

Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by way of Complaint against the above-named defendants ("the Defendants"), say:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20, and the common law, for reimbursement of the costs and damages they have incurred, and will incur, as a result of the discharge of pollutants and the discharge of hazardous substances at the Exxon site in the Borough of Paulsboro, Gloucester County.

The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Exxon site. Further, the Plaintiffs seek an order compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Exxon site, including restoring any injured resource to its pre-discharge condition, and to compensate the

citizens of New Jersey for the lost value of any injured natural resource.

THE PARTIES

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

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

4. Plaintiff Commissioner is the Commissioner of plaintiff DEP. N.J.S.A. 58:10-23.11b. and N.J.S.A. 58:10A-3. In this capacity, plaintiff Commissioner is vested by law with various powers and authority, including those conferred by plaintiff DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19.

5. Plaintiff Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("the Spill Fund"). N.J.S.A. 58:10-23.11j. As chief executive officer of the Spill Fund, plaintiff Administrator is authorized to approve and pay any cleanup and removal costs plaintiff DEP incurs, N.J.S.A. 58:10-

23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d.

6. Defendant Exxon Mobil Corporation, f/k/a Exxon Corporation ("Exxon Mobil Corporation"), is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business located at 5959 Las Colinas Boulevard, Irving, Texas. On or about November 30, 1999, Exxon Corporation merged with Mobil Oil Company, with the surviving entity being defendant Exxon Mobil Corporation.

7. Defendant Kinder Morgan Liquids Terminals, LLC, f/k/a GATX Terminals Corporation ("Kinder Morgan"), is a company organized and existing under the laws of the State of Delaware, with a principal place of business located at 500 Dallas Street, Suite 1000, Houston, Texas. On February 28, 2001, GATX Terminals Corporation changed its name to Kinder Morgan Liquids Terminals, LLC and became a limited liability corporation.

NATURAL RESOURCES

8. The "natural resources" of this State are all land, fish, shellfish, wildlife, biota, air, water and other such resources owned, managed, held in trust or otherwise controlled by the State. N.J.S.A. 58:10-23.11b.

9. The natural resources of this State include the "waters of the State," which are the ocean and its estuaries, all springs,

streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction. N.J.S.A. 58:10A-3t.

10. The natural resources of this State, including the waters of the State, have been injured as a result of the discharge of pollutants and hazardous substances at the Exxon site.

AFFECTED NATURAL RESOURCE(S)

Ground Water

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

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

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

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

15. Ground water is a unique resource that supports the State's tourism industry, and is also used for commercial,

industrial and agricultural purposes, all of which help sustain the State's economy.

16. There are thousands of sites in New Jersey confirmed as having ground water contaminated with pollutants and hazardous substances.

GENERAL ALLEGATIONS

17. The site consists of approximately 31.5 acres of real property located at Third Street and Billingsport Road, Borough of Paulsboro, Gloucester County, New Jersey, this property being also known and designated as Block 50, Lots 11 and 13, on the Tax Map of the Borough of Paulsboro ("the Exxon Property"), and all other areas where any pollutant or hazardous substance discharged there has become located (collectively, "the Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000002406.

18. From 1953 to 1990, the defendant Exxon Mobil Corporation's predecessor, Exxon Corporation, owned the Exxon Property, during which time "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

19. From 1953 to 1990, the defendant Exxon Mobil Corporation's predecessor, Exxon Corporation, also operated a petroleum products storage and distribution terminal at the Exxon

Property, the operation of which involved the storage and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

20. From 1953 to 1990, the defendant Exxon Mobil Corporation's predecessor, Exxon Corporation, operated a petroleum products storage and distribution terminal at the Exxon Property, the operation of which involved the generation and storage of "pollutants," as defined in N.J.S.A. 58:10A-3n., certain of which were "discharged" to the waters of the State within the meaning of N.J.S.A. 58:10A-3e., which pollutants included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

21. From 1990 to 2000, the defendant Kinder Morgan's predecessor, GATX Terminals Corporation, owned the Exxon Property, during which time "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

