4.

4. Site Operations

179. Sol Goldman operated the American Modern Metals Corporation Site as an industrial park with various tenants.[44]

180. On February 15, 1980, Airlite Aluminum Corporation leased the American Modern Metals Corporation Site.[45] Airlite Aluminum Corporation subleased portions of the American

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[43]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., pp. 2 - 3.

[44]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[45]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

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Modern Metals Corporation Site to various industrial tenants including Marshall Clark Manufacturing Corporation.[46]

181. In May 1986, an explosion and fire in the boiler room at the American Modern Metals Corporation Site destroyed many structures at the American Modern Metals Corporation Site.[47]

182. In 1988, American Modern Metals Corporation, the estate of Sol Goldman, and DiLorenzo Properties Company entered into an administrative consent order with the Department to conduct remediation at the American Modern Metals Corporation Site.[48]

183. American Modern Metals Corporation currently operates a aluminum products manufacturing facility at the American Modern Metals Corporation Site.[49] Marshall Clark Manufacturing Corporation , a tenant on the American Modern Metals Corporation Site, operates jointly with American Modern Metals Corporation in certain of its aluminum product manufacturing processes.[50]

184. American Modern Metals Corporation reported that soil at the American Modern Metals Corporation Site was contaminated with benzo(a)anthracene, benzo(b)flouranthene, benzo(a)pyrene, chrysene, indeno(1,2,3-c,d)pyrene, dibenzo(a,h)anthracene, arsenic, and zinc, and that ground water at the American Modern Metals Corporation Site was contaminated with aluminum.[51]

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[46]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[47]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[48]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[49]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[50]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc., p. 3.

[51]Draft Remedial Investigation Report/Remedial Action Workplan, American Modern Metals Corporation, Kearny, New Jersey, American Modern Metals Corporation, 65 Passaic Avenue, Kearny, Hudson County, New Jersey, September 1995, Bell Environmental Consultants, Inc.

OCCNJ0023427

5. Discharge Liability

185. The Department has determined that hazardous substances were discharged at the American Modern Metals Corporation Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

186. The Department has determined that American Modern Metals Corporation, DiLorenzo Properties Company, DiLorenzo Properties, L.P., Marshall Clark Manufacturing Corporation, Kearny Industrial Associates, L.P., and S&A Realty Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the American Modern Metals Site.

L. The Atlantic Richfield Site - Program Identification No. 016526

1. Site

187. The Atlantic Richfield Site is located at 1111 Delancey Street, Newark, New Jersey, which is also designated as Block 5074, Lot 25.01 on the tax maps of the City of Newark, New Jersey. The Atlantic Richfield Site is assigned Program Identification No. 016526.

2. Responsible Parties

188. In 1870, Atlantic Refining Company was incorporated in the State of Pennsylvania. In 1966, Atlantic Refining Company changed its name to Atlantic Richfield Company.

189. In April 1985, Atlantic Richfield Delaware Corporation was incorporated in the State of Delaware. In June 1985, Atlantic Richfield Delaware Corporation changed its name to Atlantic Richfield Company. Atlantic Richfield Company has principal offices at 333 South Hope Street, Los Angeles, California.

190. Amerada Hess Corporation is a Delaware corporation with principal offices at 1185 Avenue of the Americas, New York, New York.

3. Site Ownership

191. In 1946, Atlantic Refining Company purchased the Atlantic Richfield Site and constructed a terminal facility at this property.[52]

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[52]Remedial Investigation Report, ARCO's Former Bulk Storage Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case No. 86649, Volume I of VI, Geraghty & Miller, Inc., November 1994, p. 4.

OCCNJ0023428

192. Amerada Hess Corporation is the current owner of the Atlantic Richfield Site, having purchased the Atlantic Richfield Site on March 19, 1990.[53]

4. Site Operations

193. Atlantic Richfield Company used the Atlantic Richfield Site as a bulk storage terminal.[54]

194. In December of 1989, the Atlantic Richfield Company ceased operations at the Atlantic Richfield Site.[55]

195. Atlantic Richfield Company reported that ground water at the Atlantic Richfield Site was contaminated with arsenic and lead.[56]

196. Atlantic Richfield Company reported that soil at the Atlantic Richfield Site was contaminated with lead and PAHs.[57]

5. Discharge Liability

197. The Department has determined that hazardous substances were discharged at the Atlantic Richfield Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

198. The Department has determined that Atlantic Richfield Company and Amerada Hess Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Passaic River Site.

M. The Franklin Plastics Site - Program Identification No. 00014882

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[53]Soil Remedial Investigation Report, Former ARCO Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case #86649, David S. Felton, P.G., December 1, 1998, p. 1-1.

[54] Remedial Investigation Report, ARCO's Former Bulk Storage Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case No. 86649, Volume I of VI, Geraghty & Miller, Inc., November 1994, p. 3.

[55]Remedial Investigation Report, ARCO's Former Bulk Storage Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case No. 86649, Volume I of VI, Geraghty & Miller, Inc., November 1994, p. 1.

[56]1999 Third Quarter Remedial Action Progress Report and Delineation Status Report, Former ARCO Terminal, David Felton, P.G., October 29, 1999, p. 8.

[57]Remedial Investigation Report, ARCO's Former Bulk Storage Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case No. 86649, Volume I of VI, Geraghty & Miller, Inc., November 1994, pp. 2, 6, 14; Soil Remedial Investigation Report, Former ARCO Terminal, 1111 Delancey Street, Newark, New Jersey, ISRA Case #86649, David S. Felton, P.G., December 1, 1998, pp. 3-1 to 3-2 and Figure 5.

OCCNJ0023429

1. Site

199. The Franklin Plastics Site is located at 113 Passaic Avenue, Kearny, New Jersey, also designated as Block 1, Lot 12 on the tax maps of the Township of Kearny, Hudson County. The Franklin Plastics Site is assigned Program Identification No. 00014882.

2. Responsible Parties

200. Franklin Plastics Corporation was incorporated in the State of New Jersey in 1962. In May 1990, Franklin Plastics Corporation merged into Franklin-Burlington Plastics, Inc. Franklin Plastics Corporation has principal offices at 113 Passaic Avenue, Kearny, New Jersey.

201. In 1986, Franklin Plastics Corporation entered into a stock purchase agreement with Spartech Corporation and Spartech-Franklin, Inc. to sell all shares of capital stock in Franklin Plastics Corporation to Spartech-Franklin, Inc., the parent corporation of Spartech Corporation.[58]

202. Franklin-Burlington Plastics, Inc. is a Delaware corporation with principal offices at 7733 Forsyth, Suite 1450, Clayton, Missouri.

