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

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,

Plaintiffs,

v.

GENERAL SULLIVAN GROUP, INC.; K-
LAND CORPORATION; WINNER
MANUFACTURING CORPORATION;
and "ABC CORPORATIONS" 1-10 (Names
Fictitious),

Defendants.

Civil Action

COMPLAINT

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 Roller Bearing site located in Ewing Township, Mercer 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 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, 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 General Sullivan Group, Inc. ("General Sullivan"), is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business located at 85 Route 31 North, Pennington, New Jersey 08534.

8. In 1987, defendant General Sullivan merged with Roller Bearing Company of America, Inc. ("Roller Bearing"), a corporation organized under the laws of the State of New Jersey, with defendant General Sullivan being the surviving entity.

9. General Sullivan Corporation ("GSC"), a New Jersey corporation, merged with Roller Bearing on July 23, 1984, with Roller Bearing being the surviving entity.

10. Raritan Bearing Company of America ("Raritan Bearing"), a New Jersey corporation, merged with Roller Bearing on May 8, 1957, with Roller Bearing being the surviving entity.

11. Defendant General Sullivan is the successor-in-interest to Roller Bearing, GSC and Raritan Bearing.

12. Defendant Winner Manufacturing Company, Inc. ("Winner") is a corporation organized under the laws of the State of New Jersey, with a last known principal place of business located at 320 Sullivan Way, Ewing Township, New Jersey 08628.

13. Defendant K-Land Corporation ("K-Land") is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business located at 433 River Road, Highland Park, New Jersey 08904.

14. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, or are otherwise related to, defendants General Sullivan, Winner and K-Land.

NATURAL RESOURCES

15. 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.

16. 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.

17. 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 Roller Bearing site.

AFFECTED NATURAL RESOURCE

Ground Water

18. 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.

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

20. 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.

21. 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.

22. 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.

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

GENERAL ALLEGATIONS

24. The Roller Bearing site consists of approximately 92 acres of real property located at Sullivan Way and Sylvia Street in Ewing Township, Mercer County, this property being also known and designated as Block 341.01, Lots 3, 3.01 and 5, on the Tax Map of Ewing Township ("the Roller Bearing Property"), and all other areas where any hazardous or substance or pollutant discharged there has become located (collectively, "the Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000001811.

25. The Roller Bearing Property is located in a primarily commercial and industrial area of Ewing Township, and is bordered by a Conrail railroad line to the north and east, and residential properties to the south and west.

26. On or about November 27, 1940, defendant Winner purchased one portion of the Roller Bearing Property from Ewing Township, which at the time was not designated with block and lot numbers on the Tax Map of Ewing Township.

27. Roller Bearing purchased this portion of the Roller Bearing Property from defendant Winner on or about December 20, 1950.

28. On or about December 20, 1950, Raritan Bearing purchased the second parcel comprising the Roller Bearing Property from Stanley and Olga Kuhlman, which at the time was not designated with block and lot numbers on the Tax Map of Ewing Township.

29. GSC purchased the third parcel comprising the Roller Bearing Property from defendant Winner on or about December 22, 1959, which at the time was not designated with block and lot numbers on the Tax Map of Ewing Township.

30. On November 26, 1965, GSC purchased the remaining two parcels from Roller Bearing, with which it later merged in 1984.

31. On March 18, 1985, following its merger with GSC, Roller Bearing conveyed the Roller Bearing Property to itself for a nominal amount.

32. On or about April 1, 1986, defendant K-Land purchased the Lot 5 portion of the Roller Bearing Property from Roller Bearing, which it continued to own until on or about December 30, 1986.

33. Following its December 1986 sale by K-Land, Lot 5 went through a succession of owners, with Ewing Properties, LLC ("Ewing Properties"), an active New Jersey limited liability company, purchasing Lot 5 on or about November 30, 2005.

34. As of the filing of this Complaint, Ewing Properties was the owner of record of the Lot 5 portion of the Roller Bearing Property.

