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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAMDEN COUNTY
DOCKET NO.

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| NEW JERSEY DEPARTMENT OF ENVIRONMENTAL | : | |
| PROTECTION; THE COMMISSIONER OF THE | : | |
| NEW JERSEY DEPARTMENT OF ENVIRONMENTAL | : | <u>Civil Action</u> |
| PROTECTION; and THE ADMINISTRATOR OF | : | |
| THE NEW JERSEY SPILL COMPENSATION | : | COMPLAINT |
| FUND, | : | Jury Trial Demand |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | |
| | : | |
| SL INDUSTRIES, INC.; "JOHN DOES" 1 | : | |
| through 10 (Names Fictitious); "ABC | : | |
| CORPORATIONS" 1-10 (Names | : | |
| Fictitious), | : | |
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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, "Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by and through their attorney file this Complaint against the above-named Defendant, and allege as follows:

STATEMENT OF THE CASE

1. The Plaintiffs bring 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 -35, and the common law, for reimbursement of the costs and damages they have incurred, and will incur, at the Puchack Wellfield site, a former public water supply serving the City of Camden, as the result of the discharge of hazardous substances at the SGL Modern Hard Chrome property located at 482 Cove Road, Pennsauken Township, Camden County, New Jersey, being also known and designated as Block 109, Lot 5B on the tax map of Pennsauken Township, Camden County, New Jersey ("SGL Property"). The SGL Property is an abandoned nickel and chrome plating facility.

The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured by the discharge of hazardous substances at the SGL Property. Further, the Plaintiffs seek an order compelling the Defendant to perform, under DEP's oversight, or to fund DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured by discharge of hazardous substances at the SGL Property, and to compensate the citizens of New Jersey for the lost value of any injured natural resource.

2. SGL Property operations involved plating substrates with hard chromium or other finishes. From at least 1969 until approximately September 1981, process wastes containing chromium from the plating operations were discharged to unlined drainage ditches that led to unlined seepage pits at the SGL Property. Chemicals for plant operations were stored in 14 tanks; 10 tanks for chromium chemicals and 4 tanks for nickel chemicals. Solvent rinses were also used in the process. Approximately 9,000 gallons per day of wastewater from nickel and chrome plating operations and solvent cleaning were discharged, either directly to the soil or to

two underground septic tanks via unlined trenches. Overflow from the septic tanks flowed northwest toward the wooded area behind the main building or toward the railroad tracks behind an adjacent property. The SGL Property never connected to the sanitary sewer system so they did not discharge process wastes to the sewer.

THE PARTIES

3. Plaintiff DEP is a principal department within the Executive Branch of the State government, vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.
4. In addition, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, for which DEP is vested with the authority to protect this public trust and to seek compensation for any injury to the natural resources of this State. N.J.S.A. 58:10-23.11a.
5. The Commissioner is the Commissioner of DEP, N.J.S.A. 58:10A-3, and 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.

6. Plaintiff 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 plaintiff 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.
7. Defendant SL Industries, Inc. is a corporation, organized under the laws of the State of Delaware, with a principal place of business located at 520 Fellowship Road, Suite A-114, Mount Laurel, New Jersey.
8. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, or are otherwise related to, defendant SL Industries, and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at the Site, or are otherwise responsible for the discharges and violations alleged in this Complaint.

9. Defendants John Does 1-10, these names being fictitious, are individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, defendant SL Industries and/or one or more of the ABC Corporation defendants, and/or are other dischargers and/or persons "in any way responsible" for the hazardous substances discharged at the Site, or are otherwise responsible for the discharges and violations alleged in this Complaint.

NATURAL RESOURCES

10. The "natural resources" of this State are all land, fish, shellfish, wildlife, biota, air, water and other such resources owned, managed, held in trust or otherwise controlled by the State. N.J.S.A. 58:10-23.11b.
11. 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-3t.

12. The natural resources of this State, including the waters of the State, have been injured at the Puchack Wellfield site as a result of the discharge of hazardous substances.

AFFECTED NATURAL RESOURCE

Ground Water

13. Ground water is an extremely important natural resource for the people of New Jersey, supplying more than 900 million gallons of water per day, which provides more than half of New Jersey's population with drinking water.
14. Not only does ground water serve as a source of potable water, it also serves as an integral part of the State's ecosystem.
15. 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.
16. Ground water provides cycling and nutrient movement, prevents saltwater intrusion, provides ground stabilization, prevents sinkholes, and provides maintenance of critical water levels in freshwater wetlands.
17. 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.