203. Spartech Corporation, a Delaware corporation with principal offices at 120 South Central Avenue, St. Louis, Missouri, is the parent corporation of Franklin-Burlington Plastics, Inc.

3. Site Ownership

204. Franklin Plastics Corporation purchased the Franklin Plastics Site in 1976 and is the current owner of the Franklin Plastics Site.

4. Site Operations

205. Since 1976, Franklin Plastics Corporation and its successors have operated a plastics manufacturing facility at the Franklin Plastics Site, including the manufacture of polyvinylchloride pellets using plastic resin, pigments, and plasticizers in the process.[59]

206. In 1985, the Department issued a New Jersey Pollutant Discharge Elimination System Permit No. NJ 0002194 (NJPDES Permit) to Franklin Plastics Corporation for the discharge of non-contact cooling water from production processes at the Franklin Plastics Site into a common open

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[58]Administrative Consent Order entered into between the New Jersey Department of Environmental Protection and Franklin Plastics Corporation, February 14, 1986.

[59]Franklin Plastics Site Inspection Prioritization Evaluation Summary, Bernard M. Pierre, Lisa Greco, and Alan Greenlaw, September 29, 1995, p. 1.

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sump pit.[60] The sump pit was divided into two sections, the first of which was used for settling of the cooling water.[61] The contents of the second section was discharged into the Passaic River via an outfall pipe.[62]

207. In 1985, the Department conducted an inspection of Franklin Plastics Corporation's compliance with its NJPDES Permit and determined that Franklin Plastics Corporation had exceeded the NJPDES Permit effluent limits for chromium and zinc.[63]

208. In 1986, Franklin Plastics Corporation entered into an administrative consent order with the Department to investigate and remediate the Franklin Plastics Site.[64]

209. In 1987 and 1990, Franklin Plastics Corporation reported that soil at the Franklin Plastics Site was contaminated with bis(2-ethylhexyl) phthalate, antimony, arsenic, cadmium, copper, lead, mercury, and zinc.[65]

210. In 1990, the United States Environmental Protection Agency reported further contamination at the Franklin Plastics Site including bis(2-ethylhexyl)phthalate, antimony, arsenic, cadmium, copper, chromium, lead, mercury, nickel, and zinc in the soil at the Franklin Plastics Site; cadmium, copper, lead, and zinc in surface water from the outfall pipe that drains into the Passaic River from the Franklin Plastics Site; and bis(2-ethylhexyl)phthalate, antimony, arsenic, beryllium, cadmium, copper, chromium, lead, mercury, nickel, and zinc in the sediment and surface water in the sump pit at the Franklin Plastics Site.[66]

211. In 2002, Franklin Plastics Corporation reported the presence of benzo(a)anthracene, benzo(a)pyrene, chrysene, lead, mercury, and zinc in the sediments of the Passaic River; and

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[60]Franklin Plastics Site Inspection Prioritization Evaluation Summary, Bernard M. Pierre, Lisa Greco, and Alan Greenlaw, September 29, 1995, p. 1; Final Draft Site Inspection Report Franklin Plastics Corp., Volume 1 of 2, NUS Corporation, Sept. 17, 1990, Part VII.

[61]Franklin Plastics Site Inspection Prioritization Evaluation Summary, Bernard M. Pierre, Lisa Greco, and Alan Greenlaw, September 29, 1995, p. 1.

[62]Franklin Plastics Site Inspection Prioritization Evaluation Summary, Bernard M. Pierre, Lisa Greco, and Alan Greenlaw, September 29, 1995, p. 1.

[63]Franklin Plastics Site Inspection Prioritization Evaluation Summary, Bernard M. Pierre, Lisa Greco, and Alan Greenlaw, September 29, 1995, p. 1.

[64]Administrative Consent Order entered into between the New Jersey Department of Environmental Protection and Franklin Plastics Corporation, February 14, 1986.

[65]Remedial Action Workplan Addendum, Franklin Plastics, 113 Passaic Avenue, ISRA Case No. E86026, Gary Robinson, LFR, February 5, 1999, Table 2 and 3.

[66]Final Draft, Site Inspection Report, Franklin Plastics Corp., Volume 1 of 2, Part IV: Site Inspection Sample Results, NUS Corporation, September 17, 1990, at Table 4.

OCCNJ0023431

benzo(a)pyrene, benzo(b)flouranthene, benzo(g,h,i)perylene, bis(2-ethylhexyl)phthalate, indeno(1,2,3-cd)pyrene, arsenic, copper, lead, and zinc in the soil at the Franklin Plastics Site.[67]

5. Discharge Liability

212. The Department has determined that hazardous substances were discharged at the Franklin Plastics Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

213. The Department has determined that Franklin Plastics Corporation, Franklin-Burlington Plastics, Inc. and Spartech Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Franklin Plastics Site.

N. The Stanley Works Site - Program Identification No. 07535

1. Site

214. The Stanley Works Site is located at 140 Chapel Street, Newark, New Jersey, between Lister Avenue and Albert Avenue. The Stanley Works Site is also designated as Block 2445, Lot 120 (formerly identified at times as Lot 1), on the tax maps of the City of Newark, Essex County. The Passaic River lies to the north of the Stanley Works Site and flows to the south.[68] Ground water flows generally in an easterly direction across the Stanley Works Site towards the Passaic River.[69] The Stanley Works Site is assigned Program Identification No. 07535.

2. Responsible Parties

215. The Stanley Works Corporation is a Connecticut corporation with principal offices at 1000 Stanley Drive, New Britain, Connecticut.

3. Site Ownership

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[67]Remedial Investigation Report, Franklin Plastics Corporation, 113 Passaic Avenue, Kearny, New Jersey, ISRA Case #E86026, Levine Fricke, LFR, June 28, 2002, pp. 3, 5 - 12, and Table 3.

[68]Remedial Action Report for the Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, July 1995.

[69]Remedial Action Report for the Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, July 1995.

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216. The Stanley Works Corporation has owned the Stanley Works Site for over 100 years. The Stanley Works Corporation or its predecessors have operated at the Stanley Works Site since approximately 1875 until 1985.[70]

4. Site Operations

217. The Stanley Works Corporation operated a hand tool manufacturing facility at the Stanley Works Site from 1875 until 1985.[71]

218. From 1986 through 1995, the Stanley Works Corporation reported that the soil at the Stanley Works Site was contaminated with benzo(a)anthracene, benzo(a)pyrene, benzo(b)flouranthene, benzo(g,h,i)perylene, chrysene, dibenz(a,h)anthracene, lead, zinc, arsenic, PAHs, and PCBs, and that ground water was contaminated with arsenic and zinc.[72]

5. Discharge Liability

219. The Department has determined that hazardous substances were discharged at the Stanley Works Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

220. The Department has determined that the Stanley Works Corporation ("Respondent") is a person in any way responsible for the hazardous substances that were discharged at the Stanley Works Site, pursuant to the Spill Compensation and Control Act.

