

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

By: Brendan Ruane  
Deputy Attorney General  
(609) 984-5016

Gordon C. Rhea, Esq.  
Special Counsel to the Attorney General  
Richardson, Patrick, Westbrook & Brickman, L.L.C.  
1037 Chuck Dawley Boulevard, Building A  
Mt. Pleasant, SC 29464  
(843) 727-6501

Barry A. Knopf, Esq.  
Leonard Z. Kaufmann, Esq.  
Special Counsel to the Attorney General  
Cohn Lifland Pearlman Herrmann & Knopf LLP  
Park 80 Plaza West-One  
Saddle Brook, NJ 07663  
(201) 845-9600

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

v.

HONEYWELL INTERNATIONAL, INC.;  
BASF CORPORATION;  
ACTIVE OIL SERVICE, INC.;  
AVCO CORPORATION;  
BEAZER EAST, INC.;  
BFI WASTE SYSTEMS OF NEW JERSEY,  
INC.;  
BORGWARNER, INC.;  
BUCKEYE PIPE LINE COMPANY, L.P.;

SUPERIOR COURT BERGEN COUNTY  
FILED  
DEC 27 2005

  
DEPUTY CLERK

John K. Dema, Esq.  
Special Counsel to the Attorney General  
Law Offices of John K. Dema, P.C.  
1236 Strand Street, Suite 103  
Christiansted, St. Croix  
U.S. Virgin Islands 00820-5008  
(340) 773-6142

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY  
DOCKET NO. L 50-06

Civil Action

COMPLAINT

COLONIAL PIPELINE COMPANY; :  
 DAIMLERCHRYSLER CORPORATION; :  
 EXXON MOBIL CORPORATION; :  
 FORD MOTOR COMPANY; :  
 GENERAL DYNAMICS LAND SYSTEMS, :  
 INC.; :  
 MILLER BREWING COMPANY; :  
 NORTHROP GRUMMAN SPACE & :  
 MISSION SYSTEMS, CORPORATION; :  
 QUALITY CARRIERS, INC.; :  
 THE STANLEY WORKS; :  
 UNITED TECHNOLOGIES :  
 CORPORATION; :  
 ROME STRIP STEEL COMPANY, INC.; :  
 NEAPCO, INC.; :  
 "ABC CORPORATIONS" 1-10 (Names :  
 Fictitious), and :  
 "JOHN DOES" 1-10 (Names Fictitious), :  
 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 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. 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 and damages they have incurred, and will incur, as a result of the discharge of hazardous substances at the Quanta Resources Corporation site located in the Borough of Edgewater, Bergen County. The costs and damages the Plaintiffs seek include the

damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Quanta Resources Corporation 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 Quanta Resources Corporation site.

### THE PARTIES

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

3. In addition, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, for which plaintiff DEP is vested with the authority to protect this public trust and to seek compensation for any injury to any natural resource of the State. 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 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.

5. Defendant Honeywell International, Inc. ("Honeywell") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 101 Columbia Road, Morris Township, New Jersey 07960.

6. In 1981, Allied Chemical Corporation ("Allied Chemical") changed its name to Allied Corporation ("Allied").

7. In 1986, Allied merged with the Signal Companies, with the surviving entity being Allied Signal Corporation ("Allied Signal").

8. In 1999, defendant Honeywell merged with Allied Signal, with the surviving entity being Honeywell International, Inc., the defendant herein.

9. Defendant Honeywell is the successor-in-interest to Allied, Allied Signal, and Allied Chemical.

10. Defendant BASF Corporation ("BASF") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 100 Campus Drive, Florham Park, New Jersey.

11. In 1964, BASF Aktiengesellschaft ("BASF AG"), a corporation of the Federal Republic of Germany, acquired the assets of United Cork Companies, a New York corporation, with the surviving entity being Badische Products Corporation ("Badische Products"), also a New York corporation.

12. In January 1968, Badische Products merged with BASF Colors & Chemicals, thus becoming BASF Corporation, a New York corporation.

