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SUPERIOR COURT OF NEW JERSEY
SOMERSET COUNTY
2004 DEC 27 PM 2:18
DEPUTY CLERK
CIVIL DIVISION

By: Mary Ellen Halloran
Deputy Attorney General
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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - SOMERSET COUNTY
DOCKET NO. *Som-L-1885-04*

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

Civil Action

Plaintiffs,

COMPLAINT

v.

HIGGINS DISPOSAL, INC.;
ESTATE OF CLIFFORD HIGGINS, SR.;
LISBETH HIGGINS, Individually;
COVINO INDUSTRIAL DISPOSAL
SERVICE, INC.; ANGELO COVINO,
Individually; CHARLES R. COVINO,
Individually; MIDCO WASTE SYSTEMS
(f/k/a Middlesex Carting
Corporation, Inc.);
REPUBLIC SERVICE OF NEW JERSEY,
INC. (d/b/a Midco Waste Systems);
BERNARD DINARDI, Individually;
ANDREW DINARDI, Individually;
CERTIFIED LABORATORIES OF
NEW JERSEY, INC. (a division of
NCH Corp.); CHEMSEARCH
CORPORATION, INC., (a division of
NCH Corp.); MOHAWK LABORATORIES
OF NEW JERSEY, INC.; NCH
CORPORATION; JOHN C. DOLPH
COMPANY; and WYETH HOLDINGS CORP.
(f/k/a American Cyanamid Company),

Defendants. :

Plaintiffs New Jersey Department of Environmental Protection ("DEP") and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "the Plaintiffs"), having their principal office 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, N.J.S.A. 58:10-23.11 to -23.24 ("the Spill Act"), and the common law, for reimbursement of the cleanup and removal costs they have incurred, and will incur, as a result of the discharge of hazardous substances at the Higgins Farm Superfund site in Franklin Township, Somerset County, New Jersey. 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 Higgins Farm Superfund site, and to compel 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 Higgins Farm Superfund site.

THE PARTIES

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

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

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

5. Defendant Higgins Disposal, Inc. ("Higgins Disposal"), was, at all times relevant to this Complaint, a corporation organized under the laws of the State of New Jersey, with its last known principal place of business located at 121 Laurel Avenue, Franklin Township, New Jersey. 08528

6. Defendant Estate of Clifford Higgins, Sr., is the estate of Clifford Higgins, Sr., an individual who died intestate on November 27, 1997, and whose last known dwelling or usual place of abode was 121 Laurel Avenue, Franklin Township, New Jersey.

7. Defendant Lisbeth Higgins is an individual whose dwelling or usual place of abode is 121 Laurel Avenue, Franklin Township, New Jersey. Defendant Lisbeth Higgins is the widow of Clifford Higgins, Sr.

8. Clifford Higgins, Sr. and defendant Lisbeth Higgins were, at all times relevant to this Complaint, officers of defendant Higgins Disposal, during which time, Clifford Higgins, Sr. was responsible for the day-to-day operations of defendant Higgins Disposal.

9. Defendant Covino Industrial Disposal Service, Inc. ("Covino Industrial"), is a corporation organized under the laws of the State of New Jersey, with a last known principal place of business located at 521 Cozzens Lane, North Brunswick, New Jersey.

10. Defendant Angelo Covino is an individual whose dwelling or usual place of abode is 10 Carter Brook Lane, Princeton, New Jersey.

11. Defendant Charles Richard Covino, is an individual whose dwelling or usual place of abode is 3201 NW 23rd Court, Boca Raton, Florida.

12. Defendants Angelo Covino and Charles Richard Covino were, at all times relevant to this Complaint, officers of defendant Covino Industrial.

13. Defendant Midco Waste Systems, formerly known as Middlesex Carting Corporation (collectively, "Midco"), is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 5 Industrial Drive, New Brunswick, New Jersey.

14. Defendant Republic Service of New Jersey, Inc. ("Republic Service"), the successor to defendant Midco, is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 110 SE Sixth Street, Fort Lauderdale, Florida.

15. Defendant Andrew Dinardi is an individual whose dwelling or usual place of abode is 25 Lake Drive, New Brunswick, New Jersey.

16. Defendant Bernard Dinardi is an individual whose dwelling or usual place of abode is 25 Lake Drive, North Brunswick, New Jersey.

17. Defendants Andrew Dinardi and Bernard Dinardi are, or were, at all times relevant to this Complaint, officers of defendant Midco, then known as Middlesex Carting.