18. There are thousands of sites in New Jersey confirmed as having ground water contaminated with hazardous substances.

GENERAL ALLEGATIONS

19. The Puchack Wellfield consists of six municipal supply wells that are owned, and prior to being shut down because of discharges at the SGL Property were operated by, the City of Camden. The Puchack Wellfield is defined by the location of groundwater that contains concentrations of chromium greater than DEP's groundwater quality standard for total chromium, which is 70 parts per billion. The chromium-contaminated groundwater is situated in an area roughly bounded to the north by Route 90, to the east by Westfield Avenue, to the south by Cove Road, and to the west by the Conrail railroad track, (collectively, "Puchack Wellfield Superfund Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000005490. The SGL Property and all other areas where any hazardous substance discharged there has become located, including without limitation the Puchack Wellfield Superfund Site, are herein collectively referred to as the "Site."

20. The Site is located in a commercial, industrial and residential neighborhood of Pennsauken Township, Camden County, New Jersey. The Site is surrounded by residences, schools, churches, commercial buildings, industrial development and two cemeteries.
21. The SGL Property consists of an abandoned one-story building on an approximately one-acre lot and is located 4,000 feet southwest of the Puchack Wellfield. The SGL Property is an inactive nickel and chrome plating facility.
22. The Defendant is the current owner of the SGL Property.
23. The Defendant or its predecessors owned the SGL Property since on or about January 15, 1969.
24. SL Surface Technologies, Inc., or its predecessors, conducted metal plating operations at the SGL Property from 1962 to 1985, which operations involved plating substrates with hard chromium and other finishes.
25. From approximately November 1962 to on or about January 15, 1969, Du-Mor Hard Chrome Company, Inc. ("Du-Mor") conducted metal plating operations at the SGL Property.
26. On or about January 15, 1969, G-L Industries, Inc., purchased 100% of the stock in Du-Mor, and Du-Mor became a wholly owned subsidiary of G-L Industries, Inc.

27. On or about January 15, 1969, Gamma Properties, Inc., another wholly owned subsidiary of G-L Industries, Inc., obtained title to the SGL Property.
28. From approximately January 15, 1969 to August 1, 1972, Du-Mor, a wholly owned subsidiary of G-L Industries, Inc., continued to conduct metal plating operations at the SGL Property.
29. In or about December 1970, G-L Industries, Inc. changed its name to SGL Industries, Inc.
30. On or about August 1, 1972, Du-Mor was merged into Modern Hard Chrome Service Company, a wholly owned subsidiary of SGL Industries, Inc.
31. On or about August 1, 1972 through some date in 1973, Modern Hard Chrome Service Company conducted metal plating operations at the SGL Property.
32. In or about 1973, SGL Industries, Inc. merged Modern Hard Chrome Service Company and an operating division of SGL Industries, Inc. named Du-Mor Hard Chrome Division, to create an operating division of SGL Industries, Inc. named SGL Modern Hard Chrome Service.

33. In or about 1973 to on or about October 1, 1984, SGL Modern Hard Chrome Service conducted metal plating operations at the SGL Property.
34. In or about September 1984, SGL Industries, Inc. changed its name to SL Industries, Inc.
35. On or about October 1, 1984, SGL Modern Hard Chrome Service changed its name to SL Modern Hard Chrome, and remained a division of SL Industries, Inc.
36. From on or about October 1, 1984, until in or about January 1985, SL Modern Hard Chrome conducted metal plating operations at the SGL Property.
37. On or about January 10, 1985, the Defendant filed a certificate of incorporation for SL Modern Hard Chrome in the State of New Jersey creating a wholly owned subsidiary of the Defendant called SL Modern Hard Chrome, Inc.
38. On or about December 6, 1996, SL Modern Hard Chrome, Inc. changed its name to SL Surface Technologies, Inc., a former subsidiary of the Defendant.
39. The Defendant SL Industries is the successor by merger to Gamma Properties, Inc., which obtained title to the SGL Property on or about January 15, 1969.