13. In December 1970, BASF Corporation merged with Wyandotte Chemical Corporation, thus becoming BASF Wyandotte Corporation, a Michigan corporation.

14. In December 1985, Badische Corp., a Delaware corporation, merged with BASF Wyandotte Corporation and several other companies to form Inmont Corporation ("Inmont"), a Delaware corporation, and simultaneously changed the surviving entity's name to BASF

Corporation, a Delaware corporation, the defendant herein.

15. Defendant Active Oil Service, Inc. ("Active Oil") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 110 Riverside Ave., Newark, New Jersey 07104.

16. Defendant Avco Corporation ("Avco") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 40 Westminster Street, Providence, Rhode Island 08628.

17. Defendant Beazer East, Inc. ("Beazer") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at One Oxford Center, Suite 3000, Pittsburgh, Pennsylvania 15219.

18. Koppers Company Inc. ("Koppers") was purchased by BNS, Inc. in 1988, which by merger became Beazer Materials and Services, Inc. in 1989.

19. In 1990, Beazer Materials and Services, Inc. changed its name to Beazer East, Inc., the defendant herein.

20. Defendant Beazer is the successor-in-interest to Koppers.

21. Defendant BFI Waste Systems of New Jersey, Inc. ("BFI") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 15880 North Greenway Hayden Loop, Suite 100, Scottsdale, Arizona 85260.

22. Defendant BorgWarner, Inc. ("BorgWarner") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3859 Hamlin Road, Auburn Hills, Michigan 48326.

23. Defendant Buckeye Pipe Line Company, L.P. ("Buckeye") is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of

business located at 5002 Buckeye Road, Emmaus, Pennsylvania 18049.

24. Defendant Quality Carriers, Inc. ("Quality") is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located at 3802 Corporex Drive, Tampa, Florida 33619.

25. In December 2002, defendant Quality merged with Chemical Leaman Tank Lines, Inc. ("Chemical Leaman"), with the surviving entity being Quality Carriers, Inc., the defendant herein.

26. Defendant Quality is the successor-in-interest to Chemical Leaman.

27. Defendant Colonial Pipeline Company ("Colonial Pipeline") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1185 Sanctuary Parkway, Alpharetta, Georgia 30004-4738.

28. Defendant DaimlerChrysler Corporation ("Chrysler") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1000 Chrysler Drive, Auburn Hills, Michigan 48326.

29. Defendant Exxon Mobil Corporation ("Exxon") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 5959 Las Colinas Boulevard, Irving, Texas 75039.

30. Defendant Ford Motor Company ("Ford") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1 American Road, Dearborn, Michigan 48121.

31. Defendant General Dynamics Land Systems, Inc. ("General Dynamics") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 2941 Fairview Park Drive, Suite 100, Falls Church, Virginia 22042-

4513.

32. Defendant Miller Brewing Company ("Miller") is a corporation organized and existing under the laws of the State of Wisconsin, with its principal place of business located at 3939 West Highland Blvd., Milwaukee, Wisconsin 53208.

33. Defendant Northrup Grumman Space & Mission Systems Corporation ("Northrop") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at 1840 Century Park East, Los Angeles, California 90067-2199.

34. Defendant Petroleum Tank Cleaners, Inc. ("Petroleum") is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 236 Butler Street, Brooklyn, New York 11217-3006.

35. Defendant The Stanley Works ("Stanley") is a corporation organized and existing under the laws of the State of Connecticut, with its principal place of business located at 1000 Stanley Drive, New Britain, Connecticut 06053.

36. Defendant United Technologies Corporation ("UTC") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at One Financial Plaza, Hartford, Connecticut 06103.

37. Defendant Rome Strip Steel ("Rome") is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 530 Henry Street, Rome, New York 13442-0189.

38. Defendant Neapco, Inc. ("Neapco") is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business located at 740 Queen Street, Pottstown, Pennsylvania 19464.

