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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,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION GLOUCESTER COUNTY DOCKET NO.
Plaintiffs,	:	Civil Action
v.	:	**COMPLAINT AND JURY TRIAL DEMAND**
MONSANTO CO., SOLUTIA, INC., and PHARMACIA LLC,	:	
Defendants.	:	

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Plaintiffs New Jersey Department of Environmental Protection ("DEP"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "New Jersey", the "State" or "Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, file this Complaint against the above-named defendants ("Defendants"). These Defendants have succeeded to the liabilities of an earlier Monsanto entity, also named Monsanto Company and referred to herein as "Old Monsanto," and are, together with Old Monsanto, referred to herein as "Monsanto." Plaintiffs allege as follows:

I. INTRODUCTION AND STATEMENT OF THE CASE

1. New Jersey brings this civil action pursuant to the Spill Compensation and Control Act (the "Spill Act"), N.J.S.A. 58:10-23.11 through -23.24, the Water Pollution Control Act (the "WPCA"), N.J.S.A. 58:10A-1 through -20, the Solid Waste Management Act ("SWMA"), N.J.S.A. 13:1E-1 through -48, and New Jersey common law to seek redress for extensive and continuing damages to the natural resources of this State. Specifically, Plaintiffs seek reimbursement of the costs and recovery of all damages they have incurred, and will incur as a result of: (A) contamination of natural resources with toxic polychlorinated biphenyls ("PCBs") across the State; and (B) contamination of natural resources with

PCBs and many other pollutants at and around a large industrial facility formerly operated by Monsanto and located in Bridgeport, an unincorporated community in Logan Township, Gloucester County, New Jersey (the "Bridgeport Site"). Defendants caused statewide PCB contamination through the design, production, use, marketing, sale and distribution of and failure to warn about the hazards of PCBs across New Jersey. Defendants contaminated the area in and around the Bridgeport Site through discharges of many chemicals, including PCBs, over decades of operations at that site.

2. PCBs contaminate many natural resources throughout the State of New Jersey. Although PCBs were banned in the late 1970s, PCBs are highly persistent and continue to circulate in the State's waters and other natural resources. PCBs have accumulated to dangerous levels in sediment, in wildlife, and in fish, among other resources. The accumulation of PCBs in natural resources, and fish in particular, poses a public health threat to the citizens of New Jersey. These PCBs were manufactured by Old Monsanto, the corporate predecessor to all three Defendants in this action. For decades, Old Monsanto knew that its commercial PCB formulations were highly toxic and would inevitably produce precisely the contamination and human health risks that have occurred. Yet Old Monsanto misled the public, regulators, and its own customers about these key facts, maintaining that its PCB formulations were safe, were not environmentally hazardous, and did not require any special

precautions for use or disposal. And indeed, to this day, Defendants continue to deny that Old Monsanto's PCB products pose a legitimate human health or environmental safety hazard that warrants action to remove PCBs from the environment. In so doing, Defendants created a vast public nuisance throughout the State that New Jersey has been addressing, and will continue to address for many years to come.

3. PCBs are toxic and dangerous synthetic organic chemical compounds that were manufactured, marketed, sold, and distributed by Old Monsanto in the United States from approximately 1929 to 1977. During that period, Old Monsanto was responsible for the manufacture of 99% or more of all PCBs used or sold within the United States. There are no known natural sources of PCBs in the environment.

4. At the time it manufactured, marketed, distributed, and sold commercial PCB formulations, often under the trade name "Aroclor," Old Monsanto knew with substantial certainty that its PCBs were highly toxic, harmful to human and animal health, and environmentally harmful. Internally, the company acknowledged as early as 1937 that prolonged exposure to PCBs produced systemic toxic effects. In the 1950s, Old Monsanto's Medical Office specifically advised workers not to eat lunch in the PCB department. Old Monsanto's medical director openly declared that, "[w]e know Aroclors are toxic."

5. Old Monsanto knew with substantial certainty that its PCB formulations would inevitably volatilize and leach, leak, and escape their intended applications, contaminating runoff during naturally occurring storm and rain events and entering waterways, water bodies, sediment, soils, and plants, as well as fish and other wildlife throughout New Jersey.

6. Old Monsanto also knew with substantial certainty that PCBs persist in the natural environment rather than break down over time, and that PCBs accumulate and build up over time in animal tissue, including in fish tissue and human tissue. As a result, as time passes, PCB contamination poses an increasingly hazardous threat to the health of New Jersey citizens.

7. Nonetheless, Old Monsanto sold its PCB products for a variety of uses, including household uses. PCBs were sold for use in paints, caulks, inks, dyes, paper products, lubricants, sealants, plasticizers, coolants, hydraulic fluids, fireproofing, and industrial electrical equipment such as capacitors and transformers, among other applications. Old Monsanto also manufactured and sold various products incorporating their PCB formulations.

8. Old Monsanto's internal documents show that the company deliberately decided to keep selling PCB mixtures despite the company's awareness of the potential for mass contamination, which they inevitably caused. For example, in 1969, Old Monsanto

admitted internally that there was "little probability that any action that can be taken will prevent the growing incrimination of specific polychlorinated biphenyls . . . as nearly global environmental contaminants leading to contamination of human food (particularly fish), the killing of some marine species (shrimp), and the possible extinction of several species of fish-eating birds." Monsanto acknowledged that there was "no practical course of action" to prevent this mass contamination, but still insisted on taking steps "to prolong the manufacture, sale and use of these particular Aroclors as well as to protect the continued use of other members of the Aroclor series." Another internal Monsanto document was more succinct about the reasons why: "there is too much customer/market need and selfishly too much Monsanto profit to go out."

9. On a statewide basis, Monsanto's PCBs have caused significant, long-term damage to New Jersey surface waters, sediments, ground water, fish and other aquatic life, birds and other wildlife, soils, and air. Hundreds of waterbodies covering over 6,000 river miles and over 14,000 lake acres, as well as over 400 square miles of bays and estuaries, are known to be impaired due to PCB contamination.

10. Defendants' responsibility for such statewide contamination is punctuated by Old Monsanto's longstanding practice of recommending that its customers dispose of liquid PCB

wastes directly into sewers despite knowing that this would directly introduce PCBs into surface waters. Old Monsanto also urged customers to vent PCB vapors to the atmosphere despite knowing that this would directly introduce PCBs into air, soils, and surface waters.

11. In addition, Defendants owned, operated, or oversaw activities at the Bridgeport Site, where Old Monsanto used PCBs as part of its manufacturing operations. As a result of Defendants' practices at the Bridgeport Site, important New Jersey natural resources near the Bridgeport Site have been damaged. Such damage includes contamination and pollution of surface waters (such as the Delaware River and Birch Creek), fish and other aquatic life, birds and other wildlife, ground water, sediments, soils, and air in the vicinity of the Site. These resources are contaminated by PCBs, as well as by pollutants such as benzene and chlorobenzene, toluene, trichloroethylene, vinyl chloride, and many others.

12. The State seeks costs, damages, penalties, and other relief for injuries to natural resources of the State, including surface waters, sediments, wetlands, soils, ground water, air, and biota, resulting from Defendants' conduct. Such costs and damages include the costs of restoring natural resources of the State to their pre-discharge conditions; the costs of replacing natural resources; damages for the loss of use and value (including existence value) of natural resources; the costs of assessing

natural resource injuries and damages; the unreimbursed costs of investigation, oversight, and remediation; punitive damages; litigation fees and costs; and pre-judgment interest.

II. THE PARTIES

13. The DEP 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; N.J.S.A. 58:10-23.11b; N.J.S.A. 58:10A-3.

14. In addition, the State is the trustee, for the benefit of its residents, of all natural resources within its jurisdiction. Plaintiff DEP is vested with the authority to protect this public trust and to seek compensation for any injury to the natural resources of the State of New Jersey. N.J.S.A. 58:10-23.11a.

15. The Commissioner is the Commissioner of DEP. N.J.S.A. 58:10-23.11b. and N.J.S.A. 58:10A-3. In this capacity, the Commissioner is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-1 through -19.

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

removal costs DEP incurs, N.J.S.A. 58:10-23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d. The Administrator is tasked with prioritizing claims and determining the availability of funds for costs incurred by DEP, including for cleanup and removal of hazardous substances discharged prior to the effective date of the Spill Act. N.J.S.A. 58:10-23.11f.d. Claims for damages include but are not limited to the cost of treating, restoring, or replacing water supplies and damages to real estate and/or personal property, with a priority for damages to potable well contamination.

17. Defendant Monsanto Co. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 800 North Lindbergh Boulevard, St. Louis, Missouri, 63167. Following a merger transaction that closed in 2018, Monsanto Co. is a wholly-owned subsidiary of Bayer AG.

18. Defendant Solutia, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 575 Maryville Centre Dr., St. Louis, Missouri, 63141. Solutia, Inc. is a wholly-owned subsidiary of Eastman Chemical Company.

19. Pharmacia LLC is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 100 Route 206 North, Peapack, New

Jersey, 07977. Pharmacia LLC is a wholly-owned subsidiary of Pfizer, Inc.

20. Defendant Pharmacia LLC, formerly known as Pharmacia Corporation, is the successor to Old Monsanto.

21. Old Monsanto operated an agricultural products business, a pharmaceutical and nutrition business, and a chemical products business.

22. Through a series of transactions beginning in approximately 1997, Old Monsanto's businesses were reorganized to form three separate corporations. The corporation now known as Monsanto Co. operates Old Monsanto's agricultural products business. Old Monsanto's chemical products business is now operated by Solutia, Inc. Old Monsanto's pharmaceutical business is now operated by Pharmacia LLC.

23. Solutia, Inc. was organized by Old Monsanto to own and operate its chemical manufacturing business, and assumed the operations, assets, and liabilities of Old Monsanto's chemical business.

24. Although Solutia, Inc. assumed and agreed to indemnify Pharmacia LLC for certain liabilities related to the chemicals business, Defendants have also entered into agreements to share or apportion liabilities, and/or to indemnify one or more entities, for claims arising from Old Monsanto's chemical business,

including the manufacture and sale of PCBs and PCB-containing products.

25. In 2003, Solutia, Inc. filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Solutia, Inc.'s reorganization was completed in 2008. In connection with Solutia, Inc.'s Plan of Reorganization, Defendants entered into several agreements under which Monsanto Co. continues to manage and assume financial responsibility for certain tort litigation and environmental remediation related to the chemicals business.

26. Eastman Chemical Co. ("Eastman") reported in its 2020 Form 10-K that it "has been named as a defendant in several [legacy tort] proceedings, and has submitted the matters to [New] Monsanto, which was acquired by Bayer AG in June 2018, as Legacy Tort Claims [as defined in a settlement agreement with Monsanto arising out of Solutia, Inc.'s bankruptcy proceedings]. To the extent these matters are not within the meaning of Legacy Tort Claims, Solutia could potentially be liable thereunder. In connection with the completion of its acquisition of Solutia, Eastman guaranteed the obligations of Solutia and Eastman was added as an indemnified party under the Monsanto Settlement Agreement."

27. In its Form 10-K for the period ending August 31, 2017, filed with the U.S. Securities and Exchange Commission (the last such filing before Bayer AG acquired Monsanto Co.), Monsanto Co.

represented that it: "is involved in environmental remediation and legal proceedings to which Monsanto is a party in its own name and proceedings to which its former parent, Pharmacia LLC or its former subsidiary, Solutia, Inc. is a party but that Monsanto manages and for which Monsanto is responsible pursuant to certain indemnification agreements. In addition, Monsanto has liabilities established for various product claims. With respect to certain of these proceedings, Monsanto has established a reserve for the estimated liabilities." The filing specifies that the company held $277 million in that reserve as of August 31, 2017.

III. AFFECTED NATURAL RESOURCES

A. Surface Waters

28. Surface waters are a critical ecological resource of the State. New Jersey's surface waters -- which include all water in the State's lakes, streams, and wetlands -- are a primary source of drinking water in the State. New Jersey's population obtains a significant portion of its drinking water from surface water sources, and approximately 260 million gallons of surface water per year are used for that purpose.

29. Surface waters in New Jersey are also used for commercial and industrial purposes, such as cooling water and electrical generation, boating, fishing, and transportation of goods and services.

30. The tourism and recreation industries are dependent on clean water and beaches, which are vital to the State's economy.

31. Surface waters provide commercial, recreational, aesthetic, and ecological value and benefits, including by supporting diverse and robust aquatic ecosystems and aquatic life, and residential communities throughout the State.

32. Surface waters impacted by releases, discharges, and emissions of PCBs from Old Monsanto's commercial PCB mixtures and PCB-containing products in ordinary usage include, but are not limited to, the Delaware River, the Hackensack River, the Mullica River, and the Hudson River. In total, over 6,000 miles of New Jersey rivers and streams, over 14,000 acres of New Jersey lakes, reservoirs, and ponds, and over 400 square miles of New Jersey bays and estuaries are considered threatened or impaired by PCB contamination.

33. Certain surface waters have also been affected by contamination from Defendants' activities at the Bridgeport Site. Affected waters include, but are not limited to, the Delaware River and Birch Creek.

B. Wetlands

34. Wetlands are a critical ecological resource in New Jersey. They, along with land and aquatic resources, comprise unique and complex ecosystems.

35. New Jersey has approximately 730,000 acres of freshwater wetlands, and 250,000 acres of coastal wetlands. The Delaware River Basin features approximately 762,000 acres of wetlands, 48% of which are in New Jersey. Of those 762,000 acres, approximately 562,000 acres are freshwater wetlands, 43% of which are in New Jersey.

36. Wetlands sustain a broad diversity of plant and animal life, including sensitive aquatic habitats, essential to a well-functioning ecosystem, and perform many additional functions, including the improvement of water quality (removal of nutrients and organic pollutants), turbidity reduction, sediment trapping, groundwater recharge, shoreline protection, protection of land from flooding, storms, and erosion, and production of food sources for animal and human consumption. However, wetlands have limited capacity to absorb nutrients and deliver other ecological benefits, and may be overloaded by industrial pollution.

37. Fish, birds, and other wildlife utilize wetlands for many purposes, with some spending their entire lives in wetlands and others using wetlands as nursery grounds or for feeding. Almost all important recreational fish spawn in aquatic portions of wetlands. Wetlands are also essential for the majority of endangered plants and many rare and endangered animals.

38. Hundreds of bird species rely on New Jersey wetlands for nesting, feeding, and resting. Many reptiles, amphibians, and

mammal species -- such as muskrats, otters, beavers, minks, raccoons, skunks, foxes, weasels, rabbits, rice rats, mice, voles, lemmings, shrews, white-tailed deer, and black bears -- and many reptiles and amphibians are known to reside in or inhabit New Jersey wetlands.

39. PCBs released, discharged, and emitted from Old Monsanto's commercial PCB mixtures and PCB-containing products in ordinary usage have reached and injured wetlands across New Jersey.

40. Wetlands at or near the Bridgeport Site have also been injured by hazardous substances, contaminants, and pollutants released, discharged, and emitted at or from Defendants' activities at the Bridgeport Site.

C. Sediments and Soils

41. Sediments and soils are critical components of New Jersey's ecological resources. Sediments and soils in New Jersey sustain a wide diversity of plant and animal communities that are essential to well-functioning ecosystems and to a healthy food chain.

42. Sediments are a vital part of the State's ecosystems. They provide a living substrate for submerged and emergent flora, and support diverse invertebrate species, wading birds, and fish and shellfish populations.

