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

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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	
	:	<u>Civil Action</u>
	:	COMPLAINT
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
GLOUCESTER TITANIUM COMPANY, INC. and TCI PACIFIC COMMUNICATIONS, INC.,	:	
	:	
Defendants.	:	

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Plaintiffs New Jersey Department of Environmental Protection ("DEP"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner"), 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, 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 hazardous substances at the Gloucester City Titanium site in Gloucester City, Camden 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 pollutants and hazardous substances at the Gloucester City Titanium 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 Gloucester City Titanium 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

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 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.

6. 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.

7. Defendant Gloucester Titanium Company, Inc. ("Gloucester Titanium") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 51 West 52nd Street, New York, New York 10019.

8. Defendant TCI Pacific Communications, Inc. ("TCI"), is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 5619 DTC Parkway, Englewood, Colorado 80111.

9. In June 1974, Gulf and Western, Inc. ("Gulf & Western"), a Michigan corporation, changed its name to Paramount Communications, Inc. ("Paramount").

10. On or about January 3, 1995, Paramount merged with defendant TCI, with defendant TCI being the surviving entity.

11. Defendant TCI is the successor-in-interest to Paramount and Gulf and Western.

#### NATURAL RESOURCES

12. 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.

13. 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.

14. 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 Gloucester City Titanium site.

#### AFFECTED NATURAL RESOURCE

##### Ground Water

15. 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.

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

17. 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.

18. 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.

19. 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.

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

#### GENERAL ALLEGATIONS

21. The Gloucester Titanium site consists of approximately 33 acres of real property located at 851 Water Street, Gloucester City, Camden County, this property being also known and designated as Block 110, Lots 1, 10, 11, 12, 13, 18 and 19, and Block 120, Lot 1, on the Tax Map of Gloucester City ("the GCT Property"), and all other areas where any hazardous substance or pollutants discharged there has become located (collectively, "the Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. 007115.

22. The GCT Property is located in an industrial section of Gloucester City.

23. In 1956, New Jersey Zinc Company, a Delaware corporation, acquired the GCT Property from American Cyanamid Company ("American Cyanamid"), an active corporation now known as Wyeth Holdings Corporation.

24. In February 1966, American Cyanamid sold the GCT Property to Gulf and Western.

25. On or about July 1, 1982, Paramount, formerly Gulf and Western, sold the GCT Property to defendant Gloucester Titanium Company, which, as of the filing of this Complaint, was the owner of record of the GCT Property.

26. During the time that Gulf and Western, Paramount, and defendant Gloucester Titanium, owned the GCT Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which hazardous substances included antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, zinc and radionuclides. The radionuclides originated in the titanium bearing ore used to produce titanium dioxide pigment.

27. From in or about 1946 though 1956, American Cyanamid began producing titanium dioxide at the GCT Property.

28. In 1956, American Cyanamid sold the GCT Property and manufacturing facility to New Jersey Zinc, which continued manufacturing titanium dioxide at the GCT Property until being acquired by Gulf & Western ten years later.

29. From 1966 through 1983, Gulf & Western, through an unincorporated subsidiary, Gulf and Western Natural Resources Group, which conducted business at the GCT Property as defendant Gloucester Titanium, continued manufacturing titanium dioxide at the GCT Property.

30. No manufacturing has occurred at the GCT Property since 1983.

31. During the time that defendants Gloucester Titanium, TCI, and their predecessors-in-interest, operated a manufacturing plant at the GTC Property, hazardous substances were discharged there, which substances included metals and radionuclides.

32. Also during the time that defendants Gloucester Titanium, TCI, and their predecessors-in-interest, operated a manufacturing facility at the GCT Property, "pollutants," as defined in N.J.S.A. 58:10A-3n., were "discharged" there within the meaning of N.J.S.A. 58:10A-3e., which pollutants included metals and radionuclides.

33. From December 1979 through 1986, plaintiff DEP investigated the Site.

34. Sampling performed during these investigations revealed the presence of various hazardous substances and pollutants at concentrations exceeding plaintiff DEP's cleanup criteria in the ground water, which substances and pollutants included antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel and zinc, as well as radionuclides.

35. These findings led plaintiff DEP and Gulf and Western, then known as Paramount, to enter into an Administrative Consent Order on August 7, 1981 ("August 1981 ACO"), which required Gulf and Western to obtain a New Jersey Pollutant Discharge Elimination System ("NJPDDES") permit for effluent discharges from its



manufacturing facility, and to implement a system to neutralize waste acids from its effluent. The NJPDES permit also allowed Gulf and Western to close the sludge treatment area and settling basin on the GCT Property.

36. Gulf and Western, then also known as Paramount, subsequently performed a remedial investigation pursuant to N.J.S.A. 58:10-23.11f.a. and N.J.A.C. 7:26E, to determine the nature and extent of the contamination at the Site, which Gulf and Western completed in January 1995.

37. Gulf and Western later submitted a proposed remedial action workplan to plaintiff DEP, which plaintiff DEP approved.

38. The remediation plaintiff DEP approved for the Site primarily provided for the capping of those soils containing radionuclides, and a natural attenuation remedy for the contaminated ground water.

39. Gulf and Western, which in 1995 had merged in to defendant TCI, eventually completed the capping of the affected areas of the Site.

