

Blueberry Bill Farms, Inc. (collectively, "Defendants"), and allege as follows:

STATEMENT OF THE CASE

1. Defendants operate a large blueberry farming operation in Hammonton Town, New Jersey. Defendants rely heavily on migrant farm workers to supply the labor necessary to pick and pack blueberries. The harvesting season only occurs between May and August each year, and blueberries must be harvested almost daily. Because the blueberry season is so short, Defendants provide temporary housing for migrant farm workers and their families.

2. This case arises from Defendants' repeated failure to comply with their legal obligations to protect drinking water at the farm from contamination, putting the community of migrant farm workers, their families, and the environment at risk.

3. Defendants operate multiple wells used for drinking water and utilize onsite wastewater treatment systems (also known as "septic systems") in a manner that threatens public health and the environment and contrary to applicable laws and regulations.

4. Defendants rely on wells to supply the migrant farm workers with water for drinking and other potable purposes, such as handwashing, food preparation and dishwashing, and utilize onsite wastewater treatment systems to treat and discharge wastewater from the migrant farm workers' temporary housing facilities.

5. Neither the wastewater treatment systems nor the wells are constructed to the standards required by law. For example, the wells are placed too close to septic tanks and disposal fields; at least one well has insufficient casing; and at least one well was constructed and remains below ground level. Because the wells are located too close to onsite wastewater treatment systems, and at least two are not constructed to potable well construction standards, the Department has determined that the wells and the onsite wastewater treatment systems pose a threat to the health of the migrant farm worker community and the environment. N.J.A.C. 7:9A-1.1; N.J.A.C. 7:9D-1.1(a).

6. On June 9, 2022, the Department issued an Administrative Order ("AO") detailing violations associated with wells used for drinking water and ordering Defendants to perform specific actions, including for example, providing information showing all the wells used for potable purposes are constructed to legal standards. Defendants did not respond to, appeal, or otherwise comply with the AO within twenty-one days; therefore, the AO automatically became a Final Agency Order ("FAO"). This court can enforce the FAO in a summary manner.

7. Additionally, Defendants have failed to apply for and obtain a New Jersey Pollution Discharge Elimination System ("NJPDES") permit for any of the onsite wastewater treatment systems on the farm, in violation of the WPCA, N.J.S.A. 58:10A-6

and N.J.A.C. 7:14A-2.1(d), despite numerous letters, inspections, and Notices of Violation alerting them to the permit requirement. The permit requirement allows the Department to regulate discharges of pollutants into the Waters of the State to protect public health and the environment. By failing to apply for a permit, Defendants have deprived the Department of specific information regarding the onsite wastewater treatment system size, construction, age, and other information, which is necessary for the Department to evaluate the need for a NJPDES permit and to assess the potential threat to human health and the environment.

8. The community of migrant farm workers is a low-income, minority population with limited English proficiency, which are hallmarks of an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.¹ Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, with accompanying increased negative public health impacts. Here, the community of migrant farm workers has been exposed for years to unsafe conditions and

¹ "'Overburdened community' means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency." N.J.S.A. 13:1D-158.

is at risk for negative public health impacts as a result of Defendants' failure to meet the standards for potable wells set by the Department. Because the migrant farm worker community works at the farm for less than three months and are less likely to complain about unsafe conditions, the conditions have existed for years.

9. All communities deserve fair and equitable treatment in matters affecting their environment, community, homes, and health, without regard to race, language, or income. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 31, 2018); Admin. Order No. 2021-25 (Sept. 20, 2021).

10. The Department now brings this civil action to enforce the FAO in a summary manner under R. 4:67 and R. 4:70, and to compel Defendants' compliance with the Water Pollution Control Act ("WPCA"), N.J.S.A. 58:10A-1 to -65, the New Jersey Pollutant Discharge Elimination System ("NJPDES") regulations, N.J.A.C. 7:14A-1.1 to -25.10, the Standards for Individual Subsurface Sewage Disposal Systems ("Standards For Individual Subsurface Sewage Disposal Systems"), N.J.A.C. 7:9A-1.1 to -13.2, the Subsurface and Percolating Waters Act ("SPWA"), N.J.S.A. 58:4A-4.1 to -29, the Well Construction and Maintenance Regulations ("WCM Regulations") N.J.A.C. 7:9D-1.1 to -4.8, the New Jersey Safe Drinking Water Act ("SDWA"), N.J.S.A. 58:12A-1 to -47, and the New

Jersey Safe Drinking Water Act Rules ("SDWA Rules"), N.J.A.C. 7:10-1.1 to -12.43.

11. Plaintiffs therefore seek an order compelling Defendants to immediately cease the use of its wells for potable purposes, decommission the wells as required by law, cease the use of the unpermitted onsite wastewater treatment systems unless and until a permit is obtained, and to pay civil penalties.

THE PARTIES

12. The Department 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-1 to -19. Pursuant to the authority vested in the Department by N.J.S.A. 13:1D-1 to -19 and N.J.S.A. 58:4A-24, the Department is empowered to institute legal proceedings to enforce Final Agency Orders and to recover penalties in summary proceedings in Superior Court.

13. The Commissioner is vested with various powers and authority, including those conferred by the Department's enabling legislation, N.J.S.A. 13:1D-1 to -19. The Commissioner is authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of the WPCA, SPWA, and SDWA. N.J.S.A. 58:10A-10(c); N.J.S.A. 58:4A-24(d); N.J.S.A. 58:12A-10(c).

14. The Department and the Commissioner maintain their principal offices at 401 East State Street, Trenton, Mercer County, New Jersey.

