

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. BOX 093  
Trenton, New Jersey 08625-0093  
Attorney for Plaintiffs

By: Erin M. Hodge  
Deputy Attorney General  
Attorney ID: 272052018  
Ph.: (609) 376-2740  
[Erin.Hodge@law.njoag.gov](mailto:Erin.Hodge@law.njoag.gov)

Mark A. Fisher  
Deputy Attorney General  
Attorney ID: 043302006  
Ph.: (609) 376-2735  
[Mark.Fisher@law.njoag.gov](mailto:Mark.Fisher@law.njoag.gov)

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

Plaintiffs,

v.

THE LIGHTMAN DRUM COMPANY; SAR  
INDUSTRIAL FINISHING, INC.;  
ELEANOR IULIUCCI; THE ESTATE  
OF JOSEPH IULIUCCI; PCIII REO,  
LLC; ANTONIO TORRES; "XYZ  
CORPORATIONS" 1-10 (Names  
Fictitious); and "JOHN AND/OR  
JANE DOES" 1-10 (Names  
Fictitious)

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CAMDEN COUNTY

DOCKET NO. -

CIVIL ACTION

**COMPLAINT**

Plaintiffs New Jersey Department of Environmental Protection ("DEP" or "Department"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner") and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "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 Defendants Lightman Drum Company, SAR Industrial Finishing, Inc., Eleanor Iuliucci, the Estate of Joseph Iuliucci, PCIII REO, LLC, Antonio Torres, the "XYZ Corporations" 1-10 (Names Fictitious), and "John and/or Jane Does" 1-10 (Names Fictitious) (collectively, "Defendants"), allege:

**STATEMENT OF THE CASE**

1. This is a civil action pursuant to the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24; the Water Pollution Control Act ("WPCA"), N.J.S.A. 58:10A-1 to -35; the Brownfield and Contaminated Site Remediation Act ("Brownfield Act"), N.J.S.A. 58:B-1.3(a); the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 to -29; and the common law.

2. In 1999, the Department discovered that the groundwater in the residential area at and around Stephen Drive and Linda Lane, located in Winslow Township, Camden County, New Jersey ("Receptor Site"), was contaminated with chlorinated solvents, including perchloroethylene, also known as tetrachloroethylene ("PCE"),

trichloroethylene ("TCE"), and other hazardous substances above DEP action levels.

3. PCE and TCE are volatile chlorinated solvents associated with a litany of harmful health effects. The ingestion of PCE and the inhalation of PCE vapor can cause irritation of the upper respiratory tract and eyes, kidney dysfunction, and neurological effects such as impairment to cognitive and motor functions. Exposure to PCE increases the risk of developing cancer or epilepsy, and it can also harm the liver. TCE is a known carcinogen and exposure to high levels of TCE can be fatal. TCE exposure can also cause irritation to the eyes and skin, dizziness, headaches, sleepiness, confusion, nausea, unconsciousness, and liver damage.

4. When PCE, TCE, and other chlorinated solvents are discharged into the soil or groundwater, they migrate vertically and horizontally and travel significant distances through the groundwater.

5. PCE and TCE can exist in the groundwater in a dissolved or liquid state. Chlorinated solvent molecules can persist in the soil, or they can volatilize and turn into a gas. That gas rises from the soil and can intrude into homes and other buildings through various pathways, putting the structure's occupants at risk of inhaling dangerous levels of those toxic vapors.

6. The residents within the Receptor Site relied on their groundwater as a potable water supply, using private wells to pump

that water into their homes for drinking, bathing, cooking, and other household purposes.

7. Because one of the chemical properties of PCE and TCE is miscibility (i.e., they can dissolve in water, forming a homogenous mixture), Receptor Site residents were unknowingly ingesting those invisible hazardous substances whenever they took a drink of water in their homes.

8. Upon discovery of the contamination in the Receptor Site residents' potable wells, the Department took action to mitigate this public health hazard. The Department expended significant public money to provide the residents with access to clean water by connecting the affected households to the public water supply.