18. In or about 1985, defendant Midco, then known as Middlesex Carting, and defendant Covino Industrial acquired the

assets of defendant Higgins Disposal, and continued to engage in the same, or substantially the same, business activities as defendant Higgins Disposal.

19. Defendants Angelo Covino, Charles Richard Covino, Andrew Dinardi and Bernard Dinardi are, or were, at all times relevant to this Complaint, responsible for the day-to-day operations of defendant Higgins Disposal after defendants Midco, then known as Middlesex Carting, and Covino Industrial acquired defendant Higgins Disposal's assets in or about 1985.

20. Defendant Certified Laboratories of New Jersey, Inc. ("Certified Laboratories"), is a corporation organized under the laws of the State of Texas, with a principal place of business located at 1600 Northgate, Irving, Texas.

21. Defendant Chemsearch Corporation, Inc. ("Chemsearch"), also known as National Chemsearch, Inc., is a corporation organized under the laws of the State of Texas, with a principal place of business located at 34 Stouts Lane, Monmouth Junction, New Jersey.

22. Defendant Mohawk Laboratories of New Jersey, Inc. ("Mohawk"), is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 34 Stouts Lane, Monmouth Junction, New Jersey.

23. Defendant NCH Corporation ("NCH") is a corporation organized under the laws of the State of Delaware, with a principal

place of business located at 34 Stouts Lane, Monmouth Junction, New Jersey.

24. Defendants Certified Laboratories, Chemsearch and Mohawk laboratories are, or were, at all times relevant to this complaint, divisions of defendant NCH.

25. Defendant John C. Dolph Company ("Dolph") is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 320 New Road, Monmouth Junction, New Jersey.

26. Defendant FMC Corporation ("FMC") 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.

27. Defendant Wyeth Holdings Corporation ("Wyeth"), formerly known until 2002 as American Cyanamid Company, is a corporation organized under the laws of the State of Maryland, with a principal place of business located at Five Giralda Farms, Madison, New Jersey.

AFFECTED NATURAL RESOURCE

Groundwater

28. 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.

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

30. Ground water provides base flow to streams, and influences surface water quality and wetland ecology and the health of the aquatic ecosystem.

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

32. Ground water and the other natural resources of the State are unique resources that support the State's tourism industry, which helps sustain the State's economy.

33. There are more than 6,000 contaminated sites in New Jersey that have confirmed groundwater contamination with hazardous substances.

GENERAL ALLEGATIONS

34. The Higgins Farm Superfund site consists of approximately 75 acres of real property located on County Road 518, Franklin Township, Somerset County, New Jersey, this property being also known and designated as Block 5.02, Lots 26.01 and 26.01Q, on the Tax Map of Franklin Township ("the Higgins Farm Property"), and all other areas where any hazardous substance discharged there has become come to be located (collectively, "the Site"), which

plaintiff DEP has designated as Site Remediation Program Interest No. G000005807.

35. From 1958 through November 1997, defendant Lisbeth Higgins owned the Higgins Farm Property with her husband, Clifford Higgins, Sr.

36. Clifford Higgins, Sr. died in November 1997, leaving defendant Lisbeth Higgins as the sole owner of the Higgins Farm Property, which she continues to own as of the filing of this Complaint.

37. During the time Clifford Higgins, Sr. and defendant Lisbeth Higgins owned the Higgins Farm Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, chlorobenzene, xylene, tetrachloroethylene, and other volatile and semi-volatile organic compounds, as well as metals, including beryllium, copper, iron, lead and nickel.

38. From the 1960's until 1985, defendant Higgins Disposal Services transported and disposed of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., at the Higgins Farm Property, certain of which were "discharged" at the Higgins Farm Property within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene, chlorobenzene, xylene, tetrachloroethylene, and

other volatile and semi-volatile organic compounds, as well as metals, including beryllium, copper, iron, lead and nickel.

39. At various times from the 1960s through 1985, defendants Certified Laboratories, Chemsearch, Dolph, FMC, Mohawk Laboratories, and Wyeth, generated "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" at the Higgins Farm Property within the meaning of N.J.S.A. 58:10-23.11b. which substances included benzene, chlorobenzene, xylene, tetrachloroethylene, and other volatile and semi-volatile organic compounds, as well as metals, including beryllium, copper, iron, lead and nickel.

40. Various hazardous substances defendants Certified Laboratories, Chemsearch, Dolph, FMC, Mohawk Laboratories, and Wyeth, generated were similar to those detected in the soils and ground water at the Site.

41. In December 1985, plaintiff DEP began investigating the Higgins Farm Property after discovering elevated concentrations of chlorobenzene, a hazardous substance, in a nearby residential potable well.