O. The Safety-Kleen Envirosystems Company Site - Program Identification No. G000001416

1. Site

221. The Safety-Kleen Envirosystems Company Site is located at 600 Doremus Avenue, Newark, New Jersey, which is designated at Block 5070, Lot 41, on the tax maps of the City of Newark, Essex County. The Safety-Kleen Envirosystems Company Site is bounded by Newark Bay

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[70]Remedial Action Report for the Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, July 1995.

[71]Remedial Action Report for the Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, July 1995.

[72]Remedial Action Report for the Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, July 1995; The Stanley Works, New Britain, Connecticut, Remedial Action Workplan for Soils for the Former Stanley Tools Facility, Newark, New Jersey, ENSR Consulting and Engineering, October 1993; Letter, Richard J. Konkowski, ENSR Consulting, to Joseph Ludovico, New Jersey Department of Environmental Protection, August 26, 1994.

OCCNJ0023433

to the east, Doremus Avenue to the west, and by industrial facilities to the north and south.[73] The Safety-Kleen Envirosystems Company Site is assigned Program Identification No. G000001416.

2. Responsible Parties

222. Safety-Kleen Corporation, a Delaware corporation with principal offices at 1301 Gervais Street, Columbia, South Carolina, is the parent corporation of Safety-Kleen Envirosystems Company.

223. Safety-Kleen Envirosystems Company is a California corporation with principal offices at 1301 Gervais Street, Columbia, South Carolina. Safety-Kleen Envirosystems Company was formerly known as McKesson Envirosystems Company.

224. Inland Chemical Corporation was an Indiana corporation with principal offices at 1810 Magnavox Way, Fort Wayne, Indiana. McKesson Envirosystems Company and Inland Chemical Company merged in 1981.[74]

225. In 1987, Safety-Kleen Corporation acquired all common stock of McKesson Envirosystems Company and renamed the company Safety-Kleen Envirosystems Company.[75]

226. Bristol Myers-Squibb is a Delaware corporation with principal offices at 345 Park Avenue, New York, New York.

227. Propane Power Corporation is a New Jersey corporation with principal offices at 52 Forest Avenue, Paramus, New Jersey.

228. Wilson Five Corporation is a New Jersey corporation with principal offices at 52 Forest Avenue, Paramus, New Jersey.

229. Apollo Development and Land Corporation has principal offices at 580 Doremus Avenue, Newark, New Jersey.

3. Site Ownership

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[73]Volume I of II, Phase II Remedial Investigation Report, Safety-Kleen Envirosystems Company Site, Newark, New Jersey, Blasland, Bouck & Lee, Inc., December 1995, at p. 11.

[74]USEPA Region 2, Safety-Kleen Envirosystems Company Site Description, New Jersey, at www.epa.gov/region2/waste/fssafene.htm; Volume I of II, Phase II Remedial Investigation Report, Safety-Kleen Envirosystems Company Site, Newark, New Jersey, Blasland, Bouck & Lee, Inc., December 1995, at p. 5.

[75]Volume I of II, Phase II Remedial Investigation Report, Safety-Kleen Envirosystems Company Site, Newark, New Jersey, Blasland, Bouck & Lee, Inc., December 1995, at p. 5.

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230. In 1974, Inland Chemical Corporation purchased the Safety-Kleen Envirosystems Company Site.

231. In 1976, Inland Chemical Corporation sold the Safety-Kleen Envirosystems Company Site to Propane Power & Heat Corporation.

232. On September 2, 1992, Propane Power Corporation sold the Safety-Kleen Envirosystems Company Site to Wilson Five Corporation.

233. On September 25, 1992, Wilson Five Corporation sold the Safety-Kleen Envirosystems Company Site to Apollo Development and Land Corporation.

234. Apollo Development and Land Corporation is the current owner of the Safety-Kleen Envirosystems Company Site.

4. Site Operations

235. In 1974, Inland Chemical Corporation initiated solvent recovery operations at the Safety-Kleen Envirosystems Company Site.[76]

236. Bristol Myers-Squibb shipped waste to the Safety-Kleen Envirosystems Company Site.[77]

237. In 1993, Safety-Kleen Envirosystems Company and Bristol-Myers Squibb Company entered into an Administrative Consent Order with NJDEP to conduct remedial investigations and remedial measures of the Safety-Kleen Envirosystems Company Site, if necessary.[78]

238. In 1995, Safety-Kleen Envirosystems Company reported that soil at the Safety-Kleen Envirosystems Company Site was contaminated with PCBs and metals, ground water was contaminated with PAHS, PCBs, and metals, and that surface water in Newark Bay was contaminated with beryllium, copper, nickel, zinc, bis(2-ethylhexyl)phthalate, and di-n-butyl phthalate in the surface water.[79]

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[76]Volume I of II, Phase II Remedial Investigation Report, Safety-Kleen Envirosystems Company Site, Newark, New Jersey, December 1995, Blasland, Bouck & Lee, Inc., Engineers & Scientists, p. 5.

[77]USEPA Region 2, Safety-Kleen Envirosystems Company Site Description, New Jersey, at www.epa.gov/region2/waste/fssafene.htm.

[78]USEPA Region 2, Safety-Kleen Envirosystems Company Site Description, New Jersey, at www.epa.gov/region2/waste/fssafene.htm.

[79]Volume I of II, Phase II Remedial Investigation Report, Safety-Kleen Envirosystems Company Site, Newark, New Jersey, December 1995, Blasland, Bouck & Lee, Inc., at pp. 5 - 7, 28 - 42, 61.

OCCNJ0023435

5. Discharge Liability

239. The Department has determined that hazardous substances were discharged at the Safety-Kleen Envirosystems Company Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

240. The Department has determined that Safety-Kleen Envirosystems Company, Bristol Myers-Squibb, Propane Power Corporation, Wilson Five Corporation, and Apollo Development and Land Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Safety-Kleen Envirosystems Company Site.

P. The Napp Technologies Site - Program Identification No. 032889

1. Site

241. The Napp Technologies Site is located at 199 Main Street, Lodi, New Jersey, also designated as Block 81.07, Lot 7, on the tax maps of the City of Lodi, Bergen County. The Napp Technologies Site is assigned Program Identification No. 032889.