9. The hazardous substances contaminating the groundwater at the Receptor Site came from three distinct properties located up-gradient of the Receptor Site: (1) Cedarbrook Plaza ("Cedarbrook Site"); (2) Lightman Drum Company ("Lightman Site"); and (3) SAR Industrial Finishing ("SAR Site"), (collectively, "Source Sites").

10. "Up-gradient" and "down-gradient" are terms used to describe the general direction of groundwater flow. Unless prevented by a geological barrier, groundwater travels from up-gradient locations to those down-gradient.

11. The Receptor Site, the Source Sites, and wherever contamination discharged at or emanating from the Source Sites has

migrated are collectively referred to herein as the "Contaminated Site."

12. Plaintiffs now bring this suit under the Spill Act, WPCA, Brownfield Act, SRRA, and the common law against the Defendants who, as described more fully below, are owners and operators of the Source Sites, dischargers of the hazardous substances, and/or persons in any way responsible for the discharge of the hazardous substances contaminating the groundwater at the Contaminated Site.

13. Plaintiffs seek, among other things, (1) to recover from Defendants any and all public expenditures the Department has incurred or will incur to provide clean drinking water to the residents at the Receptor Site and to remediate the Contaminated Site; (2) to compel Defendants to delineate the extent of the contamination and remediate the soil and groundwater within the area of the Contaminated Site; and (3) to impose civil statutory penalties.

#### **THE PARTIES**

14. DEP is a principal department in the State of New Jersey's executive branch of government. The Department maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. Pursuant to the authority vested in the DEP by the aforementioned statutes to protect human health and the environment, the Department is empowered to compel parties liable for the discharge of hazardous substances to remediate the

contamination, recover costs incurred to remediate hazardous waste discharges using public funds, and to recover penalties in Superior Court.

15. Plaintiffs are authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of the Spill Act and WPCA. N.J.S.A. 58:10-23.11u.b.(1); N.J.S.A. 58:10A-10.c.

16. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("Spill Fund"). N.J.S.A. 58:10-23.11j. As the chief executive officer of the Spill Fund, the Administrator is authorized to approve and pay any cleanup and removal costs the Department 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.

17. Defendant Lightman Drum Company, Inc. ("Lightman Drum") is a Pennsylvania corporation. Its principal address is 139 N. Route 73, Winslow Township, NJ 08018.

18. Lightman Drum is liable for hazardous substances discharged at the Lightman Site, including PCE and TCE.

19. Historic discharges at the Lightman Site have migrated off-site and are contributing to the groundwater contamination at the Contaminated Site, including the Receptor Site.

20. Defendant SAR Industrial Finishing, Inc. ("SAR") is a New Jersey corporation. Its principal address is 104 Route 73, Winslow Township, NJ 08009.

21. SAR is liable for hazardous substances discharged at the SAR Site, including PCE, TCE and 1,1,1-Trichloroethane ("1,1,1-TCA"). Like PCE and TCE, 1,1,1-TCA is a chlorinated solvent. Likewise, exposure to 1,1,1-TCA poses similar health hazards, including headaches, nausea, dizziness, and cardiovascular and respiratory disruptions.

22. The discharges at the SAR Site have migrated off-site and are contributing to the groundwater contamination at the Contaminated Site, including the Receptor Site.

23. Defendant Eleanor Iuliucci is an individual and former owner of the Cedarbrook Site. Her last known address is 1100 Gardens Parkway, Ocean City, NJ 08226-4724.

24. Defendant Estate of Joseph Iuliucci is the representative of the late Joseph Iuliucci, husband of Eleanor Iuliucci and former co-owner of the Cedarbrook Site, on which he operated a residential housing construction business.

25. Defendant PCIII REO, LLC. ("PCIII") is a New Jersey limited liability company formed on October 21, 2014. Its principal address is 2500 McClellan Avenue, Suite 200, Pennsauken, NJ 08109-4613.

26. On or around February 28, 2017, PCIII acquired the Cedarbrook Site via final judgment of foreclosure of a tax lien acquired through the purchase of a tax certificate. PCIII owned the Cedarbrook Site until May 14, 2018.