42. During its investigation, plaintiff DEP discovered approximately 50 drums and other containers containing hazardous substances buried at the Higgins Farm Property, which drums and containers were located approximately 40 yards from the contaminated well.

43. Clifford Higgins, Sr., removed the drums and containers plaintiff DEP discovered, the liquids in which were contaminated with various hazardous substances, including chlordane, naphthalene, and arsenic.

44. Plaintiff DEP also found that the pit from which Clifford Higgins, Sr. removed the drums and containers was contaminated with various hazardous substances, including the pesticides pentachlorophenol, dieldrin and chlordane.

45. Plaintiff DEP subsequently discovered that additional potable wells in the vicinity of the Higgins Farm Property were contaminated and installed point-of-entry treatment systems for the affected wells.

46. In 1989, the United States Environmental Protection Agency ("EPA") placed the Site on the National Priorities List ("NPL"), 40 C.F.R. Part 300, Appendix B. The NPL, which was established pursuant to Section 105(a) of CERCLA, 42 U.S.C.A. §9605(a), is a list EPA promulgates of hazardous waste sites that pose the greatest threat to the human health and safety, and the environment.

47. From 1990 through 1992, EPA and DEP conducted a remedial investigation pursuant to Section 104 of CERCLA, 42 U.S.C.A. §9604, to determine the nature and extent of the contamination at the Site.

48. Sampling results obtained during the remedial investigation revealed that the soils and groundwater at the Site were contaminated with various hazardous substances, including tetrachloroethylene, trichloroethane, chlorobenzene, benzene, and other volatile and semi-volatile organic compounds.

49. In 1990, EPA released a Focused Feasibility Study and Plan pursuant to 42 U.S.C.A. §9604, in which EPA recommended extending the municipal water supply to the affected residences in the vicinity of the Higgins Farm Property.

50. In March 1990, EPA issued an administrative order to Clifford Higgins, Sr. and defendant Lisbeth Higgins pursuant to 42 U.S.C.A. §9606, ordering Clifford Higgins, Sr. and defendant Lisbeth Higgins to extend the proposed water line to the affected residences in the vicinity of the Higgins Farm Property.

51. Clifford Higgins, Sr. and defendant Lisbeth Higgins did not comply with EPA's March 1990 administrative order.

52. In September 1990, EPA, with plaintiff DEP's concurrence, issued the first Record of Decision ("1990 ROD") for the Site, in which EPA selected the preferred interim remedy for the potable well contamination.

53. The interim remedy EPA selected in the 1990 ROD primarily provided for the extension of the municipal water supply system to the affected residences in the vicinity of the Higgins Farm Property, which EPA and plaintiff DEP completed in 1993.

54. In July 1992, plaintiff DEP issued a Spill Act directive ("1992 Directive") to Clifford Higgins, Sr. and defendant Lisbeth Higgins pursuant to N.J.S.A. 58:10-23.11f.a., directing Clifford Higgins, Sr. and defendant Lisbeth Higgins to pay plaintiff DEP for its share of the costs for the remedy EPA selected in the 1990 ROD.

55. Clifford Higgins, Sr. and defendant Lisbeth Higgins subsequently informed plaintiff DEP that they were financially unable to comply with the 1992 Directive.

56. In 1992, EPA located more buried drums and containers at the Higgins Farm Property, 61 of which EPA removed, and, later in 1992, removed an additional 92 buried drums and containers, as well as contaminated soils, from the Higgins Farm Property.

57. In September 1992, EPA, with plaintiff DEP's concurrence, issued a second Record of Decision ("1992 ROD") for the Site, in which EPA documented and explained the preferred remedy for the ground water contamination at the Site.

58. The remedy EPA selected in the 1992 ROD primarily provided for the construction and operation of an on-site groundwater remediation system to pump and treat the contaminated ground water.

59. Between 1992 and 1996, EPA excavated more than 2,000 tons of soils contaminated with volatile and semi-volatile organic compounds and metals from the Higgins Farm Property, which EPA disposed of off-site.

60. In 1995, EPA located yet more buried containers and conducted a third removal action, which included removal of drums and laboratory-size containers, bringing the total number of excavated drums and containers to 224.

61. EPA and plaintiff DEP completed the construction of the groundwater treatment system in 1997, and presently are operating and maintaining the system using public funds.

62. Although EPA and plaintiff DEP have undertaken the remediation of the Site using public funds, the groundwater contamination continues.

FIRST COUNT

Spill Act

63. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 62 above, as though fully set forth in its entirety herein.