39. Defendants BASF, Active Oil, Avco, Beazer, BFI, BorgWarner, Buckeye, Quality,

Chrysler, Exxon, Ford, General Dynamics, Miller, Northrop, Petroleum, Stanley, UTC, Rome, and Neapco are hereinafter collectively referred to as "the Disposal Defendants."

40. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities, the identities of which cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, or are otherwise related to, defendant Honeywell and the Disposal Defendants.

41. Defendants "John Does" 1-10, these names being fictitious, are individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, defendant Honeywell, the Disposal Defendants, one or more of the ABC Corporation Defendants, and/or their predecessors.

### AFFECTED NATURAL RESOURCES

#### Ground Water

42. 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.

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

44. 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.



45. 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.

46. 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.

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

#### Surface Water

48. Approximately 850 million gallons of surface water per day supplies nearly half of New Jersey's population with drinking water.

49. Surface water, like ground water, is a unique resource that is used for other commercial and industrial uses, such as cooling water and electrical generation, commercial fishing, and transportation of goods and services.

50. The tourist and recreation industries, including boating, fishing and swimming, which are vital to the economy of this State, depend on clean waters and beaches.

#### GENERAL ALLEGATIONS

51. The Quanta Resources Corporation Superfund site consists of approximately 15 acres of real property located at 163 River Road, Edgewater, Bergen County, this property being also known and designated as Block 93, Lots 1, 2 and 3, and Block 95, Lot 1, on the Tax Map of the Borough of Edgewater ("the QRC Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the QRC Site"), which Plaintiff

DEP has designated as Site Remediation Program Interest No. 003945.

52. At various times from 1930 through 1981, as many as 61 above ground storage tanks ("AST's") with a total capacity of over 9 million gallons, along with least 10 underground storage tanks ("USTs"), septic tanks and numerous underground pipes were located at the QRC Property, which tanks were used to store oil, tar, asphalt, sludge, processed water and other unknown liquids.

53. This QRC Site is located within the Newark Basin of the piedmont physiographic province of New Jersey, with the ground water underlying the QRC Site flowing toward, and discharging to, the Hudson River.

54. The QRC Property is bordered to the north by the former Celotex Industrial Park, to the south by the former Spencer-Kellogg Industrial Park, to the west by Old River Road, and to the east by the Hudson River.

55. From approximately 1930 through 1974, defendant Honeywell's predecessor, Allied Chemical, owned the QRC Property.

56. In 1974, Allied Chemical sold the QRC Property to James Frola ("Frola").

57. Frola immediately thereafter conveyed title to the QRC Property to himself, Adeline Frola, James Frola, Jr., and John Frola (collectively, "the Frolas").

58. In 1999, the Frolas transferred Lots 1 and 2 of the QRC Property to Three Y, L.L.C., which remains the owner of record of Lots 1 and 2 of the QRC Property as of the filing of this Complaint.

59. The Frolas remain the owner of record of Lot 3 of the QRC Property as of the filing of this Complaint.

60. During the time that the Frolas and defendant Honeywell's predecessor, Allied, owned the QRC 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 arsenic, chromium, lead, benzene, toluene, ethylbenzene, xylene, volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), polychlorinated biphenyls ("PCBs"), and polycyclic aromatic hydrocarbons ("PAHs").

61. From the early 1930s through 1974, the Asphalt Divisions of defendant Honeywell's predecessor, Allied Chemical, operated a tar processing plant on the QRC Property, the operation of which involved the use, storage and handling of hazardous substances.

62. In 1977, the Frolas leased the QRC Property to E.R.P. Corporation ("ERP") for use as an oil storage and recycling facility.

63. Shortly thereafter, ERP assigned its rights under the lease to Edgewater Terminals, Inc. ("Edgewater"), which, in turn, assigned its rights to operate the facility to Quanta Resources Corporation ("Quanta").

64. Quanta operated a waste oil recycling facility at the QRC Property until 1981, when plaintiff DEP ordered the closure of the facility.

65. During the time that defendant Honeywell's predecessor, Allied Chemical, operated a tar processing facility at the QRC Property, it engaged in the generation, storage, handling, and disposal of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included arsenic, chromium, lead, benzene, toluene, ethylbenzene, xylene, VOCs, SVOCs, PCBs, and PAHs.