22. From 1990 to 2000, the defendant Kinder Morgan's predecessor, GATX Terminals Corporation, also operated a bulk

liquids storage and distribution terminal at the Exxon Property, the operation of which involved the storage and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

23. From 1990 to 2000 the defendant Kinder Morgan's predecessor, GATX Terminals Corporation, operated a bulk liquids storage and distribution terminal at the Exxon Property, the operation of which involved the generation and storage of "pollutants," as defined in N.J.S.A. 58:10A-3n., certain of which were "discharged" to the waters of the State within the meaning of N.J.S.A. 58:10A-3e., which pollutants included benzene, toluene, ethyl benzene, xylenes, lead, naphthalene, methyl tertiary butyl ether and tertiary butyl alcohol.

24. In October 1985, Exxon Corporation inspected the Site and observed an eight inch crack in a storage tank line that caused the discharge of more than 100,000 gallons of no. 2 heating oil. All of the lost product migrated through the soil and accumulated in the groundwater. Exxon Corporation installed a product recovery system at the discharge area.

25. By April 1987, Exxon Corporation recovered approximately 110,000 gallons of fuel oil from the groundwater at the Site.

26. On January 7, 1987, plaintiff DEP issued a Notice Of Violation And Offer Of Settlement to Exxon Corporation pursuant to the Spill Act for the October 1985 discharge of heating oil and the failure to immediately notify the plaintiff DEP of the discharge.

27. On July 31, 1987, Exxon Corporation paid a total of \$24,750 as a settlement of the plaintiff DEP's January 7, 1987 Notice Of Violation And Offer Of Settlement.

28. Exxon Corporation commenced a hydrogeologic investigation to characterize subsurface conditions at the Site. In November 1988, a Hydrogeologic Investigation report by Exxon Corporation, submitted to plaintiff DEP, revealed the presence of benzene, toluene, ethyl benzene, xylenes, naphthalene and petroleum hydrocarbons in the groundwater at the Site.

29. In December 1989, Exxon Corporation submitted to plaintiff DEP a General Information Submission pursuant to the Environmental Cleanup Responsibility Act ("ECRA"), now known as the Industrial Site Recovery Act ("ISRA"), N.J.S.A. 13:1K-6 to -14. Exxon submitted the General Information Submission to plaintiff DEP pursuant to ECRA because it planned to sell the Exxon Property to the GATX Terminals Corporation.

30. In January 1990, Exxon Corporation submitted a Proposed Cleanup Plan to plaintiff DEP pursuant to ECRA because during Exxon Corporation's operational activities at the Exxon Property

petroleum products were discharged to the soil and groundwater at the Site.

31. On April 30, 1990, plaintiff DEP conditionally approved Exxon Corporation's January 1990 Proposed Cleanup Plan to pump and treat the contaminated groundwater by air stripping at the Site.

32. On July 13, 1990, Exxon Corporation sold the Exxon Property to GATX Terminals Corporation. GATX Terminals Corporation operated the Exxon Property as a bulk liquids storage and distribution terminal.

33. On February 27, 1993, a discharge of approximately 420 gallons of gasoline occurred at the Site. GATX Terminals Corporation executed a Memorandum of Agreement dated July 27, 2003 with plaintiff DEP concerning the February 27, 1993 discharge and excavated approximately 50 tons of soil contaminated with benzene, toluene, ethyl benzene and xylenes for off-site disposal.

34. On March 28, 1995, plaintiff DEP advised Exxon Corporation, based on a review of reports submitted by Exxon Corporation, that benzene, toluene, ethyl benzene, xylenes, naphthalene, methyl tertiary butyl ether (MTBE) and petroleum hydrocarbons at the Site exceeded plaintiff DEP's groundwater quality standards and free product was detected at the Site.

35. A Remedial Action Report dated January 12, 1998 submitted by Exxon Corporation to plaintiff DEP demonstrated that benzene, toluene, ethyl benzene, total xylenes, MTBE, naphthalene and lead

in the groundwater at the Site exceeded plaintiff DEP's groundwater quality standards.