35. On or about March 4, 1999, General Sullivan, in to which Roller Bearing had by then merged, conveyed the Lot 3 portion of the Roller Bearing Property to Robear West Trenton Associates, L.P. ("Robear West"), an active New Jersey limited partnership.

36. Robear Weast subdivided the Lot 3 portion of the Roller Bearing Property on or about October 4, 2000, thereby creating Block 341.01, Lots 3 and 3.01.

37. After the October 2000 subdivision, Lot 3 went through a succession of owners, with RB I, LLC ("RB I"), an active New Jersey limited liability company, purchasing Lot 3 on or about May 18, 2006.

38. As of the filing of this Complaint, RB I was the owner of record of the Lot 3 portion of the Roller Bearing Property.

39. After the October 2000 subdivision, Lot 3.01 also went through a succession of owners, with RB II, LLC ("RB II"), an active New Jersey limited liability company, purchasing Lot 3.01 on or about May 18, 2006.

40. As of the filing of this Complaint, RB II was the owner of record of the Lot 3.01 portion of the Roller Bearing Property.

41. During the time that defendant Winner and defendant General Sullivan's predecessors-in-interest owned the Roller Bearing 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 tetrachloroethene ("PCE"), trichloroethene ("TCE"), trichloroethane ("TCA") and dichloroethene ("DCE").

42. From approximately 1940 through the mid-1970s, defendant Winner manufactured industrial products in a facility on the Roller Bearing Property.

43. In or around 1952, Roller Bearing built a manufacturing facility on the Roller Bearing Property, in which it manufactured roller bearings until 1985.

44. Roller Bearing's and defendant Winner's manufacturing processes involved the use, storage, and handling of hazardous substances and pollutants, certain of which were discharged there. These hazardous substances and pollutants included PCE, TCE, DCE and TCA.

45. Roller Bearing also used, stored and handled "pollutants," as defined in N.J.S.A. 58:10A-3n., certain of which were "discharged" to the waters of the State within the meaning of N.J.S.A. 58:10A-3e., which pollutants included PCE, TCE, DCE and TCA.

46. In 1987, defendant General Sullivan sold the assets of Roller Bearing, including the name, to an unknown purchaser, which continued to operate a roller bearing manufacturing facility on the Roller Bearing property as Roller Bearing Company of America, Inc. ("RBA").

47. As of the filing of this Complaint, RBA was still operating a manufacturing facility at the Roller Bearing Property.

48. Roller Bearing's proposed 1985 sale of a portion the Roller Bearing Property to Michael Kaplan ("Kaplan") triggered Roller Bearing's responsibilities under the Environmental Cleanup Responsibility Act ("ECRA"), now known as the Industrial Site Recovery Act ("ISRA"), N.J.S.A. 13:1K-6 to -14.

49. On March 31, 1986, Roller Bearing and plaintiff DEP entered into an administrative consent order ("1986 ACO"), wherein Roller Bearing, and later, defendant General Sullivan, agreed to remediate the Site.

50. In September 1987, plaintiff DEP and defendant General Sullivan amended the 1986 ACO to acknowledge the sale of Roller Bearing's assets, thus allowing the sale to proceed prior to defendant General Sullivan completing the remedial investigation it was performing to determine the nature and extent of the contamination at the Site.

51. Defendant General Sullivan completed the remedial investigation in 1992.

52. Sampling results obtained during the remedial investigation confirmed the presence of various hazardous substances and pollutants at concentrations exceeding plaintiff DEP's cleanup criteria in the soils and ground water, which included PCE, TCE, and DCE.

53. In September 1991, defendant General Sullivan discovered a previously unknown 4,000 gallon underground storage tank ("UST") at the Roller Bearing Property used to store acetone. Defendant General Sullivan subsequently submitted an UST closure plan to plaintiff DEP in October 1991, which plaintiff DEP approved.

54. Defendant General Sullivan removed the UST in 1992.

55. On March 31, 1992, RBA and plaintiff DEP amended the 1986 ACO, now called a remediation agreement, allowing RBA to complete a stock tender prior to General Sullivan completing its remediation of the Site.

