

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: Daniel J. Harrison
Deputy Attorney General
Attorney ID No. 151842016
Ph.: (609) 376-2735
Daniel.Harrison@law.njoag.gov

		SUPERIOR COURT OF NEW JERSEY
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,	:	LAW DIVISION – CAMDEN COUNTY
	:	DOCKET NO.
Plaintiffs,	:	
	:	<u>Civil Action</u>
v.	:	COMPLAINT
	:	
CUMBERLAND FARMS, INC.; DONTE’S DRY CLEANING, INC. A/K/A DONTE’S 1 HOUR CLEANERS; MINUTEMAN CLEANERS A/K/A MINUTEMAN III CLEANERS; HS2N, LTD.; HEGAMIN CLEANERS; JD ROYAL PROPERTIES, L.L.C.; “ABC CORPORATIONS” 1-10 (Names Fictitious); and “JOHN AND/OR JANE DOES” 1-10 (Names Fictitious),	:	
Defendants.	:	

Plaintiffs, the New Jersey Department of Environmental Protection ("Department"), the Commissioner of the Department ("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 and through their attorney, bring this Complaint against the above-named Defendants, saying:

STATEMENT OF THE CASE

1. This is a civil action pursuant to the New Jersey 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-1.1 to -20, and the common law, seeking reimbursement of the costs Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances and pollutants at and migrating from the real property located at 250 Sicklerville Road, Winslow Township, Camden County, New Jersey, also known as Block 2902, Lot 1 on the Tax Map of Winslow Township ("Property").

2. This action seeks to compel the Defendants to reimburse the Department for the public monies spent to address discharges stemming from former dry cleaning operations at the Property. The discharges include tetrachloroethylene ("PCE") and

trichloroethylene ("TCE"). This action also seeks to compel the Defendants to completely remediate the Property to ensure the public and the environment are protected from exposure to the toxic dry-cleaning solvents that were detected in the soil and groundwater on, and migrating from, the Property.

THE PARTIES

3. The Department is a principal department within the Executive Branch of the New Jersey 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. The Commissioner is the Commissioner of the Department. N.J.S.A. 58:10-23.11b. In that capacity, the Commissioner is vested by law with various powers and authority, including those conferred by the Department's enabling legislation, N.J.S.A. 13:1D-1 to -19.

5. 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.

6. Cumberland Farms, Inc. ("Cumberland Farms") is a corporation organized under the laws of the Commonwealth of Massachusetts (Business ID. 0100237725) with a principal place of business at 165 Flanders Road, Westborough, MA 01581.

7. Donte's Dry Cleaning, Inc. a/k/a Donte's 1 Hour Cleaners ("Donte's") is a corporation organized under the laws of the State of New Jersey (Business ID. 0100360012) with a principal place of business at 26 Route 73, Cedar Brook, NJ 08018.

8. Minuteman Cleaners a/k/a Minuteman's III Cleaners ("Minuteman") is a sole proprietorship and/or partnership organized under the laws of the State of New Jersey with a principal place of business at 699 N. Black Horse Pike, Williamstown, NJ 08094.

9. HS2N, Ltd. ("HS2N") is a corporation organized under the laws of the State of Texas (Business ID. 32036292160) with principal places of business at 10820 Sanden Drive, Dallas, Texas 75243 and 1906 Country Meadow Lane, Richardson, Texas 75081.

10. Hegamin Cleaners ("Hegamin") is a sole proprietorship organized under the laws of the State of New Jersey with a last known principal place of business at 250 Sicklerville Road, Winslow Township, New Jersey 08081.

11. JD Royal Properties, L.L.C. ("JD Royal") is a limited liability company organized under the laws of the State of New

Jersey (Business ID: 0400288090) with a principal place of business at 109 Holly Drive, Swedesboro, New Jersey 08050.

12. 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 and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at the Property.

13. John and/or Jane 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, Defendants and/or one or more of the ABC Corporation defendants, and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at the Property.

GENERAL ALLEGATIONS

14. The site that is the subject of this Complaint consists of the Property - 250 Sicklerville Road in Winslow Township, Camden County, New Jersey - and all other areas where any hazardous substances discharged there have come to be located (collectively, "Site"), which the Department has designated as Site Remediation Program Interest No. 764415. The Site includes, but is not limited

to, the Christ Care Unit Missionary Baptist Church ("CCUMBC") located at 242 Sicklerville Road, Winslow Township, Camden County, New Jersey, which the Department has designated as Site Remediation Program Interest No. G000060829.

