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| STATE OF NEW JERSEY, | : | SUPERIOR COURT OF NEW JERSEY |
| DEPARTMENT OF ENVIRONMENTAL | : | LAW DIVISION - |
| PROTECTION, | : | PASSAIC COUNTY |
| | : | DOCKET NO. |
| Plaintiff, | : | <u>CIVIL ACTION</u> |
| v. | : | VERIFIED COMPLAINT |
| JOHN STREET COMMONS, LLC, | : | |
| Defendant. | : | |
| | : | |

Plaintiff, New Jersey Department of Environmental Protection ("Department"), by and through its attorney, brings this Verified Complaint against Defendant John Street Commons, LLC. ("Defendant"), and alleges as follows:

STATEMENT OF THE CASE

1. The Department brings this civil action pursuant to the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 through -23.24, Brownfield and Contaminated Site Remediation

Act ("Brownfield Act"), N.J.S.A. 58:10B-1 to -20, Penalty Enforcement Law, N.J.S.A. 2A:58-1 to -12, Administrative Requirements for the Remediation of Contaminated Sites ("ARRCS"), N.J.A.C. 7:26C, and R. 4:67-6 and R. 4:70, to enforce a Haledon Municipal Court Judgment of Conviction ("JOC") finding Defendant guilty for failure to remediate hazardous substances at a residential condominium development in Haledon, Passaic County ("Site"), and to require Defendant to complete remediation of the Site and reimburse DEP for past costs and damages it incurred remediating the Site.

2. Between 2005 and 2008, Defendant redeveloped the Site from a former industrial facility into a residential condominium property consisting of nineteen condominium units without conducting remediation to bring the contamination at the property below residential standards. In 2017 a survey was conducted in the basement of one of the Site's condominium buildings which identified vaporous hazardous substances, tetrachloroethylene (also known as perchloroethylene) ("PCE"), and trichloroethylene ("TCE"), at levels above the Residential Soil Gas Screening Levels ("RSGS Levels"). The Department installed a Sub-Slab Depressurization System ("SSDS") in the building in 2019 at its own cost and continues to pay for the operation and maintenance of the SSDS. The purpose of the SSDS is to apply a negative pressure field beneath and around the building to prevent vapor intrusion

of the hazardous chemicals identified at the Site into the building.

3. In February 2017, a soil sample from below the basement of one of the Site's condominium buildings detected high concentrations of 1,2 dichloroethylene ("1,2-DCE"), TCE, and PCE, indicating a source of hazardous substances below the building. 1,2-DCE poses a hazard to human health and may cause skin irritation, dizziness, lightheadedness, and damage to the liver and kidneys. PCE poses a threat to human health as a probable carcinogen and can cause pulmonary, reproductive, neurological, and liver damage in humans. Exposure to TCE poses a threat to human health and can result in damage to the liver, lungs, and nervous system, abnormal heartbeat, coma, and fetal developmental impairment.

4. The Department notified Defendant that it was a person responsible for the remediation of the hazardous substances identified at the Site in 2018, and that it was required to remediate the property in accordance with the regulatory timeframes. However, the timeframes passed without Defendant conducting any remediation. In 2019, the Department issued a municipal Summons and Complaint for Defendant's failure to remediate the Site, and the Haledon Municipal Court issued the JOC after a trial in absentia finding Defendant guilty of failure to

remediate the Site pursuant to N.J.A.C. 7:26C-2.3(a) and assessing civil penalties of \$30,000.

5. The community surrounding the Site has a significant minority population such that it is considered an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.1.¹ Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and the resultant threats of high levels of air, water, soil, and noise pollution, and accompanying potential for increased adverse public health impacts.

6. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health without regard to race, language, or income. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018), and Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

7. The Department brings this summary action for enforcement of the JOC pursuant to its enabling legislation,

¹ "Overburdened community means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency." N.J.S.A. 13:1D-158. The Site is located within an area of Millville City that is listed as an overburdened community on the Department's website, pursuant to N.J.S.A. 13:1D-159.