56. Pursuant to the 1986 ACO, as amended, defendant General Sullivan submitted a proposed Remedial Action Workplan ("RAWP") to plaintiff DEP in March 1994, which plaintiff DEP approved in November 1994.

57. The remediation plaintiff DEP approved for the Site primarily provided for no further action for any remaining soils contamination; the remediation of groundwater contamination through the installation and operation of an on-site groundwater treatment system, the effluent from which

was discharged to the Ewing-Lawrence Sewerage Authority facility; and the implementation of a groundwater monitoring program for three areas of concern (i.e., the Roller Bearing facility, the Winner facility, and the northern undeveloped area of the Roller Bearing Property).

58. Defendant General Sullivan continued sampling the ground water at the Site, the results of which showed elevated concentrations of PCE, TCE, TCA and DCE in each area of the three areas of concern.

59. Defendant General Sullivan addressed the contamination in the areas of concern by withdrawing contaminated ground water from an on-site recovery well beginning in February 1996, and attempting to discover the source of groundwater contamination in the northern undeveloped area of the Roller Bearing Property.

60. In June 1997, plaintiff DEP and defendant General Sullivan executed an amendment to the 1986 ACO, which allowed defendant General Sullivan to continue remediating the Site while allowing Roller Bearing Holding Company, Inc. ("RBHC"), of which RBA reportedly was then a subsidiary, to transfer or redeem outstanding stock, presumably in RBHC.

61. On November 20, 1998, defendant General Sullivan submitted a remediation in progress waiver application to plaintiff DEP, which, if approved, would allow defendant General Sullivan to sell a portion of the Roller Bearing Property while remediation was ongoing.

62. Plaintiff DEP approved defendant General Sullivan's waiver application on December 14, 1998, though it does not appear that the proposed sale was ever consummated.

63. Defendant General Sullivan subsequently submitted remedial action reports to plaintiff DEP in 2000 and 2001, in which defendant General Sullivan summarized its groundwater remediation efforts within the remaining three areas of concern at the Site.

64. On August 9, 2001, plaintiff DEP required defendant General Sullivan to install additional groundwater monitoring wells, but otherwise approved the ongoing remediation of the Site.

65. In June 2001, defendant General Sullivan proposed establishing an interim Classification Exception Area ("CEA") for the three areas of concern, which would restrict groundwater usage within its boundaries.

66. Plaintiff DEP subsequently approved the CEA, which is approximately 61 acres, and has an estimated duration of 50 years beginning in 1981, and extending to 2031.

67. Since plaintiff DEP approved the CEA, defendant General Sullivan has continued the ongoing remediation of the Site, submitting quarterly groundwater monitoring reports to plaintiff DEP in 2003, 2004, 2005, and 2006.

68. Defendant General Sullivan submitted a remedial investigation report in 2005, and a remedial action report to plaintiff DEP in 2006 concerning the background groundwater quality underlying the Roller Bearing Property, which reports plaintiff DEP was evaluating as of the date this Complaint was filed.

69. Although defendant General Sullivan is remediating the Site, the ground water remains contaminated.

FIRST COUNT

Spill Act

70. The Plaintiffs repeat each allegation of paragraph nos. 1 through 69 above as though fully set forth in its entirety herein.

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

72. 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).

73. 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).

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

75. 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.

76. 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 Roller Bearing Property.

77. 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.

78. Defendants Winner, General Sullivan, and one or more of the ABC Corporation defendants, are, or are the successors-in-interest to, the dischargers of hazardous substances at the Roller Bearing 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 Roller Bearing Property. N.J.S.A. 58:10-23.11g.c.(1).

79. Defendants Winner, General Sullivan, and one or more of the ABC Corporation defendants, are, or are the successors-in-interest to, the owners of the Roller Bearing Property at the time hazardous substances were discharged there, also are 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 Roller Bearing Property. N.J.S.A. 58:10-23.11g.c.(1).

80. Defendant K-Land, as the knowing purchaser of the Lot 5 portion of the Roller Bearing Property, a property at which hazardous substances were previously discharged, 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 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 Roller Bearing Property. N.J.S.A. 58:10-23.11g.c.(3).