40. On June 1, 2016, Handy & Harman, Ltd., a Delaware Corporation, purchased all of the outstanding stock of the Defendant, and the Defendant became a wholly owned subsidiary of Handy & Harman, Ltd.

Groundwater Contamination at the Site

41. From at least 1969 until approximately September 1981, process wastewaters containing chromium from the plating operations at the SGL Property were discharged to unlined drainage ditches leading to unlined seepage pits at the SGL Property.
42. Groundwater contamination consisting of trichloroethene, 1,1-dichloroethene, tetrachloroethene, and chromium was first detected at the Site in the early 1970s. Further sampling indicated the presence of hexavalent chromium and trivalent chromium at concentrations above the United States Environmental Protection Agency's maximum contaminant level.
43. In 1975, a well at the Puchack Wellfield was removed from service due to chromium contamination.
44. Between 1978 through 1982, additional wells at the Puchack Wellfield were impacted by chromium contamination.

45. In 1984, general use of the Puchack Wellfield was terminated, with the exception of one well that continued pumping.
46. DEP allowed the continued controlled pumping of that well to contain, and stop from spreading, the groundwater contaminant plume. The well discharged to the Puchack Creek or was blended with the City of Camden water supply. The pumping was discontinued in 1998.

Spill Act Directives

47. On October 31, 1991, DEP issued a Spill Act directive ("Directive") to the Defendant, and others, pursuant to N.J.S.A. 58:10-23.11f.a., directing the Defendant to fund and maintain a potable water treatment system at the Site.
48. On May 7, 1992, DEP issued Supplemental Directive No. 1 to the Defendant, and others, to provide additional funding for a potable water treatment system at the Site.
49. On October 18, 1995, DEP issued Supplemental Directive No. 2 to the Defendant, and others, to provide additional funding for a pre-remedial investigation, the development of a groundwater flow model and the construction a potable water treatment system at the Site.

50. On May 21, 1996, DEP issued Supplemental Directive No. 3, dated May 17, 1996, to the Defendant, and others, to provide additional funding for phase II remedial investigation work, including the installation and sampling of twelve monitoring wells.
51. On June 5, 1996, the Defendant informed DEP that they were unwilling to comply with the May 17, 1996 Supplemental Directive no. 3.

The National Priorities List

52. In 1997, the United States Geological Survey ("USGS"), in cooperation with DEP, initiated a field investigation of the groundwater contamination in the Pennsauken Township area.
53. Based on sampling results from the USGS investigation, total chromium groundwater contamination was detected in the aquifer at levels up to 10,250 parts per billion ("ppb"). DEP's groundwater quality standard for total chromium contamination is 70 ppb.
54. The Site was placed on the National Priorities List ("NPL") by the United States Environmental Protection Agency ("USEPA") on March 6, 1998. The NPL is a list of hazardous discharge sites posing the greatest threat to health,

welfare, and the environment, and was established pursuant to Section 5 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. ¶ 9605.

55. Because of the size of the Site and nature of the contamination, USEPA separated the Site into two operable units ("OU"). OU1 addresses the investigation and cleanup of chromium contaminated groundwater. OU2 addresses the investigation and cleanup of soil source areas that pose a continued threat of chromium contamination to groundwater.
56. The USEPA completed its Remedial Investigation/Feasibility Study ("RI/FS") of OU1 on September 28, 2006.
57. The USEPA issued a Record of Decision for OU1 ("OU1 ROD") on September 28, 2006. The OU1 ROD sets forth the remedy selected for chromium-contaminated groundwater at the Site, which consists of in-situ treatment of the groundwater-contaminant plume using geochemical fixation, monitored natural attenuation and institutional controls to restrict the use of groundwater within the area until the aquifer is restored.
58. USEPA concluded in the OU1 ROD that actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response action selected in the

ROD, may present an imminent and substantial endangerment to the public health, welfare or the environment.