43. PCBs released, discharged, and emitted from Old Monsanto's commercial PCB mixtures and PCB-containing products in

ordinary usage have reached and injured sediments and soils across New Jersey.

44. Sediments and soils at and near the Bridgeport Site have also been injured by hazardous substances, contaminants, and pollutants released, discharged, and emitted at or from Defendants' activities at the Bridgeport Site.

D. Ground Water

45. Ground water is an extremely important vital natural resource for the people of New Jersey. Ground water supplies more than 145 billion gallons of water per year, which provides approximately one third of New Jersey's population with drinking water.

46. Ground water is a source of potable water, and it is also an integral part of the State's ecosystem.

47. There are private groundwater wells, which provide access to ground water, in the residential communities around the Bridgeport Site. These wells are used for drinking water, irrigation, and other purposes.

48. Ground water provides base flow to streams and other surface water bodies, and influences surface water quality and wetland ecology and the health of aquatic ecosystems.

49. Ground water provides cycling and nutrient movement, prevents saltwater intrusion, provides ground stabilization,

prevents sinkholes, and maintains critical water levels in freshwater wetlands.

50. Ground water is a unique resource that supports the State's tourism industry, and is also used for commercial, industrial, and agricultural purposes, all of which help sustain the State's economy.

51. PCBs from Old Monsanto's commercial PCB mixtures and PCB-containing products have reached and injured New Jersey ground water.

52. Hazardous substances, contaminants, and pollutants released, discharged, and emitted at or from Defendants' activities at the Bridgeport Site, including but not limited to PCBs, have reached and injured ground water at and near the Bridgeport Site.

E. Biota

53. Biota, including the flora and fauna of the State, are critical ecological resources. New Jersey is home to more than 2,000 plant species, which include entire communities of rare flora that cannot be found anywhere else in the world.

54. New Jersey wildlife includes approximately 900 species, including 90 mammal species, 79 reptile and amphibian species, more than 400 fish species, and approximately 325 species of birds. Approximately 1.5 million shorebirds and as many as 80,000 raptors make migratory stopovers in New Jersey each year. Several

threatened and endangered raptor species have difficulty breeding because of the bioaccumulation of toxic compounds, such as PCBs.

55. Fish in PCB-impacted waterways are at risk from exposure to PCBs; fish that eat other fish (i.e., which are higher on the food chain), such as the largemouth bass and striped bass, are especially at risk. PCBs adversely affect fish survival, growth, and reproduction.

56. Insects with an aquatic stage are exposed to PCBs from contaminated sediment. Birds and mammals that feed on these insects such as the tree swallow and little brown bat, are at risk from PCB exposure.

57. Birds and mammals that eat PCB-contaminated fish, such as the bald eagle, belted king fisher, great blue heron, mink, and river otter, are at risk. Like the endangered raptor described above, PCBs adversely affect the survival, growth, and reproduction of these species.

58. Fragile populations of threatened and endangered species, such as the shortnose sturgeon, are particularly susceptible to adverse effects from PCB exposure, such as impaired survival, growth, and reproduction.

59. New Jersey's biodiversity provides a wealth of ecological, social, and economic goods and services that are an integral part of the ecological infrastructure for all cultural and economic activity in the State.

60. New Jersey's ecosystems, however, are vulnerable to pollution, degradation, and destruction from the discharge of hazardous substances, contaminants, and pollutants. Contamination from the discharge of hazardous substances, contaminants, and pollutants is one of the major causes of biodiversity loss in New Jersey.

61. Natural resource injuries to biota in New Jersey negatively impact not only the individual species directly involved, but the capacity of the injured ecosystems to regenerate and sustain such life into the future.

62. PCBs from Old Monsanto's commercial PCB mixtures and PCB-containing products have reached and injured New Jersey biotic populations.

63. Hazardous substances, contaminants, and pollutants released, discharged, and emitted at or from Defendants' activities at the Bridgeport Site, including but not limited to PCBs, have reached and injured the biota at and near the Bridgeport Site.

F. Air

64. Air resources are vital to life. Pollution of air resources can injure human health and welfare, flora and fauna, and property, and can unreasonably interfere with the enjoyment of life and property in areas affected by such pollution. Air deposition (i.e., deposits of air contaminants on the earth's

surface) can also be a source of contamination to other types of natural resources, including ground water, surface water, sediments and soils, wetlands, forests, and biota.

65. PCBs inevitably volatilize or vaporize into air during ordinary use and handling. When deposited on the ground or in waters, lighter PCB compounds are known to break away from heavier PCB compounds and cause air contamination.

66. Human exposure to PCB-contaminated vapors in air is a well-documented public health risk.

67. PCBs released, discharged, and emitted from Old Monsanto's commercial PCB mixtures and PCB-containing products have reached and injured New Jersey air resources.

68. Air pollution, including but not limited to contamination of air with PCBs, resulting from Defendants' historic activities at the Bridgeport Site, has injured air resources at and near the Bridgeport Site.

IV. FACTUAL ALLEGATIONS

69. This section sets forth facts demonstrating Monsanto's responsibility for: (A) statewide PCB contamination; and (B) contamination by PCBs and other chemicals at the Bridgeport Site.

A. Monsanto's Marketing and Distribution of PCBs Have Caused Statewide PCB Contamination.

1. PCBs Are Dangerous Chemicals.

(a) Physical and Chemical Properties of PCBs

70. Old Monsanto began manufacturing PCB mixtures in 1935 after acquiring Swann Chemical Company, which manufactured PCBs from 1929 to 1935. Old Monsanto continued to manufacture such products until the late 1970s.

71. PCBs are a class of synthetic organic chemical compounds in which a minimum of two, and a maximum of ten chlorine atoms are attached to a biphenyl molecule. There are no known natural sources of PCBs in the environment.

72. There are 209 distinct PCB compounds (known as congeners) with two to ten chlorine atoms on a biphenyl molecule. The number and placement of the chlorine atoms on the biphenyl molecule determines how the congener is named and dictates its environmental fate and toxicity. PCBs generally occur as mixtures of congeners.

73. Old Monsanto manufactured PCB mixtures primarily under the "Aroclor" trade name. Aroclors are differentiated principally by the composition of chlorine by weight, so, for example, "Aroclor 1254" means the mixture contains approximately 54% chlorine by weight. Generally, the higher the chlorine content of a PCB mixture, the greater its chemical stability and environmental persistence.

74. Old Monsanto's commercial PCB formulations sought to maximize the products' stability, and thus also their persistence and resistance to degradation. PCBs do not burn easily, are relatively insoluble in water, and adsorb to solids and particulate matter.

75. PCBs are "semivolatile" in that they volatilize, or form a gas. PCB volatilization rises with increases in temperature, i.e., more PCBs are released to air from PCB-containing products or PCB-contaminated sites as temperature increases. Small amounts of PCBs vaporize from PCB-containing products and PCB-contaminated sites, resulting in local and long-range transport of PCB vapors, at normal environmental temperatures.

76. Defendants' PCBs entered the air, waters, sediments, and soils during their ordinary and prescribed uses. Indeed, PCBs gradually escaped and dispersed from their common applications, e.g., in road paint or caulking, into the natural environment due to the chemical compounds' tendency to vaporize, particularly when exposed to heat (such as when road paint or building materials are exposed to the sun over time). As vapors, PCBs travel through the air, eventually settling in nearby soil, sediment, or waterbodies, and continue to circulate in air indefinitely.

77. Similarly, PCBs can be released by the grinding, scraping, and removal of caulking and other construction materials that include PCBs, resulting in the contamination of nearby soil.

78. Defendants' PCBs also entered the environment from spills or leaks in the ordinary course of business, such as through transport of the chemicals, and from leaks or fires in transformers, capacitors, or other products containing PCBs, and from the burning of wastes in some municipal or industrial incinerators.

79. Old Monsanto prescribed that PCBs and PCB-contaminated wastes should be disposed of in the ordinary course in normal, unlined landfills and pits, from which they easily escaped, leached, and leaked into the surrounding environment. Old Monsanto instructed customers to drain PCB-filled heat transfer systems and other equipment, and to dispose of the PCB wastes without taking any particular precautions.

80. Old Monsanto also advised customers to dispose of liquid PCB wastes directly into sewers, despite knowing that this would directly introduce PCBs into surface waters, and to vent PCB vapors to the atmosphere, despite knowing that this would directly introduce PCBs into air, soils, and surface waters.

81. Once in the environment, PCBs do not break down readily and remain for decades absent remediation.

82. In water, PCBs travel along currents and attach to bottom sediment or particles in the water and evaporate into air or settle into sediment. Sediments contaminated with PCBs also release PCBs into surrounding water.

83. PCBs also contaminate ground water with lower-chlorinated PCB congeners, in particular, dissolving into and contaminating ground water. Higher chlorinated PCBs generally do not dissolve in water, remaining in soils or other media.

84. In soil, PCBs combine with soil organic matter and remain in soil for many years. PCBs damage plants and microorganisms; they harm the whole soil biosphere, ultimately threatening human health. Soil contamination may also lead to human exposure through incidental ingestion, inhalation, or dermal contact.

85. As a gas, PCBs can accumulate in the leaves and above-ground parts of plants and food crops, and pose direct human health threats through human exposure to PCB-contaminated air.

86. PCBs are soluble in lipids, including body fat, and bioaccumulate particularly well in fish and marine animals, even to levels that may be many thousands of times greater than PCBs in the surrounding water. As such animals are consumed, PCB levels biomagnify, becoming more highly concentrated in animals higher up the food chain, including humans.

(b) Health and Ecological Effects of Exposure to PCBs

87. Humans are exposed to PCBs primarily from eating contaminated food, breathing contaminated air, or drinking or swimming in contaminated water.

88. The major dietary sources of PCBs are fish (especially sportfish caught in contaminated waterbodies), meat, and dairy products.

89. PCBs also collect in milk fat and can enter the bodies of infants through breast-feeding.

90. Fetuses in the womb are also exposed to PCBs through their mothers. Studies show that babies born to mothers exposed to high concentrations of PCBs in the workplace or from eating PCB-contaminated fish suffer from lower birth weight than other babies. Babies born to women exposed to PCBs before and during pregnancy showed abnormal responses to infant behavioral tests, including motor skills, and experienced short-term memory deficiencies.

91. Many studies have examined how PCBs affect human health. Human health effects associated with PCB exposure include, without limitation, liver, thyroid, dermal, and ocular changes, immunological alterations, neuro-developmental and neurobehavioral changes, reduced birth weight, reproductive toxicity, and cancer.

92. Liver changes associated with PCB exposure include liver enlargement, microsomal enzyme induction (altered metabolism), increased levels of enzymes indicative of hepatocellular damage and serum and tissue biochemical changes indicative of liver

dysfunction, and histopathological changes concerning fat deposition, as well as fibrosis and necrosis.

93. Thyroid changes associated with PCB exposure include goiter and increased thyroid gland volume, histological changes in the thyroid gland indicative of stimulation of the gland and disruption of the processing of follicular colloid needed for normal production and secretion of thyroid hormone, depressed thyroid hormone levels, and modified (increased or decreased) activity in producing and transferring enzymes necessary for thyroid hormone production. Due to the importance of the thyroid to brain development, PCBs' effects on the thyroid produce neurodevelopmental effects.

94. Dermal changes associated with PCB exposure include skin irritation, chloracne, and nail and skin pigmentation changes.

95. Ocular changes associated with PCB exposure include hypersecretion of Meibomian glands, abnormal pigmentation of the conjunctiva, and swollen eyelids.

96. Immunological alterations associated with PCB exposure include decreased antibody levels, changes in T-cell subsets, and increased susceptibility to respiratory tract infections, infectious illnesses, and middle ear infections.

97. Neurological changes associated with PCB exposure include abnormal reflexes and deficits in memory, learning,

impulse control, and IQ. Such changes impact infants and children more severely than adults. PCBs are known neurotoxins.

98. Reproductive changes associated with PCB exposure include menstrual disturbances in women and effects on sperm morphology and production in men, all of which can result in difficulty conceiving.

99. PCBs are associated with a number of cancers, including cancer of the liver, biliary tract, intestines, and skin (melanoma).

100. In 1996, the United States Environmental Protection Agency ("EPA") assessed PCB carcinogenicity based on data related to Aroclors 1016, 1242, 1254, and 1260. EPA's cancer assessment was peer-reviewed by fifteen experts on PCBs, including scientists from government, academia, and industry. All experts agreed that PCBs are probable human carcinogens.

101. The U.S. Department of Health and Human Services' National Toxicology Program considers PCBs to be "reasonably anticipated to be human carcinogens".

102. The International Agency for Research on Cancer ("IARC"), an intergovernmental agency forming part of the World Health Organization of the United Nations, concluded in March 2013, based on the assessments of twenty-six experts from twelve countries, that PCBs are known human carcinogens.

103. In its formal 2016 report, the IARC stated, "There is sufficient evidence in humans for the carcinogenicity of [PCBs]. PCBs cause malignant melanoma. Positive associations have been observed for non-Hodgkin lymphoma and cancer of the breast . . . . PCBs are carcinogenic to humans . . . ."

104. In addition to being highly toxic to humans, Monsanto's commercial PCB mixtures are highly toxic to fish and wildlife.

105. Toxicity studies have demonstrated that commercial PCB mixtures induce hepatotoxicity, immunotoxicity, neurotoxicity, and reproductive toxicity in birds and mammals.

106. Studies of bird populations have drawn strong correlations between elevated PCB concentrations in blood and declining bird populations, as well as increased frequency of developmental abnormalities and deformities.

107. PCBs have also been shown to cause eggshell thinning in many bird species resulting in reproductive failure and generally decreased reproductive capacity.

108. Mammalian studies have shown that PCB exposure adversely affects patterns of survival, reproduction, growth, metabolism, and accumulation.

109. Studies on bats, dogs, cats, foxes, minks, otters, bears, rats, monkeys, and other mammals, including marine mammals, have generated strong associations between exposure to commercial PCB mixtures and a host of health effects, including hepatomegaly

(enlarged liver), necrosis, atrophy of lymphoid tissues, suppression of antibody responses, impaired behavior and development, catecholamine alterations (neurotransmitter interference), increased abortion, low birth weight, embryolethality, teratogenicity (embryotic malformation), gastrointestinal ulceration, bronchitis, chloracne, edema, hyperplasia (cell proliferation), mutagenicity and preneoplastic changes (tumor development).

110. Aquatic organisms are also sensitive to PCB contamination and suffer adverse effects in proportion to PCB exposure.

111. For instance, studies of reproductive effects on salmon, bass, zebrafish, and other fish species have demonstrated decreased reproductive success in populations with high PCB exposure, and PCB concentrations are directly correlated to hatching success rates.

112. PCBs also impact the reproduction of reptiles such as snapping turtles. Studies have found strong associations between low snapping turtle egg hatch rates and increased frequency of deformed hatchlings on one hand and elevated PCB concentrations in such eggs on the other.

2. Old Monsanto Knew PCBs Were Dangerous Contaminants at the Time of Manufacture, Marketing, Sale, and Distribution.

113. Old Monsanto knew its PCB compounds were highly toxic as early as 1937. Old Monsanto also knew well before 1970 that a number of studies, both internal and external, had demonstrated human and animal toxicity and prevalent contamination of waters and soils.

114. Old Monsanto developed an early, sophisticated understanding of the dangers associated with PCB compounds and PCB-containing products, such as Aroclors.