27. Defendant Antonio Torres is an individual and the current owner of the Cedarbrook Site. On May 14, 2018, PCIII sold the Cedarbrook Site to Defendant Torres for \$325,000.

28. Defendant Torres's last known address is 535 Prospect Avenue, Morrisville, Pennsylvania 19067.

29. Defendants Eleanor Iuliucci, the Estate of Joseph Iuliucci, PCIII, and Antonio Torres are collectively referred to as the "Cedarbrook Defendants."

30. The Cedarbrook Defendants are liable for hazardous substances discharged at the Cedarbrook Site, including PCE. Historic discharges at the Cedarbrook Site have migrated off-site and are contributing to the groundwater contamination at the Contaminated Site, including the Receptor Site.

31. "XYZ 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, insurers of, customers of, or are otherwise related to Defendants and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at any of the Source Sites.



32. "John and/or Jane Does" 1-10, these names being fictitious, are natural 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, customers of, or are otherwise related to, Defendants and/or one or more of the XYZ Corporation defendants, and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at any of the Source Sites.

### **GENERAL ALLEGATIONS**

#### **Discharges at the Lightman Site**

33. The Lightman Site encompasses approximately fifteen (15) acres along Route 73 in Winslow Township, with an address of 139 N. Route 73, also known as Block 4004, Lot 6 on the Winslow Township tax map.

34. Lightman Drum operated an industrial waste hauling and drum reclamation business on the Lightman Site.

35. Lightman Drum stored hazardous substances at the Lightman Site in drums, underground storage tanks ("USTs"), and trailers.

36. Beginning in at least 1974, Lightman Drum regularly dumped wastes into an unlined pit on the Lightman Site.

37. The Lightman Site was added to the U.S. Environmental Protection Agency's ("EPA") National Priorities List in 1999 and is currently a Superfund site.

38. Lightman Drum's discharges formed a PCE- and TCE-contaminated groundwater plume that has migrated throughout the Contaminated Site, including the Receptor Site.

39. A separate plume of contamination emanates from former waste storage tanks on the Lightman Site.

#### **Discharges at the SAR Site**

40. The SAR Site is located at 104 Route 73 in Winslow Township, also known as Block 3901, Lot 9.01 on the Winslow Township tax map.

41. Since 1968, SAR Finishing has operated a spray finishing shop from its facility on the SAR Site.

42. SAR's spray finishing operation required the use of chlorinated solvents for various cleaning and degreasing processes.

43. SAR's degreasing operations involved TCE since at least 1980. PCE was used in its on-site solvent evaporator and a combination of 1,1,1-TCA, PCE, and TCE was used in its vapor degreaser since at least 1994 as part of the machinery cleaning process. Degreasing is necessary to remove oil and grease from objects so they are clean and prepared for further finishing.

44. Degreasing and other operations at the SAR Site resulted in discharges impacting the groundwater at the Contaminated Site, including the Receptor Site.

**Discharges at the Cedarbrook Site**

45. The Cedarbrook Site is located at 24-26 N. Route 73 in Winslow Township, Camden County, New Jersey, also known as Block 4403, Lot 4, on the Winslow Township tax map.

46. Use of the Cedarbrook Site began sometime prior to 1963 when I&B Builders, Inc., a corporation owned by Joseph Iuliucci, purchased the Cedarbrook Site and operated a home construction business there.

47. On or around October 28, 1963, Joseph Iuliucci transferred the Cedarbrook Site from his business, I&B Builders, to himself and his wife, Eleanor Iuliucci.

48. On or around February 28, 2017, PCIII obtained a final judgment of foreclosure and acquired ownership of the Site after the Iuliuccis stopped paying taxes on the property and PCIII purchased a tax sale certificate for the Cedarbrook Site.

49. On or around May 14, 2018, PCIII sold the Cedarbrook Site to Defendant Torres for \$325,000.

50. The Cedarbrook Site presently operates as a strip mall with two commercial buildings and an adjacent parking lot. Various non-party businesses are currently leasing space in the strip mall and operating on the Cedarbrook Site.