15. At all times pertinent to the allegations set forth herein, defendant William A. Mortellite was the sole owner and operator of Booper, L.L.C. and Blueberry Bill Farms, Inc. Mortellite resides at 313 Winding Way, Hammonton, New Jersey 08037.

16. At all times pertinent to the allegations set forth herein, defendant Booper, L.L.C. ("Booper"), was a New Jersey limited liability company formed on March 5, 2002, with a principal place of business located at PO Box 854, Hammonton, New Jersey 08037. Booper owns the land used for the blueberry farms, including the properties located at 914 and 950 11th Street in Hammonton Town, Atlantic County.

17. At all times pertinent to the allegations set forth herein, defendant Blueberry Bill Farms, Inc., was a New Jersey limited liability company formed on February 25, 2002, with a principal place of business at 313 Winding Way, Hammonton, New Jersey 08037. Blueberry Bill Farms, Inc. operates Blueberry Bill Farms located at 914 11th Street, Hammonton Town, Atlantic County, New Jersey, and 950 11th Street in Hammonton Town, Atlantic County, New Jersey.

GENERAL ALLEGATIONS

18. Defendants have operated Blueberry Bill Farms since at least 2002. The operation of the farms relies on migrant farm workers to maintain and harvest blueberry plants. Up to 100 migrant workers and their families are housed on the farms during the picking season, starting in mid-May and ending by mid-August.

19. The temporary housing provided by Blueberry Bill Farms utilizes wells for both irrigation and potable purposes and onsite wastewater treatment systems for wastewater discharged from the kitchen, toilets, and showers.

20. Onsite wastewater treatment systems are used where municipal sanitary sewer collection systems are not available.

21. Onsite wastewater treatment systems consist of a tank that receives the raw sewage, retains the septic solids and discharges the liquid portion to a disposal field, which allows for the discharge of the effluent (liquid waste) to the ground, and eventually to the groundwater.

22. To protect the public health, wells must be placed at least fifty-feet from a septic tank and 100 feet from a disposal field. N.J.A.C. 7:9A-4.3; N.J.A.C. 7:9D-2.7(b); N.J.A.C. 7:10-12.

23. These setback distance requirements are especially important for all "Category 1 Wells" which are used for "potable" (drinking water) purposes. N.J.A.C. 7:9D-1.1 and -2.7(b).

24. Category 1 Wells are also required by law to be constructed to specifications to ensure the water is free from contamination and is suitable for potable purposes, i.e., is safe to drink. N.J.A.C. 7:9D-1.1, -2.1, -2.3, and -2.7.

25. Proper construction and location of onsite wastewater treatment systems prevent exposure to potentially dangerous substances, e.g. phosphorous and nitrogen, and disease-causing bacteria and viruses. Dudley Certification ¶5. Nitrate, oxidized nitrogen, is especially dangerous because it can interfere with the body's ability to carry oxygen, particularly in infants. Ibid.

26. On October 17, 2019, the Department sent a letter to Blueberry Bill Farms requesting that it complete and submit a Compliance Assistance Inventory Form provided by the Department. Dudley Certification ¶6; Exhibit 1. The form requested information including, farm location, operating entity, number of workers, wastewater sources, wastewater disposal systems, and well information. Exhibit 1.

27. Defendants completed the Compliance Assistance Inventory Form on October 24, 2019 and the Department received it on October 30, 2019. Dudley Certification ¶8; Exhibit 2.

28. Defendants identified two sites on the farm, which contain housing for up to 100 migrant farm workers and their families: White Camp 3 and Big Camp. Dudley Certification ¶8; Exhibit 2. These sites are served by two onsite wastewater

treatment systems, one in each camp, each consisting of a septic tank and disposal field. Each system receives discharges from toilets, showers, and sinks.

29. Defendants did not produce required approvals from the local health department for either of the onsite wastewater treatment systems. Dudley Certification ¶8; Exhibit 2.

30. Blueberry Bill Farms did not include any information regarding potable wells on the form nor did it provide potable well permit information. Exhibit 2.

31. On May 4, 2020, the Department sent a letter to Defendant Mortellite, requesting that Defendants provide the Department with proposed actions to be taken to reduce or eliminate wastewater discharges for the upcoming 2020 growing season. Dudley Certification ¶9; Exhibit 3.

32. The letter also requested that Defendants submit a complete NJPDES Discharge to Groundwater ("DGW") Permit application or schedule a pre-application meeting with the Bureau of Nonpoint Pollution Control ("BNPC")² by June 15, 2020. Exhibit 3.

33. The May 4, 2020 letter emphasized that providing safe drinking water was a priority concern of the Department, and

² The BNPC meets with NJPDES permit applicants to help determine if a permit application is needed before applying and, if a permit is needed, what type of permit(s) is most applicable to the specific applicant.

informed Defendants that if an onsite well is used for potable purposes, the well must be permitted and constructed to WCM Regulations. Ibid.

34. The Department also asked Defendants to provide the locations of the source(s) of potable drinking water and wash water used onsite by June 15, 2020. Ibid.

35. Defendants were informed that, based on the water source, water use, number of people and the length of time that the water system is in operation, Blueberry Bill Farms may be subject to the Federal and State Safe Drinking Water Regulations. Furthermore, the Department advised that any on-site well that is not permitted and constructed as a potable well in accordance with WCM Regulations, N.J.A.C. 7:9D-1.1 to -4.8, cannot be used for potable purposes. Ibid.

36. Defendants did not respond to the Department's May 4, 2020 letter. Dudley Certification ¶11.

37. On October 19, 2020, the Department delivered a Notice of Violation ("NOV") via certified mail to Defendants for failing to respond to the Department's request for information and the failure to submit a completed NJPDES DGW permit application. Dudley Certification ¶12; Exhibit 4.