115. In 1936, many workers at a New York facility using PCBs operated by Halowax Corporation were afflicted with severe chloracne, a serious skin disorder characterized by chronic inflammation of the skin causing eruptions of cysts and pustules. Three workers died and autopsies revealed severe liver damage in two of them.

116. Halowax Corporation asked Harvard University researcher Cecil K. Drinker to investigate the issue, and Dr. Drinker's analysis was presented at a 1937 meeting attended by high-level personnel employed by Old Monsanto.

117. Dr. Drinker's investigation revealed that rats exposed to PCBs suffered severe liver damage. Dr. Drinker's results were published in a September 1937 issue of the Journal of Industrial Hygiene and Toxicology.

118. That same year, Old Monsanto admitted in an internal report that PCBs produce "systemic toxic effects" as a result of prolonged exposure to PCB vapors or oral ingestion, and that bodily contact with PCBs produces "an acne-form skin eruption."

119. Old Monsanto subsequently retained Dr. Drinker to conduct further animal studies. In September 1938, Dr. Drinker confirmed liver damage in rats exposed to various formulations of PCB compounds.

120. Other studies also explored and confirmed the toxicity of chlorinated hydrocarbons like PCBs. A 1939 study published in the Journal of Industrial Hygiene and Toxicology, for example, referenced the worker fatalities investigated by Dr. Drinker and went on to conclude that pregnant women and persons previously affected by liver disease are particularly susceptible to adverse effects from chlorinated hydrocarbons, like PCBs.

121. In February 1950, Old Monsanto Medical Director Dr. R. Emmet Kelly acknowledged that when workers fell ill at an Indiana factory that used PCBs in the manufacturing process, he immediately "suspected the possibility that the Aroclor fumes may have caused liver damage."

122. A 1955 report on the production of Aroclor prepared by Old Monsanto likewise acknowledged that in the "early days of development," workers at a plant in Anniston, Alabama processing PCBs had developed chloracne and liver problems.

123. In 1955, Dr. Kelly further documented Old Monsanto's clear understanding: "We know Aroclors are toxic[.]" Dr. Kelly also appeared to recognize the scope of Old Monsanto's potential legal liability, explaining that "our main worry is what will happen if an individual develop[s] any type of liver disease and gives a history of Aroclor exposure. I am sure the juries would not pay a great deal of attention to [maximum allowable concentration levels]."

124. Old Monsanto's Medical Department prohibited workers from eating lunch in the Aroclor department in November 1955. The Medical Department memorandum explained that "Aroclor vapors and other process vapors could contaminate the lunches unless they were properly protected" and that "[w]hen working with this material, the chance of contaminating hands and subsequently contaminating the food is a definite possibility."

125. In January 1957, Dr. Kelly reported that the U.S. Navy had refused to use Old Monsanto's PCB products in submarines: "No matter how we discussed the situation, it was impossible to change their thinking that Pydraul 150 [a PCB product marketed by Old Monsanto] is just too toxic for use in a submarine."

126. Notably, at the same time it was manufacturing PCBs, Old Monsanto also manufactured and researched the toxicological profile and environmental effects of dichloro-diphenyl-

trichloroethane ("DDT"), another now-infamous chlorinated hydrocarbon similar to PCBs.

127. By the late 1940s, Old Monsanto had already researched and compiled an extensive toxicological profile of DDT showing that it is extremely toxic to human and environmental health. Indeed, by then, scientific researchers had established that DDT and other chlorinated hydrocarbons are absorbed and stored in fatty tissue of living organisms exposed to them and pass these contaminants on to their offspring.

128. Extensive scientific research establishing the toxicity and bioaccumulative and biopersistent nature of DDT and other chlorinated hydrocarbons was published from the 1940s to the 1960s. Old Monsanto produced DDT and was acutely aware of this research. Old Monsanto was also acutely aware of the similarities between DDT and PCBs.

129. For instance, the American Journal of Public Health published a 1950 report warning that "chlorinated hydrocarbons, such as DDT and chlordane, are soluble in fats and are stored in the fatty tissues of the body. These compounds possess a high order of toxicity, and their uncontrolled or unwise use is not desirable." As Old Monsanto knew, or at a minimum should have known, the same was and is true of its PCB compounds.

130. Despite its early knowledge of the human health and environmental hazards PCBs posed, Old Monsanto for decades went to

great lengths to protect its profitable PCB franchise, and aggressively manufactured, marketed, sold, and distributed its commercial PCB formulations (and discharged PCB wastes generated during production directly into the environment), deceiving regulators and the public in the process.

3. Even After PCBs Were Widely Discovered in the Environment, Old Monsanto Doubled Down on a Campaign of Deception to Protect Its PCB Franchise.

131. In 1966, the New Scientist published a short article ("Report of a New Chemical Hazard"), summarizing recent research by Søren Jensen, a Swedish chemist at Stockholm University's Institution of Analytical Chemistry, which estimated that PCBs may be spreading through environments in high volumes due to their use by manufacturing interests.

132. Dr. Jensen had accidentally found enormous quantities of PCB compounds in wildlife while analyzing DDT accumulations. Dr. Jensen presented his findings to the scientific community in 1966, including that PCBs "appear[] to be the most injurious chlorinated compounds of all tested." Dr. Jensen reported that the "main characteristic[s]" of PCBs include their "very high stability," lack of "metaboliz[ation] in living organism[s]," and their non-flammability.

133. Old Monsanto's Medical Director, Dr. Kelly, was aware of Dr. Jensen's findings at the time.

134. In December 1968, Nature published an article by Dr. Richard Risebrough of the University of California entitled "Polychlorinated Biphenyls in the Global Ecosystem." The article assesses PCB presence in wildlife and reports high concentrations of PCBs detected in peregrine falcons and thirty-four other bird species, drawing an immediate connection between PCBs and the catastrophic decline of peregrine falcon populations in the United States.

135. Old Monsanto personnel took note of Dr. Risebrough's article, recognizing the public-relations disaster it portended. W.R. Richard, manager of Old Monsanto's Research and Development of Organics Division, wrote in early 1969 that the article shows not only that PCBs are "toxic substance[s]" but also because they are easily and broadly distributed in air and water, they are "an uncontrollable pollutant . . . causing [the] extinction of [the] peregrine falcon . . . [and] endangering man himself."

136. Also in 1969, Dr. Jensen published the formal results of his years-long research into PCBs in the environment. Dr. Jensen's research demonstrated very high PCB concentrations in Baltic Sea fauna such as white-tailed sea eagles. A 2013 assessment of this historical data summarized the implications of Dr. Jensen's results: "PCBs had entered the environment in large quantities for more than 37 years and were bio-accumulating in the food chain."

137. In September 1969, W.R. Richard, an Old Monsanto researcher, wrote a memorandum entitled "Defense of Aroclor." Richard's memorandum noted that critics of PCBs have raised a multitude of different issues with the compounds, so "[w]e can't defend vs. everything. Some animals or fish or insects will be harmed. Aroclor degradation rate will be slow. Tough to defend against. Higher chlorination compounds will be worse [than] lower chlorine compounds. Therefore, we will have to restrict uses and clean-up as much as we can, starting immediately."

138. In the same document, Richard admitted that PCBs will leak from virtually all applications, including such "closed" or "semi-closed" applications as electrical (transformer/capacitor) and heat transfer or air compressor applications.

139. That same month, Old Monsanto formed what it dubbed the "Aroclor Ad Hoc Committee" to strategize about defending its PCB business against growing public outcry and growing evidence of PCBs' toxicity and environmental harms. The minutes of the Committee's first meeting observed that PCBs had been found in fish, oysters, shrimp, and birds, along the coasts of industrialized areas including Great Britain, Sweden, the Rhine River, Lake Michigan, Pensacola Bay, and in wildlife throughout the Western Hemisphere.

140. The Committee acknowledged that normal and intended uses of PCB-containing products were the cause of the widespread

contamination: "In one application alone (highway paints), one million lbs/year are used. Through abrasion and leaching we can assume that nearly all of this Aroclor winds up in the environment."

141. The Committee worked to formulate a response to growing concerns over PCBs, including those reflected by the U.S. Department of the Interior's Fish and Wildlife Service (which found PCBs in dead eagles and marine birds), the Bureau of Commercial Fisheries (which found PCBs in the river below Old Monsanto's Pensacola plant), and the U.S. Food and Drug Administration (which found PCBs in milk supplies).

142. The Committee's agenda was to: "1. Protect continued sales and profits of Aroclors; 2. Permit continued development of new uses and sales; and 3. Protect the image of the Organic Division and the Corporation as members of the business community recognizing their responsibilities to prevent and/or control contamination of the global ecosystem."

143. As the minutes reflect, "there is little probability that any action that can be taken will prevent the growing incrimination of specific polychlorinated biphenyls . . . as nearly global environmental contaminants leading to contamination of human food (particularly fish), the killing of some marine species (shrimp), and the possible extinction of several species of fish-eating birds."

144. However, while "there is no practical course of action that can so effectively police the uses of these products as to prevent environmental contamination . . . [t]here are . . . a number of actions which must be undertaken to prolong the manufacture, sale and use of these particular Aroclors as well as to protect the continued use of other members of the Aroclor series."

145. In keeping with the corporate strategy reflected in the Aroclor Ad Hoc Committee meeting minutes and elsewhere, Old Monsanto not only continued producing Aroclors through 1969, but increased production that year and in 1970, which were the highest volume production years in the history of PCBs.

146. Old Monsanto likewise vigorously protected its Aroclor brand from regulatory intrusion. Old Monsanto falsely told New Jersey regulators in July 1969 that it "d[id] not believe the polychlorinated biphenyls to be seriously toxic," that Old Monsanto could not "conceive of how the PCBs can become widespread in the environment," and that, in light of PCBs' chemical inertness, Old Monsanto "would anticipate no problems associated with the environment from refuse dumps."

147. Elmer Wheeler, in Old Monsanto's Medical Department, circulated laboratory reports discussing results of animal studies in January 1970, in which Dr. Wheeler noted that "PCBs are about

the same as DDT in mammals[,]" the dangerous characteristics and environmental threats of which Old Monsanto had known for decades.

148. At the same time that it was internally acknowledging that PCBs are "about the same" as DDT, in January 1970, the journal Environment published a note authored by Old Monsanto: "Monsanto Statement on PCB." The company note acknowledged that recent studies, including Dr. Jensen's studies, indicated PCBs' widespread presence in the natural environment, and expressed the company's "concern[] over the situation."

149. However, the note defended PCBs by deploying a variety of false statements that Old Monsanto used on multiple occasions in the late 1960s and early 1970s to minimize the negative impacts of PCBs.

150. In particular, Old Monsanto claimed that (a) PCBs cannot escape so-called "closed" applications, where PCBs are "completely sealed in metal containers"; (b) PCBs cannot escape "open" applications such as adhesives, elastomers, and surface coatings; (c) PCBs are not "to our knowledge" used in "household products"; and (d) it is simply "not true" that PCBs are "highly toxic."

151. Old Monsanto knew that all of these statements were untrue and would tend to mislead regulators and the public when they published them.

152. Similarly, Old Monsanto falsely asserted in the note that research it conducted into PCB toxicity in fish and mammals

and PCB presence in waters and soils provided "[v]ery early results . . . that PCBs are not highly toxic."

153. Contrary to their published claims, Old Monsanto knew PCBs would leach, leak, off-gas, and escape their ordinary and intended applications, including closed applications, and cause significant injury to natural resources and human life.

154. Old Monsanto also knew that the PCBs they produced were used in "household products" and aggressively promoted the use of PCBs in "household products." For example, in a 1960 brochure, Old Monsanto promoted the use of Aroclors in a wide variety of household and personal products including home appliances, food cookers, potato chip fryers, thermostats, automotive transmission oil, insecticides, waxes, jewelry, lubricants, adhesives, moisture-proof coatings, printing inks, papers, sealants and caulking compounds, tack coatings, asphalt, paints, varnishes, lacquers, masonry coatings for swimming pools, stucco homes, and protective or decorative coatings for a number of other finishes.

155. Old Monsanto also knew that certain of its largest PCB customers, such as NCR Corporation, used large volumes of Aroclor products in the production of paper products, which would be recycled by paper mills for reuse in new paper products, and that such recycled paper products would be used for, among other things, food packaging.

156. A 1961 brochure published by Old Monsanto explained that Aroclors are used in "lacquers for women's shoes," as a "wax for the flame proofing of Christmas trees," as "floor wax," as an adhesive for bookbinding, leather, and shoes, and as invisible marking ink used to make chenille rugs and spreads.

157. In February 1970, Old Monsanto's high-level personnel circulated a talking-points memorandum to be used in engaging with customers raising concerns over PCB toxicity. Although Old Monsanto had reformulated certain high-chlorine products (Aroclor 1254 and 1260) to lower the degree of chlorination, it instructed employees to resist product returns of the older formulations, explaining that Old Monsanto "can't afford to lose one dollar of business." The memorandum instructed employees to advise customers to use up their existing Aroclor 1254 and 1260 stock before topping up with new fluids: "We don't want to take fluid back."

158. Despite knowing that PCBs and PCB-containing products would inevitably cause environmental contamination and pose substantial public health risks as a result of ordinary and intended usage, Old Monsanto issued no public warning or instruction about PCBs or the health and environmental safety hazards they present.

159. Instead, Old Monsanto expressly denied the harmfulness and environmental toxicity of PCBs, as demonstrated, for example,

in the 1970 company note published in the journal Environment, as well as in direct communications with regulators in New Jersey and elsewhere. Old Monsanto even withheld crucial safety and handling information from its own direct customers until the early 1970s.

160. Even its warnings and instructions to direct customers in the early 1970s failed to adequately advise of the true nature of the environmental and human health risks associated with Old Monsanto's products. When customers sought safe disposal instructions, Old Monsanto instructed them to deposit PCB wastes in ordinary landfills, knowing this would inevitably cause long-term contamination of natural resources.

161. As alleged below with respect to the Bridgeport Site in New Jersey, Old Monsanto itself also failed to take adequate precautions in disposing of the PCBs and PCB wastes that it generated. Its staff routinely disposed of PCB wastes in an unsafe manner. For example, Old Monsanto landfilled large amounts of PCB waste throughout the 1960s at the Bridgeport Site.

162. Old Monsanto executive William Papageorge wrote in a letter dated March 6, 1970 that, "All waste containing PCB's [sic] is at present hauled to the dumps the plants have been using for other plant waste. We recognize this is not the ultimate, since PCB's [sic] could eventually enter the environment, but we will continue this practice until better methods of disposal are available."

163. Mr. Papageorge further acknowledged in testimony provided in 1975 to the Wisconsin Department of Natural Resources that Old Monsanto generally recommended disposal of PCB-contaminated wastes in landfills.

164. As the government investigations and formal inquiries into the dangers of PCBs amplified in the late 1960s and early 1970s, Old Monsanto doubled down on its campaign of misinformation and denial.

165. For example, Howard S. Bergen, from Old Monsanto's Functional Fluids Division, sent a letter dated March 27, 1969, to the Regional Water Quality Control Board of the San Francisco Bay Region, in which he claimed that PCBs are associated with "no special health problems," and that due to PCBs' chemical inertness, "we would anticipate no problems associated with the environment from refuse dumps." Both of those statements were false and Old Monsanto knew they were false.