36. On September 8, 2000, GATX Terminals Corporation sold the Exxon Property to Support Terminals Operating Partnership, LP, ("Support Terminals") d/b/a ST Services. ST Services operated the Exxon Property as a bulk liquids storage and distribution terminal. Plaintiff DEP determined that the sale of the Exxon Property by GATX Terminals Corporation to Support Terminals was not subject to ISRA requirements.

37. On January 2, 2001, defendant Exxon Mobil Corporation submitted a revised Remedial Action Workplan to plaintiff DEP for the Site.

38. On November 16, 2001, plaintiff DEP advised defendant Exxon Mobil Corporation that its revised Remedial Action Workplan was not accepted and was subject to additional requirements. Interim remedial measures, which consisted of extraction of the groundwater and placement into a vacuum truck with off-site disposal at wells with high levels of benzene and MTBE at the Site, were conceptually acceptable, subject to additional requirements.

39. In 2001, plaintiff DEP concluded that an above ground storage tank containing MTBE discharged MTBE at the Exxon Property where defendant Kinder Morgan's predecessor stored MTBE.

40. Plaintiff DEP has determined that defendant Exxon Mobil Corporation and defendant Kinder Morgan's predecessor have contributed to the groundwater contamination at the Site.

FIRST COUNT

Spill Act

41. The Plaintiffs repeat each allegation of paragraph nos. 1 through 40 above as though fully set forth in its entirety herein.

42. Each Defendant is a "person" within the meaning of N.J.S.A. 58:10-23.11b.

43. Except as otherwise provided in N.J.S.A. 58:10-23.11g.12, any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance that is discharged, shall be liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.(c).

44. Except as otherwise exempted under N.J.S.A. 58:10-23.11g.12, the discharge of hazardous substances is a violation of the Spill Act, for which any person who is the discharger of, or is in any way responsible for, any hazardous substance that is discharged, is strictly liable, jointly and severally, without regard to fault. N.J.S.A. 58:10-23.11g.c.(1).

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

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

47. The Defendants are the dischargers, or successors to the dischargers, of hazardous substances at the Exxon Property, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Exxon Property. N.J.S.A. 58:10-23.11g.c.(1).

48. The Defendants, as the successors to the owners of the Exxon Property at the time hazardous substances were discharged there, also are persons in any way responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate,

restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Exxon Property. N.J.S.A. 58:10-23.11g.c.(1).

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

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have

incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Exxon Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Exxon Property;
- c. Enter judgment against the Defendants, compelling the Defendants to perform any further cleanup of hazardous substances discharged at the Exxon Property, under plaintiff DEP's oversight;
- d. Enter judgment against the Defendants, jointly and severally, without regard to fault, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Exxon Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to compensate

the citizens of New Jersey for the lost value of any injured natural resource.

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

SECOND COUNT

51. The Plaintiffs repeat each allegation of paragraph nos. 1 through 50 above as though fully set forth in its entirety herein.

52. Each Defendant is a "person" within the meaning of N.J.S.A. 58:10A-31.

53. Except as otherwise exempted pursuant to N.J.S.A. 58:10A-6d. and p., it is unlawful for any person to discharge any pollutant except to the extent the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit issued by plaintiff Commissioner pursuant to the Water Pollution Control Act, or pursuant to a valid National Pollutant Discharge Elimination System permit issued pursuant to the federal Water Pollution Control Act, 33 U.S.C.A. §§1251 to - 1387. N.J.S.A. 58:10A-6a.

54. The unauthorized discharge of pollutants is a violation of the Water Pollution Control Act for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6a.

55. Plaintiff DEP has incurred, and will continue to incur, costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Exxon Property.

56. The costs and damages plaintiff DEP has incurred, and will incur, for the Site are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4).

57. Each Defendant's predecessors discharged pollutants at the Exxon Property, which discharges were neither permitted pursuant to N.J.S.A. 58:10A-6a., nor exempted pursuant to N.J.S.A. 58:10A-6d. or N.J.S.A. 58:10A-6p., and are liable, without regard to fault, for all costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Exxon Property. N.J.S.A. 58:10A-6a.