59. The USEPA completed the remedial design for the remedy selected in the OU1 ROD on April 7, 2011.
60. The USEPA began the remedial action for the remedy selected in the OU1 ROD on December 5, 2011.
61. The USEPA issued a Record of Decision for OU2 ("OU2 ROD") on September 26, 2011. The OU2 ROD sets forth the remedy selected for the soil source areas, which consists of in situ or ex situ geochemical fixation of hexavalent chromium in the soils, post-remediation sampling and restoration, and groundwater sampling and analysis.
62. On April 29, 2013, in the United States District Court for the District of New Jersey, the Defendant entered into a Remedial Design/Remedial Action Consent Decree with USEPA in the matter of United States of America v. SL Industries, Inc. and SL Surface Technologies, Inc., Civil Action No. 13-1690 (JBS/KMW), ("2013 Consent Decree").
63. The 2013 Consent Decree provides that the settling defendants, including the Defendant, pay \$10,704,583 plus interest, payable in five installments, to reimburse USEPA for past costs incurred at the Site, pay USEPA's future costs

at the Site and perform the remedial action selected in the OU2 ROD for the Site.

64. Under the 2013 Consent Decree, the Plaintiffs did not receive reimbursement of DEP's past or future cleanup and removal costs, nor did Plaintiffs recover any damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Site.

FIRST COUNT

Spill Act

65. The Plaintiffs repeat each allegation of paragraph nos. 1 through 64 above as though fully set forth in its entirety herein.
66. The SGL Property includes a building and pipes, ditches, and pits from which process wastewater containing chromium was discharged into the environment and is a site at which process wastewater containing chromium was disposed of or deposited.
67. The Defendant is a "person" within the meaning of N.J.S.A. 58:10-23.11b.
68. Except as otherwise provided in N.J.S.A. 58:10-23.11g.12, which is not applicable here, 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).

69. Except as otherwise exempted under N.J.S.A. 58:10-23.11g.12, which exemptions are not applicable here, 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).

70. Failure to comply with a Directive issued by DEP pursuant to the Spill Act subjects the non-complying party to liability, jointly and severally, without regard to fault, in an amount up to three times the cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, or will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances. N.J.S.A. 58:10-23.11f.a(1).

71. DEP has incurred, and may continue to incur, costs at the Site as a result of the discharge of hazardous substances at the SGL Property.
72. The Administrator has certified, and may continue to certify, for payment, valid claims made against the Spill Fund concerning the Site, and, further, has approved, and may continue to approve, other appropriations for the Site.
73. DEP and Administrator also have incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the SGL Property.
74. The costs and damages DEP and the Administrator have 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. The Defendant, as the owner of the SGL Property at the time hazardous substances were discharged there, and/or as successors to the owners of the SGL Property at the time hazardous substances were discharged there, is a person in any way responsible for the discharged hazardous substances, and is liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages at the Site,

including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, and will incur at the Site, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the SGL Property. N.J.S.A. 58:10-23.11g.c.(1).

76. The Defendant, as the current owner of the SGL Property, at which hazardous substances were previously discharged, who knew or should have known of the discharges, is a person in any way responsible for the discharged hazardous substances, and is liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages at the Site, including lost value and reasonable assessment costs, that DEP and Administrator have incurred, and will incur at the Site, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the SGL Property. N.J.S.A. 58:10-23.11g.c.(3).

77. The Defendant, by not complying with the October 31, 1991 Directive, the May 7, 1992 Supplemental Directive No. 1, the October 18, 1995 Supplemental Directive No. 2 and the May 17, 1996 Supplemental Directive No. 3, is strictly liable,

jointly and severally, in an amount up to three times the cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and Administrator have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the SGL Property. N.J.S.A. 58:10-23.11.f.a(1).

78. 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 injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); natural resource restoration and replacement costs, N.J.S.A. 58:10-23.11u.b.(4); and for any other unreimbursed costs or damages DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

79. 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.

WHEREFORE, Plaintiffs pray that this Court:

- a. Order the Defendant to reimburse Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs and damages Plaintiffs have incurred at the Site, including lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property, with applicable interest;
- b. Enter declaratory judgment against the Defendant, jointly and severally, without regard to fault, for all cleanup and removal costs and damages Plaintiffs may incur at the Site, including lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property;
- c. Order the Defendant to reimburse the Plaintiffs, jointly and severally, without regard to fault, in an amount equal to three times the cleanup and removal costs the Plaintiffs have incurred for the Site;
- d. Enter declaratory judgment against the Defendant, jointly and severally, without regard to fault, in an

amount equal to three times any cleanup and removal costs that Plaintiffs will incur for the Site;

- e. Enter judgment against the Defendant, jointly and severally, without regard to fault, compelling the Defendant to perform, under DEP's oversight, or to fund DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the SGL Property, and compelling the Defendant to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- f. Award Plaintiffs their costs and fees in this action; and
- g. Award Plaintiffs such other relief as this Court deems appropriate.