51. Groundwater sampling on the Cedarbrook Site revealed high PCE exceedances in several monitoring wells on the property, including as high as 70 parts per million (ppm).

52. The directional flow of groundwater from the Cedarbrook Site is toward the Receptor Site.

53. Past investigations and analysis confirm to DEP that PCE discharges occurred at the Cedarbrook Site and that the discharges have migrated to the Receptor Site and are contributing to the PCE groundwater contamination in that area.

**The Department's Discovery of and Response to Soil and  
Groundwater Contamination**

54. In July 1999, potable well sampling in two residential areas down-gradient of the Source Sites revealed contamination with volatile organic compounds ("VOCs") – primarily TCE and PCE.

55. In 1999, sampling detected TCE concentrations as high as 2,060 micrograms per liter (ug/L), or parts per billion (ppb), and PCE concentrations as high as 600 ug/L (ppb) in the wells, greatly exceeding the New Jersey Maximum Contaminant Levels ("MCLs") – the MCL for both PCE and TCE at the time was 1.0 ppb.

56. In 2001, the Department delineated the known extent of the potable well contamination and worked with the Winslow Township Water and Sewer Authority to install Point of Entry Treatment ("POET") systems and, in 2003, extend public water lines to the impacted properties.

57. In 2008, the Department initiated an unknown source investigation to determine the source or sources of the potable well contamination.

58. On May 12, 2010, when the Iuliuccis owned the Cedarbrook Site, an environmental consultant retained by the Iuliuccis submitted a Remedial Investigation Report to the Department regarding the Cedarbrook Site.

59. Groundwater samples at the Cedarbrook Site showed several contaminants above Department standards, including PCE.

60. Also in May 2010, the Department conducted groundwater sampling that showed concentrations of PCE and TCE above the Department's Groundwater Quality Standards at the SAR Site. The greatest concentrations of PCE and TCE were found in the groundwater samples collected down-gradient from SAR's vapor degreaser.

61. During this May 2010 sampling, DEP also detected 1,1,1-TCA in concentrations above the Groundwater Quality Standards. The greatest concentrations were in samples collected near SAR's vapor degreaser.

62. On August 4, 2010, soil and groundwater contamination at the SAR Site was reported to the Department Hotline and assigned incident number 10-08-04-1142-45.

63. DEP conducted soil and groundwater sampling down-gradient of the SAR Site in October 2010, September 2011, and

November 2012. Sampling data showed a groundwater contamination plume of 1,1,1-TCA, PCE, and TCE extending from the SAR Site to the down-gradient residential potable wells at the Receptor Site.

64. DEP also discovered PCE and TCE contamination in groundwater at the Lightman Site. PCE was recorded at 5,900 ug/L and TCE at 12,000 ug/L.

65. The contamination at the Contaminated Site was above the Practical Quantitation Level ("PQL"), which is the applicable Groundwater Quality Standard ("GWQS") because the Contaminated Site is situated in the Pine Barrens, an environmentally sensitive and protected area.

66. Based on the hydraulic conductivity of the aquifer underlying the Lightman Site, DEP concluded that the PCE- and TCE-contaminated groundwater plume flowed down-gradient from the Lightman Site and caused contamination of the residential potable wells at the Receptor Site.

67. In 2012, PCE was recorded near the strip mall area of the Cedarbrook Site in the sub slab soil gas at levels as high as 201 micrograms per cubic meter (ug/m<sup>3</sup>). In 2012, DEP's PCE screening level for soil gas was 34 ug/m<sup>3</sup> for residential spaces. The sample taken at the Cedarbrook Site therefore was almost six times the Department's residential screening level. The space was considered residential because a children's daycare was operating at the Site.

68. In May 2014, the Department received another Remedial Investigation Report from the Iuliuccis' environmental consultant. The report concluded that PCE was discharged into the soils at the Cedarbrook Site.

69. In 2014, the Department concluded through its unknown source investigation that the Lightman Site, the SAR Site, and the Cedarbrook Site were sources of the chlorinated solvent contamination in the groundwater at the Receptor Site.