38. Defendants received the NOV on October 23, 2020. Dudley Certification ¶12; Exhibit 5. Defendants never responded to the NOV. Dudley Certification ¶12.

39. On April 28, 2021, the Department sent another letter via certified mail to Defendants with a list of similar corrective actions listed in the May 4, 2020 letter for the onsite wastewater disposal for the upcoming 2021 growing season. Dudley Certification ¶13; Exhibit 6. The letter also provided that the Department and the New Jersey Department of Agriculture were available to assist farmers, such as Blueberry Bill Farms, in determining a path to compliance for wastewater and drinking water systems. Exhibit 6.

40. Defendants did not respond to the April 28, 2021 letter. Dudley Certification ¶13.

41. On July 15, 2021, Department representatives conducted a field investigation of multiple facilities located throughout Blueberry Bill Farms to inspect and determine compliance of the onsite wastewater treatment systems, and potable water systems. Dudley Certification ¶14.

42. The Department performed follow-up investigations on June 9, 2022, and July 1, 2022. During each inspection, Defendant Mortellite met with the Department inspectors and provided descriptions and locations of the onsite wastewater treatment systems at both farm sites. Ibid.

43. On January 5, 2022, the Department sent Defendants another NOV for failure to apply for a NJPDES DGW permit. Exhibit 7. The NOV again informed Defendants of their obligations to

submit a complete NJPDES DGW Permit application or schedule a pre-application meeting with the BNPC within thirty days of receiving the NOV. Ibid.

44. Defendants received the NOV on January 18, 2022. Dudley Certification ¶11; Exhibit 8. To date, Defendants have not applied for a NJPDES DGW permit, nor requested a pre-application meeting with BNPC. Dudley Certification ¶33.

White Camp 3

45. As part of the July 15, 2021 field investigation, the Department representatives inspected White Camp 3 - Defendants' facility located at 914 11th Street in Hammonton Town, Atlantic County consisting of a packing house, five trailers boarding approximately 27 workers, and one block building containing the camp kitchen, showers, and toilets. Dudley Certification ¶16.

46. At the July 15, 2021 inspection, Department investigators found a well that was being used for potable purposes and connected to the camp kitchen and shower house ("White Camp Well"). Mattle Certification ¶ 21; Exhibit 9; Dudley Certification ¶14; Exhibit 10.

47. The Department initially believed the White Camp Well was a permitted irrigation well, assigned permit number 3100039307, incorrectly being used for potable purposes. However, on June 9, 2022, a subsequent inspection revealed that the irrigation well permit number 3100039307 was a different well, and

the White Camp Well was, in fact, an unpermitted well. See infra, ¶51.

48. The White Camp 3 toilets, kitchen, and shower building utilize a septic tank and disposal field. Exhibit 9; Exhibit 10. No NJPDES-DGW permit application has ever been filed with the Department for this onsite wastewater treatment system. Dudley Certification ¶24.

49. Based on the onsite wastewater treatment system description and location provided by Defendant Mortellite, the Department measured the distance between the disposal field and the White Camp Well to be approximately twenty-five feet using field notes and GIS/satellite measuring. Mattle Certification ¶23; Exhibit 9.

50. On June 9, 2022, the Department conducted a follow-up inspection of White Camp 3, which found a second well located near the corner of the packing house ("Packing House Well"). Dudley Certification ¶18; Exhibit 11; Mattle Certification ¶24; Exhibit 12.

51. Inspection of the Packing House Well revealed that it is a well permitted for irrigation purposes only pursuant to permit number 3100039307. Exhibit 13. The well record filed with the permit states that the Packing House Well is sixty-eight feet deep with fifty-eight feet of casing and forty feet of grout. Ibid.

Failure to properly grout wells could result in contamination of the well and/or the aquifer. Mattle Certification ¶6.

52. The Department measured the distance between each well and the disposal field at White Camp 3. The Packing House Well was measured as eighty-two feet from the disposal field and the White Camp Well was measured as twenty feet from the disposal field. Exhibit 12.

Big Camp

53. The Department's July 15, 2021 field investigation also included Big Camp - Defendants' facility located at 950 11th Street in Hammonton Town, Atlantic County, consisting of two buildings with a total of approximately 36 beds, one trailer with two bedrooms, a building that contains a kitchen, showers, sinks and storage, and a garage. Exhibit 9.

54. Big Camp accesses potable water through two wells. The kitchen, showers, toilets, and sinks at Big Camp are served by a well located in a small pit next to the garage ("Big Camp Well"). Exhibit 9.

55. Also located at Big Camp is a single house adjacent to the Big Camp area ("Little House"). Ibid. Little House accesses well water through a well next to the house ("Little House Well"). Ibid.

56. After a diligent search of Department records, the Department has not identified, and Defendants have not provided,

any permits or well records for the Big Camp Well or the Little House Well. Mattle Certification ¶31.

57. The Big Camp Well pit is surrounded by cinderblocks and covered by a concrete lid. Exhibit 9. Upon inspection, the well head was not visible, and is located below the ground, in violation of N.J.A.C. 7:9D-2.3(b)(2). Ibid. Failure to elevate the well head properly could result in contamination of the well or the aquifer. Mattle Certification ¶6. Electrical wires were observed in the pit indicating the presence of a well pump. Exhibit 9.

58. The toilets, kitchen, showers, and sinks at Big Camp, and Little House, utilize a septic tank and disposal field. Ibid. No NJPDES-DGW permit application has ever been filed with the Department for this onsite wastewater treatment system. Mattle Certification ¶31.