N.J.S.A. 13:1D-1 to -19, the Spill Act and the rules and regulations promulgated pursuant thereto, and the Brownfield Act and the rules and regulations promulgated pursuant thereto. Pursuant to the Spill Act, the Brownfield Act, the Penalty Enforcement Law, N.J.S.A. 2A:58-1 to -12, and R. 4:67-6 and R. 4:70, the Department seeks enforcement of the JOC in a summary manner. Pursuant to R. 4:67-6 and R. 4:70, the Department also seeks reimbursement for costs expended in association with remediation at the Site, and requiring Defendant to pay civil penalties, and to retain ownership, control, maintenance, and operation of a Sub-Slab Depressurization System ("SSDS") installed at the Site.

PARTIES

8. The Department is a principal agency in the Executive Branch of State Government. The Department maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey.

9. Pursuant to the authority vested in the Department by the Spill Act, the Department is empowered to institute legal proceedings to enforce orders and to recover penalties in summary proceedings in Superior Court.

10. John Street Commons, LLC is a real estate development limited liability company registered in New Jersey on March 21, 2005. The two equal partners of John Street Commons, LLC are

Victor Cortes and Henry Cortes. The registered agent for John Street Commons, LLC is Henry Cortes. The main business address for John Street Commons, LLC is 860 Wyckoff Avenue, Mahwah, New Jersey 07430.

FACTUAL ALLEGATIONS

11. Defendant is the owner of the Site, which is located at 1 John Street, Haledon Borough, New Jersey, also known as Block 118 and Lot 1 (1.01 - 1.19) on the Tax Map of Haledon Borough. Defendant has owned the Site since May 17, 2005.

12. The Site is the location of a former industrial facility owned by Lapco Industries, Inc ("Lapco"). Lapco operated a precision grinding business which used lapping oils, abrasives, and other hazardous and non-hazardous substances in their operations.

13. Lapco was the last known industrial operator of the Site. When Lapco ceased operations in 1999, Lapco leased only a portion of the Site. Lapco conducted an environmental assessment pursuant to the Industrial Site Recovery Act, N.J.S.A. 13:1K-13 et seq., that was limited to the portion of the Site it leased, but which did not assess the entire Site. The Department issued a leasehold "no further action" approval for the subject portion of the Lapco leasehold, but that no further action approval did not apply to the entire Site.

14. Between 2005 and 2008, Defendant redeveloped the Site into a residential condominium property consisting of nineteen (19) units in two buildings - Buildings A and B. Building B is located on the portion of the Site outside of the portion in which Lapco conducted its environmental assessment. The portion of the Site upon which Building B is located never received a "no further action" approval from the Department.

15. Defendant failed to investigate or remediate contamination at the Site prior to redevelopment.

16. On March 31, 2008, Defendant subsequently sold the Site to the John Street Commons Condominium Corp., a condominium association. The nineteen individual units were sold to various owners, including both individuals and corporations between 2008 and 2018. Upon information and belief, as of 2018, all units are owned by individual residents or JCA Realty, Inc., a leasing company. Each condominium unit was assigned a percentage of the taxable ratable to the property based on the square footage of the condo unit and each condo sharing the same amount of exterior space.

17. In 2008, the owner of a property adjacent to the Site, located at 217 Belmont Avenue, Haledon Borough, Passaic County ("Belmont Ave. Property"), Beljo Associates, LP, ("Beljo") conducted a Phase 1 Environmental Site Assessment ("ESA") as required by their bank for a prospective refinance of the property.

18. The ESA identified the potential presence of historic fill on the Belmont Ave. Property, as well as the prior operation of a coin-operated dry-cleaner facility, which is suggestive possible soil and groundwater contamination.

19. In February 2009, two soil samples were collected from the location of the former dry-cleaner on the Belmont Ave. Property that revealed PCE in the soil at 0.130 parts per million ("ppm"), in excess of the maximum permissible amount of 0.005 ppm.

20. In August 2010, a groundwater monitoring well installed at the location of the former dry-cleaner on the Belmont Ave. Property (MW-1) identified PCE in groundwater at 0.0217 ppm.