81. 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).

82. 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.

83. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(c) and N.J.S.A. 58:10-23.11u.d., plaintiff DEP may bring a summary action in the Superior Court against anyone who violates a provision of the Spill Act for a civil penalty.

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 Roller Bearing 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 Roller Bearing Property;

- c. Enter judgment against defendant General Sullivan, requiring defendant General Sullivan to perform any further cleanup of hazardous substances discharged at the Roller Bearing Property, under plaintiff DEP's oversight;
- d. Enter judgment against 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 Roller Bearing 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

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

85. Defendant General Sullivan and one or more of the ABC Corporations are, or are the successors-in-interest to, a "person" within the meaning of N.J.S.A. 58:10A-31.

86. 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.

87. 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.

88. Plaintiff DEP has incurred, or will incur, costs as a result of the discharge of pollutants at the Roller Bearing Property.

89. 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 Roller Bearing Property.

90. 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).

91. Defendant General Sullivan and one or more of the ABC Corporation defendants are, or are the successors-in-interest to, the dischargers of pollutants at the Roller Bearing 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 Roller Bearing Property. N.J.S.A. 58:10A-6a.

92. 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); 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 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 Roller Bearing Property, N.J.S.A. 58:10A-10c.(4); and 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 defendant General Sullivan and one or more of the ABC Corporation defendants by requiring these Defendants to remove, correct, or terminate the adverse effects upon water quality resulting from any unauthorized discharge of pollutants;
- b. Enter an order assessing defendant General Sullivan and one or more of the ABC Corporation 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 defendant General Sullivan and one or more of the ABC Corporation 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 defendant General Sullivan and one or more of the ABC Corporation 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 Roller Bearing Property;
- e. Enter declaratory judgment against defendant General Sullivan and one or more of the ABC Corporation 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 Roller Bearing Property;
- f. Enter an order assessing defendant General Sullivan, and one or more of the ABC Corporation 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 Roller Bearing Property;

- g. Enter declaratory judgment against defendant General Sullivan and one or more of the ABC Corporation 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 Roller Bearing Property;
- h. Enter an order assessing defendant General Sullivan and one or more of the ABC Corporation 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 these 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 defendant General Sullivan and one or more of the ABC Corporation defendants, without regard to fault, assessing these 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 these 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

93. The Plaintiffs repeat each allegation of paragraph nos. 1 through 92 above as though fully set forth in its entirety herein.

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

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

96. 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.

97. As long as the ground water remains contaminated due to the conduct of the Defendants and their predecessors, the public nuisance continues.

98. 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 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 Roller Bearing Property;
- c. Enter judgment against defendant General Sullivan, requiring defendant General Sullivan to abate the nuisance by performing any further cleanup of hazardous substances and pollutants discharged at the Roller Bearing 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 Roller Bearing 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

99. The Plaintiffs repeat each allegation of paragraph nos. 1 through 98 above as though fully set forth in its entirety herein.

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

101. The Defendants are liable for trespass, and continued trespass, since pollutants and hazardous substances were discharged at the Roller Bearing Property.

102. 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 Roller Bearing 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 Roller Bearing Property;

- c. Enter judgment against defendant General Sullivan, requiring defendant General Sullivan to cease the trespass by performing any further cleanup of hazardous substances and pollutants discharged at the Roller Bearing 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 Roller Bearing 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: 
Adam K. Phelps

Deputy Attorney General

Dated: 08/26/07

DESIGNATION OF TRIAL COUNSEL

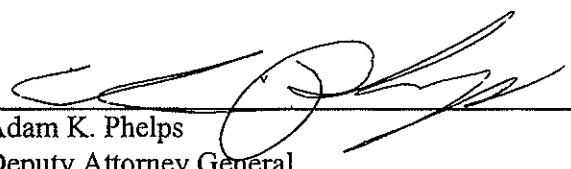
Pursuant to R. 4:25-4, the Court is advised that Adam K. Phelps, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiffs in this action.

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:


Adam K. Phelps
Deputy Attorney General

Dated: 08/26/07