2. Responsible Parties

242. Fine Products Corporation was incorporated in the State of Delaware in 1970. Fine Products Corporation later changed its name to Lemke Chemicals, Inc.

243. On December 24, 1970, Lemke Chemicals, Inc. was authorized to conduct business in New Jersey as Napp-Lodi, Inc., and in 1973, changed its name to Napp Chemicals, Inc. In 1977, Napp Chemicals, Inc. changed its name to Napp Technologies, Inc.

244. On April 11, 2002, Napp Technologies, Inc. changed its name to Purdue Services, Inc. On March 28, 2003, Purdue Services, Inc. changed its name to Purdue Pharma Technologies, Inc.

245. Purdue Pharma Technologies, Inc. is a Delaware corporation with principal offices at 299 Market Street, Saddle Brook, New Jersey.

246. Nappwood Land Corporation is a New Jersey corporation with principal offices at 199 Main Street, Lodi, New Jersey.

3. Site Ownership

247. In 1980, Nappwood Land Corporation purchased the Napp Technology Site from Tahini Investments Limited.

OCCNJ0023436

248. Nappwood Land Corporation is the current owner of the Napp Technology Site.

4. Site Operations

249. From 1970 to 1995, Napp Technologies, Inc. manufactured bulk generic drugs and performance chemicals for the cosmetic and pharmaceutical industries at the Napp Technologies Site, including the batch synthesis and drying of compounds and the blending and grinding of powdered pharmaceutical compounds.[80]

250. On April 21, 1995, an accident at the Napp Technologies Site resulted in an explosion and fire, the destruction of a portion of the facility, and the cessation of plant operations.[81]

251. In 1997, Napp Technologies, Inc. reported that soil at the Napp Technologies Site was contaminated with benzo(a)anthracene, benzo(a)pyrene, benzo(b) flouranthene, benzo(a,h)anthracene, benzo(k)flouranthene, indeno(1,2,3-cd)pyrene, PCBs, arsenic, chromium, copper, and nickel, and that ground water at the Napp Technologies Site was contaminated with arsenic, cadmium, chromium, lead, nickel, thallium, and PCBs.[82]

252. In 1999, Napp Technologies, Inc. reported that soil at the Napp Technologies Site was contaminated with benzo(a)anthracene, benzo(a)pyrene, benzo(b)flouranthene, benzo(k)flouranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, arsenic, copper, nickel, and PCBs, ground water was contaminated with arsenic, lead, mercury, nickel, and PCBs, and that sediments from the Saddle River were contaminated with copper and PCBs.[83]

5. Discharge Liability

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[80] Napp Technologies, Inc., Lodi, New Jersey, Remedial Investigation Report/Remedial Investigation Workplan Addendum, ISRA Case No. 95400, Volume 1 of 3 (Text & Tables), ENSR Consulting, Engineering, Remediation, June 1999, p. 3-5.

[81] Napp Technologies, Inc., Lodi, New Jersey, Remedial Investigation Report/Remedial Investigation Workplan Addendum, ISRA Case No. 95400, Volume 1 of 3 (Text & Tables), ENSR Consulting, Engineering, Remediation, June 1999, p. 3-5.

[82] Napp Technologies, Inc., Lodi, New Jersey, Remedial Investigation Report/Remedial Investigation Workplan Addendum, ISRA Case No. 95400, Volume 1 of 3 (Text & Tables), ENSR Consulting, Engineering, Remediation, June 1999, p.2-1; Napp Technologies, Inc., Lodi, New Jersey, Remedial Investigation Report/Remedial Investigation Workplan Addendum, ISRA Case No. 95400, Volume III (Tables), ENSR Consulting and Engineering, June 1997, Tables 4, 5-5, 5-6, 5-8, 5-9, 5-20, 5-21, 5-23, 5-24, 5-25, 5-34, 5-35, 5-37, 5-38, 5-53, 5-55, 5-57, 5-58, 5-60, 5-62, 5-63, 5-64, 5-69, 5-71.

[83] Napp Technologies, Inc., Lodi, New Jersey, Remedial Investigation Report/Remedial Investigation Workplan Addendum, ISRA Case No. 95400, Volume 1 of 3 (Text & Tables), ENSR Consulting Engineering Remediation, June 1999, pp. 2-2, 4-6 to 4-8, 4-11 to 4-13, and Tables 5-1 and 6-1.

OCCNJ0023437

253. The Department has determined that hazardous substances were discharged at the Napp Technologies Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

254. The Department has determined that Purdue Pharma Technologies, Inc. and Nappwood Land Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Napp Technologies Site.

Q. The Hexcel Site - Program Identification Nos. 01418 and 005821

1. Site

255. The Hexcel Site is located at 205 Main Street, Lodi, New Jersey, also designated as Block 161.01, Lot 1.01 and Block 81.01, Lot 10.01 on the tax maps of the Borough of Lodi, Bergen County.[84] The Hexcel Site is bounded by Main Street to its east, Saddle River to its west, Molnar Road to its south, and the Route 46 ramp to its north.[85] The Hexcel Site has been subject to flooding.[86] The Hexcel Site is assigned Program Identification Nos. 01418 and 005821.

2. Responsible Parties

256. Hexcel Corporation is a Delaware corporation with principal offices at 2 Stamford Plaza, Stamford, Connecticut.

257. Fine Organics, Inc. is a New York corporation.

258. Fine Organics Corporation is a Delaware corporation with principal offices at 420 Kuller Road, Clifton, New Jersey

259. In April 1973, Hexcel Corporation acquired Fine Organics, Inc. and operated Fine Organics, Inc. as a subsidiary. [87]

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[84]Remedial Action Workplan Addendum, Hexcel Facility, Lodi, New Jersey, Haley & Aldrich, Inc., November 1999, p. 1.

[85]Remedial Action Workplan Addendum, Hexcel Facility, Lodi, New Jersey, Haley & Aldrich, Inc., November, 1999, p. 4.

[86]Site Evaluation Submission, Form ECRA-2 6/85, received January 15, 1986. Appendix 2 Question 10 response, page 1; Letter, Michael A. Justiniano, Bureau of Environmental Evaluation, Cleanup and Responsibility Element, New Jersey Department of Environmental Protection, to Edward A. Hogan, Porzio, Bromberg & Newman, Nov. 20, 2001.

[87]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 2.