166. Dr. Wheeler, Assistant Director of Old Monsanto's Medical Department, told a representative of the National Air Pollution Control Administration in May 1969 that Old Monsanto "cannot conceive how the PCBs can be getting into the environment in a widespread fashion." The representative promised to convey this message to Congress.

167. Old Monsanto similarly claimed ignorance of how PCBs could be entering the environment in large quantities to a number

of other public entities, regulators, and authorities, including the New Jersey Department of Conservation.

168. In July 1969, the company claimed that, "[b]ased on the available data, manufacturing and use experience, we do not believe PCBs to be seriously toxic," adding that, "we are unable at this time to conceive of how the PCBs can become widespread in the environment. It is certain that no applications to our knowledge have been made where the PCB's [sic] would be broadcast in the same fashion as the chlorinated hydrocarbon pesticides have been." Those statements were false.

169. Old Monsanto's Dr. Kelly communicated with the Ohio State Board of Health in March 1970 regarding the detection of PCBs, particularly Aroclor 1254, in samples of milk from at least three cow herds in Ohio. The Board traced this contamination back to Aroclor-containing paints flaking off and possibly leaching from the interior walls of the silos in which the milk was stored. The Board reported to Old Monsanto that it would have to destroy about 150 tons of milk, valued at about $30 per ton. The Board also reported that there may be fifty other silos similarly contaminated in the state that were painted with the same formulation.

170. In response, Dr. Kelly communicated to other Old Monsanto officials: "All in all, this could be quite a serious problem, having legal and publicity overtones. This brings us to

a very serious point. When are we going to tell our customers not to use any Aroclor in any paint formulation that contacts food, feed, or water for animals or humans? I think it is very important that this be done."

171. Old Monsanto never heeded Dr. Kelly's admonition to warn of the dangers of similar applications of Aroclors. Instead, Old Monsanto ultimately withdrew its PCB-containing Aroclor formulations intended for use as plasticizers or other "open" uses in or around 1971, but declined to inform or advise those utilizing such products for open use applications to take steps to prevent environmental contamination.

172. An internal memorandum prepared by Dr. Kelly dated February 10, 1967 expressed his concern about PCB contamination: "We are very worried about what is liable to happen in the [United States] when the various technical and lay news media pick up the subject [of PCB contamination]. This is especially critical at this time because air pollution is getting a tremendous amount of publicity in the United States." The memorandum noted that some of Old Monsanto's largest PCB customers, such as NCR Corporation, had been pressing Old Monsanto to furnish more information on PCB safety, but that the company had dodged their inquiries.

173. Old Monsanto's misrepresentations and omissions to public entities and others were designed to conceal the toxicity and hazardousness of its PCB formulations to humans and the natural

environment to salvage what Old Monsanto repeatedly emphasized was "one of Monsanto's most profitable franchises," generating significant annual revenues.

174. An internal presentation to Old Monsanto's Corporate Development Committee generated in or around 1969 advised against exiting the Aroclor market despite clear knowledge of Aroclor's dangers because "there is too much customer/market need and selfishly too much Monsanto profit to go out."

175. Another internal memorandum remarked, "[t]here can not [sic] be too much emphasis given to the threat of curtailment or outright discontinuance of the manufacture and sales of this very profitable series of compounds."

176. Old Monsanto's continued aggressive production, marketing, and sale of PCB formulations, including to customers in New Jersey, is remarkable particularly because, as Old Monsanto recognized, these PCB mixtures were neither necessary for many of the uses for which Old Monsanto marketed them, nor superior to alternative products.

177. Indeed, Old Monsanto's internal documents acknowledge that its PCB-containing dielectric fluids never offered any real advantage to non-PCB fluids. For example, a document concerning the company's product strategy for "askarel" dielectric fluids reports: "[T]he incidence of explosion with mineral oil was actually lower than with askarel! This in addition to the economic

disadvantage of askarel leads to the embarrassing question of why bother to use askarel, and lends an ear to complaints from the workers who dislike the odor, irritating and toxic qualities of our material."

178. Likewise, many chemicals could perform the function of PCBs in various "open use" applications, such as adhesives or varnishes, such that there was never any need to introduce environmentally hazardous PCBs for these types of uses.

179. In short, Old Monsanto had a complete and comprehensive record of all PCB-related scientific research and general reportage during the relevant time period; indeed, an August 6, 1971 internal memorandum noted that the company "ha[s] probably the world's best reference file on the PCB situation". Nevertheless, the company failed to timely alert regulators and the public of the dangers of its PCBs, nor did it take adequate steps to stave off the impending environmental disaster, all to shield its sales, profits, and reputation — and to protect product lines that offered no concrete advantage over safer alternatives.

4. Old Monsanto Sold and Distributed a Massive Volume of PCBs in New Jersey.

180. Historically, Old Monsanto sold and distributed at least 38,000,000 pounds of PCBs to various customers throughout New Jersey. Plaintiffs possess records of sales only for a limited period of time and allege, on information and belief, that still

more PCBs were sold by Old Monsanto to customers located in New Jersey. Discovery is needed to ascertain more precise sales information.

181. As previously discussed, in conjunction with its significant sales into New Jersey, Old Monsanto advised customers to dispose of liquid PCB wastes directly into sewers despite knowing that this would directly introduce PCBs into surface waters, and to vent PCB vapors to the atmosphere despite knowing that this would directly introduce PCBs into air, soils, and surface waters.

182. Entities that purchased and used PCBs in New Jersey include at least the following:

a. Research Cottrell, Bound Brook, NJ. 3,960,518 lbs.
b. Federal Pacific Electrical Co., Newark, NJ. 3,955,400 lbs.
c. Universal Manufacturing Corp., Totowa, NJ. 3,937,000 lbs.
d. American Mineral Spirits, Carteret, NJ. 3,808,968 lbs.
e. Products Research, Gloucester, NJ. 2,937,200 lbs.
f. National Starch, various (Plainfield, Bloomfield, Bridgewater, Bound Brook, NJ). 2,271,100 lbs.
g. Valspar Corp., Nutley, NJ. 2,045,520 lbs.
h. Pittsburgh Plate Glass, various (Bloomfield, Newark, NJ). 1,976,843 lbs.
i. Minnesota Paints, Nutley, NJ. 1,718,000 lbs.
j. E.I. DuPont, various (Deepwater, Parlin, Gibbstown, NJ). 1,099,000 lbs.
k. Koppers Co., various (Newark, Westfield, NJ). 1,078,100 lbs.
l. Sonneborn Building Products, Belleville, NJ. 1,054,400 lbs.
m. LA Dreyfus, Edison, NJ. 915,000 lbs.
n. Philip Carey, Perth Amboy, NJ. 860,500 lbs.
o. Solar Compounds, various (Linden, Camden, NJ). 649,200 lbs.

p. Alfa-Ink, Carlstadt, NJ. 600,000 lbs.
q. Riegel Paper, Riegelsville, NJ. 600,000 lbs.
r. Essex Chemical, various (Clifton, Sayreville, NJ). 450,800 lbs.
s. Mobil Chemical, various (Edison, Metuchen, Plainfield, NJ). 434,560 lbs.
t. Borden Chemical, Middlesex, NJ. 382,000 lbs.
u. Singer Company, various (Elizabeth, Somerville, NJ). 359,222 lbs.
v. Electronic Component, Totowa, NJ. 288,000 lbs.
w. Industrial Latex, Wallington, NJ. 252,000 lbs.
x. General Motors, various (Clark, Harrison, Linden, NJ). 236,070 lbs.
y. Sun Chemical Co., various (East Rutherford, Nutley, NJ). 229,000 lbs.
z. Paisley Products, various (Clifton, Edison, NJ). 226,000 lbs.
aa. National Lead Co., various (Perth Amboy, Sayreville, South Amboy, NJ). 219,400 lbs.
bb. Baker Castor Oil, Bayonne, NJ. 201,000 lbs.
cc. Celanese Coatings, Newark, NJ. 142,200 lbs.
dd. Cities Service Oil, various (Camden, Pettys Island, NJ). 128,400 lbs.
ee. Ames Rubber Co., Hamburg, NJ. 128,000 lbs.
ff. Belray Co., Farmingdale, NJ. 121,200 lbs.
gg. Mobil Oil, Paulsboro, NJ. 88,616 lbs.
hh. General Electric, various (Newark, North Bergen, NJ). 84,275 lbs.
ii. Cosden Chemical Coating, Beverly, NJ. 83,000 lbs.
jj. WR Grace, various (North Bergen, Fords, NJ). 81,500 lbs.
kk. Radiation Machinery, Parsippany, NJ. 80,360 lbs.
ll. Westinghouse, various (Atlantic City, Hillside, Burlington, Camden, Bound Brook, NJ). 77,694 lbs.
mm. Universal Oil Products, East Rutherford, NJ. 69,400 lbs.
nn. Supronics Corp., South Plainfield, NJ. 64,000 lbs.
oo. RP Cargille Labs, Cedar Grove, NJ. 63,200 lbs.
pp. RM Hollingshead, Camden, NJ. 45,000 lbs.
qq. US Gypsum, Jersey City, NJ. 40,200 lbs.

5. Old Monsanto's Sale and Distribution of PCBs into New Jersey Have Caused Statewide Impairments of Natural Resources.

183. The "natural resources" of this State are all water, land, air, fish, shellfish, wildlife, biota, and other such resources owned, managed, held in trust or otherwise controlled by the State. N.J.S.A. 58:10-23.11b.

184. The natural resources of this State include the "waters of the State," which are the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction. N.J.S.A. 58:10A-3(t).

185. The natural resources of this State, including the waters of the State, have been injured as a result of Old Monsanto's conduct, including in particular the release, discharge, and emission of PCBs from Old Monsanto's commercial PCB mixtures and PCB-containing products in ordinary usage by Old Monsanto and downstream customers.

186. The quality of the State's water resources, sediments, fish and aquatic life, soils, air, wildlife, and other natural resources directly and significantly affects the quality of life of State residents.

187. Old Monsanto knew that PCBs were used in products certain to directly result in contamination of the environment, such as highway paints and other exterior applications.

188. Monsanto never advised the State or the public that Old Monsanto's PCB mixtures or products would inevitably leach, leak,

off-gas, emit, discharge, and release PCBs from their ordinary and intended applications and from disposal sites, regardless of the nature of the application, to contaminate New Jersey's waters, sediments, soils, air, fish, and wildlife. Monsanto issued no public warning or instruction about such issues or the health and environmental hazards presented and, indeed, as alleged above, denied that such hazards exist in their communications with New Jersey and other public entities and the public more generally.

189. Only as a result of DEP's extensive experience with environmental quality investigations and contaminated site remediations over decades, and the research of academic and regulatory scientists, has the true nature of Old Monsanto's PCB formulations and PCB-containing products come to light. To this day, Defendants continue to deny that Old Monsanto's PCB products pose a legitimate human health or environmental safety hazard that warrants action to remove PCBs from the environment.

190. Old Monsanto's PCB mixtures and PCB-containing products were used in countless applications within the State and leached, leaked, off-gassed, emitted, discharged, and released PCBs from their ordinary and intended applications to contaminate the State's waters, sediments, soils, air, fish, wildlife, and other natural resources. Because Old Monsanto's PCBs are environmentally persistent, they continue to circulate in the

State's natural resources to this day, except where Plaintiffs have caused their intentional removal.

191. The State has already taken significant and costly steps to address PCB contamination of surface water bodies and other natural resources, but widespread contamination continues to extensively damage the State's natural resources and poses current and future threats to human health and the well-being of the State's environment and economy.

192. Like other states, New Jersey periodically prepares water quality monitoring and assessment reports to satisfy its listing and reporting obligations under the Clean Water Act, sections 303(d) and 305(b) (33 U.S.C. §§ 1313(d), 1315(b)). The most recent final report is the 2016 New Jersey Integrated Water Quality Assessment Report ("Integrated Report"), which was finalized and published in December 2019, and accepted by EPA in January 2020.

193. The Integrated Report compiles and presents DEP findings with respect to impairments of surface waters across the State in reliance on, among other things, water chemistry data, fish tissue chemistry data, and sediment chemistry data. The Integrated Report identifies and analyzes the environmental quality of all surface waters in the State.

194. One of the Integrated Report's many purposes is to set forth DEP's conclusions with respect to attainment of water quality

standards and beneficial uses of surface waters, such as fishing and recreational uses. The Integrated Report explains how impairment determinations are made and why certain water bodies are classified as supporting of particular beneficial uses or non-supporting of particular beneficial uses.

195. As the data presented in the Integrated Report demonstrate, "PCB in fish tissue is the most frequent cause of fish contamination use non-support [i.e., impairment]" of New Jersey surface waters on a statewide basis.

196. As the Integrated Report notes, "Bioaccumulative toxic pollutants are the cause of fish consumption use impairment; however, many of these pollutants, such as PCB and DDT and its metabolites, are no longer manufactured and are considered 'legacy' pollutants for which point source controls . . . are not effective restoration strategies."

197. The Integrated Report includes a list of water bodies impaired due to PCB contamination. PCB data collection for fish consumption advisories is an ongoing process, but the sites with current PCB impairments include all or portions of the following water bodies:

a. Absecon Creek; Atlantic County
b. Alloway Creek; Salem County
c. Almonesson Creek; Gloucester County
d. Arthur Kill; Multiple Counties
e. Assiscunk Creek; Burlington County
f. Assunpink Creek; Monmouth County
g. Back Creek; Cumberland County

h. Bass River; Burlington County
i. Beaver Creek; Salem County
j. Berrys Creek; Bergen County
k. Bidwell Creek; Cape May County
l. Big Flat Brook; Sussex County
m. Big Timber Creek; Gloucester County
n. Birch Creek; Gloucester County
o. Blacks Creek; Burlington County
p. Bobbys Run; Burlington County
q. Bound Brook; Middlesex County
r. Branchport Creek; Monmouth County
s. Bridges Sticks Creek/Ogden Creek; Cumberland County
t. Buckshutem Creek; Cumberland County
u. Canton Drain; Salem County
v. Cedar Creek; Ocean County
w. Cheesequake Creek/Whale Creek; Middlesex County
x. Chingarora Creek; Monmouth County
y. Clove Brook; Sussex County
z. Cohansey River; Salem County
aa. Cooper River; Camden County
bb. Cox Hall Creek/Mickels Run; Cape May County
cc. Crafts Creek; Burlington County
dd. Cranberry Lake/Jefferson Lake; Sussex County
ee. Crosswicks Creek; Sussex County
ff. Deal Lake; Monmouth County
gg. Delawanna Creek; Warren County
hh. Delaware River; Multiple Counties
ii. Dennis Creek/Cedar Swamp; Cape May County
jj. Dias Creek; Cape May County
kk. Dividing Creek; Cumberland County
ll. Duck Creek; Mercer County
mm. East Creek; Cape May County
nn. Edwards Run; Gloucester County
oo. Elizabeth River; Multiple Counties
pp. Fenwick Creek/Keasbeys Creek; Salem County
qq. Fishing Creek/Bucks Ditch/Pattys Fork; Multiple Counties
rr. Fishing Mill Stream; Cape May County
ss. Fortesque Creek/Fishing Creek/Straight Creek; Multiple Counties
tt. Great Egg Harbor (Lake Lenape to Mare Run); Multiple Counties
uu. Green Brook; Somerset County
vv. Green Creek; Cape May County
ww. Greenwood Brook; Burlington County
xx. Hackensack River; Multiple Counties
yy. Hankins Pond tributary; Cumberland County