21. Also, in August 2010, another monitoring well installed at the location of the former dry-cleaner (MW-2) identified PCE in groundwater at 0.149 ppm at a depth of ten to fifteen feet and at 0.171 ppm from a depth of fifteen to twenty feet.

22. In November 2010, soil sampling conducted at the Belmont Ave. Property twelve-and-a-half to thirteen feet below ground surface detected PCE at 154 ppm.

23. In June 2011, further soil sampling of the Belmont Ave. Property identified PCE at 57.9 ppm at a depth of six-and-a-half feet below ground surface.

24. In December 2012, as a result of the high levels of hazardous substances identified by the soil and groundwater

sampling at the Belmont Ave. Property, Beljo excavated and removed sixty-five tons of PCE-impacted soil.

25. In November 2014, based on the groundwater and soil sampling results from 2010 to 2011, Beljo conducted a vapor intrusion survey for two buildings on the Belmont Ave. Property. The vapor intrusion survey detected PCE and TCE at levels above the Residential Soil Gas Screening Levels ("RSGS Levels") as specified at N.J.A.C. 7:26E-1.15.

26. As a result of the high levels of PCE and TCE identified in the Belmont Ave. Property, between 2014 and 2015, Beljo conducted a vapor intrusion survey in condominiums located in Building B on the Site. The vapor intrusion survey identified TCE above the RSGS Levels and PCE below the RSGS levels.

27. During December 2015, sampling at the Site confirmed PCE and TCE at levels above the rapid action levels for indoor air quality in Building B. PCE and TCE are common industrial degreasers and cleaners and are classified as volatile organic compounds.

28. During the initial phases of the investigation on the Belmont Ave. Property, Beljo preliminarily believed the contamination at the Site originated from the Belmont Ave. Property. Beljo installed indoor air purifiers to address the immediate concern in the basement and first floor of the condominiums in Building B at the Site.

29. In January 2016, Beljo installed a vacuum extraction system in the smaller of the two condominium buildings at the Site, Building B.

30. In February 2017, Beljo conducted soil sampling below the basement floor of Building B of the Site. Analysis of a soil sample collected below the basement floor of Building B, a residential condominium building of the Site, detected Cis-1,2-DCE at 7.09 ppm, TCE at 13.0 ppm, and PCE at 38.4 ppm, indicating a source of hazardous substances below the Site. TCE and Cis-1,2-DCE are byproducts of degrading PCE. Because the soil sample collected was above the water table, the results of the sample confirmed that there was a source of PCE, TCE, and Cis-1,2-DCE contamination under the floor of the Site that could not be attributed to the Belmont Ave. Property.

31. The discovery of these hazardous substances triggered Defendant's obligation to remediate to prevent public health harm and risk to the environment pursuant to, among other statutes and regulations, the Spill Act, and the ARCS.

32. On October 18, 2018, the Department sent a letter notifying Defendant that contamination had been identified at the Site, the contamination was attributable to historic industrial activities at the Site which occurred prior to its ownership, and remediation of the Site was required.

33. The October 2018 letter to Defendant notified Defendant of the requirement to hire a Licensed Site Remediation Professional ("LSRP") to complete remediation at the Site and issue a Response Action Outcome as required by N.J.A.C. 7:26C-2.3(a).

34. The October 2018 letter to Defendant notified Defendant of the requirement that an Initial Receptor Evaluation for the Site was due on or before December 4, 2018.

35. On February 26, 2019, the Department issued a Municipal Summons and Complaint, Borough of Haledon ("Ticket number 1603-SC-10302"), to Defendant for failure to remediate the Site pursuant to, ARRCs, N.J.A.C. 7:26C-2.3(a). The Department and Defendant were parties to the municipal court action, State, Department of Environmental Protection v. John Street Commons, LLC, SC-2019-10302.

36. The Department's Municipal Summons and Complaint sought civil penalties of up to \$50,000 for a single-day violation of N.J.A.C. 7:26C-2.3(a) for failure to remediate the Site. Due to the summary nature of the action, the Department could not seek equitable relief before the Municipal Court.

37. On April 2, 2019, the Department issued a Notice of Violation to Defendant informing it that, as a person responsible for conducting the remediation, it had failed to remediate the contaminated Site despite receiving communications from the Department requiring it to do so.

