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		SUPERIOR COURT OF NEW JERSEY
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	CHANCERY DIVISION -HUDSON COUNTY
Plaintiff,	:	DOCKET NO.: HUD-C- 142-23
	:	
v.	:	<u>Civil Action</u>
MARTIN SERVICE CENTER CORPORATION, ESTATE OF RAFAEL MARTIN, and MARIA MARTIN,	:	<b>VERIFIED COMPLAINT</b>
Defendants.	:	

Plaintiff New Jersey Department of Environmental Protection ("Department"), by way of verified complaint against Defendants Martin Service Center Corporation ("MSCC"), Estate of Rafael Martin, and Maria Martin (collectively, "Defendants"), alleges as follows:

**STATEMENT OF THE CASE**

1. The Department brings this civil action due to Defendants' longstanding failure to remediate contamination

resulting from the discharge of hazardous substances and noncompliance with final agency orders ("FAOs") requiring them to remedy violations of the Underground Storage of Hazardous Substances Act, N.J.S.A 58:10A-21 to -35 ("UST Act") and the Regulations Implementing the Underground Storage of Hazardous Substances Act, N.J.A.C. 7:14B ("UST Regulations").

2. Defendants owned and operated a gasoline station from February 14, 1975, to November 5, 2021, located on their property located at 417 12th Street in Union City, New Jersey ("Site").

3. The soil and groundwater on the Site are contaminated as a result of a gasoline discharge from a 3,000-gallon underground storage tank ("UST") that was reported to the Department on May 23, 1990. Despite the Department's repeated efforts, Defendants have failed to remediate the Site.

4. The discharging UST and three different 3,000-gallon abandoned USTs (collectively "First-Generation USTs") were removed from the Site in 2000 and replaced with three new USTs (collectively, "Second-Generation USTs") on the Site: an 8,000-gallon unleaded gasoline tank ("Tank 1") and two 4,000-gallon unleaded gasoline tanks ("Tank 2" and "Tank 3").

5. The Department issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to MSCC in 2019 for multiple UST Act violations requiring MSCC to either upgrade or remove Tank 1 and Tank 2. Thereafter, in 2020, the

Department and MSCC entered an Administrative Consent Order to resolve the 2019 AONOCAPA in which MSCC agreed, inter alia, to upgrade or remove the Tank 1 and Tank 2.

6. MSCC failed to comply with the ACO and, following another inspection identifying additional UST Act violations, the Department issued a second AONOCAPA ("2022 AONOCAPA") to MSCC for the continuing and new UST violations requiring, inter alia, that MSCC remove Tank 1 and Tank 2 and upgrade or remove Tank 3. MSCC did not challenge the 2022 AONOCAPA and it became an FAO on February 11, 2022.

7. To date, MSCC has not complied with the ACO or the FAO. The Second-Generation USTs are not in use, have not been properly closed, are unmonitored, and lack spill prevention controls and required leak detection equipment. In their current state, there is a risk that the Second-Generation USTs may release gasoline into the environment.

8. The failure to remediate the 1990 discharge and comply with the ACO and FAO put the environment and the community at risk. Gasoline and its components pose threats to the environment and public health when they enter the soil and the groundwater. Human exposure to these contaminants, including through ingestion or inhalation of vapors, can cause dizziness, headaches, lung irritation, nervous system disruptions and even damage to the liver, kidneys, central nervous system, and eyes. These

contaminants also persist in soil for long periods of time, impeding plant growth and threatening birds and mammals with irritation and toxicity.

9. The community surrounding the Site has a significant low-income and minority population. As such, the community is considered an "overburdened community" under New Jersey's landmark Environmental Justice Law, N.J.S.A. 13:1D-157 to - 161 ("EJL").<sup>1</sup> Historically in New Jersey, "overburdened communities" have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, with accompanying increased negative public health impacts. N.J.S.A. 13:1D-157.

10. 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); Environmental Justice Law, N.J.S.A. 13:1D-157 to -161.

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<sup>1</sup> An "overburdened community" is defined as "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 Union City, Hudson County, New Jersey that is listed as an overburdened community on the Department's website as per N.J.S.A. 13:1D-159.

11. Accordingly, the Department brings this civil action against Defendants Estate of Rafael Martin, Maria Martin, and MSCC for violation of the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:23-.11 to -23.24 ("Spill Act"), and the Brownfield and Contaminated Site Remediation Act ("Brownfield Act"), N.J.S.A. 58:10B-1 to -31 ("Brownfield Act"), as amended by the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29 ("SRRA"), to require them to fully remediate the Site. The Department also seeks to proceed summarily against MSCC to enforce the ACO entered into with MSCC, and the 2022 AONOCAPA imposed on MSCC for continuing UST violations at the Site. Finally, the Department seeks the imposition of civil penalties.