zz. Harmony Brook tributary (Alloway Creek); Morris County
aaa. Hope Creek; Salem County
bbb. Hudson River; Multiple Counties
ccc. Kill Van Kull West; Hudson County
ddd. Lake Hopatcong; Morris County
eee. Lawrence Brook; Middlesex County
fff. Less Degraded ("LRDV") tributaries (Assiscunk Creek to Blacks Creek; Beverly to Assiscunk Creek; Bustleton Creek; Lakeview Avenue to Oldmans Creek; Marsh Point-Main Street Pennsville); Multiple Counties
ggg. Little Silver Creek/Town Neck Creek; Monmouth County
hhh. Little Timber Creek; Gloucester County
iii. LRDV tributary (Delanco/Edgewater); Burlington County
jjj. Mad Horse Creek/Little Creek/Turners Fork; Multiple Counties
kkk. Main Ditch/Little Mantua Creek; Gloucester County
lll. Manalapan Brook; Multiple Counties
mmm. Manasquan River; Monmouth County
nnn. Mantua Creek; Gloucester County
ooo. Manumuskin River; Cumberland County
ppp. Matawan Creek; Monmouth County
qqq. Maurice River; Multiple Counties
rrr. Menantico Creek; Atlantic County
sss. Merrill Creek; Warren County
ttt. Metedeconk River; Ocean County
uuu. Middle Marsh Creek; Cumberland County
vvv. Mill Branch; Ocean County
www. Mill Brook/Martins Creek; Middlesex County
xxx. Mill Creek; Ocean County
yyy. Millstone River; Multiple Counties
zzz. Morses Creek/Piles Creek; Union County
aaaa. Moss Branch/Little Timber Creek; Gloucester County
bbbb. Muddy Run; Salem County
cccc. Mullica River; Multiple Counties
dddd. Musconetcong River; Multiple Counties
eeee. Muskee Creek; Cumberland County
ffff. Nantuxent Creek; Cumberland County
gggg. Navesink River; Monmouth County
hhhh. New England Creek; Cumberland County
iiii. New Wawayanda Lake/Andover Pond tributary; Sussex County
jjjj. Newark Airport Peripheral Ditch; Multiple Counties
kkkk. Newport Neck; Cumberland County

llll. Newton Creek; Camden County
mmmm. Oldmans Creek; Salem County
nnnn. Oranoaken Creek; Cumberland County
oooo. Oswego River; Burlington County
pppp. Overpeck Creek; Bergen County
qqqq. Parkers Creek/Oceanport Creek; Monmouth County
rrrr. Passaic River; Multiple Counties[1]
ssss. Paulins Kill; Multiple Counties
tttt. Peckman River; Essex County
uuuu. Pennsauken Creek; Multiple Counties
vvvv. Pequannock River; Sussex County
wwww. Pews Creek; Monmouth County
xxxx. Phillips Creek/Jacobs Creek; Cumberland County
yyyy. Pompeston Creek; Burlington County
zzzz. Pompton River; Multiple Counties
aaaaa. Pond Creek/Cape May Canal West; Cape May County
bbbbb. Poricy Brook/Swimming River; Monmouth County
ccccc. Prescott Brook/Round Valley Reservoir; Hunterdon County
ddddd. Raccoon Creek; Gloucester County
eeeee. Raccoon Ditch; Cumberland County
fffff. Rahway River; Multiple Counties
ggggg. Ramapo River; Passaic County
hhhhh. Rancocas Creek; Burlington County
iiiii. Raritan Bay; Multiple Counties
jjjjj. Raritan River; Multiple Counties
kkkkk. Red Root Creek/Crows Mill Creek; Middlesex County
lllll. Repaupo Creek; Gloucester County
mmmmm. Riggins Ditch; Cumberland County
nnnnn. Rockaway River; Morris County
ooooo. Rocky Brook; Multiple Counties
ppppp. Saddle River; Multiple Counties
qqqqq. Salem River; Salem County
rrrrr. Sandy Hook Bay; Monmouth County
sssss. Shady Brook/Spring Lake/Rowan Lake; Multiple Counties
ttttt. Shark River; Monmouth County
uuuuu. Shrewsbury River; Monmouth County
vvvvv. Sleeper Branch; Atlantic County
wwwww. Sluice Creek; Cape May County

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1 By this Complaint, Plaintiffs are specifically reserving and not asserting in this action their claims for all Natural Resource Damages for the Passaic River and Newark Bay Complex. These claims may be pursued against Defendants in a subsequent action, when Plaintiffs determine that the conditions of the Consent Judgment entered December 12, 2013 have been satisfied. See NJDEP v. Occidental Chemical Corp, No ESX L9868-05 (PASR).

xxxxx. South Fork of Bound Brook; Middlesex County
yyyyy. South River; Middlesex County
zzzzz. Spring Lake Fork of Bound Brook; Middlesex County
aaaaaa. Stephen Creek; Atlantic County
bbbbbb. Stow Creek; Multiple Counties
cccccc. Swartswood Lake and tributaries; Sussex County
dddddd. Swede Run; Burlington County
eeeeee. Swimming River Reservoir/Slope Brook; Monmouth County
ffffff. Third River; Multiple Counties
gggggg. Toms River; Ocean County
hhhhhh. Toms River Estuary; Ocean County
iiiiii. Trout Brook/Lake Tranquility; Sussex County
jjjjjj. Union Branch; Ocean County
kkkkkk. Upper New York Bay/Kill Van Kull; Hudson County
llllll. Waackhaack Creek; Monmouth County
mmmmmm. West Creek; Cape May County
nnnnnn. Woodbridge Creek; Middlesex County
oooooo. Woodbury Creek; Gloucester County

198. Overall, more than 6,000 miles of streams, more than 14,000 lake acres, and more than 400 square miles of bays and estuaries in the State have been identified as PCB "impaired" -- that is, they do not satisfy the criteria for one or more beneficial uses -- because the PCBs in those waterbodies exceed the State's Surface Water Quality Standards. N.J.A.C. 7:9B.

199. PCBs also contaminate an indeterminate number of other New Jersey waterbodies and waterways at levels that have never risen to the impairment threshold, as well as waters for which adequate PCB measures are not currently available.

200. The State has also engaged in an assessment of PCB impacts on fish and shellfish populations throughout the State.

201. New Jersey initiated a comprehensive statewide survey of PCBs in fish and shellfish in 1976.

202. As a result of the State's study, New Jersey issued its first PCB fish consumption advisory in December 1982. That advisory prohibited and limited consumption of certain fish because of the presence of PCBs. Specifically, the PCB advisories limited consumption (1 meal/week) of striped bass from the Northeast Region, including offshore waters in the northern coastal area, American eels from the entire State, but especially the Northeast region, bluefish from the Northeast Region, including offshore waters in the northern coastal area, and white perch and white catfish from the Northeast Region of the State.

203. Fish sampling from 1986 and 1987 continued to show the presence of PCBs in fish at levels consistent with prior sampling.

204. In 1989, the State updated its fish consumption advisories to preclude consumption of bluefish covering the entire coast of the State and advised against consumption of channel catfish in the southern portion of the Delaware River.

205. Fish sampling from 1988 to 1991 continued to show the presence of PCBs in fish at levels consistent with prior sampling, and the State maintained its current fish advisories.

206. In 1998, a "do not eat" fish advisory was issued for waterbodies Spring Lake, Bound Brook, and New Market Pond based on the presence of PCBs.

207. In 2003, the State updated its fish consumption advisories for PCBs, which resulted in the addition of certain species and water bodies.

208. From 2004-2006, the State issued updated PCB fish advisories consistent with other neighboring states regarding shared waters.

209. Indeed, to this day, the State has been forced to issue stringent fish consumption advisories due to PCB contamination, advising the public not to eat certain fish species at all or limit fish consumption to, for example, just one meal per month to six meals per year for all striped bass, bluefish and American Eel taken from estuarine and marine waters, and for common carp in any freshwater body statewide, to the detriment of New Jersey's subsistence and sport fishers and other residents. These limits are even more severe for high-risk populations, and various specific waterways throughout the State have significant limitations on eating fish and shellfish due to the presence of PCBs.

210. The State has invested significant time, effort, and money in a variety of efforts to reduce or eliminate PCB contamination of New Jersey's waters. Among other efforts, New Jersey has developed and implemented, or contributed to the development and implementation of, PCB-driven TMDLs for portions of the Delaware River and Delaware Bay. TMDL stands for "Total

Maximum Daily Load," and is a limit set under the Clean Water Act that specifies the maximum amount of a pollutant that may be allowed to enter a waterbody on a daily basis so that the waterbody will meet and continue to meet water quality standards for that particular pollutant. A TMDL plan determines a pollutant reduction target and allocates load reductions for the various pollutant sources identified during the TMDL development process.

211. To create the Delaware River and Delaware Bay TMDLs, the State conducted PCB source assessments and studies of PCB mass loading at substantial cost. The State and other trustees issued the "Total Maximum Daily Load for Polychlorinated Biphenyls (PCBs) for Zone 6 of the Delaware River" (the "Zone 6 TMDL") in December 2006.

212. The Zone 6 TMDL covers the head of the Delaware Bay at Liston Point (River Mile 48.2) to the mouth of the Bay at Cape Henlopen to Cape May (River Mile 0.0). Its objective is to "achieve and maintain the applicable water quality criteria for PCBs designed to protect human health from the carcinogenic effects of eating the contaminated fish now found in the Delaware Estuary and Bay."

213. The Zone 6 TMDL is a component in a broader multistate effort to manage and reduce PCB contamination in the Delaware River and Bay.

214. Like New Jersey waters, New Jersey soils, sediments, and air also suffer extensive PCB contamination. The State has expended significant time and money to assess, investigate, and monitor PCB contamination of these natural resources.

215. A host of contaminated sites throughout New Jersey also evidence PCB contamination, and the State has expended and continues to expend funds, resources, and personnel time to monitor, assess, and oversee environmental remediation or improvement at many of those sites.

216. Although PCBs are still widespread at sites and resources throughout New Jersey, these PCBs can be remediated.

B. Monsanto's Discharges and Operations at the Bridgeport Site Have Contaminated New Jersey Natural Resources.

217. Old Monsanto owned and operated a major industrial facility and disposal grounds in Bridgeport, New Jersey at which it used, handled, disposed, released, discharged, and emitted significant quantities of PCBs, causing extensive environmental damage. In addition to PCBs, Old Monsanto used, handled, disposed, released, discharged, and emitted significant quantities of other contaminants at each of these facilities, causing further environmental damage.

218. The Bridgeport Site is located on 461 acres in Bridgeport, New Jersey. It is bounded by the east bank of the Delaware River to the north and northwest, Shell Oil Company to

the east, the Logan Cogeneration Plant to the west, and U.S. Highway Route 130 to the south. Birch Creek bisects the Bridgeport Site from south to north and drains to the Delaware River.

219. Property to the east and south of the Bridgeport Site is used for agricultural purposes. The land surrounding the Site is zoned for industrial use.

220. Historic manufacturing and waste disposal operations at the Bridgeport Site occurred on approximately 220 acres situated on the western side of Birch Creek.

221. Manufacturing operations began at the Bridgeport Site in or around 1961.

222. Old Monsanto manufactured plasticizers, flame retardants, organic industrial chemicals, and dyes at the Bridgeport Site. Raw materials used in the production processes have included, among others, phenol, toluene, naphthalene, phthalic anhydride, benzyl chloride, butanol, chlorine, and xylene.

223. From 1961 to 1978, Old Monsanto disposed of many chemicals, including PCBs, wastewater treatment plant sludge, lab waste, and spill clean-up materials in unlined on-site landfills, referred to as Past Disposal Areas ("PDA") Nos. 1, 2, and 3. From 1961 to 1975, contaminants from the PDAs discharged directly into Birch Creek and the Delaware River, injuring water quality, fish

and aquatic life, and sediment quality, and introduced these contaminants into soils and air.

224. Beginning in 1975, Old Monsanto used a process sewer system ("PSS") to collect and convey plant wastewater to an on-site treatment plant, which introduced into ground water various contaminants due to leaking sewer joints and a damaged manhole. Contaminants detected in ground water near the PSS include benzene, ethyl benzene, tetrachloroethylene, toluene, trans-1,2-dichloroethylene, trichloroethylene, and xylene.

225. Old Monsanto also utilized single-lined on-site lagoons to manage millions of gallons of industrial waste containing PCBs and many other hazardous substances. Since at least 1975, contaminants from these lagoons discharged directly into ground water, Birch Creek, and the Delaware River, injuring water quality, fish and aquatic life, and sediment quality, and introduced these contaminants into soils and air.

226. Stormwater runoff from the Bridgeport Site was channeled directly to the Delaware River via earthen drainage ditches until 1985, introducing hazardous substances and contaminants with no stormwater controls. The primary storm ditch drained land used for chemical manufacturing, waste storage areas, and other parts of the Bridgeport Site.

227. In 1985, Old Monsanto upgraded its stormwater conveyance system, replacing earthen drainage ditches with pipe, and introducing a concrete stormwater retention basin.

228. Stormwater runoff from undeveloped areas of the Bridgeport Site continues to discharge into the Delaware River or into Birch Creek, which flows into the Delaware River.

229. Assessments of truck and rail loading areas at the Bridgeport Site have also revealed contamination resulting from spills at those locations, such as anhydrous ammonia and phosphoric acid in soils.

230. In 1967, Old Monsanto built a deepwater port facility and dock on the Delaware River to receive raw materials, including butanol, naphthalene, and phenol, among others, and to ship finished product. This facility was expanded in 1970 and 1975. At least two significant discharges have been documented at this dock: a spill of 5,000 gallons of naphthalene (200 pounds of which entered the Delaware River) in 1982; and 500 pounds of naphthalene (50 pounds of which entered the Delaware River) in 1983.

231. Old Monsanto also stored hazardous wastes generated at the Bridgeport Site, such as benzyl chloride, still bottoms, and phosphate ester steamer overheads, in five aboveground tanks. Although the tanks are situated on diked concrete pads draining to the plant sewer system and wastewater treatment plant,

documentation indicates deficiencies in the secondary containment system, which may have allowed runoff to occur.

232. As a result of Old Monsanto's discharges of hazardous substances and contaminants at the Bridgeport Site, a contaminant ground water plume composed of oils, PCBs, volatile organic compounds ("VOCs"), and many other hazardous substances has been identified.

233. A small number of residents located near the Bridgeport Site rely on private wells for potable water. Contaminants introduced by Old Monsanto into ground water at the Bridgeport Site have impacted the ability of residents to access clean drinking water from their private wells.

234. Portions of the Bridgeport Site have been divided into fourteen solid waste management units ("SWMUs") and areas of concern ("AOCs").

235. The SWMUs and AOCs are areas where wastes were stored, processed, landfilled, or impounded, and include four closed landfills, two closed lagoons, two inactive lagoons, the process sewer system, a former storm water drainage ditch, former dock area, rail loading areas, drum storage areas, and above ground storage tanks.