59. Defendant Mortellite admitted to Department inspectors that the Big Camp Well is used for potable purposes. Mattle Certification ¶33; Dudley Certification ¶27.

60. Based on the onsite wastewater treatment system description and locations provided by Defendant Mortellite, the Department measured the distance between the Big Camp disposal field and the Big Camp Well to be approximately forty feet using field notes and GIS/satellite measuring. Mattle Certification 34; Exhibit 9.

61. The Department measured the distance between the Big Camp disposal field and the Little House Well to be approximately sixty feet using field notes and GIS/satellite measuring. Exhibit 9.

62. The Department also measured the distance between the Big Camp septic tank and the Little House Well to be approximately forty-five feet using field notes and GIS/satellite measuring. Ibid.

June 9, 2022 Administrative Order

63. On June 9, 2022, the Department hand delivered an AO to Defendants. Dudley Certification ¶34; Exhibit 14. The Department found that the wells at White Camp 3, Big Camp, and Little House did not meet the construction standards under N.J.A.C. 7:9D-2.3 and N.J.A.C. 7:9D-2.7(b) required for all Category 1 (potable) wells. Exhibit 14. Each well was found to violate the WPCA, Standards For Individual Subsurface Sewage Disposal Systems, SPWA, WCM Regulations, and/or SDWA as follows:

- a. Packing House Well is a permitted irrigation well and cannot be used for potable purposes. Specifically, the Packing House Well has not been shown to be constructed to potable standards, in violation of N.J.A.C. 7:9D-2.3(a)(3)(iii). The Packing House Well is also constructed within 100 feet of a disposal field, in violation of N.J.A.C. 7:9D-2.7(b) and N.J.A.C. 7:9A-4.3.

b. The Big Camp Well is an unpermitted well, constructed within 100 feet of a disposal field, in violation of N.J.A.C. 7:9D-2.7(b) and N.J.A.C. 7:9A-4.3.

c. The Little House Well is an unpermitted well, constructed within 100 feet of a disposal field and within fifty feet of a septic tank, in violation of N.J.A.C. 7:9D-2.7(b) and N.J.A.C. 7:9A-4.3.

64. The Department found the wells pose a threat to public health because they are not constructed to required Category 1 well standards. Exhibit 14. The Department ordered that:

a. Defendants shall comply with the WPCA, Disposal Rules, SPWA, WCM Regulations, SDWA, and the SDWA Rules.

b. Defendants shall immediately cease the use of the Packing House Well for potable purposes. The Packing House Well can only be used for irrigation as its sole permitted use. If the Packing House Well cannot be used for irrigation purposes, it shall be considered "abandoned" pursuant to N.J.A.C. 7:9D-1.5, and Defendants shall decommission the Packing House Well pursuant to N.J.A.C. 7:9D-3.1(c) and N.J.A.C. 7:9D-4.3(a)(2). If decommissioning of the Packing House Well is necessary, within thirty (30) days Defendants shall submit a decommissioning plan by a licensed well driller of the proper class to the NJDEP Bureau of Water

Allocation & Well Permitting, and within sixty (60) days a New Jersey-licensed well driller of the proper class shall decommission the Packing House Well in accordance with N.J.A.C. 7:9D-3.1(a).

- c. Defendants shall within 7 days submit the requested information regarding the construction and location of the unpermitted Big Camp Well. Immediately upon the seventh day after receipt of the June 9, 2022 AO, or if the provided documentation is either insufficient, inadequate, or unsatisfactory, Defendants shall immediately cease use of Big Camp Well for potable purposes. Also, upon the seventh (7th) day after receipt of this AO, or if the provided documentation is either insufficient, inadequate, or unsatisfactory, Defendants shall decommission Big Camp Well pursuant to N.J.A.C. 7:9D-3.1(c) and N.J.A.C. 7:9D-4.3(a)(2). Within thirty (30) days Defendants shall submit a decommissioning plan by a licensed well driller of the proper class to the NJDEP Bureau of Water Allocation & Well Permitting, and within sixty (60) days a New Jersey-licensed well driller of the proper class shall decommission the Big Camp Well in accordance with N.J.A.C. 7:9D-3.1(a).
- d. Defendants shall within seven (7) days submit the requested information regarding the construction and

location of the Little House well. Immediately upon the seventh day after receipt of the June 9, 2022 AO, or if the provided documentation is either insufficient, inadequate, or unsatisfactory, Defendants shall immediately cease use of the Little House Well for potable purposes. Also, upon the seventh (7th) day after receipt of this AO, or if the provided documentation is either insufficient, inadequate, or unsatisfactory, Defendants shall decommission the Little House Well pursuant to N.J.A.C. 7:9D-3.1(c) and N.J.A.C. 7:9D-4.3(a)(2). Within thirty (30) days Defendants shall submit a decommissioning plan by a licensed well driller of the proper class to the NJDEP Bureau of Water Allocation & Well Permitting, and within sixty (60) days a New Jersey-licensed well driller of the proper class shall decommission the Little House Well in accordance with N.J.A.C. 7:9D-3.1(a).

65. The AO expressly stated that “[i]f no request for a hearing is received within twenty (20) calendar days from receipt of this AO, it shall become a [FAO] upon the twenty-first (21st) calendar day following its receipt.” Exhibit 14 ¶35.