OCCNJ0023438

3. Site Ownership

260. In 1944, Fine Organics, Inc. purchased the Hexcel Site.[88]

261. In or about 1973, Hexcel Corporation acquired Fine Organics, Inc. and took ownership of the Hexcel Site.[89]

262. In or about 1986, Hexcel Corporation sold the Hexcel Site to Fine Organics Corporation.[90]

263. In approximately 1998, Fine Organics Corporation ceased operations and sold the property back to Hexcel Corporation.[91]

4. Site Operations

264. From 1944 to 1973, Fine Organics, Inc. manufactured, stored, and sold pharmaceuticals, synthetic organic chemicals, inorganic chemicals and similar products at the Hexcel Site.[92]

265. From 1973 to 1981, Hexcel Corporation operated a chemical facility at the Hexcel Site.[93]

266. Hexcel Corporation blended and packaged industrial cleaning compounds at the Hexcel Site.[94] Prior to 1986, Hexcel Corporation also produced resin products at the Hexcel Site.[95]

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[88]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, pp. 1 - 2.

[89]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 2.

[90]Summary Report of Preliminary Environmental Sampling of the Fine Organics Facility, Lodi, NJ, Environ Corporation, October 14, 1987, p. 4.

[91]Remedial Action Workplan Addendum, Hexcel Facility, Lodi, New Jersey, Haley & Aldrich, Inc., November, 1999, p. 2.

[92]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, pp. 1 - 2.

[93]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 2.

[94]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 4.

[95]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 4.

OCCNJ0023439

267. During its operations at the Hexcel Site, Hexcel Corporation also manufactured products including solvent blends, alkaline liquid cleaners, solvent-emulsion cleaners, paint strippers, deodorant/air freshener soap blocks, dibactol, and oxalic/phosphoric acid liquid cleaners.[96]

268. In operations at the Hexcel Site, Hexcel Corporation utilized various raw materials including silicates, alcohols, surfactants, and dyes.[97]

269. Hexcel Corporation reported that soil at the Hexcel Site was contaminated with fuel oil and PCBs.[98] Hexcel Corporation reported that the industrial sewer system at the Hexcel Site was contaminated with PCBs and petroleum hydrocarbons.[99] There are higher concentrations of PCBs in sediment downgradient from the storm sewer outfall at the Hexcel Site than at upgradient locations.[100]

270. Hexcel Corporation reported that the sediment of the Saddle River was contaminated with PCBs, and that ground water at the Hexcel Site was contaminated with oil.[101]

271. In 1998, Hexcel Corporation reported that soil, ground water, and Saddle River sediment were contaminated with PCBs, and that soil was also contaminated with antimony, beryllium, cadmium, mercury, and thallium.[102]

5. Discharge Liability

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[96]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, p. 5.

[97]ECRA Site Evaluation Submission, Hexcel Industrial Chemicals Group, Division of Hexcel Corporation, Appendix 2 Question 10 response, January 15, 1986, pp. 5 - 6.

[98]Summary Report of Preliminary Environmental Sampling of the Fine Organics Facility, Lodi, NJ, Environ Corporation, October 14, 1987, pp. 4 - 6, 10 - 18; Remedial Action Workplan Addendum, Hexcel Facility, Lodi, New Jersey, Hexcel Corp., November 1999, p. 1.

[99]Summary Report of Preliminary Environmental Sampling of the Fine Organics Facility, Lodi, NJ, Environ Corporation, October 14, 1987, pp. 10 - 14.

[100]Letter, from Michael A. Justiniano, Supervisor, Bureau of Environmental Evaluation, Cleanup and Responsibility Assessment, to Edward A. Hogan, Porzio, Bromberg & Newman, November 20, 2001.

[101]Summary Report of Preliminary Environmental Sampling of the Fine Organics Facility, Lodi, NJ, Environ Corporation, October 14, 1987, pp. 10 - 12, 18-19, 26 - 28.

[102]Summary Report of Preliminary Environmental Sampling of the Fine Organics Facility, Lodi, NJ, Environ Corporation, October 14, 1987; Remedial Action Workplan Addendum, Hexcel Facility, Lodi, New Jersey, Haley & Aldrich, Inc., November 1999, Tables VI, XI, XII, XIII.

OCCNJ0023440

272. The Department has determined that hazardous substances were discharged at the Hexcel Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

273. The Department has determined that Hexcel Corporation and Fine Organics Corporation ("Respondents") are persons in any way responsible, pursuant to the Spill Compensation and Control Act, for the hazardous substances that were discharged at the Hexcel Site.

R. The Getty Newark Terminal Site - Program Identification No. 004475

1. Site

274. The Getty Newark Terminal Site is located at 86 Doremus Avenue, Newark, New Jersey, also designated as Block 5010, Lot 21, on the Tax Maps of the City of Newark, Essex County. The Getty Newark Terminal Site is assigned Program Identification No. 004475.

2. Responsible Parties

275. Texaco Inc. is a Delaware corporation with principle offices at 6001 Bollinger Canyon Road, San Ramon, California. Texaco Inc. is a subsidiary of Chevron Texaco Corporation.

276. Chevron Texaco Corporation, is a Delaware corporation with principal offices at 575 Market Street, San Francisco, California. Chevron Texaco Corporation was formed on October 9, 2001 when Texaco Inc. merged with Chevron Corporation.

277. Texaco Refining and Marketing Inc., formerly a subsidiary of Texaco Inc., is a Delaware corporation with principal offices at 2000 West Chester Avenue, White Plains, New York. Texaco Refining and Marketing Inc. is a wholly owned subsidiary of Chevron Texaco Corporation.

278. Getty Petroleum Corporation is a Maryland Corporation. Getty Petroleum Corporation changed its name to Getty Realty Group on March 21, 1997. Getty Realty Group is Maryland corporation with principal offices at 125 Jericho Turnpike, Suite 400, Jericho, New York.

279. Power Test of New Jersey, Inc. is a New Jersey corporation and was merged into Leemilt's Petroleum, Inc. on January 10, 1995.

3. Site Ownership

280. In 1950, Getty Petroleum Corporation acquired the Getty Newark Terminal Site.[103]

[103]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, IT Corporation, October 1989, p. 1-2.

OCCNJ0023441

281. In 1985, Power Test of New Jersey, Inc. purchased the Getty Newark Terminal Site.[104]

4. Site Operations

282. Getty Petroleum Corporation operated a petroleum storage facility at the Getty Newark Terminal Site from 1950 to 1984 until its merger with Texaco Inc.[105]

283. In the 1960s, Getty Petroleum Corporation discharged gasoline at the Getty Newark Terminal Site.[106]

284. On October 8, 1981, Getty Petroleum Corporation discharged approximately 1200 gallons of unleaded regular gasoline at the Getty Newark Terminal Site.[107]

285. On June 8, 1987, Power Test of New Jersey, Inc. reported a discharge of diesel fuel at the Getty Newark Terminal Site.[108] The discharge resulted in a visible sheen on the Passaic River.[109]

286. In 1985, Texaco Inc. triggered the Industrial Site Recovery Act and its regulations with its sale of the Getty Newark Terminal Site.[110] Texaco Refining & Marketing Inc., then a subsidiary of Texaco Inc., entered into an administrative consent order with the Department to remediate the Getty Newark Terminal Site.[111]

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[104]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, IT Corporation, October 1989, p. 1-2.