70. The discharges at each of the Source Sites contributed to the aggregation of the aforementioned hazardous substances at the Receptor Site and within the Contaminated Site. Those discharges necessitated the abandonment of private drinking wells at the Receptor Site, requiring Plaintiffs to install POETs and connect residents to public water to ensure residents' access to safe drinking water.

### **COUNT I**

#### **Spill Act**

71. Plaintiffs repeat and incorporate each of the preceding paragraphs as though set forth in its entirety herein.

72. Any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance, 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.(1), except as otherwise provided in N.J.S.A. 58:10-23.11g12, which is not applicable here.

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

74. The Administrator is authorized under the Spill Act to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund pursuant to N.J.S.A. 58:10-23.11q.

75. The costs that Plaintiffs have incurred, and will incur, for the remediation of the Contaminated Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b., and are recoverable pursuant to N.J.S.A. 58:10-23.11u.b.(2), (4), and (5).

76. PCE, TCE, and 1,1,1-TCA are "hazardous substances" under the Spill Act. N.J.S.A. 58:10-23.11b.

77. Defendant Lightman Drum is liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of its ownership and operation of the Lightman Site and the discharge of



PCE and TCE at the Lightman Site during its ownership. N.J.S.A. 58:10-23.11g.c.(1).

78. Defendant SAR is liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of its discharge of 1,1,1-TCA, PCE, and TCE at the SAR Site, and ownership of the SAR Site at the time of discharge. N.J.S.A. 58:10-23.11g.c.(1).

79. Defendants Eleanor Iuliucci and the Estate of Joseph Iuliucci, as owners of the Cedarbrook Site at the time of the PCE discharge, are persons in any way responsible and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the discharges of PCE at the Cedarbrook Site. N.J.S.A. 58:10-23.11g.c.(1).

80. Defendant PCIII is liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the prior discharges at the Cedarbrook Site and its subsequent acquisition of the property in 2017. N.J.S.A. 58:10-23.11g.c.(1).

81. Defendant Antonio Torres is liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the prior discharges at the Cedarbrook Site and his subsequent acquisition of the property in 2018. N.J.S.A. 58:10-23.11g.c.(1).

82. XYZ Corporations 1-10, are dischargers and/or persons in any way responsible for discharged hazardous substances and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Sites. N.J.S.A. 58:10-23.11g.c.(1).

83. John and/or Jane Does 1-10 are dischargers and/or persons in any way responsible for discharged hazardous substances and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Sites. N.J.S.A. 58:10-23.11g.c.(1).

**WHEREFORE**, Plaintiffs request judgment in their favor:

- a. Finding that Defendants discharged hazardous substances at their respective Source Sites, or are otherwise in any way responsible for the discharged hazardous substances;
- b. Finding Defendants 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.(1);
- c. Ordering the Defendants to reimburse Plaintiffs for all costs Plaintiffs have incurred, plus interest, as a result of the discharge of hazardous substances at the

Source Sites, including but not limited to those funds expended to provide residents living within the Receptor Site with clean water;

- d. Assessing civil penalties as provided by N.J.S.A. 58:10-23.11u against each Defendant for their failure to remediate the Contaminated Site;
- e. Ordering Defendants to remediate the Contaminated Site in accordance with the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1.3(a), and the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, and all other applicable laws and regulations;
- f. Awarding Plaintiffs any other relief this Court deems appropriate; and
- g. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances at the Sites.

**COUNT II**

**Water Pollution Control Act**

84. Plaintiffs repeat and incorporate each of the preceding paragraphs as though set forth in its entirety herein.

85. Defendants Lightman Drum and SAR are "persons" within the meaning of N.J.S.A. 58:10A-3.

86. PCE, TCE, and 1,1,1-TCA are pollutants under the WPCA. N.J.S.A. 58:10A-3.

87. Defendants Lightman Drum and SAR discharged PCE, TCE, and/or 1,1,1 TCA at the Lightman Site and the SAR Site, respectively.

88. The unauthorized discharge of pollutants is a violation of the WPCA for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6a.

89. The Commissioner has incurred, and will incur, costs and damages because of the discharge of pollutants at the Sites.