38. Defendant was deficient in meeting the remediation requirements for the Site because it failed to hire a LSRP by the January 18, 2018 deadline, failed to submit an Initial Receptor Evaluation ("IRE") by the December 4, 2018 deadline, and failed to submit a Confirmed Discharge Notification Form by the December 18, 2017 deadline pursuant to N.J.A.C. 7:26C-1.7 (d).

39. In July 2019, the Department installed a SSDS in the basement of Building B of the Site. The SSDS was installed to apply a negative pressure field beneath and around the building to prevent vapor intrusion into the building.

40. The Department expended \$297,449.32 in remediation costs associated with the Site and continues to incur costs for, among other remediation efforts, the operation and maintenance of the SSDS.

41. On October 15, 2020, Hon. John J. Segreto, Judge of the Municipal Court, Borough of Haledon ("Haledon Municipal Court"), held a trial in absentia after Defendant failed to answer or appear for trial. The Court found that Defendant had advance notice of the trial, but failed to appear. Transcript of Proceedings at 8-9, State of New Jersey v. John Street Commons, SC-2019-10302. The Haledon Municipal Court found Defendant guilty of violating the ARRCs by failing to remediate the Property pursuant to N.J.A.C. 7:26C-2.3(a), and failing to retain an LSRP pursuant to N.J.A.C. 7:26C-2.3(a)(1).

42. That same day the, the Haledon Municipal Court issued the JOC ordering and imposing a fine of \$30,000 and costs of \$33 pursuant to the Spill Act, N.J.S.A 58:10-23.11(u). Defendant did not appeal the JOC within twenty (20) days of October 15, 2020, the date the Haledon Municipal Court entered the Judgment of Conviction.

42. Because Defendant failed to appeal the JOC within 20 days of the date of entry of the judgment, the Judgment is final and enforceable. R.7:13-1; R.3:23-2.

43. To date, Defendant has failed to fully investigate and remediate the Site or to comply with the JOC.

44. Each day Defendant fails to perform the remediation, a public health and safety hazard will remain at the Site, subjecting the public and the environment to an ongoing risk of harm.

COUNT I

Enforcement of the Judgment of Conviction

45. The Department repeats each allegation above as if fully set forth in their entirety herein.

46. Following an October 15, 2020 trial, for which Defendant failed to answer and/or appear, the Court found Defendant guilty of violating the ARRCs for failure to remediate the Property pursuant to N.J.A.C. 7:26C-2.3(a) and for failure to retain an LSRP pursuant to N.J.A.C. 7:26C-2.3(a)(1). In the Judgment of

Conviction, the Haledon Municipal Court ordered and imposed a fine of \$30,000 and costs of \$33 pursuant to the Spill Act, N.J.S.A 58:10-23.11(u).

47. To date, Defendant has not complied with the Judgment of Conviction to pay the penalty amount of \$30,000 and costs of \$33.

48. Pursuant to R. 4:67-6, the Department is entitled to summary enforcement of the Judgment of Conviction.

WHEREFORE, the Department demands judgment in its favor:

- a. Finding Defendant in violation of the Judgment of Conviction;
- b. Ordering Defendant to comply with the Judgment of Conviction;
- c. Ordering Defendant to pay the fine of \$30,000 and costs of \$33.00 pursuant to N.J.S.A 58:10-23.11; and
- d. Granting such other relief the Court finds just and proper.

COUNT II

Other Relief Sought Per R. 4:70-1(a) in Connection With the Enforcement of the Judgment of Conviction

49. The Department repeats each allegation above as if fully set forth in their entirety herein.

50. The Site requires remediation pursuant to the Spill Act as PCE, TCE, and Cis-1, 2-DCE, all hazardous substances, were

identified in the 2017 soil sampling pursuant to the ARRCs, N.J.A.C. 7:26C-2.2(a).

51. The Haledon Municipal Court held that Defendant failed to remediate the Site pursuant to the ARRCs, N.J.A.C. 7:26C-2.3(a) and N.J.A.C. 7:26C-2.3(a)(1), which are regulations promulgated pursuant to the Spill Act.