66. During the time ERP, Edgewater and Quanta operated a waste oil storage and

recycling facility at the QRC Property, they engaged in the generation, storage, handling, and disposal of "hazardous substances," as defined in N.J.S.A. 59:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included arsenic, chromium, lead, benzene, toluene, ethylbenzene, xylene, VOCs, SVOCs, PCBs, and PAHs.

67. During the time that ERP, Edgewater, and Quanta conducted waste and waste oil disposal and recycling activities at the Quanta Property, the Disposal Defendants shipped to, or otherwise contracted for, the disposal or recycling of hazardous substances they owned and/or generated, at the Quanta Property, which activities involved the generation, storage, handling, and disposal of "hazardous substances," as defined in N.J.S.A. 59:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included arsenic, chromium, lead, benzene, toluene, ethylbenzene, xylene, VOCs, SVOCs, PCBs, and PAHs.

68. In 1980, Quanta entered into an Administrative Consent Order with plaintiff DEP, pursuant to which Quanta was required to limit its onsite activities to the operation of a waste recycling facility within all applicable laws and regulations, and undertake the remediation of the QRC Site.

69. In 1981, plaintiff DEP issued Quanta a temporary operating authorization ("TOA"), authorizing Quanta to continue its waste and waste oil recycling activities at the QRC Property.

70. In June 1981, plaintiff DEP discovered oil intended for commercial use in tanks at the QRC Property revealed the presence of PCB's in concentrations as high as 260 parts per million ("ppm"), which constituted a violation of the TOA.

71. On July 2, 1981, plaintiff DEP ordered the closing of Quanta's facility due to the

discovery of PCBs in the storage tanks.

72. The QRC Property has not been occupied since its 1981 closure.

73. On October 9, 1981, QRC filed for reorganization pursuant to Chapter 11 of the Bankruptcy Code, 11 U.S.C.A. §§101 to -1330.

74. On November 12, 1981, Quanta converted the Chapter 11 petition to a Chapter 7 liquidation petition.

75. Subsequent to Quanta's bankruptcy filing, the upkeep of the QRC Property essentially ceased.

76. Large areas of the QRC Site were frequently flooded for extensive periods of time by the tidally influenced Hudson River. Further, a containment boom installed along the Hudson River failed to keep oil from entering the river with outgoing tides.

77. In 1982, under threat of Federal and State enforcement actions, the Frolas hired a contractor in order to, in part, effectuate the sale of usable oil being stored at the QRC Property, the dismantling of sections of transfer piping, the installation of emergency clay diking, and the establishment of a boom in the Hudson River to prevent the migration of contaminants into the river.

78. In 1983, Frola entered into an administrative consent order with plaintiff DEP, pursuant to which Frola agreed to remediate the QRC Site, which obligations Frola failed to meet.

79. In July 1984, the United States Environmental Protection Agency ("EPA") commenced an action pursuant to 40 C.F.R. § 112 against the Frolas and various operators of the manufacturing facilities located at the QRC Property, seeking to compel the respondents, certain of which are defendants herein, to prepare and implement a Spill Prevention Control and

Countermeasure plan, which the respondents failed to do.

80. On April 3, 1985, EPA commenced an "Immediate Removal Action," pursuant to 42 U.S.C.A. § 9604 and 40 C.F.R. § 300.65 against over 40 defendants, for their failure to take adequate steps to remediate the QRC Property.

81. On September 30, 1985, defendant Honeywell's predecessor, Allied, and 62 other parties, including many of the Disposal Defendants, accepted responsibility for remediating the QRC Site under an EPA unilateral administrative order.

82. In February 1988, defendant Honeywell's predecessor, Allied Signal, entered into an administrative consent order with EPA, pursuant to which Allied Signal agreed to implement a Removal Program to abate the release and threat of release of hazardous substances at the QRC Site.

83. In 1992, EPA conducted an assessment of previous removal actions at the QRC Site, which included the collection of soil, groundwater and sediment samples.