#### **THE PARTIES**

12. The Department is a principal department within the Executive Branch of the New Jersey State government, with its principal offices at 401 East State Street, Trenton, New Jersey.

13. The Department is vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-1 to -19. Pursuant to the Department's enabling legislation, N.J.S.A. 13:1D-1 to -19, the UST Act, and the Spill Act, the Department is authorized to institute legal proceedings enforcing FAOs, seeking injunctive relief and civil penalties, and compelling remediation in Superior Court.

14. The late Rafael Martin and his former wife Maria Martin acquired the Site on January 8, 1975. Rafael Martin and Maria Martin were married at that time. They later divorced on December 5, 2019. (See Certification of Charles Walters ("Walters Cert."), Exhibits B and C).

15. Rafael Martin passed away in Spain on February 13, 2023. Rafael Martin's daughter, Arelis Martin, is the Executrix of Rafael Martin's estate ("Estate"). (See Walters Cert., Exhibits D and E).

16. Defendant MSCC is incorporated under the laws of the State of New Jersey as of February 14, 1975. Its main business address is 417 12<sup>th</sup> Street, Union City, New Jersey 07087, which is also the Site address. (See Walters Cert., Exhibit F).

17. Rafael Martin was the only principal and officer listed on MSCC's corporation papers on file with the New Jersey Department of State, Office of the Secretary. He served as MSCC's President and registered agent until his death. (See Walters Cert., Exhibit F).

18. Defendant Alexis Martin is the son of the late Rafael Martin and Maria Martin, and is responsible for MSCC's daily operations at the Site. Alexis Martin serves as MSCC's Chief Operating Officer. He is the signatory for MSCC on the UST Facility Certification Questionnaire that is required to be filed with the Department annually during the UST registration renewal

process. Further, Alexis Martin signed the ACO and January 2022 AONOCAPA on behalf of MSCC. (See Walters Cert., ¶17; Certification of Michael Hollis ("Hollis Cert."), Exhibits B, E, and H).

#### **FACTUAL ALLEGATIONS**

19. MSCC operates a car wash, an automotive repair shop, and a used car business on the Site in Union City, New Jersey. (See Certification of Ann Wolf ("Wolf Cert."), Exhibit K).

20. The Site is approximately 0.4 acres in size and is designated as Block 52, Lots 13 through 18 on the Hudson County Tax Map. (See Walters Cert., Exhibit A).

21. From February 14, 1975, to November 5, 2021, MSCC operated an Amoco gasoline service station on the Site. (See Wolf Cert., ¶11).

#### **Defendants' Failure to Remediate the 1990 Gasoline Discharge**

22. On May 23, 1990, the Department received a report of a gasoline discharge from one of the First-Generation USTs -- a 3,000-gallon UST used on the Site. (See Wolf Cert., Exhibit E).

23. By letter dated June 7, 1990, the Department informed Rafael Martin of the gasoline discharge reported at the Site. A Scope of Work document that accompanied the letter advised Rafael Martin of the requirements for proper investigation and remediation of the discharge. A report documenting the steps undertaken for compliance was due for filing with the Department on October 7, 1990. (See Wolf Cert., Exhibit F).

24. The First-Generation USTs, including the UST that was the source of the gasoline discharge, were removed from the Site on September 4, 1990.

25. By letter to Rafael Martin dated June 4, 1992, the Department requested a status report of the Site remediation. (See Wolf Cert., Exhibit F).

26. Martin responded by letter dated June 16, 1992, providing a Site Investigation/Remedial Investigation Report ("1992 SI Report"), which confirmed the gasoline discharge and resulting Site contamination. (See Wolf Cert., Exhibits F and G).

27. The Department reviewed the 1992 SI Report and found various deficiencies. As a result, the Department determined that the remediation steps were insufficient to bring the Site into compliance. By letter dated August 10, 1992, the Department advised Rafael Martin of the deficiencies and directed him to correct them. (See Wolf Cert., Exhibit H).

28. In April 2012, the Department again requested a status on the remediation of the Site from MSCC. (See Wolf Cert. ¶21).

29. On May 4, 2012, MSCC retained Steven Papatrefon, a Licensed Site Remediation Professional ("LSRP"), to perform investigative and remedial activities at the Site. (See Wolf Cert., Exhibit J).

30. But on or about August 11, 2020, Papatrefon notified Alexis Martin that he was withdrawing as an LSRP because MSCC



stopped communicating with him and failed to proceed with the required next steps in the remediation process. (See Wolf Cert., Exhibit J).