15. The Property is approximately 0.392 acres in size and is comprised of a one-story commercial building containing three separate retail units, addressed A through C.

16. Cumberland Farms and/or corporate predecessors of Cumberland Farms owned the Property from April 8, 1975, to January 29, 1998.

17. HS2N owned the Property from January 29, 1998, to January 16, 2009.

18. JD Royal purchased the Property on or about July 16, 2009, and is the current owner.

19. From 1986 to approximately 2004, at least three dry cleaning businesses operated the middle retail unit at the Property, also known as "Unit B."

20. From 1986 to 1995, Donte's operated a dry-cleaning business at Unit B. Hazardous waste manifests from 1986 show that Donte's utilized dry cleaning solvents during its operations three times under EPA ID No. NJD113129126, and held between 11 and 100 gallons of PCE, a common dry cleaning solvent, at the Property.

21. From 1995 to approximately 1999, Minuteman operated a dry-cleaning business at Unit B of the Property.

22. From 1999 to approximately 2004, Hegamin operated a dry-cleaning business at Unit B of the Property.

23. In or about May 2001, the Department collected samples from a potable well located at CCUMBC that detected PCE at 4.1 micrograms per liter ("ug/L") or parts per billion ("ppb"), and TCE, a break-down product of PCE, at 2.0 ppb, respectively. Both detections were above the Department's Groundwater Quality Standards ("GWQS") of 1.0 ppb for TCE and 1.0 ppb for PCE.

24. The CCUMBC well was located 300 feet east of the Property and was used for drinking water and irrigation purposes. CCUMBC abandoned this potable well in or around 2006.

25. Short-term exposure to high levels of PCE and TCE can cause central nervous system effects such as headaches, dizziness, sleepiness, lack of coordination, or effects on vision, hearing, and balance.

26. Long-term exposure to PCE and TCE can affect the central nervous system, kidney, liver, immune system, male reproductive system, and the developing fetus.

27. In or about June 2001, the Department collected samples from a potable well located at an off-site residential property located at 217 Sicklerville Road, Winslow Township, Camden County,

New Jersey and detected PCE at 1.26 ppb, which is above the Department's GWQS.

28. In 2002, the Department spent public monies to install a point of entry treatment ("POET") system to remove the contaminants in the well water at 217 Sicklerville Road, Winslow Township, Camden County, New Jersey.

29. In 2015, the Department retained Kleinfelder, Inc. ("Kleinfelder") to complete an unknown source investigation to identify a source of the contamination on and near the CCUMBC that was discovered in 2001.

30. In 2017, CCUMBC installed a POET system for another potable well on its property that supplied groundwater to the CCUMBC day care center.

31. While Kleinfelder conducted its unknown source investigation at CCUMBC, the Department's Bureau of Environmental Measurements and Site Assessment conducted sampling for a site investigation of the Property in February 2018.

32. During the Department's site investigation sampling, the Department collected a total of 36 groundwater samples and 11 soil samples from 10 different borings located on and in the vicinity of the Property.

33. According to the Department's April 2018 Site Investigation Report ("SIR"), soil and groundwater samples

collected on the Property contained PCE and other associated chlorinated solvents at concentrations above the Department's respective soil and groundwater remediation standards.

34. Of the 11 soil samples taken, four exhibited common dry cleaning-related solvents and their degradation products above the Department's Impact to Groundwater Soil Remediation Standards, N.J.A.C. 7:26D.

35. Sample S-1 collected from Boring B-1 located near the back wall of Unit B exhibited 1,1,1-trichloroethane ("1,1,1-TCA") at 0.13 parts per million ("ppm") and cis-1,2-dichloroethene (cis-1,2-DCE) at 0.32 ppm. 1,1,1-TCA is marketed as a dry cleaning solvent and cis-1,2-DCE is a degradation product of both TCE and PCE.

36. Sample S-1A, which was also collected from Boring B-1, exhibited vinyl chloride at 0.09 ppm, cis-1,2,-DCE at 1.06 ppm, and PCE at 0.37 ppm. Moreover, Samples S-4 and S-4A collected from Boring B-5, located near the northeast corner of the building, exhibited TCE at 0.1 ppm and PCE at 1.5 ppm and 0.18 ppm, respectively.

37. Of the 36 groundwater samples taken, six from or near Boring B-4 exhibited dry-cleaning-related contaminants above the Department's GWQS.

38. Sample GW-4A exhibited vinyl chloride at 21.36 ppb; cis-1, 2-DCE at 249.97 ppb; TCE at 70.23 ppb; 1,1-DCE at 1.01 ppb; and PCE at 88.05 ppb.