84. Analytical results from the sampling studies indicated that hazardous substances were present in the soils and ground water at the QRC Site, which substances include arsenic, lead, chromium and VOCs.

85. On September 27, 1996, EPA entered into another administrative consent order with Allied Signal, pursuant to which Allied Signal agreed to conduct a remedial investigation to determine the nature and extent of the contamination at the QRC Site.

86. The remedial investigation revealed the presence of various hazardous substances exceeding applicable cleanup criteria in the soils and ground water, which substances included arsenic, chromium, lead, PAH and VOCs.

87. The remedial investigation that defendant Honeywell and its predecessors

performed also revealed a plume of coal tar product that extended at least 900 feet into the Hudson River, and that river sediments near the QRC Property were found to contain various hazardous substances at concentrations exceeding applicable cleanup criteria, which substances included arsenic, chromium, lead, creosote and VOCs.

88. In 1997, a hydrocarbon sheen became intermittently observable on the Hudson River near the QRC Property.

89. In October 1998, defendant Honeywell's predecessor, Allied Signal, entered into an administrative consent order with EPA, requiring Allied Signal to conduct a removal site investigation and engineering costs analysis in order to evaluate the potential response actions at the QRC Site.

90. On January 11, 2001, EPA proposed listing the QRC Site on the National Priorities List ("NPL"), 40 C.F.R. Part 300, Appendix B, which is the list EPA promulgates of hazardous waste sites that pose the greatest threat to the human health and safety, and the environment.

91. On September 5, 2002, EPA added the QRC Site to the NPL.

92. In September 2003, twenty-three parties, including the Disposal Defendants and defendant Honeywell, entered into an administrative consent order with EPA, pursuant to which the parties to the administrative consent order agreed to conduct a Remedial Investigation / Feasibility Study ("RI/FS") to determine the nature and extent of contamination at Operable Unit 1, which EPA considers to include the soils, ground water and debris west of the Hudson River Bulkhead, and to evaluate the remediation alternatives for the contamination.

93. Also in September 2003, defendant Honeywell entered into an ACO with the EPA requiring Honeywell to conduct an RI/FS to fully delineate the nature and extent of the contamination at Operable Unit 2, which EPA defines as the Hudson River surface water and

sediments east of the Hudson River Bulkhead, and to evaluate the remediation alternatives for the contamination.

94. Although defendant Honeywell and others, including its predecessors, have begun the remediation of the QRC Site, the ground water, soils, sediments and surface water remain contaminated.

### FIRST COUNT

#### Spill Act

95. Plaintiffs repeat each allegation of paragraphs 1 through 94 above as set forth fully herein.

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

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

98. Plaintiff Administrator has certified, or may 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 QRC Site.

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

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

101. Defendant Honeywell is the successor-in-interest to the dischargers, of hazardous substances at the QRC Property, and is 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 by the discharge of hazardous substances at the QRC Property. N.J.S.A. 58:10-23.11g.c.(1).

102. Defendant Honeywell, as a successor-in-interest to the owners of the QRC Property at the time hazardous substances were discharged there, also is a person in any way responsible for the discharged hazardous substances, and is 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 by the discharge of hazardous substances at the QRC Property. N.J.S.A. 58:10-23.11g.c.(1).

103. The Disposal Defendants are, or are the successors-in-interest to, persons otherwise responsible for hazardous substances discharged at the QRC Property and are liable, jointly and severally, without regard to fault, for all clean up 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 by the discharge of hazardous substances at the site. N.J.S.A. 58:10-23.11g.c.(1).

104. 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, clean up and removal costs, including the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); for 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).

105. 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 clean up 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 QRC Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants, jointly and severally, without regard to fault, for all clean up 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 QRC Property;
- c. 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 QRC 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 by the discharge of hazardous substances at the QRC Property;
- d. Award Plaintiffs their costs and fees in this action; and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

SECOND COUNT

Public Nuisance

106. Plaintiffs repeat each allegation of paragraphs 1 through 105 above as set forth fully herein in its entirety.

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

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

109. The groundwater, surface water and sediment contamination at the QRC 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.