236. A considerable number of contaminants of concern have been detected in all fourteen SWMUs or AOCs. In particular, SWMUs 1, 3, 9 and 13 are heavily contaminated:

a. SWMU 1 consists of a 3.5-acre unlined landfill only 150 feet from the Delaware River. Monsanto used the landfill from 1961-1970 for disposal of benzyl chloride residues, PCB wastes, benzyl chloride, phenol, hexachlorobenzene, and a toluene/benzyl chloride mixture. Wastes generated by Monsanto were buried in drums and as free liquids. Indeed, from 1962 to 1967, Monsanto deposited 28,000 pounds of Aroclor 1248 in SWMU 1 in sixty fifty-five-gallon drums. Hydrogeologic investigations have shown that ground water in the vicinity of SWMU 1 is contaminated with PCBs, benzaldehyde, benzyl chloride, and benzyl alcohol. Further, monitoring wells installed in SWMU 1 have detected PCBs, toluene, benzene, and methyl chloride in excess of Ground Water Quality Standards (N.J.A.C. 7:9C). Because natural groundwater flow in the area of SWMU 1 is predominantly north to northeast toward the Delaware River, detections of PCBs and volatile organic compounds have been detected outside SWMU 1 to the northeast in concentrations above Ground Water Quality Standards.

b. SWMU 3 consists of a 3-acre unit that was the original unlined solid waste landfill for the Bridgeport Site that was used from 1961-1970. In particular, Monsanto used SWMU 3 for disposal of phthalic anhydride pitch,

phthalic anhydride heads, lab waste, trash, naphthalene, lime grits, activated carbon, phosphate ester filter waste, and spill cleanup material. In surface and subsurface soil, PCBs and hexachlorobenzene have been reported above State soil remediation standards (N.J.A.C. 7:26D).

c. SWMU 9 contains a stormwater drainage ditch where PCBs have been detected in surface soil samples above the State soil remediation standard.

d. SWMU 13 is an old drum storage pad where PCBs were detected above the State soil remediation standard.

237. In addition, testing performed in 2018 and 2019 demonstrated that at least eight AOCs contain PCB soil concentrations above the applicable State soil remediation standard. Specifically, PCBs at concentrations up to 7,900 milligrams per kilogram ("mg/kg," or parts per million, "ppm") were detected at the "Main Plant: Phthalic Anhydride / Former TCPA Departments" (AOC 5.6). PCBs at this location impacted soil to greater than 15 feet below grade, and perhaps further.

238. PCBs were also detected at the "Benzyl Phthalates and Blends Department" (AOC E3.1) at concentrations up to 4,900 mg/kg; at the "Phosphate Esters Department" (AOC E3.1) at concentrations up to 7.2 mg/kg; and at "Main Plant: Boiler House Department" (AOC E2.2) in low levels.

239. Other SWMUs and AOCs at the Bridgeport Site, which include landfills and sludge lagoons, among others, have soil and ground water that have long been, and continue to be, afflicted with contaminants such as benzene, hexachlorobenzene, vinyl chloride, phenol, xylene, naphthalene, trichloroethylene, and numerous other VOCs and semivolatile compounds ("SVOCs").

240. Furthermore, regular ground water sampling of monitoring wells has detected the following compounds in exceedance of State Ground water Quality Standards: PCBs (Aroclor 1248), VOCs such as benzene and vinyl chloride, SVOCs such as benzyl alcohol, and ammonia. Many of these exceedances were detected in monitoring wells located outside SWMU 1 between the Delaware River and SWMU 1.

241. Investigation and corrective action efforts have been in progress at the Bridgeport Site since 1983. Remedial activity remains incomplete and is ongoing.

242. Old Monsanto and Solutia implemented a range of remedial activities at the Bridgeport Site between 1983 and the present, including constructing slurry walls, improving drainage conditions, excavating soil, capping disposal grounds, and conducting monitoring. These activities, some of which are ongoing, are intended to reduce the extent and magnitude of contamination at various parts of the Bridgeport Site, and control the migration or movement of contaminants. However, these

activities are not intended to, have not, and will not result in restoration of natural resources to their pre-discharge conditions.

243. Solutia subdivided the 293-acre property into three parcels, selling the main parcel (Block 101, Lot 13) to a third party, which has since transferred this parcel to another third party. Solutia maintained possession of the remaining two parcels (Block 101, Lots 11 and 12). Lots 11 and 12 are largely comprised of the SWMUs and former landfills. Notwithstanding the sale, Defendants continue to be responsible for all contamination at, and emanating from, the Bridgeport Site.

244. DEP led a hydrogeologic investigation from 1979 to 1983 centering on SWMU 1, the landfill area proximate to the Delaware River at the Bridgeport Site. This investigation included the installation and sampling of fifty-six monitoring wells at thirty-two locations, which revealed extremely high concentrations of benzaldehyde, benzyl chloride, benzyl alcohol, and PCBs in ground water. Indeed, PCB concentrations were as high as 440,000 parts per billion ("ppb"). A 1983 report from Old Monsanto's contractor reported that Aroclor 1248 was detected in the ground water and the confining layer. The report further observed, "[s]oil at greater depth may continue to leach some PCB."

245. Due to the proximity of the landfill area to the Delaware River, DEP required Old Monsanto, via an Administrative Consent

Order and Agreement signed in 1983, to implement a groundwater treatment system consisting of a clay slurry wall surrounding the contaminated area, thirty-three injection wells, and twenty-four recovery wells, which was in place as of 1986.

246. The groundwater treatment system collects oils and particulates containing PCBs from the bottom of each well using a peristaltic pump, and water pumped from the ground is treated to remove PCBs before being sent to an on-site wastewater treatment plant, prior to its discharge to the Delaware River.

247. In 1994, a final cap consisting of geocomposite clay was installed over the 3.5-acre site and slurry wall.

248. In November 1994, the Bridgeport Site was placed under federal Resource Conservation and Recovery Act ("RCRA") corrective action. Under RCRA, a corrective action is a requirement that entities that treat, store or dispose of hazardous wastes investigate and clean up hazardous releases into soil, ground water, surface water and air. Corrective action is principally implemented through permits and orders. At the Bridgeport Site and pursuant to a ground water monitoring plan approved by the EPA, Old Monsanto commenced site-wide ground water monitoring semi-annually beginning in 1997.

249. In 2009, toluene, benzene, and methylene chloride were detected in a monitoring well outside the SWMU 1 slurry wall. PCBs were also detected at this time: Aroclor 1232 was detected at 52

ppb and 65 ppb, both well above the Ground Water Quality Standard of 0.5 ppb; Aroclor 1248 was detected at 140 ppb; and lower concentrations of Aroclor 1016, Aroclor 1221, Aroclor 1242, Aroclor 1254, and Aroclor 1260 were detected, also at levels above the Ground Water Quality Standard. In May 2013, Aroclor 1242 was detected in ground water at a concentration of 280 ppb, and Aroclor 1248 was detected at a concentration of 180 ppb.

250. A 2014/2015 report indicated that the slurry containment wall had been damaged, and ground water was flowing from SWMU 1 downgradient to areas outside the slurry wall. As a result, EPA instructed Solutia to initiate corrective measures to address this problem.

251. RCRA corrective action has also focused on SWMU 3. In 2012, historic results from soil delineation sampling were compared to revised State soil remediation standards. EPA and DEP requested additional remedial actions after reviewing sampling from SWMU 3 that showed concentrations of PCBs and hexachlorobenzene at various sampling locations to be in excess of remediation standards, including one PCB sample with a PCB concentration of 100 mg/kg, which was more than 100 times the soil remediation standard at that time. Solutia recommended, among other things, excavation and offsite disposal of the soil containing PCBs in excess of 100 mg/kg and capping of impacted soil.

252. Aside from SWMU 1 and 3, a 2010 ground water sampling report of forty-three monitoring wells detected the following compounds in excess of New Jersey Ground Water Quality Standards: benzene, vinyl chloride, benzyl alcohol, and PCBs.

253. Not only is the Bridgeport Site subject to RCRA corrective action, it is also subject to New Jersey's Industrial Site Recovery Act ("ISRA") and its predecessor statute, the Environmental Cleanup Responsibility Act. N.J.S.A. 13:1K-6 et seq. ISRA is a unique environmental law which requires the remediation of certain business operations (i.e., sites) prior to their sale or transfer or upon its cessation of on-site business operations. The ISRA Preliminary Assessment investigation exempted the SWMUs and AOCs that have been addressed under RCRA from its scope, but identified 163 additional AOCs, seventy-two of which were deemed appropriate for a formal ISRA Site Investigation ("SI"). These AOCs include storage tank areas, storage and staging areas, three drainage systems, twenty-five discharge areas, and twelve miscellaneous areas. Following the SI, Remedial Investigation ("RI") activities were required at fifteen of the AOCs.

254. The ISRA Remedial Investigation, initially completed in 2018, revealed the presence of PCBs, manganese, benzyl chloride, and other hazardous substances in soil at elevated concentrations in nine AOCs, as well as SWMU 13. Subsequent RIs were conducted

to delineate the extent of impacted soil at these AOCs. Ultimately, PCBs were detected in the soil at eight AOCs at concentrations above the applicable State soil remediation standard. Solutia has been ordered to develop a Remedial Action Plan to address areas of impacted soil.

255. In sum, notwithstanding remediation efforts to date, Monsanto's discharges and operations at the Bridgeport Site continue to contaminate the State's natural resources.

V. CAUSES OF ACTION

FIRST COUNT

Spill Act; Natural Resource Damages

(Bridgeport Site and Statewide PCB Contamination)

256. DEP and the Administrator repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

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

258. Any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance that is discharged, shall be liable, jointly and severally, without regard to fault for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.c.

259. The discharge of hazardous substances is a violation of the Spill Act for which the discharger or person in any way

responsible for the discharged hazardous substance is strictly liable, jointly and severally, without regard to fault. N.J.S.A. 58:10-23.11g.c(1).

260. Many of the contaminants of concern at the Bridgeport Site, including but not limited to PCBs, are hazardous substances as defined in N.J.S.A. 58:10-23.11b.

261. As a result of the discharge of hazardous substances at the Bridgeport Site, DEP has incurred, and will continue to incur, costs.

262. The Administrator has certified, and will continue to certify, for payment valid claims made against the Spill Fund concerning the Bridgeport Site and, further, has approved, and may continue to approve, other appropriations for the Bridgeport Site.

263. DEP and the Administrator also have incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for natural resources of this State that have been, or may be, injured as a result of the discharge of hazardous substances at the Bridgeport Site.

264. The costs DEP and the Administrator have incurred, and will continue to incur, for the Bridgeport Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

265. DEP and the Administrator have incurred, and will incur, damages to and loss of value of real or personal property and the

lost income associated therewith as a result of the discharge of hazardous substances at the Bridgeport Site.

266. Defendants are dischargers of hazardous substances at the Bridgeport Site, and are liable, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, and will continue to incur, to assess, mitigate, restore, or replace, natural resources of this State that have been, or may be, injured as a result of the discharge of hazardous substances at the Bridgeport Site. N.J.S.A. 58:10-23.11g.c(1).

267. Defendants, as the owners and or successors to the owners of the Bridgeport Site at the time hazardous substances were discharged there, are also persons responsible for the discharged hazardous substances, and are liable, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, and will continue to incur, to assess, mitigate, restore, and/or replace, natural resources of this State that have been, or may be, injured as a result of the discharge of hazardous substances at the Site. N.J.S.A. 58:10-23.11g.c(1).

268. In addition, Defendants are also responsible for civil penalties under the Spill Act for failing to report or identify known past discharges of PCBs by Defendants at the Bridgeport Site and by third parties.

269. In addition to their responsibility for hazardous substances in and around the Bridgeport Site, Defendants are responsible under the Spill Act for PCB discharges throughout New Jersey due to their, or their predecessors' production, use, marketing, sale and distribution of over 99% of all commercial PCB formulations or mixtures used in the United States without adequate instructions or warnings.

270. Defendants and their predecessors, knew that the ordinary, intended use of their commercial PCB formulations or mixtures would inevitably contaminate natural resources in New Jersey. Defendants failed to adequately warn and instruct their customers, regulators, and the public that their PCB mixtures and PCB-containing products were toxic and would cause this contamination, and failed to provide adequate instructions to minimize, mitigate, reduce, control, or eliminate this contamination. In fact, Old Monsanto advised its customers to vent PCB vapors directly into the atmosphere and to discharge PCB wastes into landfills and sewer systems. This and other conduct described above renders the Defendants liable under the Spill Act as a party "in any way responsible for any hazardous substance that is discharged." N.J.S.A. 58:10-23.11g.c.

271. Had the State been warned about the likelihood of contamination of its natural resources with PCBs, it would have

taken steps to limit, restrict, prevent, or control such contamination.

272. Natural resources across New Jersey, including the surface waterbodies identified above, are now impaired by PCBs as a direct result of Defendants' production, marketing, distribution, and sale of tens of millions of pounds of commercial PCB formulations or mixtures to dozens of customers located in New Jersey.

273. Defendants alone were in a position to control, prevent, mitigate, or otherwise reduce or eliminate the widespread impairment by PCBs of New Jersey natural resources.

274. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., DEP may bring an action in the Superior Court 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); the cost of restoring, repairing, or replacing real or personal property damaged or destroyed by a discharge, any income lost from the time the property is damaged to the time it is restored, repaired or replaced, and any reduction in value of the property caused by the discharge by comparison with its value prior thereto, N.J.S.A. 58:10-23.11u.b.(3); natural resource restoration and replacement costs, N.J.S.A. 58:10 23.11u.b.(4); and any other unreimbursed

costs or damages DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

275. Pursuant to N.J.S.A. 58:10-23.11u.d, any person who violates a provision of the Spill Act is subject to a civil penalty not to exceed $50,000 per day for each violation, and each day's continuance of the violation shall constitute a separate violation.

276. 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 or damages paid from the Spill Fund.

277. Pursuant to N.J.S.A. 58:10-23.11e, "[a]ny person who may be subject to liability for a discharge which occurred prior to or after the effective date of the act of which this act is amendatory shall immediately notify the department. Failure to so notify shall make persons liable to the penalty provisions of section 22 of this act." In turn, pursuant to N.J.S.A. 58:10-23.11u.d, "[a]ny person who violates a provision of P.L.1976, c. 141 (C. 58:10-23.11 et seq.) . . . shall be subject to a civil penalty not to exceed $50,000.00 per day for each violation, and each day's continuance of the violation shall constitute a separate violation."

PRAYER FOR RELIEF

WHEREFORE, DEP and the Administrator pray that this Court:

a. Order Defendants to reimburse DEP and the Administrator, jointly and severally, without regard to fault, for all cleanup and removal costs and direct and indirect damages they have incurred and not yet recouped, including lost use and value, costs of restoration and replacement for any natural resource of this State injured as a result of the discharge of hazardous substances at or from the Bridgeport Site and the contamination of natural resources with PCBs across the State, with applicable interest, and assessment costs;

b. Find Defendants liable, jointly and severally, without regard to fault, for all future cleanup and removal costs and direct and indirect damages, including lost use and value, costs of restoration and replacement for any natural resource of this State injured as a result of the discharge of hazardous substances at the Bridgeport Site and the contamination of natural resources with PCBs across the State, with applicable interest, and assessment costs;

c. Compel Defendants, jointly and severally, without regard to fault, to fund DEP's performance of any further assessment of any natural resource that has

been, or may be, injured as a result of the discharge of hazardous substances at the Bridgeport Site and the contamination of natural resources with PCBs across the State, and to compensate the citizens of New Jersey for the costs of restoration and replacement and lost use and value of any injured natural resource;

d. Order Defendants to pay all compensatory damages for the lost interim value of the natural resources at and around the Bridgeport Site as a result of the contamination of such natural resources by hazardous substances and for contamination of natural resources with PCBs across the State;

e. Order Defendants to pay civil penalties pursuant to N.J.S.A. 58:10-23.11u.d in an amount not to exceed $50,000 per day for each violation of the Spill Act occurring at any time following enactment of the Spill Act, and the payment of civil penalties pursuant to N.J.S.A. 58:10-23.11e in an amount not to exceed $50,000 per day for each unreported discharge of a hazardous substance that occurred after the enactment of the Spill Act, and includes discharges that were prior to enactment of the Spill Act;

f. Award DEP and the Administrator their costs and fees in this action; and

g. Award DEP and the Administrator interest and such other relief as this Court deems appropriate.