90. The costs and damages the Commissioner has incurred, and will incur, for the Sites are recoverable within the meaning of N.J.S.A. 58:10A-10c. (2) to (4).

91. Pursuant to N.J.S.A. 58:10A-10c., the Commissioner may bring an action in 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 the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10c.(2); and reasonable costs 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); and the actual amount of any economic benefits accruing to the violator(s) 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).

**WHEREFORE**, the Commissioner requests judgment in her favor:

- a. Entering a permanent injunction against Defendants Lightman Drum and SAR, without regard to fault, requiring them to remove, correct, or terminate the adverse effect upon water quality resulting from any unauthorized discharge of pollutants;
- b. Entering an order against Lightman Drum and SAR, without regard to fault, assessing the reasonable costs for all investigations, inspections, or monitoring surveys, which led to establishment of the violation, including the costs of preparing and litigating the case
- c. Finding Defendants Lightman Drum and SAR liable, without regard to fault, for all reasonable costs incurred and/or that will be incurred for any investigation, inspection, or monitoring survey that led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;
- d. Entering an order against Lightman Drum and SAR, without regard to fault, assessing all reasonable costs incurred for removing, correcting, or terminating the adverse

effects upon water quality resulting from any unauthorized discharge of pollutants at the Source Sites;

- e. Finding Defendants Lightman Drum and SAR liable, without regard to fault, for all reasonable costs incurred and/or that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any discharge of pollutants at the Source Sites;
- f. Entering an Order against Defendants Lightman Drum and SAR, without regard to fault, assessing the actual amount of any economic benefits they have accrued, including any savings realized from avoided capital or non-capital costs, the return they have earned on the amount of avoided costs, any benefits they have enjoyed as a result of a competitive market advantage, or any other benefit they have received as a result of having violated the WPCA;
- g. Finding Defendants Lightman Drum and SAR liable, without regard to fault, for the actual amount of any economic benefits Defendants 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 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 WPCA;

- h. Awarding the Commissioner her costs and fees in this action;
- i. Awarding the Commissioner such other relief as this Court deems appropriate; and
- j. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Sites.

**COUNT III**

**Unjust Enrichment**

92. The Plaintiffs repeat each allegation of the preceding paragraphs as though set forth in its entirety herein.

93. Plaintiffs have used and will continue to use public funds to remediate the Receptor Site.

94. Plaintiffs' expenditure of public funds for the remediation of the Receptor Site has unjustly enriched Defendants, who are legally obligated to fully fund and/or perform the remediation.

95. Defendants have neither funded nor reimbursed Plaintiffs for any public expenditures made to conduct the remediation of the Receptor Site, thus receiving a substantial financial benefit to which they were not entitled.

96. It would be unjust to allow Defendants to retain the financial benefits that they derived at the expense and to the detriment of the Plaintiffs - namely, the costs Plaintiffs incurred

to protect the residents of the Receptor Site from hazardous groundwater contaminated by Defendants.

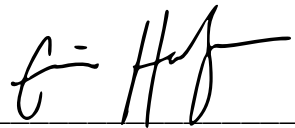
**WHEREFORE,** Plaintiffs request judgment in their favor:

- a. Finding that Defendants have been unjustly enriched by Plaintiffs' expenditure of public funds to perform the remediation of the Receptor Site;
- b. Ordering Defendants to pay restitution to Plaintiffs for the amount by which they were unjustly enriched, which here equates to the costs Plaintiffs have incurred, and will incur, to perform the remediation of the Receptor Site, with applicable interest;
- c. Finding Defendants liable for all other compensatory and consequential damages;
- d. Awarding the Plaintiffs such other relief as this Court deems appropriate; and
- e. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the discharge of hazardous substances at the Sites.



GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiff

DATED: 12/18/20

By:   
\_\_\_\_\_  
Erin M. Hodge  
Deputy Attorney General

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, the Court is advised that Mark A. Fisher, 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).

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By:

  
\_\_\_\_\_  
Erin M. Hodge  
Deputy Attorney General

DATED: 12/18/20