

ANNE MILGRAM
FIRST ASSISTANT ATTORNEY GENERAL OF NEW JERSEY
Richard J. Hughes Justice Complex
25 Market Street
PO Box 093
Trenton, NJ 08625-0093
Attorney for Plaintiffs

By: Frank X. Cardiello
Deputy Attorney General
(609) 984-4863

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

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION and
THE ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION
FUND,

Plaintiffs,

v.

BFI WASTE SYSTEMS OF NEW
JERSEY, INC.; BAYER
CORPORATION; CHEVRON U.S.A.
INC.; CONSOLIDATED EDISON
COMPANY OF NEW YORK
INCORPORATED; DEGUSSA
CORPORATION; E.I. DU PONT DE
NEMOURS AND COMPANY; E. R.
SQUIBB & SONS, L.L.C.; EDISON
DISPOSAL COMPANY, INC.;
ENGINEERING PRECISION CASTING
COMPANY; EPEC POLYMERS, INC.;
ESSEX CHEMICAL CORPORATION;
FMC CORPORATION; FREEHOLD
CARTAGE, INC.; GERDAU
AMERISTEEL PERTH AMBOY INC.;
HATCO CORPORATION; HERCULES
INCORPORATED; HESS
CORPORATION; INTERNATIONAL
FLAVORS AND FRAGRANCES, INC.;

Civil Action

COMPLAINT

JERSEY CENTRAL POWER & LIGHT :
COMPANY; JOHNSON & JOHNSON;
KENNECOTT CORPORATION; :
KIMBERLY-CLARK CORPORATION;
MARC ASSOCIATES; MERCK & CO. :
INC.; PUBLIC SERVICE ELECTRIC
AND GAS COMPANY; REFILL FILTER :
CO. INC.; REPUBLIC SERVICES OF
NEW JERSEY, INC.; SHELL OIL :
COMPANY AND SENSIENT
TECHNOLOGIES CORPORATION, :

Defendants. :

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

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, and the common law, for reimbursement of the costs and damages they have incurred, and will incur, as a result of the discharge of hazardous substances at the Global Landfill Superfund site in the Town of Old Bridge, Middlesex County.

2. The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural

resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the 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 of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the site, and to compensate the citizens of New Jersey for the lost value of any injured natural resource.

THE PARTIES

3. 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.

4. 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.

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 BFI Waste Systems of New Jersey, Inc., formerly known as Browning-Ferris Industries of Elizabeth, N. J., Inc., is a corporation incorporated in the State of New Jersey with a principal place of business located at 75 Broad Avenue, Fairview, New Jersey.

7. Defendant Bayer Corporation, formerly Miles Inc., is a corporation organized under the laws of the State of Indiana, with a principal place of business located at 36 Columbia Road, P. O. Box 1910, Morristown, New Jersey 07962. Defendant Bayer Corporation is the successor to Mobay Chemical Corporation, who generated hazardous substances, certain of which were discharged at the Site.

8. Defendant Chevron U.S.A. Inc. is a corporation organized under the laws of the State of Pennsylvania with a principal place of business located at 6001 Bollinger Canyon Road, PO Box 6028, San Ramon, California.

9. Defendant Consolidated Edison Company of New York, Incorporated is a corporation organized under the laws of the State of New York, with a principal place of business located at 4 Irving Place, Room 1618S, New York, New York.

10. Defendant Degussa Corporation is a corporation organized under the laws of the State of Alabama, with a principal place of business in New Jersey located at 379 Interpace Parkway, P.O. Box 677, Parsippany, New Jersey 07054-0677. Defendant Degussa Corporation, formerly Creanova, Inc., is the successor to Huls America Inc., who generated hazardous substances, certain of which were discharged at the Site.

11. Defendant E.I. du Pont de Nemours and Company is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1007 Market Street, D13039, Wilmington, Delaware 19898.

12. Defendant E. R. Squibb & Sons, L.L.C., formerly Bristol-Myers Squibb Pharmaceutical Group, is a corporation organized under the laws of the State of Delaware, with a principal place of business located at Route 206 & Provinceline Road, Princeton, New Jersey 08540. Bristol-Myers Squibb Pharmaceutical Group was the successor to E. R. Squibb & Sons, Inc., who generated hazardous substances, certain of which were discharged at the Site.

13. Defendant Edison Disposal Company, Inc. is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1502 Aston Street, South Plainfield, New Jersey.