66. Defendants failed to submit any of the requested information within the seven-day period. Dudley Certification ¶36.

67. On June 22, 2022, the Department hand delivered a follow-up letter to Defendants, explaining they were out of compliance and must decommission all the subject wells. Dudley Certification ¶37; Exhibit 15. Specifically, Defendants were directed to submit a decommissioning plan for each well by July 11, 2022, and complete the decommissioning of each well by August 9, 2022. Exhibit 15.

68. Defendants did not submit a hearing request to the Department for the June 9, 2022 AO within twenty days of receipt. Dudley Certification ¶38. Therefore, on June 29, 2022, the AO dated June 9, 2022, became a FAO. See Exhibit 14 ¶¶ 34-35; N.J.S.A. 58:4A-24.

69. On July 1, 2022, the Department conducted a follow-up inspection of the Big Camp Well and the Little House Well.

70. The Department confirmed Defendants had not ceased use of the wells, as required by the June 9, 2022 AO, and failed to adequately warn migrant farm workers and their families to not drink the well water. Dudley Certification ¶30; Exhibit 16.

71. The Department also measured the distance between the Big Camp Well and the disposal field on site as less than 45.5 feet. Exhibit 16. The Department measured the distance between the Little House well and the disposal field on site as less than 69.5 feet, and the distance between the Little House well and septic tank as less than 50 feet. Ibid.

72. Defendants did not submit a decommissioning plan for the Packing House Well, the Big Camp Well, or the Little House Well by July 11, 2022, as required by the FAO. Dudley Certification ¶36. To date, no decommissioning plan has been submitted to the Department for any of those wells. Ibid.

73. On July 13, 2022, the Department hand delivered a letter confirming Defendants' failure to submit a hearing request and informing Defendants the AO became a FAO. Dudley Certification ¶39; Exhibit 17.

74. As of the date of this complaint, Defendants have failed to apply for a NJPDES-DGW Permit for any of the onsite wastewater treatment systems at Blueberry Bill Farms.

COUNT ONE

ENFORCEMENT OF FINAL AGENCY ORDER

75. The Department repeats each allegation set forth in the preceding paragraphs as though fully set forth herein.

76. The AO is a FAO, enforceable in Superior Court. The AO expressly stated that if Defendants did not submit a hearing request within twenty days of its receipt, the AO would become a FAO on the twenty-first day. Exhibit 14 ¶35. Defendants received the AO on June 9, 2022 and did not file a hearing request within twenty days, June 29, 2022. Therefore, the AO became an FAO on the twenty-first day, on June 30, 2022, pursuant to the SPWA,

specifically N.J.S.A. 58:4A-24(c). Furthermore, Defendants did not appeal the FAO or seek further review thereof.

77. Defendants have failed to comply with the provisions of the AO requiring them to cease operation of the Packing House Well, Big Camp Well, and Little House Well for potable purposes and start the decommissioning process, as detailed in Paragraph 64, supra. Specifically, Defendants did not cease all use of water for the purpose of potable water from the Packing House Well by June 9, 2022; did not cease use of the Big Camp and Little House wells as of June 16, 2022; and did not submit a decommissioning plan for the Packing House Well, the Big Camp Well, and the Little House Well by July 11, 2022 as required by the AO.

78. Defendants' failures to comply with the pertinent provisions of the AO constitute violations of a FAO. Each violation continues each day Defendants remain out of compliance.

79. Pursuant to R. 4:67-6 and the terms of the FAO, the Department is entitled to summary enforcement of the FAO, requiring Defendants to immediately cease use of the wells for potable purposes, and decommission the White Camp Well, Big Camp Well, and Little House Well.

80. Defendants are "persons" within the meaning of the WPCA, N.J.S.A. 58:10A-3(1), Standards For Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A-2.1, WCM Regulations, N.J.A.C. 7:9D-1.5, and SDWA Rules, N.J.A.C. 7:10-1.3. A "person" is "any

individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State and any state or interstate agency. 'Person' shall also mean any responsible corporate official for the purpose of enforcement action under section 10" of the WPCA. N.J.S.A. 58:10A-3(1).

81. Any person who violates a FAO pursuant to the SPWA shall be subject upon order of a court to a civil penalty not to exceed \$5,000 for each violation related to the construction of a well, and each day's continuance of the violation shall constitute an additional, separate, and distinct violation of the Act. N.J.S.A. 58:4A-24(d).

WHEREFORE, the Department demands entry of an order against Defendants:

- a. Finding Defendants in violation of the FAO;
- b. Ordering Defendants to comply with the terms of the FAO by ceasing operation of the Packing House Well, Big Camp Well, and Little House Well for potable use;
- c. Ordering Defendants to decommission the Packing House Well, Big Camp Well, and Little House Well in accordance with N.J.A.C. 7:9D-3.1;
- d. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:4A-24(d) in an amount the Court deems just and proper; and

e. Awarding the Department any other relief this Court deems appropriate.

COUNT TWO

**IMPOSITION OF CIVIL PENALTIES FOR FAILURE TO COMPLY
WITH FINAL AGENCY ORDER**

82. The Department repeats each allegation set forth in the preceding paragraphs as though fully set forth herein.

83. On June 9, 2022, the Department issued an AO against Defendants. The AO required Defendants to take specific actions to address public health and environmental concerns. Exhibit 14 ¶¶27-33. The AO also expressly stated that if Defendants did not submit a hearing request within twenty days of its receipt, the AO would become a FAO on the twenty-first day. Ibid. ¶35.

84. Defendants did not submit a hearing request and the AO became a FAO after twenty days, on June 29, 2022, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-10 and the SPWA, N.J.S.A. 58:4A-24(d). As set forth above, Defendants have failed to comply with the obligations pursuant to the FAO. Supra ¶¶66-72; ¶74.