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

65. Plaintiff DEP has incurred, and will continue to incur, costs as a result of the discharge of hazardous substances at the Higgins Farm Property.

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

67. The Plaintiffs also have incurred, and will continue to incur, costs and damages, including lost use 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 Higgins Farm Property.

68. 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.

69. Defendants Higgins Disposal, Midco, Covino Industrial, Republic Service, Angelo and Charles Covino, and Bernard and Andrew Dinardi, are, or are the successors to, the dischargers of hazardous substances at the Higgins Farm Property, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost use 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 Higgins Farm Property. N.J.S.A. 58:10-23.11g.c.(1).

70. Defendants Estate of Clifford Higgins, Sr. and Lisbeth Higgins, as the owners, or successors to the owners, of the Higgins Farm Property at the time hazardous substances were discharged there, are persons otherwise 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 use 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 Higgins Farm Property. N.J.S.A. 58:10-23.11g.c.(1).

71. Defendants Certified Laboratories, Chemsearch, Dolph, FMC, Mohawk Laboratories, and Wyeth, are, or are the successors to, the generators of hazardous substances, certain of which were transported to, and discharged at, the Higgins Farm Property, and, thus, are persons otherwise 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 use 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 Higgins Farm Property. N.J.S.A. 58:10-23.11g.c.(1).

72. 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).

73. 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 use 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 Higgins Farm 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 use 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 Higgins Farm Property;

- c. Order defendants Estate of Clifford Higgins, Sr. and Lisbeth Higgins to reimburse the Plaintiffs, jointly and severally, without regard to fault, in an amount equal to three times the cleanup and removal costs the Plaintiffs have incurred for the Site;
- d. Enter declaratory judgment against defendants Estate of Clifford Higgins, Sr. and Lisbeth Higgins, jointly and severally, without regard to fault, in an amount equal to three times any cleanup and removal costs that the Plaintiffs will incur for the Site;
- e. Enter judgment against the Defendants, jointly and severally, without regard to fault, compelling the Defendants to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Higgins Farm Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory restoration of any natural resource injured as a result of the discharge of hazardous substances at the Higgins Farm Property;
- f. Award the Plaintiffs their costs and fees in this action;
and

g. Award the Plaintiffs such other relief as this Court deems appropriate.

SECOND COUNT

Public Nuisance

74. Plaintiffs repeat each allegation of Paragraphs 1 through 73 above as though fully set forth in its entirety herein.

75. Ground water is a natural resource of the State held in trust by the State.

76. The use, enjoyment and existence of uncontaminated natural resources is a right common to the general public.

77. The ground water 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.

78. As long as the ground water remains contaminated due to the Defendants' conduct, the public nuisance continues.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost use 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 Higgins Farm 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 use 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 Higgins Farm Property;
- c. Enter judgment against the Defendants, compelling the Defendants to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Higgins Farm Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory restoration of any natural

resource injured as a result of the discharge of hazardous substances at the Higgins Farm Property;

- 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

80. Plaintiffs repeat each allegation of Paragraphs 1 through 79 above as though fully set forth in its entirety herein.

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

82. The Defendants are liable for trespass, and continued trespass, since hazardous substances were discharged at the Higgins Farm Property.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost use and reasonable assessment costs, that the Plaintiffs have

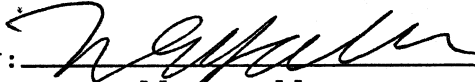
- incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Higgins Farm Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost use 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 Higgins Farm Property;
- c. Enter judgment against the Defendants, compelling the Defendants to compensate the citizens of New Jersey for the injury to their natural resources as a result of the discharge of hazardous substances at the Higgins Farm Property, by performing, under plaintiff DEP's oversight, or funding plaintiff DEP's performance of, any further assessment and compensatory restoration of any natural resource injured as a result of the discharge of hazardous substances at the Higgins Farm Property;
- d. Award the Plaintiffs their costs and fees in this action;
and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

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CIVIL DIVISION

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Mary Ellen Halloran
Deputy Attorney General

Dated: 12/23/04

DESIGNATION OF TRIAL COUNSEL


Pursuant to R. 4:25-4, the Court is advised that Mary Ellen Halloran, 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 may be considered to be the subject of two other pending actions: 1) United States v. NCH Corp., et al., Civil Action No. 98-5268 (KSH); and 2) New Jersey Society for Environmental, Economic Development, et al. v. Bradley M. Campbell, et al., Docket No. A-6537-03T3. Otherwise, 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).

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Mary Ellen Halloran
Deputy Attorney General

Dated: 12/23/04

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