

JOHN J. FARMER, JR.  
ATTORNEY GENERAL OF NEW JERSEY  
Richard J. Hughes Justice Complex  
25 Market Street  
PO Box 093  
Trenton, NJ 08625-0093  
Attorney for Plaintiffs

By: John F. Dickinson, Jr.  
Deputy Attorney General  
(609) 984-4654

RECEIVED & FILED

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - OCEAN COUNTY  
DOCKET NO. *ACH L 61-02*

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

Plaintiffs,

v.

JOSEPH LAEZZA; HELEN A.  
LAEZZA; and RICHARD E. RITCHIE  
ENTERPRISES, INC.,

Defendants.

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Civil Action

COMPLAINT

Plaintiffs New Jersey Department of Environmental Protection ("DEP"), and the Acting Administrator, New Jersey Spill Compensation Fund ("Administrator"), 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, say:

### STATEMENT OF THE CASE

1. Plaintiffs DEP and Administrator bring this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.14, to recover the cleanup and removal costs they have incurred, and will incur, as a result of the discharge of hazardous substances at a site located in the Borough of Lakehurst, Ocean County, New Jersey (the "Lakehurst site" or the "Site"). Plaintiffs DEP and Administrator also seek reimbursement under the Spill Act for the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, damaged or destroyed by the contamination at the 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. Plaintiff Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("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.

4. Defendants Joseph A. Laezza and Helen Laezza are individuals whose dwelling or usual place of abode is 8038 Cresap Street, Brookville, Florida 34613.

5. Defendant Richard E. Ritchie, Enterprises, Inc. is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 930 Lacey Road, Lacey Township, New Jersey 08731.

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

#### GENERAL ALLEGATIONS

7. The site is located at Route 70 and the Eisenhower Circle, Lakehurst, Ocean County, New Jersey, this property being also known and designated as Block 31, Lot 1, on the Tax Map of the Borough of Lakehurst, and all other areas where any hazardous substance discharged there has become located.

8. In 1985, and at times prior thereto, materials that were, or contained, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b. were "discharged" at the Site within the meaning of N.J.S.A. 58:10-23.11b. and N.J.S.A. 58:10-23.11f.a.(1).

9. In August, 1985, plaintiff DEP sampled production well 1A in the Lakehurst Municipal Wellfield, which was situated approximately 420 feet downgradient from the Lakehurst site.

Benzene, a component of gasoline, was detected in the well. Subsequent sampling of the production wells situated within the Lakehurst Municipal Wellfield revealed the presence of benzene, and other hazardous substances associated with gasoline, in several of the wells.

10. On various occasions from September 4, 1985 through June, 1986, plaintiff DEP inspected the Lakehurst site to determine whether the Lakehurst site was the source of the hazardous substances found in the Lakehurst Municipal Wellfield. Sample results from monitor wells installed at the Lakehurst site revealed the presence of benzene and other hazardous substances in the groundwater beneath the site.

11. On March 19, 1986, plaintiff DEP issued a directive ("Directive") to the defendants Joseph Laezza and Helen A. Laezza pursuant to N.J.S.A. 58:10-23.11f.a., directing the defendants Joseph and Helen Laezza to perform certain remedial activities under plaintiff DEP's oversight.

12. On April 9, 1986, the defendants Joseph and Helen Laezza informed plaintiff DEP that they were unable to comply with the Directive, thus requiring plaintiff DEP to perform the remedial action selected for the Site using public funds.

13. On June 25 and 26, 1986, pursuant to N.J.S.A. 58:10-23.11fa(1), plaintiff DEP arranged for the removal of the underground gasoline storage tanks situated at the site. During

the removal, heavy gasoline odors were encountered within the excavation.

14. Sampling results from the soil in the underground tank excavation revealed the presence of various hazardous substances in excess of plaintiff DEP's cleanup criteria.

15. The remedial action DEP selected for the Site primarily provided for the excavation of the underground storage tanks, the removal of contaminated soil, and the installation and operation of a soil vapor extraction system and a groundwater pump and treat system.

16. On February 10, 1988 plaintiff Administrator filed a first priority lien against the real property comprising the Site and a non-priority lien against all revenues and other real and personal property of the defendants Joseph and Helen Laezza (Docketed Judgment No. DJ-12631-88) pursuant to N.J.S.A. 58:10-23.11f. and/or g.

17. On April 7, 1998, plaintiff Administrator filed an amended first priority lien (Docketed Judgment No. DJ-12631-88) against the real property comprising the Site, and simultaneously filed an amended non-priority lien (Docketed Judgment No. DJ-12631-88) against the revenues and all other real and personal property of the defendants Joseph and Helen Laezza.