31. MSCC did not submit a Remedial Investigation Report ("RIR") to the Department by May 7, 2014, the statutorily prescribed deadline, and this failure triggered compulsory Direct Oversight as provided by N.J.A.C. 7:26C-14.2(b) and N.J.A.C. 7:26C-3.3(b)6.

32. In July 2016, HL Petroleum Company, Inc. and Excel Environmental Resources, Inc. prepared an RIR for MSCC based on their investigation of the hazards on the Site. (See Wolf Cert., Exhibit K).

33. Soil and groundwater samples taken at the Site during the investigation revealed high concentrations of numerous hazardous compounds, most notably benzene, well in excess of permissible levels.

34. Based on these findings, the investigation concluded that the presence of benzene and other hazardous compounds found in the soil and groundwater is most likely associated with the gasoline discharge from the First-Generation UST that occurred in 1990. (See Wolf Cert., Exhibit K).

35. On or about March 6, 2019, MSCC's attorney, Francis J. Brennan, III, requested a two-year extension to May 6, 2021, of

the remedial timeframe. The Department denied the request as untimely on March 20, 2019. (See Wolf Cert., Exhibits L and M).

36. On May 8, 2019, the Department sent a Notice of Potential Enforcement Action to MSCC c/o Alexis Martin advising that the Site remained out of compliance with SRRA requirements. Specifically, MSCC failed to comply with the requirements for Direct Oversight pursuant to N.J.A.C. 7:26C-14.2(b) and failed to complete remediation of the contaminated Site and submit the required remedial action report ("RAR") pursuant to N.J.A.C. 7:26C-3.3(b)6. (See Wolf Cert., Exhibit N).

37. To date, no other LSRP has been retained and the Site has not been remediated.

**Defendants' Repeated and Ongoing Failure to Bring the Second-Generation USTs into Compliance**

38. On June 9, 2000, MSCC registered three new USTs—the Second-Generation USTs—with the Department. The Department assigned Facility ID No. 034071 and Registration Activity ID No. UST080001 to MSCC's registration filing. (See Hollis Cert., Exhibit B).

39. On May 14, 2008, the Department issued a UST Registration Certificate to MSCC approving the Second-Generation USTs for use in MSCC's operation of a commercial gasoline fueling station on the Site. (See Hollis Cert., Exhibit B).

40. The Second-Generation USTs are "underground storage tank

(UST) systems" as defined by N.J.A.C. 7:14B-1.6.

41. Pursuant to N.J.A.C. 7:14B-1.6, all grades of gasoline and diesel fuel are defined as "Motor Fuel" and all types of "Motor Fuel" are further defined as "Hazardous Substances."

42. On November 1, 2018, the Department inspected the Site and found numerous violations of the UST Act concerning Tank 1 and Tank 2. (See Hollis Cert., Exhibit C).

43. On December 18, 2018, DEP issued a delivery ban order to MSCC requiring that Tank 1 and Tank 2 not be filled. (See Hollis Cert., Exhibit D.)

44. On May 21, 2019, the Department issued an AONOCAPA to MSCC, for the multiple UST Act violations. The Department ordered MSCC to either upgrade or remove Tank 1 and Tank 2. The Department imposed a \$20,000 penalty on MSCC for the violations. (See Hollis Cert., Exhibit E).

45. On October 16, 2019, the Department and MSCC entered an ACO to settle the June 18, 2019 AONOCAPA that was fully executed on January 7, 2020. (See Hollis Cert., Exhibit E).

46. MSCC agreed to the following terms as set forth specifically in paragraph 8 of the ACO:

- a. Within seven days of the effective date of this document, update the tank registration by submitting a Facility Certification Questionnaire to show Tank 1 & Tank 2 are out of service since December 18, 2018, when

the delivery ban was imposed.

b. No later than December 18, 2019, either:

i. Upgrade Cathodic Protection System:

1. Obtain a sub-modification permit to repair failing cathodic protection systems for tanks and flexible transition piping at Tank 1 and Tank 2 STP sumps;
2. Repair/retest cathodic protection system; and
3. Update the tank registration to show that the tanks are going back into service, including with the update an UST tank contractor certification within seven days of completing the repairs and retest.

OR

ii. Remove Tanks:

1. Obtain a Notice of Intent to close the two failing USTs and comply with temporary out of service requirements in the American Petroleum Institute Publication 1604, in compliance with N.J.A.C. 7:14B-9.1(d);
2. Remove Tank 1 and Tank 2 no later than December 18, 2019 in accordance with N.J.A.C. 7: 14B-9.1(d).

[(See Hollis Cert., Exhibit E).]

47. MSCC further agreed that in addition to complying with the ACO, it was responsible for taking whatever additional actions are necessary to comply with all applicable federal, state and local permits, as well as all applicable statutes, codes, rules, regulations and orders, including but not limited to the statutes and regulations cited within the ACO. (See Hollis Cert., Exhibit E).