52. As a former owner of the Site, Defendant is a person in any way responsible for the remediation of the Site.

53. Defendant has failed to remediate the Site.

54. Pursuant to R. 4:70-1(a), the Department may include a count seeking injunctive relief or other relief based on the same series of actions as those for which the penalty, here, the penalty assessed in the JOC, is sought.

55. Defendant has not conducted the remediation at the Site in accordance with the ARRCs, N.J.A.C. 7:26C-2.3, applicable rules and guidance. Specifically, after being notified of its requirement to do so in October 2018, Defendant failed to hire an LSRP by the January 18, 2018, deadline, failed to submit an IRE by the December 4, 2018 deadline. Additionally, Defendant failed to submit a Confirmed Discharge Notification Form by the December 18, 2017 deadline pursuant to the ARRCs, N.J.A.C. 7:26C-2.3(a), and failed to submit a Remedial Investigation Report by the mandatory timeframe of August 30, 2023.

56. Defendant's failure to remediate the Site pursuant to the ARRCs, N.J.A.C. 7:26C-2.3(a) arises from the same series of actions that led to the request for summary action and an assessment of civil penalties in the JOC for failure to remediate per N.J.A.C. 7:26C-2.3(a).

57. The Department expended costs for the cleanup, investigation, sampling, monitoring, and other remediation in the amount of \$293,302.32. These costs arise out of the same series of actions as led to the request for summary action and assessment of civil penalties in the JOC as the contamination at the site is considered an environmental concern and poses a threat to human health and the environment.

58. Pursuant to R. 4:70-1(a), the Department may include a count seeking injunctive relief or other relief based on the similar violations as those for which the penalty, here, the penalty assessed in the JOC, is sought.

59. Effective January 6, 1998, the Legislature enacted the Brownfield Act, N.J.S.A. 58:10B-1 to -20.

60. As amended by the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, the Brownfield Act provides in part that a discharger of a hazardous substance or a person in any way responsible for a hazardous substance under N.J.S.A. 58:10-23.11g of the Spill Act has an affirmative obligation to remediate discharges of hazardous substances. N.J.S.A. 58:10B-1.3.a.

61. Defendants are "persons" as defined in the Brownfield Act. N.J.S.A. 58:10B-1.

62. The violation of N.J.S.A. 58:10B-1.3 is a similar violation to Defendant's violation of N.J.A.C. 7:26C-2.3(a) that led to the request for summary action and an assessment of civil penalties in the JOC for failure to remediate per N.J.A.C. 7:26C-2.3(a).

63. Pursuant to the Spill Act, N.J.S.A. 58:10-23.11u(d), Defendant is subject, upon order of the Court, to a civil penalty of up to \$50,000 per day for Defendant's continuous violation of the JOC.

WHEREFORE, the Department demands judgment in its favor:

- a. Finding Defendant in violation of the Spill Act and ARRCs;
- b. Finding Defendant in violation of the Brownfield Act;
- c. Ordering Defendant to immediately retain an LSRP pursuant to the ARRCs, N.J.A.C. 7:26C-2.3(a), N.J.A.C. 7:26C-2.2(a)(2)(ii), and N.J.S.A. 58:10B-1.3(b)(1);
- d. Ordering Defendant to complete remediation of the Site pursuant to the Spill Act, ARRCs, and Brownfield Act;
- e. Ordering Defendant to take possession and control of the SSDS installed at the Site and bear responsibility for its ongoing operation and maintenance;

- f. Ordering Defendant to reimburse the Department in the amount of \$293,302.32 for costs incurred for the Department's remediation efforts at the Site, including, but not limited to, the installation, operation, and maintenance of the SSDS;
- g. Ordering Defendant to compensate the Department for all reasonable costs that have been and 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;
- h. Ordering Defendant to pay a civil penalty pursuant to the Spill Act, N.J.S.A. 58:10-23.11u(d) in an amount the Court deems just and proper;
- i. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Site; and
- j. Granting such other relief as the Court may deem just and proper.