SECOND COUNT

Water Pollution Control Act

- 80. The Commissioner repeats each allegation of paragraph nos. 1 through 79 above as though fully set forth in its entirety herein.

81. Defendant SL Industries, Inc. is a "person" within the meaning of N.J.S.A. 58:10A-3.
82. Except as otherwise exempted pursuant to N.J.S.A. 58:10A-6d and p., which is not applicable here, 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 Water Pollution Control Act, 33 U.S.C.A. §§1251 to - 1387. N.J.S.A. 58:10A-6a.
83. 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.
84. DEP has incurred, and will continue to incur, costs as a result of the discharge of pollutants at the SGL Property.
85. DEP also has incurred, and will continue to incur, costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the SGL Property.

86. The costs and damages DEP has incurred, and will incur, for the Puchack Wellfield Superfund Site are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4).
87. Defendant SL Industries, Inc., and/or its predecessors at the SGL Property, discharged pollutants at the SGL Property, 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. or N.J.S.A. 58:10A-6p., and are liable, without regard to fault, for all costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the SGL Property. N.J.S.A. 58:10A-6a.
88. Pursuant to N.J.S.A. 58:10A-10c., the Commissioner may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10c.(1); for the reasonable costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-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 any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the SGL Property, 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).

WHEREFORE, the Commissioner prays that this court:

- a. Enter an order assessing the Defendant SL Industries, Inc., without regard to fault, for the reasonable costs for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;

- b. Enter declaratory judgment against Defendant SL Industries, Inc., without regard to fault, assessing all reasonable costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to the establishment of the violation, including the costs of preparing and litigating the case;
- c. Enter an order assessing Defendant SL Industries, Inc., without regard to fault, for all compensatory damages and other actual damages incurred for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the SGL Property;
- d. Enter declaratory judgment against Defendant SL Industries, Inc., without regard to fault, assessing all compensatory damages and other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the SGL Property;
- e. Enter an order assessing Defendant SL Industries, Inc., without regard to fault, for the actual 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, any benefits that Defendant SL Industries, Inc. has enjoyed as a result of a competitive market advantage, or any other benefit they have received as a result of having violated the WPCA;

- f. Enter declaratory judgment against Defendant SL Industries, Inc., without regard to fault, assessing the Defendant for the actual amount of any economic benefits that will accrue to them, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage the Defendant has enjoyed, or any other benefit that will accrue to them as a result of having violated the WPCA;
- g. Award plaintiff Commissioner her costs and fees in this action; and
- h. Award plaintiff Commissioner such other relief as this Court deems appropriate.

THIRD COUNT

Public Nuisance

89. The Plaintiffs repeat each allegation of paragraph nos. 1 through 88 above as though fully set forth in its entirety herein.
90. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.
91. The use, enjoyment and existence of uncontaminated natural resources are rights common to the general public.
92. The groundwater contamination at the Site 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 this natural resource.
93. As long as the ground water remains contaminated due to the Defendant's conduct, the public nuisance continues.
94. Until the ground water is restored to its pre-injury quality, the Defendant is liable for the creation, and continued maintenance, of a public nuisance in contravention of the public's common right to clean ground water.

WHEREFORE, Plaintiffs pray that this Court:

- a. Order the Defendant to reimburse Plaintiffs for all cleanup and removal costs and damages that the Plaintiffs have incurred, including the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property, with applicable interest;
- b. Enter declaratory judgment against the Defendant for all cleanup and removal costs and damages that Plaintiffs may incur including, the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property;
- c. Enter declaratory judgment against the Defendant, compelling the Defendant to perform, under DEP's oversight, or 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 SGL Property, including compelling the Defendant to compensate the citizens of New Jersey for the lost value of any injured natural resource;

- d. Award Plaintiffs their costs and fees in this action;
and
- e. Award the Plaintiffs such other relief as this Court
deems appropriate.