14. Defendant Engineering Precision Casting Company is a corporation organized under the laws of the State of New Jersey,

with a principal place of business located 952 Palmer Avenue, Middletown, New Jersey 07748.

15. Defendant Epec Polymers, Inc. is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1001 Louisiana Street, Houston, Texas, 77002-5089. Defendant Epec Polymers, Inc. is the successor to Tenneco Polymers, Inc., who generated hazardous substances, certain of which were discharged at the Site.

16. Defendant Essex Chemical Corporation is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 2030 Dow Center, Midland, Michigan 48674.

17. Defendant FMC Corporation is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1735 Market Street, Philadelphia, Pennsylvania 19103.

18. Defendant Freehold Cartage, Inc. is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 825 Highway 33, Freehold, New Jersey 07728.

19. Defendant Gerdau Ameristeel Perth Amboy Inc. is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 225 Elm Street, Perth Amboy, New Jersey 08862. Defendant Gerdau Ameristeel Perth Amboy

Inc., formerly Co-Steel Raritan, is the successor to Raritan River Steel Company, who generated hazardous substances, certain of which were discharged at the Site.

20. Defendant Hatco Corporation is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 1020 King George Post Road, Fords, New Jersey 08863.

21. Defendant Hercules, Incorporated is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1313 N. Market Street, Wilmington Delaware 19894-0001.

22. Defendant Hess Corporation is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 1185 Avenue of the Americas, New York, New York 10036. Defendant Hess Corporation is the successor to Amerada Hess (Port Reading) Corporation, who generated hazardous substances, certain of which were discharged at the Site.

23. Defendant International Flavors and Fragrances, Inc. is a corporation organized under the laws of the State of New Jersey, with a principal place of business in New Jersey located at 600 Highway 36, Hazlet, New Jersey, 07730.

24. Defendant Jersey Central Power & Light Company is a corporation organized under the laws of the State of New Jersey,

with a principal place of business located at 300 Madison Avenue, P.O. Box 1911, Morristown, New Jersey 07962-1911.

25. Defendant Johnson & Johnson is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at One Johnson and Johnson Plaza, New Brunswick, New Jersey 08933.

26. Defendant Kennecott Corporation is a corporation organized under the laws of the State of New York, and is the successor by merger to The Carborundum Company, Incorporated, a Delaware corporation, who generated hazardous substances, certain of which were discharged at the Site. Kennecott Corporation's principal offices are located at 745 7th Avenue, New York, New York 10119.

27. Defendant Kimberly-Clark Corporation is a corporation organized under the laws of the State of Delaware, with a principal place of business located at PO Box 619100, Dallas, Texas 75261-9100.

28. Defendant Marc Associates is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 171 Matawan Avenue, Matawan, New Jersey.

29. Defendant Merck & Co., Inc. is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at One Merck Drive, Whitehouse Station, New Jersey 08889-0100.

30. Defendant Public Service Electric and Gas Company is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 80 Park Plaza, Newark, New Jersey.

31. Defendant Refill Filter Co., Inc. is a corporation organized under the laws of the State of New Jersey with a principal place of business located at 330 Lehigh Avenue, Perth Amboy, New Jersey. Refill Filter Co. Inc. is the successor to Refill Paper Co.

32. Defendant Republic Services of New Jersey, Inc., is a corporation organized under the laws of the State of Delaware, with a principal place of business located at 92 Baekeland Avenue, Middlesex, New Jersey 08901. Defendant Republic Services of New Jersey, Inc. is the successor to Rapid Disposal Service, who generated hazardous substances, certain of which were discharged at the Site.

33. Defendant Shell Oil Company is a corporation organized under the laws of the State of Delaware, with a principal place of business located at N. Delaware Street, Paulsboro, New Jersey 08066.

34. Defendant Sensient Technologies Corporation is a corporation organized under the laws of the State of Wisconsin, with a principal place of business in New Jersey located at 31-35 Styertowne Road, Clifton, New Jersey 07012. Defendant Sensient

Technologies Corporation is the successor to Universal Foods Corporation, who generated hazardous substances, certain of which were discharged at the Site.

NATURAL RESOURCES

35. 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.

36. The natural resources of this State have been injured as a result of the discharge of hazardous substances at the Global Landfill Superfund site.

AFFECTED NATURAL RESOURCES

Ground Water

37. 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.

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

39. 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.

40. 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.

41. 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.