[105]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, IT Corporation, October 1989, p. 1-2.

[106]Paved Area Remedial Investigation Report, Newark Terminal, Newark, New Jersey, ECRA Case No. 84455, Volume II-Human Health Risk Assessment, IT Corporation, April 1991, p. 1-1.

[107]Paved Area Remedial Investigation Report, Newark Terminal, Newark, New Jersey, ECRA Case No. 84455, Volume II-Human Health Risk Assessment, IT Corporation, April 1991, p. 1-1.

[108]Paved Area Remedial Investigation Report, Newark Terminal, Newark, New Jersey, ECRA Case No. 84455, Volume II-Human Health Risk Assessment, IT Corporation, April 1991, p. 1-1.

[109]Paved Area Remedial Investigation Report, Newark Terminal, Newark, New Jersey, ECRA Case No. 84455, Volume II-Human Health Risk Assessment, IT Corporation, April 1991, p. 1-1.

[110]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, IT Corporation, October 1989, p. 1-2.

[111]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, IT Corporation, October 1989, p. 1-2.

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287. From 1984 to 1988, Texaco Refining and Marketing Inc. reported that soil, ground water, and surface water at the Getty Newark Terminal were contaminated with lead.[112]

288. In 1990 and 1994, Texaco Refining and Marketing Inc. reported that soil at the Getty Newark Terminal was contaminated with lead and base neutral compounds.[113] In 1990, Texaco Refining and Marketing Inc. reported that soil at the Getty Newark Terminal Site was contaminated with PCBs, total petroleum hydrocarbons, and lead.[114]

289. In 1997, soil testing at the Getty Newark Terminal Site revealed the presence of PCBs at concentrations up to 67 parts per million.

5. Discharge Liability

290. The Department has determined that hazardous substances were discharged at the Getty Newark Terminal Site and that those hazardous substances are emanating and/or have emanated into the Lower Passaic River.

291. The Department has determined that Chevron Texaco Corporation, Getty Petroleum Corporation, Getty Realty Group, Texaco Inc., Texaco Refining and Marketing Inc., and Power Test of New Jersey, Inc. ("Respondents") are persons, pursuant to the Spill Compensation and Control Act, in any way responsible for the hazardous substances that were discharged at the Getty Newark Terminal Site.

III. Cleanup and Removal of Discharges

292. The substances referenced above are hazardous substances pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11bk.

293. Respondents are responsible for the hazardous substances in the Lower Passaic River that were discharged onto the land and into the waters of the State.

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[112]Cleanup Plan, Newark Terminal, Newark, New Jersey, ECRA Case #84455, Refining and Marketing Inc., Bayonne, New Jersey, IT Corporation, October 1989, pp. 5-4 to 5-8.

[113]Tank Basin Remediation Report, Newark Terminal, Newark, New Jersey, ECRA Case No. 84455, IT Corporation, January 1991, p. 1-1 and Table 1; Quarterly Progress Report, Priority Pollutant Base Neutral Scans From Tank Basin Remediation, Texaco Refining and Marketing Inc., Getty Newark Terminal, ISRA Case No. 84455, October 15, 1994, Attachment 4, pp. 1 - 3.

[114]Remedial Action Report For PCB Soils in Area A, Volume I Report, Getty Newark Terminal, 86 Doremus Avenue, Newark, New Jersey, ISRA Case No. 84455, Quest Environmental & Engineering Services, Inc., July 25, 1997, p. 1.

OCCNJ0023443

294. Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11gc, Respondents are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs.

295. Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b, cleanup and removal costs include all costs associated with a discharge incurred by the Department, including the mitigation of damages to public property, shorelines, beaches, surface waters, water columns and bottom sediments, soils, and affected wildlife and other natural resources.

296. Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b, natural resources include all land, fish, shellfish, wildlife, biota, air, waters, and other such resources owned, managed, held in trust or otherwise controlled by the State.

297. Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction.

298. In order to cleanup and remove the discharges into the Lower Passaic River and its tributaries, the Department has determined that it is necessary assess the natural resource injuries that have occurred as a result of discharges into the Lower Passaic River and its tributaries and to restore natural resources of the Lower Passaic River system that have been injured by those discharges.

299. Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f, whenever any hazardous substance is discharged, the Department may, in its discretion, act to clean up and remove or arrange for the clean up and removal of the discharge, or may direct any person in any way responsible for the hazardous substances to clean up and remove, or arrange for the clean up and removal of those hazardous substances.

DIRECTIVE

300. The Department hereby directs Respondents to conduct an assessment of natural resources that have been injured by discharges of hazardous substances at sites in the Lower Passaic River watershed, including each of the following phases:

i. Injury Identification: Identify all natural resources in the Lower Passaic River ecosystem that have been injured by discharges of hazardous substances;
ii. Injury Quantification: For each natural resource injury identified in the injury identification phase, determine the extent of the injury to the natural resources and the quantity and quality of services those injured natural resources provided prior to the injury; and
iii. Value Determination: For each natural resource injury evaluated in the injury quantification phase, estimate the monetary value of the injuries in order to properly scale the compensatory restoration projects necessary to redress the natural resource injuries.

OCCNJ0023444

301. The Department hereby directs Respondents to implement interim compensatory restoration for natural resources that have been injured by discharges of hazardous substances at sites in the Lower Passaic River watershed. The interim compensatory restoration must focus on restoring the economic and ecologic services that the natural resources in the Lower Passaic River ecosystem provided prior to being injured, including, without limitation, recreational and commercial fishing, swimming, boat access points, and other recreational access to the Lower Passaic River, and wetland restoration.

302. The Respondents are required, pursuant to N.J.A.C. 7:26C-4.2(e), to execute a single administrative consent order to provide assurance that the cleanup and removal of the directives described above will be performed in a timely and proper fashion. The administrative consent order shall conform to N.J.A.C. 7:26C-5.