FOURTH COUNT

Trespass

- 95. The Plaintiffs repeat each allegation of paragraph nos. 1
through 94 above as though fully set forth in its entirety
herein.
- 96. Ground water is a natural resource of the State held in trust
by the State for the benefit of the public.
- 97. The hazardous substances in the groundwater constitute a
physical invasion of public property without permission or
license.
- 98. The Defendant is liable for trespass, and continued trespass,
because the hazardous substances in the groundwater at the
Site resulted from discharges of hazardous substances at the
SGL Property.
- 99. As long as the ground water remains contaminated, the
Defendant's trespass continues.

100. Until the groundwater is restored to its pre-discharge condition, the Defendant is liable for trespass, and continued trespass, upon public property.

WHEREFORE, Plaintiffs pray that this Court:

- a. Order the Defendant to reimburse Plaintiffs for all cleanup and removal costs and damages that the Plaintiffs have incurred, including the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property, with applicable interest;
- b. Enter declaratory judgment against the Defendant for all cleanup and removal costs and damages that the Plaintiffs may incur, including the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property;
- c. Enter judgment against the Defendant, compelling the Defendant to perform, under DEP's oversight, or 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

SGL Property, and compelling the Defendant to compensate the citizens of New Jersey for the lost value of any injured natural resource;

- d. Award Plaintiffs their costs and fees in this action; and
- e. Award Plaintiffs such other relief as this Court deems appropriate.

FIFTH COUNT

Negligence

- 101. The Plaintiffs repeat each allegation of paragraph nos. 1 through 100 above as though fully set forth in its entirety herein.
- 102. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.
- 103. The Defendant, and/or its predecessors at the SGL Property, owed a duty to the Plaintiffs to refrain from discharging hazardous substances at the SGL Property, thus causing chromium-contaminated groundwater at the Puchack Wellfield, which posed a public health threat to the people of Camden, who were supplied with drinking water from the Puchack Wellfield.

104. The Defendant's conduct, and/or the conduct of its predecessors at the SGL Property, of illegally and improperly discharging hazardous substances without a permit breached its duty to the Plaintiffs and the public.

105. As a result of the Defendant's negligence, and/or the negligence of the Defendant's predecessors at the SGL property, the DEP has incurred costs, and may continue to incur costs, at the Site, and natural resources have been injured, all of which were proximately caused by the Defendant, and/or the Defendant's predecessors at the SGL Property.

WHEREFORE, Plaintiffs pray that this Court:

- a. Order the Defendant to reimburse Plaintiffs for all cleanup and removal costs and damages that the Plaintiffs have incurred, including the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property, with applicable interest;
- b. Enter declaratory judgment against the Defendant for all cleanup and removal costs and damages that Plaintiffs

may incur including, the lost value of, and reasonable assessment costs for, any natural resource of this State injured as a result of the discharge of hazardous substances at the SGL Property;

- c. Enter judgment against the Defendant, compelling the Defendant to perform, under DEP's oversight, or 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 SGL Property, and compelling the Defendant to compensate the citizens of New Jersey for the lost value of any injured natural resource;
- d. Award Plaintiffs their costs and fees in this action; and
- e. Award Plaintiffs such other relief as this Court deems appropriate.

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

Dated: December 6, 2018

By: /s/ Louis G. Karagias
Louis G. Karagias
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

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

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

Dated: December 6, 2018

By: /s/ Louis G. Karagias
Louis G. Karagias
Deputy Attorney General

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 Plaintiffs at this time, nor is any non-party known to the Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

JURY DEMAND

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

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

Dated: December 6, 2018

By: /s/ Louis G. Karagias
Louis G. Karagias
Deputy Attorney General

Civil Case Information Statement

Case Details: CAMDEN | Civil Part Docket# L-004572-18

Case Caption: ENVIRONMENTAL PROTECTION VS SL INDUSTRIES, INC.

Case Initiation Date: 12/06/2018

Attorney Name: LOUIS GEORGE KARAGIAS

Firm Name: ATTORNEY GENERAL LAW

Address: 25 MARKET STREET PO BOX 93

TRENTON NJ 08625

Phone:

Name of Party: PLAINTIFF : Environmental 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 - 6 JURORS

Hurricane Sandy related? NO

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

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:

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)

12/06/2018

Dated

/s/ LOUIS GEORGE KARAGIAS

Signed