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

Wetlands

43. Wetlands are a critical example of New Jersey's ecological resources, which include land and aquatic resources comprised of unique and complex ecosystems.

44. New Jersey has approximately 730,000 acres of freshwater wetlands, and 250,000 acres of coastal wetlands.

45. Wetlands can sustain a wide diversity of plants and animals that are essential in a healthy food chain.

46. Wetlands perform many additional functions, including improvement of water quality, sediment trapping, groundwater recharge, shoreline protection, and protecting lands from flooding or erosion.

GENERAL ALLEGATIONS

47. The Site consists of approximately 58 acres of real property located off Ernston Road in the Town of Old Bridge,

Middlesex County, New Jersey, this property being also known and designated as Block 4185, Lots 10, 25.12 and 26, on the Tax Map of Old Bridge ("the Global Landfill Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the Global Landfill Site" or "the Site").

48. From 1968 through 1984, municipal waste, commercial waste, industrial waste and "hazardous substances," as defined in N.J.S.A. 58:10-23.11b were accepted for disposal at the Global Landfill Property. These wastes were "discharged" at the Global Landfill Property within the meaning of N.J.S.A. 58:10-23.11b.

49. Defendants Bayer Corporation, Chevron U.S.A. Inc., Consolidated Edison Company of New York Incorporated, Degussa Corporation, E.I. du Pont de Nemours and Company, E. R. Squibb & Sons, L.L.C., Engineering Precision Casting Company, Epec Polymers, Inc., Essex Chemical Corporation, FMC Corporation, Gerdau Ameristeel Perth Amboy Inc., Hatco Corporation, Hercules Incorporated, Hess Corporation, International Flavors and Fragrances, Inc., Jersey Central Power & Light Company, Johnson & Johnson, Kennecott Corporation, Kimberly-Clark Corporation, Marc Associates, Merck & Co. Inc., Public Service Electric and Gas Company, Refill Filter Co. Inc., Shell Oil Company and Sensient Technologies Corporation (the "Generator Defendants") generated wastes containing hazardous substances, which wastes were deposited at the Global Landfill Property. These wastes included oil sludge

and oil-contaminated soils, insulating materials, drummed wastes, polymers and monomers, pigments, paint wastes, acids, furnace flue dust, sewage sludge, incinerator ash, filter cake containing solvents, waste water treatment sludge, polyethylacrylate solid waste, copolymer of vinylidenes, chloride and methacrylate solid scrap, volatile organic compounds ("VOCs"), heavy metals and other industrial and commercial wastes containing hazardous substances.

50. The Generator Defendants generated wastes that were discharged at the Global Landfill Property, which wastes contained various hazardous substances, including asbestos, petroleum, xylene, toluene, benzene, carbon tetrachloride, ethylbenzene, ethylene dichloride, bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, naphthalene, di-n-butylphthalate, triethylene diacrylate, methylene chloride, diethylcyclohexylamine, polyethylene, VOCs and metals.

51. Defendants BFI Waste Systems of New Jersey, Inc., Edison Disposal Company, Freehold Cartage, Inc. and Republic Services of New Jersey, Inc., (the "Transporter Defendants") transported and disposed of wastes at the Global Landfill Property, which wastes contained hazardous substances, including asbestos, petroleum, xylene, toluene, benzene, carbon tetrachloride, ethylbenzene, ethylene dichloride, bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, naphthalene, di-n-butylphthalate, triethylene diacrylate,

methylene chloride, diethylcyclohexylamine, polyethylene, VOCs and metals.

52. Remedial Investigations conducted by DEP, including analyses of soil, ground water and surface water taken from the Global Landfill Superfund Site, have revealed that hazardous substances, as defined by N.J.S.A. 58:10-23.11b, are present at the Site and threaten to migrate from the Site to surrounding soils, surface water and ground water.

53. In March 1989, the United States Environmental Protection Agency ("EPA") added the Global Landfill Site to the National Priorities List ("NPL") promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. ("CERCLA" or "Superfund"). The Site has been designated a State-lead site under the Superfund program with DEP acting as lead agency.

54. On August 18, 1989, pursuant to N.J.S.A. 58:10-23.11f.a., DEP issued Global Landfill Directive and Notice to Insurers Number One to the Defendants and other parties it believed at that time to be responsible for the hazardous substances discharged at the Global Landfill Property, directing those parties to pay to DEP \$1,500,000 for the remedial investigation/feasibility study ("RI/FS") of the Site.