39. Sample GW-4B, also collected from Boring B-4, exhibited PCE at 1.25 ppb.

40. Sample GW-4E collected 1.5 feet from Boring B-4 exhibited vinyl chloride at 1.92 ppb, TCE at 3.64 ppb, and PCE at 5.57 ppb.

41. Sample GW-4F, collected from Boring B-4, exhibited vinyl chloride at 21.57 ppb, cis-1,2-DCE at 195.04 ppb, TCE at 35.97 ppb and PCE at 38.82 ppb.

42. Sample EPA HC GW-5 exhibited vinyl chloride at 18 ppb, cis-1,2-DCE at 420 ppb, TCE at 84 ppb, and PCE at 81 ppb.

43. In light of the high levels of dry-cleaning-related contamination detected on and migrating from the Property in the groundwater, and the historic dry cleaning operations at the Property, the Department concluded that the Property is a source of the PCE and other chlorinated volatile organic compounds detected on the Property, in the nearby residential potable well, and in the CCUMBC wells.

44. The Department recommended further investigation and remediation in accordance with the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29.

45. Four months later, in September 2018, Kleinfelder finalized its Unknown Source Investigation Report ("USI Report") for the contamination at CCUMBC.

46. To evaluate the extent of the contamination, Kleinfelder installed 13 advanced soil borings. Soil samples were taken from three borings, and groundwater samples were taken from 13 borings. In addition, samples were collected from six potable wells along Grimes Road and Andrews Road near the Property.

47. The samples with the greatest levels of chlorinated volatile organic compounds were collected along the northwestern boundary of the CCUMBC site.

48. Kleinfelder could not complete any further investigation into the Property because JD Royal failed to respond to the Department's letter requests for site access.

49. Kleinfelder nevertheless concluded the Property was the potential source of PCE and TCE in the CCUMBC area due to the close proximity and the historical dry-cleaning operations at Unit B of the Property.

50. Because of the findings in the Department's SIR and Kleinfelder's USI Report, on or about July 13, 2020, the Department issued a Directive and Notice to Insurers to JD Royal, HS2N, Donte's, and Hegamin ("July 2020 Directive").

51. The July 2020 Directive required JD Royal, HS2N, Donte's and Hegamin to reimburse the Department for its past cleanup and removal costs, and to complete the remediation of the contamination on and, migrating from, the Property.

52. To date, JD Royal, HS2N, Ltd., Donte's, and Hegamin have failed to comply with the July 2020 Directive.

53. Due to the Defendants' non-compliance, the Department has incurred significant costs to remediate the Property, and will continue to incur such costs if non-compliance continues.

54. The Defendants have not reimbursed the Plaintiffs for the cleanup and removal costs expended at the Property, nor have they agreed to fund or perform any future remedial activities.

55. JD Royal continues to own the Property and, upon information and belief, Unit B of the Property is currently vacant.

COUNT I

Spill Act

56. Plaintiffs repeat and incorporate each of the foregoing paragraphs as though fully set forth herein.

57. Except as otherwise provided in N.J.S.A. 58:10-23.11g12, 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).

58. Plaintiffs have incurred, and will continue to incur, costs as a result of the discharge of hazardous substances at the Property.

59. Plaintiff Administrator either has approved, or may approve, appropriations for the Site.

60. The costs Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Property are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

61. Defendants are "persons" within the meaning of N.J.S.A. 58:10-23.11b.

62. Cumberland Farms, as the owner of the Property at the time hazardous substances were discharged there, is a discharger of hazardous substances and/or a person in any way responsible for the discharges of hazardous substances at the Property and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

63. Donte's, as the operator of Unit B of the Property at the time hazardous substances were discharged there, is a discharger and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

64. Minuteman, as the operator of Unit B of the Property at the time hazardous substances were discharged there, is a discharger and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

65. HS2N, as a former owner of the Property who knew or should have known that the Property was contaminated when it was purchased and/or as the owner of the Property at the time hazardous substances were discharged there, is a discharger of hazardous substances and/or a person in any way responsible for the discharges of hazardous substances at the Property and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

66. Hegamin, as the operator of Unit B of the Property at the time hazardous substances were discharged there, is a discharger and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

67. JD Royal, as the current owner of the Property who knew or should have known that the Property was contaminated when it was purchased and/or as the owner of the Property at the time hazardous substances were discharged there, is a discharger and/or person in any way responsible for the discharges of hazardous substances at the Property, and is 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

68. ABC Corporations 1-10, are persons in any way responsible for a hazardous substance 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 Property. N.J.S.A. 58:10-23.11g.c.(1).