85. The SPWA, specifically N.J.S.A. 58:4A-24(d), provides that the Department may seek a civil penalty for violations of a FAO of up to \$5,000 per violation directly related to the construction of a well, and each day the violation continues. The Department may recover these civil penalties against a defendant

in an action pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 to -12. This Court may assess statutory penalties for violations of a FAO when enforced pursuant to R. 4:67. R. 4:70-1.

WHEREFORE, the Department demands entry of an order against Defendants:

- a. Imposing civil penalties against Defendants for the period of time during which they failed to comply with the FAO, in accordance with the SPWA, N.J.S.A. 58:4A-24(d).
- b. Granting such other relief as the Court deems just and proper.

COUNT THREE

VIOLATION OF THE WPCA AND STANDARDS FOR INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEMS

86. The Department repeats each allegation set forth in the preceding paragraphs as though fully set forth herein.

87. Defendants are "persons" within the meaning of the WPCA, N.J.S.A. 58:10A-3(1) and the Standards For Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A-2.1. A "person" is "any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State and any state or interstate agency. 'Person' shall also mean any responsible corporate official for the purpose of

enforcement action under section 10" of the WPCA. N.J.S.A. 58:10A-31.

88. All disposal fields must be at least 100 feet from any well. N.J.A.C. 7:9A-4.3.

89. All septic tanks must be at least 50 feet from any potable well. N.J.A.C. 7:9A-4.3.

90. Defendants are, and have been, the owners and/or operators of White Camp 3, Big Camp, and Little House, and wells at all relevant times.

91. The White Camp Well is an unpermitted well that was constructed and continues to be located within thirty feet of a disposal field of an unpermitted onsite wastewater treatment system.

92. The Packing House Well is a permitted irrigation well that was constructed and continues to be located within 100 feet of a disposal field of an unpermitted onsite wastewater treatment system.

93. The Big Camp Well, which is being used for potable purposes, is an unpermitted well that was constructed and continues to be located within forty feet of a disposal field of an unpermitted onsite wastewater treatment system.

94. The Little House Well, which is being used for potable purposes, is an unpermitted well that was constructed and continues to be located within sixty feet of a disposal field and forty-five

feet of a septic tank of an unpermitted onsite wastewater treatment system.

95. Any person who violates the WPCA or any regulation promulgated pursuant to the WPCA, such as the Standards For Individual Subsurface Sewage Disposal Systems, shall be subject upon order of a court to a civil penalty not to exceed \$50,000 per day for such violation, and each day's continuance of the violation shall constitute a separate violation the Act. N.J.S.A. 58:10A-10(e); N.J.A.C. 7:9A-1.7.

96. The WPCA permits the Commissioner to bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10(c)(1); for the reasonable costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10(c)(2); for 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-10(c)(3); for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages caused by an unauthorized discharge, N.J.S.A. 58:10A-10(c)(4); and for 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-10(c)(5).

WHEREFORE, the Department demands judgment against the Defendants:

- a. Finding Defendants to be in violation of the WPCA and Standards For Individual Subsurface Sewage Disposal Systems;
- b. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease operation of the unpermitted onsite wastewater treatment systems and abandon the onsite wastewater treatment systems in accordance with all applicable laws and regulations unless and until Defendants obtain a permit for the wastewater treatment systems;
- c. Ordering Defendants to collect all wastewater from White Camp 3 and Big Camp, haul the wastewater to an appropriate licensed treatment facility, and provide the Department with documentation of the frequency, volumes, and haulers until a permit is obtained;
- d. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease operation of the Packing House Well for potable purposes, and cease all operation

of the White Camp Well, the Big Camp Well, and Little House Well;

- e. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:10A-10(e) in an amount the Court deems just and proper;
- f. Ordering Defendants to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;
- g. Ordering Defendants to pay the actual amount of any economic benefits accruing from any violation;
- h. Awarding the Department its costs and fees incurred in this action;
- i. Awarding the Department such other relief as this Court deems appropriate; and
- j. 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 Site.

COUNT FOUR

VIOLATION OF THE WPCA AND NJPDES REGULATIONS

97. The Department repeats each allegation set forth in the preceding paragraphs as though fully set forth herein.

98. It is unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES DGW permit issued by DEP,

as stated in the NJPDES rules. N.J.S.A. 58:10A-6(a); N.J.A.C. 7:14A-2.1(d).

99. A "person" is "any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State and any state or interstate agency. 'Person' shall also mean any responsible corporate official for the purpose of enforcement action under section 10" of the WPCA. N.J.S.A. 58:10A-31.

100. A "pollutant" is "any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal or agricultural waste or other residue discharged into the waters of the State." N.J.S.A. 58:10A-3(n).

101. Discharge "means an intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of a pollutant into the waters of the State" N.J.S.A. 58:10A-3(e).

102. "Waters of the State" means 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-3(t).

103. Defendants have two onsite wastewater treatment systems, one at White Camp 3 and one at Big Camp, which discharge pollutants into the waters of the State.

104. Defendants have never applied for nor obtained a NJPDES permit for their onsite wastewater treatment systems used at White Camp 3 and Big Camp.

105. Defendant Mortellite is the principal of Booper and Blueberry Bill Farms and thus a responsible corporate official who was responsible for the condition that created or resulted in the WPCA violations or was in a position to prevent that occurrence but failed to do so.

106. Any person who violates the WPCA or any regulation promulgated pursuant to the WPCA shall be subject upon order of a court to a civil penalty not to exceed \$50,000 per day for such violation, and each day's continuance of the violation shall constitute a separate violation the Act. N.J.S.A. 58:10A-10(e).