303. The Department hereby directs Respondents, within 45 calendar days after the date of this Directive and Notice to Insurers, to relay their responses to this Directive and Notice to Insurers in accordance with N.J.A.C. 7:26C-4.2(g) to:

John Sacco, Director
Office Of Natural Resource Restoration
Natural and Historic Resources
Department of Environmental Protection
501 East State Street
P.O. Box 404
Trenton, New Jersey 08625-0404

NOTICE

304. If Respondents fail to arrange for the clean up and removal of the discharges in the Lower Passaic River watershed by implementing an assessment of natural resource injuries as described above, the Department will implement an assessment of natural resource injuries using public funds. In addition, the Department may commence suit against Respondents seeking reimbursement and damages for all costs the Department incurs in implementing an assessment of natural resource injuries.

305. If Respondents fail to arrange for the clean up and removal of the discharges in the Lower Passaic River watershed by implementing the interim compensatory restoration described above, the Department will implement the interim compensatory restoration using public funds. In addition, the Department may commence suit against Respondents seeking reimbursement and damages for all costs the Department incurs in implementing the interim compensatory restoration.

306. Failure to comply with this Directive and Notice to Insurers will increase the potential liability of Respondents to the Department in an amount equal to three times the cost of arranging for the clean up and removal of hazardous substances that were discharged and may cause a lien to

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be placed on Respondents real and personal property pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f, including a first priority lien on the property subject to the discharge.

307. Pursuant to N.J.S.A. 58:10-23.11u, the Department may issue an order to require compliance with the Spill Compensation and Control Act. Failure by Respondents to comply with this Directive may result in the issuance of an order by the Department, which will subject Respondents to penalties of up to $50,000 per day and each day of violation constitutes an additional, separate and distinct violation of the Spill Compensation and Control Act.

RESERVATION OF RIGHTS

308. The Department reserves the right to direct Respondents to take or arrange for the taking of any and all additional clean up and removal of discharges and any other action that the Department determines is necessary to protect the public health and safety or the environment and to seek full reimbursement and treble damages for all costs incurred in taking such additional action.

309. Respondents are advised that the discharges referenced in this Directive and Notice to Insurers may also constitute violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20, and the Solid Waste Management Act, N.J.S.A. 13:1E-1 to -99, and that Respondents may, therefore, be subject to the penalties prescribed for violations of these Acts. The Department reserves all rights and remedies under those Acts as well as any other rights and remedies under any applicable law.

NOTICE TO INSURERS

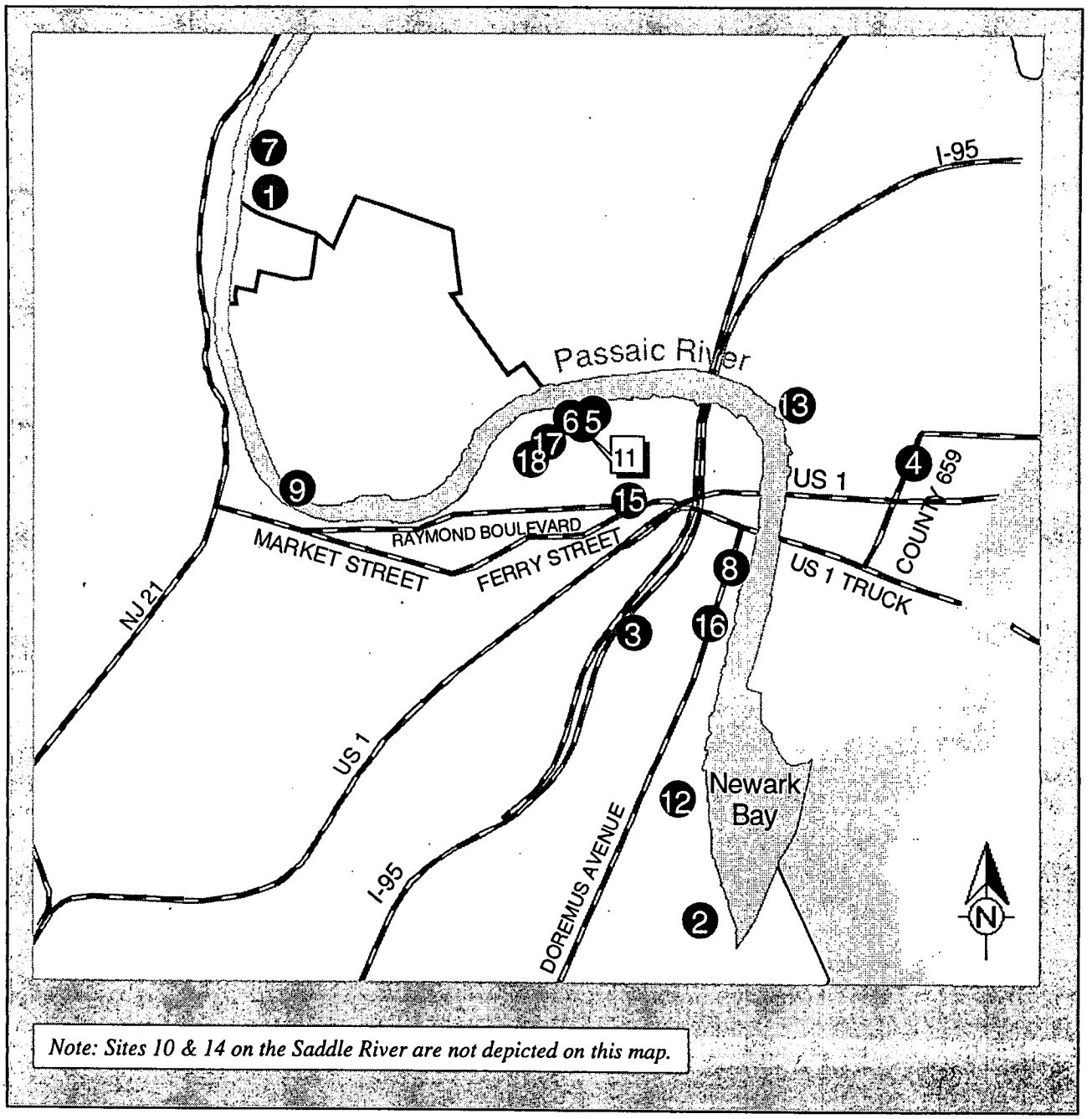
310. **BE ON NOTICE THAT,** pursuant to N.J.S.A. 58: 10-23.11s, any claims for costs of clean up or civil penalties by the State and any claim for damages by any injured person, may be brought directly against the bond, insurer or any other person providing evidence of financial responsibility. Respondents are therefore urged to contact such insurers and notify them of the issuance of this Directive and Notice to Insurers.