COUNT III

Violations of the Spill Act

64. The Department repeats each allegation above as if fully set forth in their entirety herein.

65. For the purpose of Spill Act liability, a "person" means public or private corporations, companies, and individuals.

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

67. A "person responsible for conducting the remediation" of a contaminated property pursuant to the Spill Act is any person who discharges a hazardous substance or is any way responsible for a hazardous substance. N.J.S.A. 58:10-23.11b.

68. "[A]ny person who owns real property acquired on or after September 4, 1993 on which there has been a discharge prior to the person's acquisition of that property and who knew or should have known that a hazardous substance had been discharged at the real property, shall be strictly liable, without regard to fault, for all cleanup and removal costs no matter by whom incurred." N.J.S.A. 58:10-23.11g.

69. Defendant knew or should have known of the discharge of hazardous substances at the Site when it purchased the Site in 2005.

70. Defendant took no action, upon information and belief, to conduct all appropriate inquiry into the potential for hazardous substances discharged at the former industrial site it purchased.

71. The PCE, TCE, and Cis-1,2-DCE identified at the Site are hazardous substances as defined in N.J.S.A. 58:10-23.11b.

72. Defendant is strictly liable, jointly and severally, for the cleanup and removal costs of the discharged hazardous substances at the Site.

73. The Department has incurred, and will continue to incur, costs as a result of the discharge of hazardous substances at the Sites.

74. The costs and damages the Department has incurred, and will incur, for the Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

75. Defendant, as the subsequent owner of the Site at which hazardous substances were discharged, and/or as owner of the Site at the time hazardous substances were discharged there, also is a person in any way responsible for the discharged hazardous substances, and is liable, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Department has incurred. N.J.S.A. 58:10-23.11g.c(3).

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

77. 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.), or a court order issued pursuant thereto, or who fails to pay a civil administrative penalty in full or to agree to a schedule of payments therefor, 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."

78. Defendant has violated a court order issued pursuant to N.J.S.A. 58:10-23.11u by failing to pay the penalties assessed in the JOC; has violated the Spill Act by failing to conduct remediation at the Site; and, has violated the Spill Act by failing

to reimburse the Department for costs incurred for cleanup and remediation costs.

WHEREFORE, the Department demands judgment in its favor:

- a. Ordering Defendant to reimburse the Department, jointly and severally, without regard to fault, for all cleanup and removal costs and direct and indirect damages they have incurred, including lost use and value, with applicable interest, and assessment costs;
- b. Compelling Defendant to conduct the remediation as required by the Spill Act and N.J.A.C. 7:26C-2.3, including, but not limited to, hiring a LSRP to conduct the remediation;
- c. Finding Defendant liable for the continued and future ownership, control, maintenance, and operation of the SSDS installed at the Site;
- d. Awarding the Department their costs and fees in this action;
- e. Awarding the Department interest and such other relief as this Court deems appropriate;
- f. Assessing civil penalties of up to \$50,000 per violation per day for their ongoing violation of the Spill Act;
- g. Imposing a lien upon the Site for costs the Department incurred, which shall have priority over all other

claims or liens which are or have been filed against the Site pursuant to N.J.S.A. 58:10-23.11g(c).

h. Awarding Plaintiffs such other monetary relief as this Court deems appropriate.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Plaintiff
State of New Jersey, Department of
Environmental Protection

By: s/Andrew Verdone
Andrew Verdone
Deputy Attorney General

DATED: September 28, 2023

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Andrew Verdone, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiff in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to the Plaintiff at this time, nor is any non-party known to the Plaintiff at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiff, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

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

By: s/Andrew Verdone
Andrew Verdone
Deputy Attorney General

DATED: September 28, 2023

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

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

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

By: s/Andrew Verdone
Andrew Verdone
Deputy Attorney General

DATED: September 28, 2023

VERIFICATION

I, Nadine M. Drake, by way of certification, state that:

1. I am an Enforcement Manager within the Site Remediation Program of the Department of Environmental Protection's Bureau of Enforcement & Investigations.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

s/ Nadine M. Drake

Supervising Environmental
Scientist

DATED: September 27, 2023