40. On June 14, 1999, plaintiff DEP issued Gulf and Western a No Further Action Letter ("June 1999 NFA") pursuant to N.J.S.A. 58:10B-13.1.

41. The June 1999 NFA provided that Gulf and Western need not conduct any further remediation of the soils or ground water at the Site beyond sealing the existing monitoring wells, establishing a

Classification Exception Area ("CEA") and Well Restriction Area ("WRA"), and filing a deed notice with the County.

42. Gulf and Western subsequently sealed the wells, filed the requisite deed notice, and established the CEA/WRA, which restricts groundwater usage and the installation of potable wells within its boundaries.

43. The CEA/WRA that Gulf and Western established, and which plaintiff DEP approved, covers approximately 33 acres, and has an indeterminate duration beginning in June 1999.

44. Although defendant TCI, as, or through, its predecessor-in-interest, Gulf and Western, has undertaken the remediation of the Site, the groundwater and soil contamination continues.

#### FIRST COUNT

##### Spill Act

45. The Plaintiffs repeat each allegation of paragraph nos. 1 through 44 above as though fully set forth in its entirety herein.

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

47. 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).

48. 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).

49. Plaintiff DEP has incurred, or may incur, costs as a result of the discharge of hazardous substances at the GCT Property.

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

51. Plaintiffs DEP and Administrator 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 GCT Property.

52. The costs and damages plaintiffs DEP and Administrator 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.

53. Defendant Gloucester Titanium and TCI are, or are the successors-in-interest to, dischargers of hazardous substances at the GCT 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 plaintiffs DEP and Administrator 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 GCT Property. N.J.S.A. 58:10-23.11g.c.(1).

54. Defendants Gloucester Titanium and TCI, as the owners, or as the successors-in-interest to the owners, of the GCT Property at the time hazardous substances were discharged there are also 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 plaintiffs DEP and Administrator 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 GCT Property. N.J.S.A. 58:10-23.11g.c.(1).

55. 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).

56. 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 plaintiffs DEP and Administrator, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that plaintiffs DEP and Administrator have incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the GCT 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 plaintiffs DEP and Administrator will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the GCT Property;

- c. Enter judgment against defendant TCI, compelling defendant TCI to perform any further cleanup of hazardous substances discharged at the GCT 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 GCT 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 plaintiffs DEP and Administrator their costs and fees in this action; and
- f. Award plaintiffs DEP and Administrator such other relief as this Court deems appropriate.

SECOND COUNT

Water Pollution Control Act

57. The Plaintiffs repeat each allegation of paragraph nos. 1 through 56 above as though fully set forth in its entirety herein.

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

59. 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.

60. 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.

61. Plaintiff DEP has incurred, and or will incur, costs as a result of the discharge of pollutants at the GCT Property.

62. Plaintiff DEP also 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 GCT Property.

63. 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).

64. Defendants Gloucester Titanium and TCI are, or are the successors-in-interest to, persons that discharged pollutants at the GCT 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 GCT Property. N.J.S.A. 58:10A-6a.

65. 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); for 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



for 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 GCT Property, N.J.S.A. 58:10A-10c.(4); and for 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).

PRAYER FOR RELIEF

**WHEREFORE**, plaintiff Commissioner prays that this Court:

- a. Permanently enjoin the Defendants 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 GCT 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 GCT 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 GCT 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 GCT 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

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

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

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

69. 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.

70. As long as the ground water remains contaminated due to the Defendants' conduct, and that of their predecessors-in-interest, the public nuisance continues.

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

PRAYER FOR RELIEF

**WHEREFORE**, plaintiffs DEP and Administrator pray that this

Court:

- a. Order the Defendants to reimburse plaintiffs DEP and Administrator for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that plaintiffs DEP and Administrator have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the GCT 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 plaintiffs DEP and Administrator will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the GCT Property;
- c. Enter judgment against defendant TCI, compelling defendant TCI to abate the nuisance by performing any further cleanup of pollutants and hazardous substances discharged at the GCT 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 GCT 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 plaintiffs DEP and Administrator their costs and fees in this action; and
- f. Award plaintiffs DEP and Administrator such other relief as this Court deems appropriate.

#### FOURTH COUNT

##### Trespass

72. The Plaintiffs repeat each allegation of paragraph nos. 1 through 71 above as though fully set forth in its entirety herein.

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

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

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

PRAYER FOR RELIEF

**WHEREFORE,** plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse plaintiffs DEP and Administrator for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that plaintiffs DEP and Administrator have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the GCT 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 plaintiffs DEP and Administrator will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the GCT Property;
- c. Enter judgment against defendant TCI, compelling defendant TCI to cease the trespass by performing any further cleanup of pollutants and hazardous substances discharged at the GCT 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 GCT 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 plaintiffs DEP and Administrator their costs and fees in this action; and
- f. Award plaintiffs DEP and Administrator such other relief as this Court deems appropriate.

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

By: Edward Devine  
Edward Devine  
Deputy Attorney General

Dated: 6/26/07

DESIGNATION OF TRIAL COUNSEL



Pursuant to R. 4:25-4, the Court is advised that Edward Devine, 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: Edward Devine  
Edward Devine  
Deputy Attorney General

Dated: 6/26/07