69. John and/or Jane Does 1-10 are persons in any way responsible for a hazardous substance 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 Property.
N.J.S.A. 58:10-23.11g.c.(1).

70. By failing to comply with the Department's July 2020 Directive, Defendants JD Royal, HS2N, Donte's, and Hegamin, are strictly liable, jointly and severally, without regard to fault, in an amount up to three times the cleanup and removal costs that Plaintiffs have incurred, and will incur in the future, to remediate the hazardous substances discharged at the Property.
N.J.S.A. 58:10-23.11f.a.(1).

71. Pursuant to N.J.S.A. 58:10-23.11u.d, Defendants also are subject, upon order of the court, to a civil penalty of up to \$50,000 per day for their failure to remediate the Site. Each day the violation continues is a separate and distinct violation.

72. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., 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).

73. Pursuant to N.J.S.A. 58:10-23.11q., the Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Ordering Defendants to reimburse Plaintiffs, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred as a result of the discharge of hazardous substances at the Property, with applicable interest;
- b. Ordering Defendants JD Royal, HS2N, Donte's, and Hegamin to reimburse Plaintiffs, without regard to fault, in an amount equal to three times all cleanup and removal costs Plaintiffs have incurred as a result of the discharge of hazardous substances at the Property, with applicable interest;
- c. Finding Defendants liable, without regard to fault, for all cleanup and removal costs Plaintiffs will incur as a result of the discharge of hazardous substances at the Property;
- d. Finding Defendants JD Royal, HS2N, Donte's, and Hegamin liable, without regard to fault, in an amount equal to three times all cleanup and removal costs Plaintiffs will

incur as a result of the discharge of hazardous substances at the Property;

- e. Ordering Defendants to perform any further cleanup of hazardous substances discharged at the Property in conformance with the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31, the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 to -35, and all other applicable laws and regulations;
- f. Assessing civil penalties as provided by N.J.S.A. 58:10-23.11u against each Defendant for their failure to remediate the Property;
- g. Awarding Plaintiffs their costs and fees in this action;
- h. Awarding Plaintiffs any other relief this Court deems appropriate; and
- i. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Property.

COUNT II

Water Pollution Control Act

74. Plaintiffs repeat and incorporate each of the foregoing Paragraphs as though fully set forth herein.

75. Defendants are "persons" within the meaning of N.J.S.A. 58:10A-3.

76. The unauthorized discharge of pollutants to the waters of the State of New Jersey 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.

77. An unauthorized discharge of pollutants to the waters of the State of New Jersey is a violation of the Water Pollution Control Act such that plaintiff Commissioner may assess a penalty against the discharger of not more than \$50,000 per day, N.J.S.A. 58:10A-10e. Each day the violation continues is a separate and distinct violation.

78. Plaintiff Commissioner has incurred, and will incur, costs and damages as a result of the discharge of pollutants at the Property.

79. The costs and damages plaintiff Commissioner has incurred, and will incur, as a result of the discharge of pollutants at the Property are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2) to (4).

80. 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 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 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 its favor:

- a. Entering a Permanent Injunction against Defendants Donte's, Minuteman, and Hegamin, without regard to fault, requiring them to remove, correct, or terminate the adverse effects upon water quality resulting from any unauthorized discharge of pollutants;
- b. Entering an order against Defendants Donte's, Minuteman, and Hegamin, 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 Donte's, Minuteman, and Hegamin liable, without regard to fault, for all reasonable costs that will be incurred for all investigations, inspections, or monitoring surveys, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;
- d. Entering an order against Defendants Donte's, Minuteman, and Hegamin, 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 Property;
- e. Finding Defendants Donte's, Minuteman, and Hegamin liable, without regard to fault, for 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 Property;
- f. Entering an order against Defendants Donte's, Minuteman, and Hegamin, without regard to fault, assessing the actual amount of any economic benefits it has accrued,

including any savings realized from avoided capital or non-capital costs, the return it has earned on the amount of avoided costs, any benefits it has enjoyed as a result of a competitive market advantage, or any other benefit it has received as a result of having violated the WPCA;

- g. Finding Defendants Donte's, Minuteman, and Hegamin liable, without regard to fault, for the actual amount of any economic benefits that will accrue to it, 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 it has enjoyed, or any other benefit that will accrue 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 Property.