58. Pursuant to N.J.S.A. 58:10A-10c., plaintiff Commissioner may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10c.(1); for the reasonable costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10c.(2); any reasonable cost incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized

discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10c.(3); compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Exxon Property, N.J.S.A. 58:10A-10c.(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10c.(5). to N.J.S.A. 58:10A-10e. Further, each day the violation continues is a separate violation.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Commissioner prays that this Court:

- a. Permanently enjoin each Defendant by requiring the Defendants to remove, correct, or terminate the adverse effects upon water quality resulting from any unauthorized discharge of pollutants;
- b. Enter an order assessing the Defendants, without regard to fault, for the reasonable costs for any investigation, inspection, or monitoring survey, which led to

establishment of the violation, including the costs of preparing and litigating the case;

- c. Enter declaratory judgment against the Defendants, without regard to fault, assessing all reasonable costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;
- d. Enter an order assessing the Defendants, without regard to fault, for all reasonable costs incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Exxon Property;
- e. Enter declaratory judgment against the Defendants, without regard to fault, assessing all reasonable costs that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Exxon Property;
- f. Enter an order assessing the Defendants, without regard to fault, for all compensatory damages and other actual damages incurred for any natural resource of this State that has been, or may be, lost or destroyed as a result

of the unauthorized discharge of pollutants at the Exxon Property;

- g. Enter declaratory judgment against the Defendants, without regard to fault, assessing all compensatory damages and other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Exxon Property;
- h. Enter an order assessing the Defendants, without regard to fault, for the actual amount of any economic benefits they have accrued, including any savings realized from avoided capital or noncapital costs, the return they have earned on the amount of avoided costs, any benefits the Defendants have enjoyed as a result of a competitive market advantage, or any other benefit they have received as a result of having violated the Water Pollution Control Act;
- i. Enter declaratory judgment against the Defendants, without regard to fault, assessing the Defendants for the actual amount of any economic benefits that will accrue to them, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage

the Defendants have enjoyed, or any other benefit that will accrue to them as a result of having violated the Water Pollution Control Act;

j. Award plaintiff Commissioner her costs and fees in this action; and

k. Award plaintiff Commissioner such other relief as this Court deems appropriate.

THIRD COUNT

Public Nuisance

59. The Plaintiffs repeat each allegation of paragraph nos. 1 through 58 above as though fully set forth in its entirety herein.

60. Groundwater is natural resource of the State held in trust by the State for the benefit of the public.

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

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

63. As long as the groundwater remains contaminated due to the Defendants' predecessors' conduct, the public nuisance continues.

64. Until the groundwater is restored to its pre-injury quality, the Defendants are liable for the creation, and continued

maintenance, of a public nuisance in contravention of the public's common right to clean groundwater.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property;
- c. Enter judgment against the Defendants compelling the Defendants to abate the nuisance by performing any further cleanup of pollutants and hazardous substances discharged at the Exxon Property, under plaintiff DEP's oversight;

- d. Enter judgment against the Defendants, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- e. Award the Plaintiffs their costs and fees in this action; and
- f. Award the Plaintiffs such other relief as this Court deems appropriate.

FOURTH COUNT

Trespass

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

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

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

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property;
- c. Enter judgment against the Defendants compelling the Defendants to cease the trespass by performing any further cleanup of pollutants and hazardous substances discharged at the Exxon Property, under plaintiff DEP's oversight;

- d. Enter judgment against the Defendants, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Exxon Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- e. Award the Plaintiffs their costs and fees in this action; and
- f. Award the Plaintiffs such other relief as this Court deems appropriate.

ANNE MILGRAM
FIRST ASSISTANT ATTORNEY GENERAL
OF NEW JERSEY
Attorney for Plaintiffs

By: Louis G. Karagias
Louis G. Karagias
Deputy Attorney General

Dated: JUNE 25, 2007

DESIGNATION OF TRIAL COUNSEL

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

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

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

ANNE MILGRAM
FIRST ASSISTANT ATTORNEY GENERAL
OF NEW JERSEY
Attorney for Plaintiffs

By: *Louis G. Karagias*
Louis G. Karagias
Deputy Attorney General

Dated: *June 15, 2007*