55. In September 1990, DEP and a number of Defendants entered into an agreement to arrange for the payment of the RI/FS.

56. On March 21, 1991, pursuant to the Spill Act, DEP issued Global Landfill Directive and Notice to Insurers Number Two to the Defendants, directing them to fund the design, construction and operation of DEP's preferred alternative for closure of the Site (Operable Unit One or OU-1). Directive Two also required these parties to fund the RI/FS with regard to groundwater concerns (Operable Unit Two or OU-2) and to implement any required remedial action determined in the Record of Decision issued for the Site.

57. In June 1991, Directive One and that portion of Directive Two relating to the groundwater RI/FS were satisfied by various Defendants.

58. Sampling results from the remedial investigation revealed the presence of various hazardous substances at concentrations exceeding plaintiff DEP's cleanup criteria in the ground water and soils at the Site, which include volatile organic compounds, semi-volatile organic compounds, pesticides, metals, inorganic compounds, polycyclic aromatic hydrocarbons, and PCBs.

59. On September 11, 1991, the Regional Administrator of Region II of EPA issued a Record of Decision (hereinafter "ROD-1"), selecting a final remedial action plan for closure of the Site.

60. The remedial action plaintiff DEP has approved for the Site primarily provides for: capping of the landfill with a modified hazardous waste cap; slope stability enhancement and construction and operation of a gas maintenance system.

61. In August 1993, the Defendants entered into a Consent Decree with DEP, whereby the Defendants agreed to implement the remedy set forth in ROD-1.

62. On September 29, 1997, the Regional Administrator of Region II of EPA issued a second Record of Decision selecting a final remedial action plan for Operable Unit Two (hereinafter "ROD-2").

63. The remedial action plaintiff DEP has approved for ROD-2 for the Site primarily provides for localized removal of contaminants and long-term monitoring of the ground water and wetlands.

64. Although the Defendants have initiated some preliminary remedial measures at the Site, the ground water, soils and wetlands remain contaminated.

65. The Defendants have not committed to implement the remedial measures approved by plaintiff DEP in ROD-2.

FIRST COUNT

Spill Act

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

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

68. 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).

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

70. Plaintiff DEP has incurred, and may continue to incur, costs as a result of the discharge of hazardous substances at the Global Landfill Property.

71. Plaintiff Administrator has approved, and may continue to approve, appropriations for the Site.

72. The Plaintiffs also 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 Global Landfill Property.

73. 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.

74. The Defendants, as generators and transporters of hazardous substances, are dischargers of hazardous substances or persons in any way responsible for hazardous substances at the Global Landfill 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 Global Landfill Property. N.J.S.A. 58:10-23.11g.c.(1).

75. 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).

76. 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 Global Landfill 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 Global Landfill Property;
- c. Enter judgment against the Defendants, compelling the Defendants to implement the remedial measures approved by the plaintiff DEP in ROD-2;

- 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 of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Global Landfill Property, 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

Public Nuisance

77. The Plaintiffs repeat each allegation of paragraph nos. 1 through 76 above as though fully set forth in its entirety herein.

78. Ground water and wetlands are natural resources of the State held in trust by the State for the benefit of the public.

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

80. The groundwater, surface water and wetlands 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 these natural resources.

81. As long as the ground water, surface water and wetlands remain contaminated due to the Defendants' conduct, the public nuisance continues.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

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

- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Global Landfill Property;
- c. 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 of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Global Landfill Property, compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- d. Award the Plaintiffs their costs and fees in this action;
and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

THIRD COUNT

Trespass

83. The Plaintiffs repeat each allegation of paragraph nos. 1 through 82 above as though fully set forth in its entirety herein.

84. Ground water, surface water and wetlands are natural resources of the State held in trust by the State for the benefit of the public.

85. The Defendants are liable for trespass, and continued trespass, since hazardous substances were discharged at Global Landfill.

86. As long as the ground water, surface water and wetlands remain contaminated, the Defendants' trespass continues.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

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

a result of the discharge of hazardous substances at the Global Landfill Property;

- c. 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 of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at Global Landfill, compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- d. Award the Plaintiffs their costs and fees in this action; and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

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

By: Frank X. Cardiello
Frank X. Cardiello
Deputy Attorney General

Dated:

June 25, 2007

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Frank X. Cardiello, 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: Frank X. Cardiello
Frank X. Cardiello
Deputy Attorney General

Dated:

June 25, 2007