SECOND COUNT

Water Pollution Control Act

(Bridgeport Site)

278. The Commissioner repeats each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

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

280. Pursuant to N.J.S.A. 58:10A-6d. and p., it is unlawful for any person to discharge any pollutant except to the extent the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit issued by the Commissioner pursuant to the WPCA, or pursuant to a valid National Pollutant Discharge Elimination System permit issued pursuant to the federal Clean Water Act, 33 U.S.C. §§1251 to 1387. N.J.S.A. 58:10A-6a.

281. 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.

282. DEP has incurred, and will continue to incur, costs as a result of the unauthorized discharge of pollutants at the Bridgeport Site.

283. DEP also has incurred, and will continue to incur, costs and damages, including compensatory damages and other actual damages for natural resources of this State that have been, or may be, injured, lost or destroyed as a result of the unauthorized discharge of pollutants at the Bridgeport Site.

284. The costs and damages DEP has incurred, and will incur, for the Bridgeport Site are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4).

285. Defendants, and/or their predecessors, discharged pollutants at or from the Bridgeport Site, which discharges were neither permitted pursuant to N.J.S.A. 58:10A-6a., nor exempted pursuant to N.J.S.A. 58:10A-6d. nor N.J.S.A. 58:10A-6p., and Defendants are liable, without regard to fault, for all costs and damages, including compensatory damages and any other actual damages for natural resources of this State that have been, or may be, injured, lost or destroyed as a result of the discharge of pollutants at the Bridgeport Site. N.J.S.A. 58:10A-6a.

286. Pursuant to N.J.S.A. 58:10A-10c., the Commissioner may bring an action in the Superior Court for: the reasonable costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing

and litigating the case, N.J.S.A. 58:10c.(2); any reasonable cost incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10c.(3); compensatory damages and any other actual damages for natural resources of this State that have been, or may be, injured, lost or destroyed as a result of the unauthorized discharge of pollutants at the Bridgeport Site, N.J.S.A. 58:10A-10c.(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10c.(5).

287. Pursuant to N.J.S.A. 58:10A-10e, any person who violates the WPCA is subject to a civil penalty not to exceed $50,000 per day for each violation, with each day's continuance of the violation constituting a separate violation.

PRAYER FOR RELIEF

WHEREFORE, the Commissioner prays that this Court:

a. Order Defendants, without regard to fault, to pay for the costs for any investigation, inspection, or

monitoring survey, leading to establishment of the violation, including the costs of preparing and litigating the case;

b. Find Defendants liable, without regard to fault, for all costs for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Bridgeport Site;

c. Find Defendants liable, without regard to fault, for all compensatory damages and other actual damages for any natural resource of the State that has been, or may be, injured, lost, or destroyed as a result of the unauthorized discharge of pollutants at the Bridgeport Site;

d. Find Defendants liable, without regard to fault, for the amount of any economic benefits they have accrued, including any savings realized from avoided capital or noncapital costs, the return they have earned on the amount of avoided costs, and benefits they have enjoyed as a result of a competitive market advantage, or any other benefit received as a result of having violated the WPCA;

e. Impose upon Defendants the payment of civil penalties pursuant to N.J.S.A. 58:10A-10e in an amount not to

exceed $50,000 per day for each violation of the WPCA occurring at any time following enactment of the WPCA;

f. Award plaintiff Commissioner the costs and fees in this action; and

g. Award plaintiff Commissioner interest such other relief as this Court deems appropriate.

THIRD COUNT

Solid Waste Management Act

(Bridgeport Site)

288. The Commissioner repeats each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

289. Defendants are "persons" within the meaning of the SWMA.

290. Defendants disposed of and/or stored solid wastes, and operated sludge disposal sites, at the Bridgeport Site, in violation of the SWMA.

291. Defendants disposed of and/or stored solid wastes without, among other things, filing an application for a registration statement or engineering design approval and obtaining approval from DEP, N.J.S.A. 13:1E-3, 13:1E-5.

292. Pursuant to N.J.A.C. 7:26-1.1, -1.7, and -1.8, it is unlawful for any person to construct or operate a solid waste facility without first obtaining a solid waste facility permit within the meaning of N.J.A.C. 7:26-1.4. N.J.S.A. 13:1E-9(d).

293. The SWMA also makes unlawful the intra-plant transport, temporary storage, or other handling of plant-generated waste materials where those materials: (1) are deposited on or in the lands of the State for periods exceeding six months; or (2) will cause pollution -- whether through transport, storage, or other handling -- of the surface or ground waters of the State or may pose a substantial or material threat to the public health, safety, or welfare. N.J.A.C. 7:26-1.1(a)(6).

294. DEP has incurred, and will continue to incur, costs as a result of, among other things, Defendants' unlawful disposal and/or storage of solid waste at the Bridgeport Site, and operation of solid waste facilities at the Bridgeport Site, and other actions.

295. DEP also has incurred, and will continue to incur, costs and damages, including compensatory damages and other actual damages for natural resources of this State that have been, or may be, injured, lost or destroyed as a result of, among other things, Defendants' unlawful disposal and/or storage of solid waste at the Bridgeport Site, and operation of solid waste facilities at the Bridgeport Site, and other actions.

296. Defendants unlawfully operated solid waste facilities at the Bridgeport Site, which operation was neither permitted pursuant to a valid solid waste facility permit issued pursuant to N.J.A.C. 7:26-1.1 through -17.26, nor exempted pursuant to

N.J.A.C. 7:26-1.1, -1.7, and/or -1.8, and are liable for all costs and damages, including compensatory damages and any other actual damages for natural resources of this State that have been, or may be, injured, lost or destroyed as a result.

297. Pursuant to N.J.S.A. 13:1E-9(d), the Commissioner may bring an action in the Superior Court for the costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 13:1E-9(d)(2); for any cost incurred by the State in removing, correcting, or terminating the adverse effects upon water and air quality resulting from any violation of any provision of the SWMA or any rule, regulation, or condition of approval for which an action under this subsection is brought, N.J.S.A. 13:1E-9(d)(3); for compensatory damages for any loss or destruction of wildlife, fish, or aquatic life, and any other actual damages caused by any violation of any provision of the SWMA or any rule, regulation, or condition of approval for which an action under this subsection is brought, N.J.S.A. 13:1E-9(d)(4); and for civil penalties of up to $50,000 per day, N.J.S.A. 13:1E-9(f).

PRAYER FOR RELIEF

WHEREFORE, the Commissioner prays that this Court:

a. Order Defendants to pay the costs of any investigation, inspection, or monitoring survey, which led to

establishment of the violation, including the costs of preparing and litigating the case;

b. Find Defendants liable, jointly and severally, for all costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;

c. Order Defendants to pay all costs incurred, or to be incurred, by the State in removing, correcting, or terminating the adverse effects upon water and air quality resulting from any violation of any provision of the SWMA or any rule, regulation, or condition of approval for which the action has been brought;

d. Order Defendants to pay all compensatory damages and other actual damages incurred, or to be incurred, for any natural resource of this State that has been, or may be, injured, lost or destroyed as a result of Defendants' violation of the SWMA;

e. Find Defendants liable, jointly and severally, for any loss or destruction of wildlife, fish, or aquatic life, and any other actual damages resulting from Defendants' violation of the SWMA;

f. Enter an order awarding civil penalties of up to $50,000 per day;

g. Award Plaintiff Commissioner the costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiff Commissioner such other relief as this Court deems appropriate.

FOURTH COUNT

Public Nuisance

(Bridgeport Site and Statewide PCB Contamination)

298. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

299. Ground water, sediments, land, fish, wildlife, biota, air, and water are natural resources of the State owned, managed, held in trust or otherwise controlled by the State for the benefit of the public.

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

301. Contamination of ground water, sediments, land, fish, wildlife, biota, air, and water with industrial chemicals including PCBs, benzene, chlorobenzene, toluene, xylene, and others discharged, emitted, or released at or from the Bridgeport Site, as alleged above, constitutes a physical invasion of public property and an unreasonable and substantial interference, both

actual and potential, with the exercise of the public's common right to the use and enjoyment of these natural resources.

302. Moreover, state-wide PCB contamination of ground water, sediments, land, fish, wildlife, biota, air, and water constitutes a physical invasion of public property and an unreasonable and substantial interference, both actual and potential, with the exercise of the public's common right to these natural resources.

303. As long as the ground water, sediments, land, fish, wildlife, biota, air, and water remain contaminated due to Defendants' conduct, the public nuisance continues.

304. Until the ground water, sediments, land, fish, wildlife, biota, air, and water are restored to their pre-injury quality, Defendants are liable for the creation, and continued maintenance, of a public nuisance in contravention of the public's common right to clean and uncontaminated ground water, sediments, land, fish, wildlife, biota, air, and water.

305. Defendants' acts as set forth above were willful and wanton, including but not limited to Defendants' intentional concealment of information that PCBs would contaminate natural resources, in order to maximize their profits.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Order Defendants to reimburse the Plaintiffs for their costs of abatement, without regard to fault, including

but not limited to all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to contamination of the State's natural resources so that such natural resources are restored to their pre-discharge condition;

b. Order Defendants to abate the nuisance by funding the investigation, clean-up, restoration, treatment, monitoring, and other responses to contamination in the State's natural resources so that such natural resources are restored to their pre-discharge condition;

c. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

d. Award the Plaintiffs such other relief as this Court deems appropriate.

FIFTH COUNT

Negligence

(Bridgeport Site and Statewide PCB Contamination)

306. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

307. Defendants had a duty to ensure that hazardous substances, contaminants and pollutants were not released as a result of their operations and activities at the Bridgeport Site,

and to ensure that hazardous substances, contaminants and pollutants did not injure ground water, surface water, sediment, soils, biota, wildlife, and air in New Jersey.

308. Defendants also had a duty to ensure that their commercial and promotional activities would not cause harmful environmental contamination or pollution, and to ensure that such practices would not result in hazardous substances, contaminants and pollutants injuring ground water, surface water, sediment, soils, biota, wildlife, and air in New Jersey.

309. Defendants breached these duties.

310. As a direct and proximate result of Defendants' negligence in conducting their operations-including manufacturing operations, waste management operations, and other commercial activities at the Bridgeport Site, ground water, surface water, sediments, soils, biota, wildlife, air, and other natural resources at and near the Bridgeport Site have become contaminated.

311. As a direct and proximate result of Defendants' negligence in producing, marketing, promoting, selling, and distributing PCBs and PCB-containing products in New Jersey, ground water, surface water, sediments, soils, biota, air, and other natural resources across the State have become contaminated.

312. As a further direct and proximate result of the contamination of the environment from Defendants' activities, DEP has incurred, is incurring, and will continue to incur

investigation, clean up, removal, treatment, monitoring, and restoration costs and expenses, for which Defendants are liable.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Find Defendants liable, jointly and severally, for all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to environmental contamination caused by Defendants' conduct statewide and at the Bridgeport Site so the contaminated natural resources are restored to their pre-discharge condition, and for all damages to compensate the citizens of New Jersey for the lost use and value of these natural resources during all times of injury caused by Defendants, and for such orders as may be necessary to provide full relief to address risks to the State, including the costs of:

   i. Past and future testing of natural resources likely to have been contaminated by contaminants or pollutants released at or from the Bridgeport Site and for contamination of natural resources with PCBs across the State;

   ii. Past and future treatment of all natural resources containing detectable levels of contaminants or pollutants released at or from the Bridgeport Site restored to non-detectable levels and for contamination of natural resources with PCBs across the State; and

iii. Past and future treatment of all natural resources across the State containing detectable levels of PCBs and restored to non-detectable levels;

iv. Past and future monitoring of the State's natural resources at and near the Bridgeport Site to detect the presence of contaminants or pollutants released at or from the Site, and restoration of such natural resources to their pre-discharge condition;

v. Past and future monitoring of all natural resources across the State, and restoration of such natural resources to their pre-discharge condition;

b. Order Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and monitoring of environmental contamination of the State's natural resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State;

c. Order Defendants to pay for all damages in an amount at least equal to the full cost of restoring the State's natural resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State to their pre-discharge condition;

d. Order Defendants to pay all compensatory damages for the lost value (including lost use) of the State's natural

resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State as a result of the contamination of such natural resources;

e. Order Defendants to pay for all other damages sustained by Plaintiffs in their public trustee, *parens patriae*, and regulatory capacities, as a direct and proximate result of Defendants' acts and omissions alleged herein, including remedial, administrative, oversight, and legal fees and expenses;

f. Award Plaintiffs punitive damages in an amount to be determined by the trier of fact;

g. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiffs such other relief as this Court deems appropriate.

SIXTH COUNT

Strict Liability

(Bridgeport Site)

313. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

314. Defendants' operation of the Bridgeport Site, including the handling, emission, discharge, and release of toxic and hazardous substances, is an ultrahazardous and/or abnormally dangerous activity under New Jersey law.

315. Accordingly, Defendants are strictly liable for all injuries resulting from their handling, emission, discharge, or release of toxic and hazardous substances from the Bridgeport Site.

316. Defendants had no valid legal authorization to discharge or release toxic and hazardous substances, as alleged above, from the Bridgeport Site in the manner and quantity in which they did.

317. Defendants' conduct caused harm to the State and its citizens.

318. New Jersey suffered and continues to suffer damage from Defendants' emissions, discharges, and releases of toxic and hazardous substances from the Bridgeport Site.

319. The State is incurring and will continue to incur costs and losses as a result of Defendants' conduct.

320. As a direct and proximate result of Defendants' ultrahazardous and/or abnormally dangerous activities, New Jersey has suffered and continues to suffer monetary losses, including increased past and future healthcare costs, and other damages in amounts to be proven at trial.

321. Because Defendants' conduct as alleged herein was malicious, willful, reckless, and/or wanton, the State is entitled

to seek, and does seek, punitive damages sufficient to punish Defendants and to deter Defendants and others from engaging in similar conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Find Defendants liable, jointly and severally, for all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to environmental contamination caused by Defendants' conduct at the Bridgeport Site so the contaminated natural resources are restored to their pre-discharge condition, and for all damages to compensate the citizens of New Jersey for the lost use and value of these natural resources during all times of injury caused by Defendants, and for such orders as may be necessary to provide full relief to address risks to the State, including the costs of:

i. Past and future testing of natural resources likely to have been contaminated by contaminants or pollutants released at or from the Bridgeport Site;

ii. Past and future treatment of all natural resources containing detectable levels of contaminants or pollutants released at or from the Bridgeport Site restored to non-detectable levels; and

iii. Past and future monitoring of the State's natural resources at and near the Bridgeport Site to detect the presence of contaminants or pollutants released at or from the Site, and restoration of such natural resources to their pre-discharge condition;

b. Order Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and monitoring of environmental contamination of the State's natural resources at and near the Bridgeport Site;

c. Order Defendants to pay for all damages in an amount at least equal to the full cost of restoring the State's natural resources at and near the Bridgeport Site to their pre-discharge condition;

d. Order Defendants to pay all compensatory damages for the lost value (including lost use) of the State's natural resources at and near the Bridgeport Site as a result of the contamination of such natural resources;

e. Order Defendants to pay for all other damages sustained by Plaintiffs in their public trustee, *parens patriae*, and regulatory capacities, as a direct and proximate result of Defendants' acts and omissions alleged herein, including remedial, administrative, oversight, and legal fees and expenses;

f. Award Plaintiffs punitive damages in an amount to be determined by the trier of fact;

g. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiffs such other relief as this Court deems appropriate.