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

111. Until the ground water, surface water and sediments 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, surface water and sediments.

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 QRC 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 QRC 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 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 QRC 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

112. Plaintiffs repeat each allegation of Paragraphs 1 through 111 above as though fully set forth in its entirety herein.

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

114. The Defendants are liable for trespass, and continued trespass, since hazardous substances were discharged at the QRC Property.

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

PRAYER FOR RELIEF

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

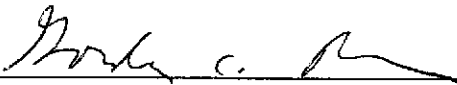
- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of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

RICHARDSON, PATRICK,  
WESTBROOK & BRICKMAN, L.L.C.  
Attorneys for Plaintiffs

LAW OFFICES OF JOHN K. DEMA, P.C.  
Attorneys for Plaintiffs

By:   
Gordon C. Rhea, Esq.  
Special Counsel to the Attorney General

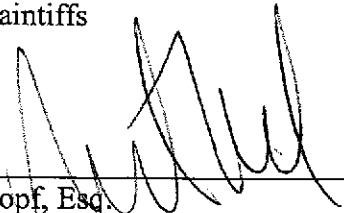
By:   
John K. Dema, Esq.  
Special Counsel to the Attorney General

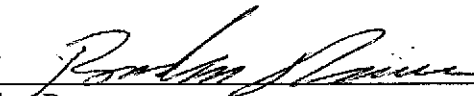
Dated: 12/19/05

Dated: 12/19/05

COHN LIFLAND PEARLMAN  
HERRMANN & KNOPF LLP  
Attorneys for Plaintiffs

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

By:   
Barry A. Knopf, Esq.  
Special Counsel to the Attorney General

By:   
Brendan Ruane  
Deputy Attorney General

Dated:

Dated: 12/21/05

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Gordon C. Rhea, John K. Dema, Barry A. Knopf and Leonard Z. Kaufmann, Matthew Thiesing, and Scott E. Kauff, Special Counsel to the Attorney

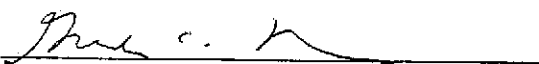
General, are hereby designated as trial counsel for the Plaintiffs in this action.

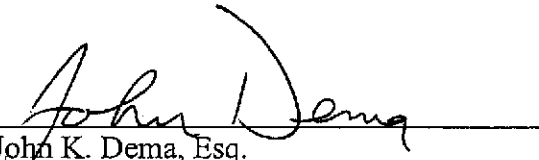
CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

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 or new issue, including claims to recover other cleanup and removal costs, 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).

RICHARDSON, PATRICK,  
WESTBROOK & BRICKMAN, L.L.C.  
Attorneys for Plaintiffs

LAW OFFICES OF JOHN K. DEMA, P.C.  
Attorneys for Plaintiffs

By:   
Gordon C. Rhea, Esq.  
Special Counsel to the Attorney General

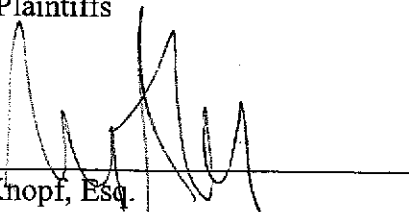
By:   
John K. Dema, Esq.  
Special Counsel to the Attorney General

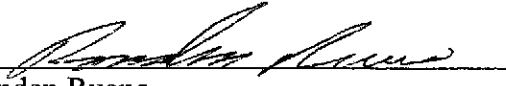
Dated: 12/19/05

Dated: 12/19/05

COHN LIFLAND PEARLMAN  
HERRMANN & KNOFF LLP  
Attorneys for Plaintiffs

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

By:   
Barry A. Knopf, Esq.  
Special Counsel to the Attorney General

By:   
Brendan Ruane  
Deputy Attorney General

Dated:

Dated: 12/21/05