107. The WPCA permits the Commissioner to bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10(c)(1); for the reasonable costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10(c)(2); for 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-10(c)(3); for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages caused by an unauthorized discharge, N.J.S.A. 58:10A-10(c)(4); and for 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-10(c)(5).

WHEREFORE, the Department demands judgment against the Defendants:

- a. Finding Defendants to be in violation of the WPCA and the NJPDES regulations;
- b. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease operation of the unpermitted onsite wastewater treatment systems and abandon the onsite wastewater treatment systems in accordance with all applicable laws and regulations unless and until Defendants obtain a permit for the wastewater treatment systems;
- c. Ordering Defendants to collect all wastewater from White Camp 3 and Big Camp, haul the wastewater to an appropriate

- licensed treatment facility, and provide the Department with documentation of the frequency, volumes, and haulers until a permit is obtained;
- d. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:10A-10(e) in an amount the Court deems just and proper;
 - e. Ordering Defendants to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;
 - f. Ordering Defendants to pay the actual amount of any economic benefits accruing from any violation;
 - g. Awarding the Department its costs and fees incurred in this action;
 - h. Awarding the Department such other relief as this Court deems appropriate; and
 - i. 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 Site.

COUNT FIVE

VIOLATION OF THE SPWA and WCM REGULATIONS

108. The Department repeats each allegation set forth in the preceding paragraphs as though fully set forth herein.

109. Defendants are "persons" within the meaning of the SPWA and WCM Regulations, N.J.A.C. 7:9D-1.5 ("Person" means any individual, responsible corporate official, corporation, company, partnership, firm, association, owner or operator of a water supply facility, political subdivision of the State, and any state, interstate, or Federal agency.").

110. All wells used for potable water on the farms are "Category 1" wells. Pursuant to N.J.A.C. 7:9D-2.1(a), Category 1 wells include "all public water supply wells (community and non-community), as defined in N.J.A.C. 7:10; non-public wells, domestic wells, and potable aquifer storage and recovery wells."

111. All Category 1 wells must be constructed so the top of the well is at least twelve inches above grade, N.J.A.C. 7:9D-2.3(b)(2).

112. All Category 1 wells must have a "minimum length of 50 feet of grout seal extending from the top of the gravel pack or top of the well screen to grade," N.J.A.C. 7:9D-2.3(a)(3)(iii), and a minimum of 50 feet of casing in accordance with N.J.A.C. 7:9D-2.3(a)3(i).

113. All Category 1 wells must be constructed at least 50 feet from any septic tank. N.J.A.C. 7:9D-2.7(b).

114. All Category 1 wells must be constructed at least 100 feet from any disposal field. N.J.A.C. 7:9D-2.7(b).

115. All disposal fields must be at least 100 feet from any well. N.J.A.C. 7:9A-4.3.

116. All septic tanks must be at least 50 feet from any well. N.J.A.C. 7:9A-4.3.

117. Defendants are, and have been, the owners and/or operators of White Camp 3, Big Camp, and Little House, and wells at all relevant times.

118. The Packing House Well is a permitted irrigation well that does meet the Category 1 well construction standards. Specifically, it does not have fifty feet of grout from the gravel pack to grade; is within 100 feet of a disposal field of an unpermitted onsite wastewater treatment system; and is not constructed at least twelve inches above grade.

119. The White Camp Well is an unpermitted well that was constructed and continues to be located within 100 feet of a disposal field of an unpermitted onsite wastewater treatment system.

120. The Big Camp Well is an unpermitted well that was constructed and continues to be located within forty feet of a disposal field of an unpermitted onsite wastewater treatment system, and is not constructed at least twelve inches above the ground.

121. The Little House Well is an unpermitted well that was constructed and continues to be located within sixty feet of an

unpermitted disposal field and forty-five feet of a septic tank of an unpermitted onsite wastewater treatment system.

122. The SPWA permits the Commissioner to bring an action in the Superior Court for the reasonable costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:4A-24(b) (1); for reasonable costs incurred by the State in 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. 58:4A-24(b) (2); for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages, N.J.S.A. 58:4A-24(b) (3); the recovery of the costs of sealing a well as may be required, N.J.S.A. 58:4A-24(b) (4); and for temporary or permanent injunctive relief, N.J.S.A. 58:4A-24(b) (5).

123. Any person who violates the SPWA or regulations promulgated thereunder may be assessed a civil penalty not to exceed \$5,000 for each violation related to the construction of a well, and each day's continuance of the violation shall constitute an additional, separate, and distinct violation of the Act. N.J.S.A. 58:4A-24(d).

WHEREFORE, the Department demands judgment against the Defendants:

- a. Finding Defendants to be in violation of the SPWA and its implementing regulations;
- b. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease the use of the Packing House Well for potable purposes and permanently disconnect all potable water lines, hook-ups, or other connections, or if the well cannot be used for its permitted irrigation use, immediately cease all use and begin the well decommissioning process pursuant to N.J.A.C. 7:9D-3.1 and N.J.A.C. 7:9D-4.3(a)(2);
- c. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease the use of the unpermitted White Camp Well, the Big Camp Well, and Little House Well and begin the well decommissioning process pursuant to N.J.A.C. 7:9D-3.1 and N.J.A.C. 7:9D-4.3(a)(2) within 10 days;
- d. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:4A-24(d) in an amount the Court deems just and proper;
- e. Ordering Defendants to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;

- f. Awarding the Department its costs and fees incurred in this action;
- g. Awarding the Department such other relief as this Court deems appropriate; and
- h. 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 Site.