COUNT III

Unjust Enrichment

81. Plaintiffs repeat and incorporate each of the foregoing Paragraphs as though fully set forth herein.

82. Defendants have failed to fully perform or fully fund the remediation required to address the contamination at the Site.

83. Plaintiffs have used and will continue to use public funds to remediate the contamination at the Site.

84. Plaintiffs' expenditure of public funds for the remediation of the Site, which otherwise would be Defendants' obligation to fully fund or perform, has unjustly enriched Defendants.

85. Defendants have failed to complete the remediation of the Site, causing the Plaintiffs to expend public funds. Therefore, Defendants are required by law and by equity to reimburse Plaintiffs accordingly.

WHEREFORE, Plaintiffs request judgment in their favor:

- a. Finding that the Defendants have been unjustly enriched by the Plaintiffs' expenditure of public funds to remediate the Site;
- b. Ordering Defendants to reimburse Plaintiffs for costs Plaintiffs have incurred, and will incur, to remediate the 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 in the future for natural resource damages arising out of the discharge of hazardous substances at the Property.

COUNT IV

Negligence

86. Plaintiffs repeat each allegation of the foregoing Paragraphs as though fully set forth herein.

87. Defendants owed a duty to all persons foreseeably injured by their conduct, including the Plaintiffs and the public at large, to refrain from discharging hazardous substances and pollutants at and from the Site, or otherwise creating an unreasonable risk of harm to foreseeable persons that might be injured or otherwise adversely affected by the discharge of hazardous substances and pollutants at the Site.

88. Defendants owed a further duty to all persons foreseeably injured by their conduct, including the Plaintiffs and the public at large, to remediate any discharge of hazardous substances and pollutants at the Site and otherwise take appropriate actions to protect foreseeably injured persons from

being adversely affected by the discharge of hazardous substances and pollutants at and from the Site.

89. Defendants and/or their predecessors, illegally and/or improperly discharging hazardous substances and pollutants at and from the Site, or failing to take due care to prevent harm to foreseeably injured persons as a result of the illegal and/or improperly discharged hazardous substances and pollutants at the Site, breached their duty to the Plaintiffs and the public at large.

90. Defendants and/or their predecessors, failing to remediate the discharge of hazardous substances and pollutants at and from the Site, and otherwise failing to take due care to prevent harm to persons foreseeably injured as a result of the discharge of hazardous substances and pollutants at the Site, breached their duty to the Plaintiffs and the public.

91. Defendants and/or their predecessors' breach of their duty to refrain from discharging hazardous substances and pollutants at the Site and/or otherwise their failure to exercise due care to prevent harm to foreseeably injured persons at and from the Site, created an unreasonable risk of contaminating the groundwater underneath, and in the vicinity of, the Site, created a public health risk for nearby communities who utilized the groundwater as a drinking water source, and otherwise permitted an

undue risk of harm to Plaintiffs and the public at large, resulting in injury to the Plaintiffs.

92. As a result of Defendants' negligence, and/or the negligence of the Defendants' predecessors at and from the Site, the Plaintiffs have incurred costs, and may continue to incur costs, at the Site, all of which were proximately caused by the Defendants and/or the Defendants' predecessors at the Site.

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Ordering Defendants to reimburse the Plaintiffs, without regard to fault, jointly and severally, for all cleanup and removal costs the Department and the Administrator have incurred for the remediation at the Site, with applicable interest;
- b. Finding Defendants liable for any cleanup and removal costs and damages the Plaintiffs will incur for the remediation at the Site;
- c. Ordering Defendants to complete the remedial action in accordance with the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31, the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 to -35, and all other applicable laws and regulations;

- d. Awarding the Plaintiffs their costs and fees in this action;
- e. Awarding the Plaintiffs any other relief this court deems appropriate; and
- f. Reserving the right to bring a claim in the future for natural resource damages arising out of the hazardous substances existing at the Property.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Daniel J. Harrison
Daniel J. Harrison
Deputy Attorney General

Dated: December 18, 2020

DESIGNATION OF TRIAL COUNSEL

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

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Daniel J. Harrison
Daniel J. Harrison
Deputy Attorney General

Dated: December 18, 2020

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

The undersigned counsel certifies that the matters in controversy in this action are not currently the subject of any other pending action in any court or arbitration proceeding known to the State at this time, nor is any non-party known to the State 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 matter or non-party later becomes known, 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

By: /s/ Daniel J. Harrison
Daniel J. Harrison
Deputy Attorney General

Dated: December 18, 2020