SEVENTH COUNT

TRESPASS

(Bridgeport Site and Statewide PCB Contamination)

322. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

323. Groundwater, surface water, sediment, wetlands, and biota are natural resources of the State held in trust by the State for the benefit of the public.

324. The hazardous substances and pollutants in the groundwater, surface water, sediment, wetlands, and biota at the Bridgeport Site and throughout the State's natural resources constitute a physical invasion of public property without permission or license.

325. Defendants are liable for trespass, and continued trespass, because the hazardous substances and pollutants in the groundwater, surface water, sediment, wetlands, and biota at the

Bridgeport Site resulted from discharges of hazardous substances and pollutants and the presence of PCBs statewide impacting groundwater, surface water, sediment, wetlands, and biota that belong to the State resulted from Defendants' conduct.

326. As long as the resources at the Bridgeport Site remain contaminated and PCB contamination remains throughout the State due to Defendants' conduct, the trespass continues.

327. Until the resources are restored to their pre-discharge quality, Defendants are liable for trespass, and continued trespass, upon public property.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Find Defendants liable, jointly and severally, for all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to environmental contamination caused by Defendants' conduct statewide and at the Bridgeport Site so the contaminated natural resources are restored to their pre-discharge condition, and for all damages to compensate the citizens of New Jersey for the lost use and value of these natural resources during all times of injury caused by Defendants, and for such orders as may be necessary to provide full relief to address risks to the State, including the costs of:

i. Past and future testing of natural resources likely to have been contaminated by contaminants or pollutants released at or from the Bridgeport Site and for contamination of natural resources with PCBs across the State;

ii. Past and future treatment of all natural resources containing detectable levels of contaminants or pollutants released at or from the Bridgeport Site restored to non-detectable levels and for contamination of natural resources with PCBs across the State; and

iii. Past and future treatment of all natural resources across the State containing detectable levels of PCBs and restored to non-detectable levels;

iv. Past and future monitoring of the State's natural resources at and near the Bridgeport Site to detect the presence of contaminants or pollutants released at or from the Site, and restoration of such natural resources to their pre-discharge condition;

v. Past and future monitoring of all natural resources across the State, and restoration of such natural resources to their pre-discharge condition;

b. Order Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and

monitoring of environmental contamination of the State's natural resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State;

c. Order Defendants to pay for all damages in an amount at least equal to the full cost of restoring the State's natural resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State to their pre-discharge condition;

d. Order Defendants to pay all compensatory damages for the lost value (including lost use) of the State's natural resources at and near the Bridgeport Site and for contamination of natural resources with PCBs across the State as a result of the contamination of such natural resources;

e. Order Defendants to pay for all other damages sustained by Plaintiffs in their public trustee, *parens patriae*, and regulatory capacities, as a direct and proximate result of Defendants' acts and omissions alleged herein, including remedial, administrative, oversight, and legal fees and expenses;

f. Award Plaintiffs punitive damages in an amount to be determined by the trier of fact;

g. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiffs such other relief as this Court deems appropriate.

EIGHTH COUNT

Strict Liability — Design Defect

(Statewide PCB Contamination)

328. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

329. At all relevant times, Defendants were in the business of designing, engineering, manufacturing, developing, marketing, selling, and distributing commercial PCB formulations and PCB-containing products.

330. Defendants' PCB mixtures and PCB-containing products were not reasonably safe as designed at the time they left Defendants' control.

331. Defendants' PCB mixtures' toxicity, volatility, tendency to bioaccumulate, inability to be contained, and environmental persistence rendered them unreasonably dangerous at all times.

332. With respect to Defendants' PCB-containing products composed of PCBs and hydrocarbon solvents or other components in which PCBs are soluble, such products were additionally defective

in that their formulations enhanced the environmental risk posed by PCBs as they allowed PCBs to more easily escape their applications to cause environmental contamination.

333. Defendants' PCB mixtures and PCB-containing products were unsafe as designed, as demonstrated by numerous studies as well as the U.S. Congress' and U.S. EPA's prohibition on the production and sale of commercial PCBs in 1979 pursuant to the TSCA.

334. Defendants knew or should have known their PCB mixtures and PCB-containing products were not safe and were likely to contaminate natural resources within New Jersey and cause toxic contamination of New Jersey's natural resources.

335. Defendants knew or should have known their PCB mixtures and PCB-containing products were unsafe to an extent beyond that which would be contemplated by an ordinary person because of the information and evidence available to them associating PCB exposure with adverse human and animal health effects as well as the overwhelming seriousness of creating widespread environmental contamination.

336. These risks were not obvious to the State or the public.

337. Defendants manufactured, distributed, marketed, promoted, and sold PCB mixtures and PCB-containing products despite such knowledge to maximize their profits despite the foreseeable and known harms.

338. The seriousness of the environmental and human health risk posed by Defendants' products far outweighs any social utility of Defendants' conduct in manufacturing their commercial PCB mixtures and PCB-containing products and concealing the dangers posed to human health and the environment.

339. The rights, interests, and inconvenience to Plaintiffs and general public far outweigh the rights, interests, and inconvenience to Defendants, which profited heavily from the manufacture, sale, and distribution of their commercial PCB mixtures and PCB-containing products.

340. Practical and feasible alternative designs capable of reducing Plaintiffs' injuries were available. Such alternatives include alternative chemical formulations and/or additional chemical processing measures Defendants could have taken to enhance the safety of their PCB mixtures. Alternative chemical formulations that would have reduced Plaintiffs' injuries include a reduction of chlorine content in all PCB products, which would have materially decreased the environmental persistence and toxicity of PCBs without eliminating their typical applications or utilities. Moreover, products combining PCBs and hydrocarbon solvents in which PCBs are soluble could have been designed with components in which PCBs are not soluble, mitigating the risk of environmental harm.

341. Viable and readily available alternatives to PCBs vary by application, and include non-chlorinated plasticizers and solvents (such as monoisopropyl biphenyl, phthalate esters, or epoxy compounds) as well as mineral oils, silicone fluids, vegetable oils, esters, and nonfluid insulating chemicals for electrical applications, as evidenced by the rapid replacement of PCBs by such alternatives upon the prohibition of PCBs.

342. Defendants' conduct caused the presence of PCBs in New Jersey and subsequent injury to the public interest, including the physical and economic health and well-being of New Jersey residents and the public's free use and comfortable enjoyment of New Jersey's natural resources for commerce, navigation, fishing, recreation, and aesthetic enjoyment.

343. Plaintiffs suffered and will continue to suffer injuries to natural resources, and damages to its public treasury as a result of Defendants' conduct and the presence of PCBs within New Jersey natural resources.

344. Plaintiffs seek redress for exposure to toxic chemicals and/or substances, namely the presence of PCBs in New Jersey. Thus, this suit is an "environmental tort action" as defined in the New Jersey Products Liability Act, N.J.S.A. 2A:58C-1 to -11.

345. Defendants are under a continuing duty to act to correct and remediate the injuries their conduct has introduced and to warn Plaintiffs, their customers, and the public about the human

and environmental risks posed by their PCBs. Defendants are strictly liable for all damages arising out of their defectively designed PCB mixtures and PCB-containing products.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Find Defendants liable, jointly and severally, for all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to PCB contamination caused by Defendants' conduct so the contaminated natural resources are restored to their pre-discharge condition, and for all damages to compensate the citizens of New Jersey for the lost use and value of these natural resources during all times of injury caused by PCBs, and for such orders as may be necessary to provide full relief to address risks to the State, including the costs of:

i. Past and future testing of natural resources likely to have been contaminated by PCBs;

ii. Past and future treatment of all natural resources containing detectable levels of PCBs restored to non-detectable levels; and

iii. Past and future monitoring of the State's natural resources to detect the presence of PCBs, and

restoration of such natural resources to their pre-discharge condition;

b. Order Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and monitoring of PCB contamination of the State's natural resources;

c. Order Defendants to pay for all damages in an amount at least equal to the full cost of restoring the State's natural resources to their original condition prior to the PCB contamination of such natural resources;

d. Order Defendants to pay for all compensatory damages for the lost value (including lost use) of the State's natural resources as a result of the PCB contamination of such natural resources;

e. Order Defendants to pay for all other damages sustained by Plaintiffs in their public trustee, *parens patriae*, and regulatory capacities, as a direct and proximate result of Defendants' acts and omissions alleged herein, including remedial, administrative, oversight, and legal fees and expenses;

f. Award Plaintiffs punitive damages in an amount to be determined by the trier of fact;

g. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this

action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiffs such other relief as this Court deems appropriate.

NINTH COUNT

Strict Liability - Failure to Warn and Instruct

(Statewide PCB Contamination)

346. The Plaintiffs repeat each allegation of the preceding paragraphs as though fully set forth in their entirety herein.

347. At all relevant times, Defendants and their predecessors were in the business of designing, engineering, manufacturing, developing, marketing, selling, and distributing commercial PCB formulations and PCB-containing products.

348. As designers, engineers, manufacturers, developers, marketers, sellers, and distributors of commercial PCB formulations and PCB-containing products, Defendants had a duty to provide reasonable instructions and adequate warnings about the environmental and health hazards posed by PCBs.

349. Defendants' PCB mixtures and PCB-containing products were not reasonably safe at the time they left Defendants' control because they lacked adequate warnings and instructions.

350. At the time Defendants manufactured, distributed, marketed, promoted, sold, and distributed PCB mixtures and PCB-containing products, they knew their PCB mixtures and PCB-

containing products were not safe and were likely to contaminate natural resources within New Jersey and cause toxic contamination of New Jersey's natural resources.

351. Despite Defendants' knowledge, Defendants failed to provide adequate warnings that their PCB mixtures and PCB-containing products were toxic and would contaminate the State's natural resources and water systems, and to provide adequate instructions to minimize, mitigate, reduce, control, or eliminate such risks.

352. Defendants could have warned of this danger but failed to do so and intentionally concealed information to maximize their profits.

353. Defendants continued to conceal the dangers of PCBs after they manufactured, distributed, marketed, promoted, and sold PCBs and PCB-containing products.

354. Without adequate warnings or instructions, Defendants' PCB mixtures and PCB-containing products were unsafe to an extent beyond that which would be contemplated by an ordinary person.

355. Defendants knowingly failed to issue warnings or instructions concerning the environmental and human health dangers of PCBs, contrary to the manner in which a reasonably prudent manufacturer would act in the same or similar circumstances.

356. Defendants' conduct caused and continues to cause injury to the physical and economic health and well-being of the State's

residents, as well as the public's free use and comfortable enjoyment of New Jersey's natural resources for commerce, navigation, fishing, recreation, and aesthetic enjoyment.

357. Plaintiffs have suffered and will continue to suffer injuries to natural resources, and damages to its public treasury as a result of Defendants' conduct and the presence of PCBs within New Jersey's natural resources.

358. Plaintiffs seek redress for exposure to toxic chemicals and/or substances, namely the presence of PCBs in New Jersey. Thus, this suit is an "environmental tort action" as defined in the New Jersey Products Liability Act, N.J.S.A. 2A:58C-1 to -11.

359. Defendants are under a continuing duty to act to correct and remediate the injuries their conduct has introduced and to warn Plaintiffs and the public about the human and environmental risks posed by their PCBs.

360. Defendants are strictly liable for all damages arising out of their failure to provide adequate warnings and instructions.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Find Defendants liable, jointly and severally, for all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to PCB contamination caused by Defendants' conduct so the contaminated natural resources are restored to their pre-discharge condition, and for all damages to compensate the citizens of New Jersey for the lost use and value of these natural resources during all times of injury caused by PCBs, and for such orders as may be necessary to provide full relief to address risks to the State, including the costs of:

   i. Past and future testing of natural resources likely to have been contaminated by PCBs;

   ii. Past and future treatment of all natural resources containing detectable levels of PCBs restored to non-detectable levels; and

   iii. Past and future monitoring of the State's natural resources to detect the presence of PCBs, and restoration of such natural resources to their pre-discharge condition;

b. Order Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and

monitoring of PCB contamination of the State's natural resources;

c. Order Defendants to pay for all damages in an amount at least equal to the full cost of restoring the State's natural resources to their original condition prior to the PCB contamination of such natural resources;

d. Order Defendants to pay for all compensatory damages for the lost value (including lost use) of the State's natural resources as a result of the PCB contamination of such natural resources;

e. Order Defendants to pay for all other damages sustained by Plaintiffs in their public trustee, *parens patriae*, and regulatory capacities, as a direct and proximate result of Defendants' acts and omissions alleged herein, including remedial, administrative, oversight, and legal fees and expenses;

f. Award Plaintiffs punitive damages in an amount to be determined by the trier of fact;

g. Award the Plaintiffs their costs and fees in this action, including attorneys' fees, incurred in prosecuting this action, together with prejudgment interest, to the full extent permitted by law; and

h. Award Plaintiffs such other relief as this Court deems appropriate.

VI. JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

VII. R. 4:5-1 CERTIFICATION

I hereby certify, that to the best of my knowledge and belief, the matter in controversy is not the subject of any action pending in any other court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated, except that Plaintiffs may bring claims against Defendants for Natural Resource Damages for the Passaic River and Newark Bay Complex, as described above (¶ 197 n.1). I know of no other parties other than the parties set forth in this pleading who should be joined in the above action. I recognize the continuing obligation of each party to file with the Court and serve on all parties an amended Certification if there is a change in the facts in the original Certification.

VIII. DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Plaintiffs designate Kyle J. McGee as trial counsel in this matter.

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Dated: August 4, 2022

Civil Case Information Statement

Case Details: GLOUCESTER | Civil Part Docket# L-000800-22

Case Caption: NJ DEP'T OF ENV. PRO TECTION VS MONSANTO CO.
Case Initiation Date: 08/04/2022
Attorney Name: KYLE J MC GEE
Firm Name: GRANT & EISENHOFER, PA
Address: 123 JUSTISON ST
WILMINGTON DE 19801
Phone: 3026227000
Name of Party: PLAINTIFF : NJ Dep't of Env. Protection
Name of Defendant's Primary Insurance Company (if known): Unknown

Case Type: ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
Document Type: Complaint with Jury Demand
Jury Demand: YES - 12 JURORS
Is this a professional malpractice case? NO
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: NJ Dep't of Env. Protection? NO

Are sexual abuse claims alleged by: Comm. of NJ Dep't of Env. Prot? NO

Are sexual abuse claims alleged by: Admin. of NJ Spill Comp. Fund? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO
If yes, please identify the requested accommodation:

Will an interpreter be needed? NO
If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

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 *Rule* 1:38-7(b)

08/04/2022
Dated

/s/ KYLE J MC GEE
Signed