FIRST COUNT

18. Plaintiffs DEP and Administrator repeat each allegation of paragraph nos. 1 through 17 above as though fully set forth in its entirety herein.

19. Plaintiff DEP has incurred, and will continue to incur, costs concerning the Site.

20. Plaintiffs DEP and Administrator have also incurred, and will continue to incur, damages, including reasonable assessment costs, for any natural resource of this State that has been, or may be, damaged or destroyed by the contamination at the Site.

21. The costs and damages plaintiffs DEP and Administrator have incurred, and will incur, including any claims paid from the Spill Fund, for the Lakehurst site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

22. From December, 1980 until January, 1985 and from December, 1985 until March 19, 1986, defendants Joseph and Helen Laezza operated an Exxon service station at the Lakehurst site, the operation of which involved the storage and dispensing of materials that were, or contained, hazardous substances, certain of which the defendants discharged within the meaning of N.J.S.A. 58:10-23.11f.a.(1).

23. From 1980 through the present, the defendants Joseph and Helen Laezza have owned the real property comprising the Site, during which ownership they discharged materials there that were,

or contained, hazardous substances within the meaning of N.J.S.A. 58:10-23.11f.a.(1).

24. From January, 1985 through December, 1985, the defendant Richard E. Ritchie Enterprises operated an Exxon service station at the Site, the operation of which involved the storage and dispensing of materials that were, or contained, hazardous substances, certain of which the defendant discharged within the meaning of N.J.S.A. 58:10-23.11f.a.(1).

25. As dischargers of hazardous substances at the Site, the defendants are persons who are liable, jointly and severally, without regard to fault, for all costs plaintiffs DEP and Administrator have incurred, and will incur, to remediate the Site. N.J.S.A. 58:10-23.11.g.c.(1).

26. By failing to comply with the March 19, 1986 Directive, the defendants Joseph and Helen Laezza are also persons who are liable in an amount equal to three times the cleanup and removal costs plaintiffs DEP and Administrator have incurred, and will incur, for the site. N.J.S.A. 58:10-23.11f.a(1).

27. As dischargers of hazardous substances at the Site, the defendants are persons who are liable, jointly and severally, without regard to fault, for all damages, including reasonable assessment costs, plaintiffs DEP and Administrator have incurred, and will incur, to restore or replace any natural resource of this



State damaged or destroyed by the contamination at the Site.  
N.J.S.A. 58:10-23.11.g.c.(1).

28. 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 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); and for any other unreimbursed costs plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

29. 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 the plaintiffs have incurred for the site, with applicable interest;

b. Enter declaratory judgment against the defendants, jointly and severally, without regard to fault, for any cleanup and removal costs plaintiffs DEP and Administrator may incur for the Lakehurst site;



c. Order the defendants Joseph and Helen Laezza to reimburse plaintiffs DEP and Administrator, jointly and severally, without regard to fault, in an amount equal to three times the cleanup and removal costs plaintiffs DEP and Administrator have incurred for the site;

d. Enter declaratory judgment against the defendants, Joseph and Helen Laezza, jointly and severally, without regard to fault, in an amount equal to three times any cleanup and removal costs plaintiffs DEP and Administrator may incur for the site;


e. Order the defendant(s) to reimburse plaintiffs DEP and Administrator, jointly and severally, without regard to fault, for all damages, including reasonable assessment costs, plaintiffs DEP and Administrator have incurred for any natural resource of this State damaged or destroyed by the contamination at the Site, with applicable interest;

f. Enter declaratory judgment against the defendants, jointly and severally, without regard to fault, for all damages, including reasonable assessment costs, plaintiffs DEP and Administrator may incur for any natural resource of this State damaged or destroyed by the contamination at the Site;

g. Award plaintiffs DEP and Administrator their costs and fees in this action; and

h. Award plaintiffs DEP and Administrator such other relief as this Court deems appropriate.

JOHN J. FARMER, JR.  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By:   
John F. Dickinson, Jr.  
Deputy Attorney General

Dated: December 19, 2001

DESIGNATION OF TRIAL COUNSEL

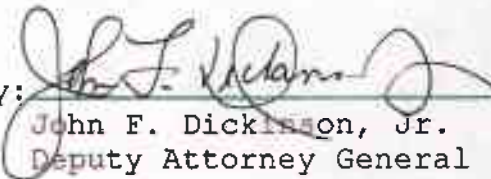
Pursuant to R. 4:25-4, the Court is advised that John F. Dickinson, Jr., Deputy Attorney General, is hereby designated as trial counsel for plaintiffs in this action.

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 plaintiffs at this time, nor is any non-party known to 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 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).

JOHN J. FARMER, JR.  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By:   
John F. Dickinson, Jr.  
Deputy Attorney General

Dated: December 19, 2001

COMPL.WPD