COUNT SIX

VIOLATION OF THE SDWA

124. The Department repeats each allegation of the foregoing paragraphs above, as if fully set forth in their entirety herein.

125. The SDWA seeks to protect the purity of drinking water and ensure the maintenance of high-quality potable water because it is essential to safeguard the health and welfare of the people of the State. N.J.S.A. 58:12A-2; see also N.J.A.C. 7:10-1.2.

126. Defendants are "persons" within the meaning of the SDWA, and SDWA Rules, N.J.A.C. 7:10-1.3 ("'Person' means any individual, corporation, company, firm, association, joint stock company, partnership, consortium, joint venture, commercial or any other legal entity, municipality, State agency or Federal agency.").

127. "Public noncommunity water systems" and "nonpublic water systems", including potable wells, must be constructed according to the minimum distances for wells as set forth in N.J.A.C. 7:9D-2.1 to -2.11.

128. "'Nonpublic water system' means a water system that is not a public water system. A nonpublic water system includes any water system providing potable water to individual dwellings, and any water system regularly serving fewer than 15 service connections and fewer than 25 individuals." N.J.S.A. 58:12A-3 and N.J.A.C. 7:10-1.3.

129. A "Water system" is "any system for providing potable water to any person." N.J.S.A. 58:12A-3.

130. All wells used for potable water are considered "Category 1" wells. Pursuant to N.J.A.C. 7:9D-2.1(a), Category 1 wells include "all public water supply wells (community and non-community), as defined in N.J.A.C. 7:10; non-public wells, domestic wells, and potable aquifer storage and recovery wells."

131. All Category 1 wells must be constructed at least 50 feet from any septic tank. N.J.A.C. 7:9D-2.7(b).

132. All Category 1 wells must be constructed at least 100 feet from any disposal field. N.J.A.C. 7:9D-2.7(b).

133. Defendants are, and have been, the owners and/or operators of White Camp 3, Big Camp, and Little House, and wells at all relevant times.

134. The Packing House Well is a permitted irrigation well, and used as a "nonpublic water system," that does not meet the Category 1 well distance standards. Specifically, it was constructed and continues to be located within 100 feet of a

disposal field of an unpermitted onsite wastewater treatment system.

135. The White Camp Well is an unpermitted well, and used as a "nonpublic water system," that was constructed and continues to be located within 100 feet of a disposal field of an unpermitted onsite wastewater treatment system.

136. The Big Camp Well is an unpermitted well, and used as a "nonpublic water system," that was constructed and continues to be located within forty feet of a disposal field of an unpermitted onsite wastewater treatment system.

137. The Little House Well is an unpermitted well, and used as a "nonpublic water system," that was constructed and continues to be located within sixty feet of a disposal field and less than fifty feet of a septic tank of an unpermitted onsite wastewater treatment system.

138. The SDWA permits the Commissioner to bring an action in the Superior Court for temporary or permanent injunctive relief, N.J.S.A. 58:12A-10(c)(1); for the reasonable costs of any investigation, inspection, or monitoring survey that led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection, N.J.S.A. 58:12A-10(c)(2); for recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions

of the SDWA, or any rule or regulation adopted, or permit or order issued pursuant thereto, for which a civil action has been commenced and brought under this subsection, N.J.S.A. 58:12A-10(c)(3); and, for an order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department, N.J.S.A. 58:12A-10(c)(4).

139. Any person who violates the SDWA and regulations promulgated pursuant to the SDWA shall be subject upon order of a court to a civil penalty not to exceed \$25,000 per day for each violation. N.J.S.A. 58:12A-10(e).

WHEREFORE, the Department demands judgment against the Defendant:

- a. Finding Defendants to be in violation of the SDWA and its implementing regulations;
- b. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease the use of the Packing House Well for potable purposes and permanently disconnect all potable water lines, hook-ups, or other connections, or if the well cannot be used for its permitted irrigation use, immediately cease all use and begin the well

- decommissioning process pursuant to N.J.A.C. 7:9D-3.1 and N.J.A.C. 7:9D-4.3(a)(2);
- c. Ordering Defendants, jointly and severally, without regard to fault, to immediately cease the use of the unpermitted White Camp Well, the Big Camp Well, and Little House Well and begin the well decommissioning process pursuant to N.J.A.C. 7:9D-3.1(c) and N.J.A.C. 7:9D-4.3(a)(2) within 10 days;
 - d. Ordering Defendants to pay a civil penalty pursuant to N.J.S.A. 58:4A-24(d) in an amount the Court deems just and proper;
 - e. Ordering Defendants to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;
 - f. Awarding the Department its costs and fees incurred in this action;
 - g. Awarding the Department such other relief as this Court deems appropriate; and
 - h. 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 Site.

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Plaintiffs

By: /s/ Dom Stockton-Rossini
Dom Stockton-Rossini
Kevin Fleming
Deputy Attorneys General

Dated: 08/24/2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Dom Stockton-Rossini, Deputy Attorney General, is hereby designated as trial counsel for plaintiffs The Department and Commissioner LaTourette in this action.

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Plaintiffs

By: /s/ Dom Stockton-Rossini
Dom Stockton-Rossini
Kevin Fleming
Deputy Attorneys General

Dated: 08/24/2022

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel certifies that the matters in controversy in this action are currently not the subject of any other pending 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 matter or non-party later becomes known to Plaintiffs, an amended certification will be filed and served upon all other parties and filed with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Plaintiffs

By: /s/ Dom Stockton-Rossini
Dom Stockton-Rossini
Kevin Fleming
Deputy Attorneys General

Dated: 08/24/2022