Date: 9/19/03

Marc A. Matsil
Assistant Commissioner,
Natural and Historic Resources

OCCNJ0023446

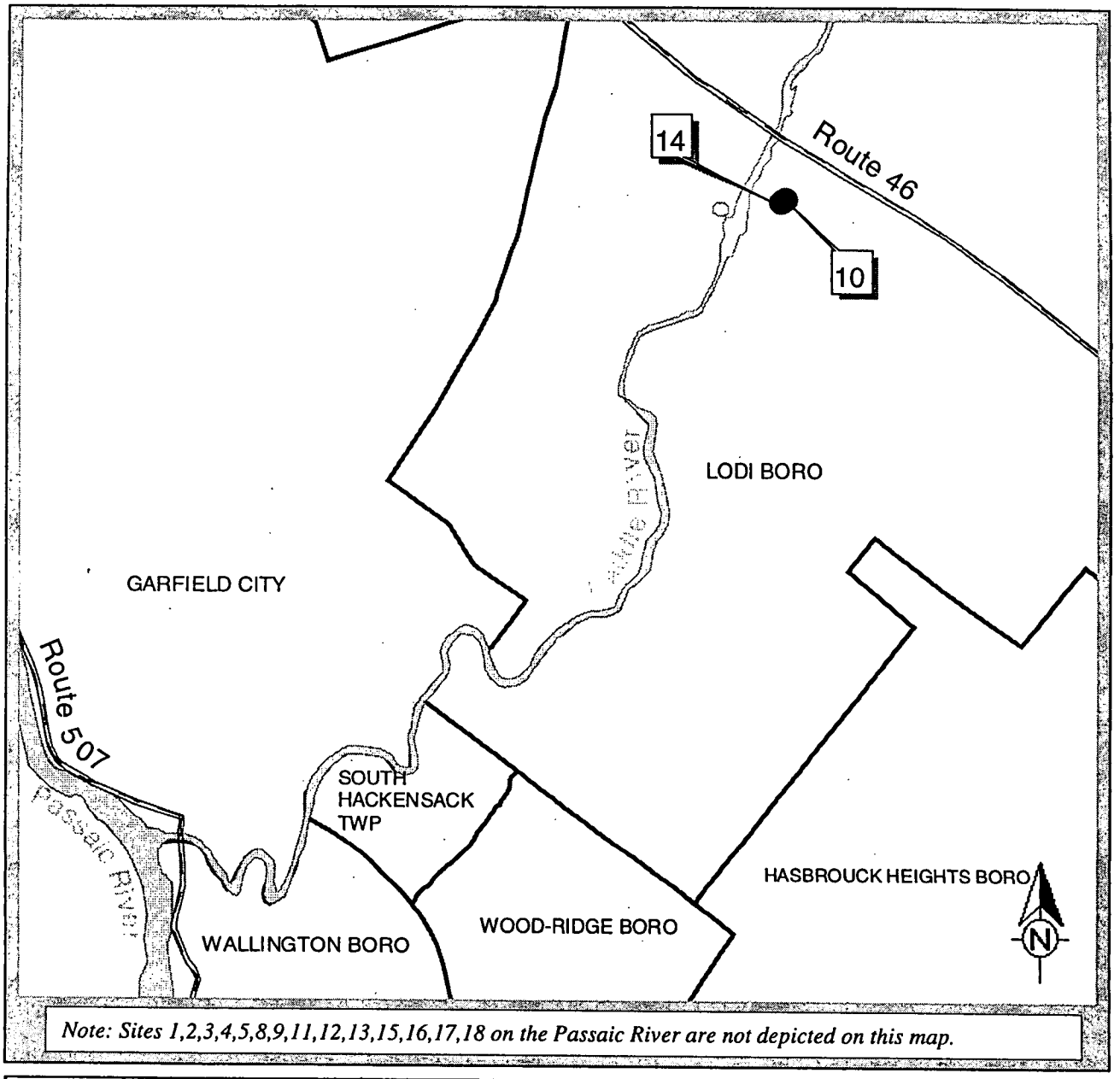
MAP 1: PASSAIC RIVER SITES



ID	NAME	ADDRESS	CITY	COUNTY
1	AMERICAN MODERN METALS	65 PASSAIC AVE	KEARNY TOWN	HUDSON
2	ARCO PETROLEUM PRODUCTS COMPANY	1111 DELANCEY ST	NEWARK CITY	ESSEX
3	ASHLAND CHEMICAL COMPANY	221 FOUNDRY ST	NEWARK CITY	ESSEX
4	AT&T TECHNOLOGIES INCORPORATED	100 CENTRAL AVE	KEARNY TOWN	HUDSON
5	BENJAMIN MOORE	134 IISTER aVE	NEWARK CITY	ESSEX
6	DIAMOND ALKALI COMPANY	80 LISTER AVE	NEWARK CITY	ESSEX
7	FRANKLIN PLASTICS CORPORATION	113 PASSAIC AVE	KEARNY TOWN	HUDSON
8	GETTY REFINING & MARKETING CORPORATION	86 DOREMUS AVE	NEWARK CITY	ESSEX
9	HARRISON COAL GAS (PSE&G)	FRANK E ROGERS BLVD S (S 4TH ST)	HARRISON TOWN	HUDSON
11	HILTON DAVIS CHEMICAL COMPANY	120 LISTER AVE	NEWARK CITY	ESSEX
12	MCKESSON ENVIRO SYSTEMS COMPANY	600 DOREMUS AVE	NEWARK CITY	ESSEX
13	MONSANTO COMPANY	PENNSYLVANIA AVE	KEARNY TOWN	HUDSON
15	NEWARK COAL GAS (PSE&G)	155 RAYMOND BLVD	NEWARK CITY	ESSEX
16	PITT CONSOL CHEMICAL COMPANY	191 DOREMUS AVE	NEWARK CITY	ESSEX
17	SHERWIN WILLIAMS COMPANY	60 LISTER AVE	NEWARK CITY	ESSEX
18	STANLEY TOOLS	140 CHAPEL ST	NEWARK CITY	ESSEX

Composed: 9/18/03

MAP 2: PASSAIC RIVER SITES (SADDLE RIVER)



Note: Sites 1,2,3,4,5,8,9,11,12,13,15,16,17,18 on the Passaic River are not depicted on this map.

ID	NAME	ADDRESS	CITY	COUNTY
10	HEXCEL CORP INDUSTRIAL CHEMICALS GROUP	205 MAIN ST	LODI BOROUGH	BERGEN
14	NAPP CHEMICALS INCORPORATED	199 MAIN ST	LODI BOROUGH	BERGEN

Composed: 9/18/03