48. The ACO included a \$7,500 penalty plus interest on MSCC for the UST violations. (See Hollis Cert., Exhibit E).

49. On June 1, 2021, MSCC paid the \$7,500 penalty imposed under the ACO. (See Hollis Cert., ¶27).

50. On October 13, 2021, the Department conducted a compliance evaluation on the Site and found that MSCC had still not remediated the existing UST violations concerning Tank 1 and Tank 2 as agreed to under the terms of the ACO. As a result, the Department issued an Administrative Order Delivery Ban and a Notice of Violation to MSCC. (See Hollis Cert., Exhibit F).

51. On November 5, 2021, the Department conducted another compliance evaluation on the Site, which revealed additional UST violations, this time concerning Tank 3. As a result, the Department issued an Administrative Order Delivery Ban and a Notice of Violation to MSCC. (See Hollis Cert., Exhibit G).

52. On January 13, 2022, the Department issued the January 2022 AONOCAPA to MSCC for the continuing UST violations concerning

Tank 1 and Tank 2, and the new UST violations concerning Tank 3. Paragraph 9 of the January 2022 AONOCAPA specifically ordered MSCC to comply with the following terms:

- a. Within 30 days:
  - i. Update the UST registration to show all tanks are out of service;
  - ii. Paint fill-port covers solid black.
- b. Within 60 days:
  - i. Obtain a substantial modification permit to upgrade Cathodic Protection System on Tank 3; and
  - ii. Obtain a Notice of Intent to remove Tank 1 and Tank 2 and retain an LSRP; or
  - iii. Obtain a Notice of Intent to remove all tanks and retain an LSRP.
- c. At least 14 calendar days prior to Cathodic Protection System upgrade of Tank 3 only or the removal of all UST systems, provide 14-day notification to [14dayustnotice@dep.nj.gov](mailto:14dayustnotice@dep.nj.gov).
- d. By no later than February 5, 2022, cut and cap product lines in compliance with N.J.A.C. 7:14B-9.1(b); and
- e. By no later than October 5, 2022, either have Tank 3 in compliance with all requirements in N.J.A.C. 7:14B and have system back in-use; or

f. By November 5, 2022, close Tank 3 in compliance with N.J.A.C. 7:14B-9.2.

(See Hollis Cert., Exhibit H).

53. The January 2022 AONOCAPA imposed a \$5,000 civil penalty against MSCC for the Tank 3 violations. (See Hollis Cert., Exhibit H).

54. The January 2022 AONOCAPA notified MSCC of its right to an administrative hearing to contest the AONOCAPA and that if it did not do so within 20 calendar days the January 2022 AONOCAPA shall become an FAO on the twenty-first day following receipt. (See Hollis Cert., Exhibit H).

55. The Department served the January 2022 AONOCAPA on MSCC on January 18, 2022, via the United States Postal Service. (See Hollis Cert., Exhibit I).

56. MSCC did not file a hearing request with the Department by the February 10, 2022 deadline, and as a result, the January 2022 AONOCAPA became an FAO on February 11, 2022. (See Hollis Cert., ¶38).

57. On April 4, 2022, MSCC paid the \$5,000 penalty imposed under the January 2022 AONOCAPA. (See Hollis Cert., ¶40).

58. MSCC has disregarded the Department's orders under the January 2022 AONOCAPA to either repair or remove Tank 1, Tank 2, and Tank 3. MSCC has only paid the monetary penalties imposed for the UST violations.

59. The ACO and the January 2022 AONOCAPA are FAOs of the Department enforceable under R. 4:67-6.

60. To date, the Site is not in compliance with the requirements of the UST Act, the Spill Act, the Brownfield Act, and SRRA. MSCC has not removed Tank 1, Tank 2, or Tank 3, and therefore has failed to abate the UST violations cited in the ACO and in the January 2022 AONOCAPA. Nor have the Defendants complied with SRRA's Direct Oversight requirements, retained another LSRP or submitted an RAR to remediate the existing gasoline contamination on the Site.

#### **COUNT I**

##### **Enforcement of the ACO as a Final Agency Order for UST Violations**

61. The Department repeats and incorporates each of the foregoing paragraphs as if fully set forth herein.

62. The ACO is a FAO of the Department.

63. To date, MSCC has failed to comply with the ACO. MSCC has neither removed Tank 1 and Tank 2, nor otherwise abated the UST violations as directed in the ACO.

64. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to summary enforcement of the ACO, which is now an FAO.

**WHEREFORE**, the Department demands Judgment against Defendant MSCC:

a. Finding MSCC in violation of the ACO;



- b. Ordering MSCC to comply with the terms of the ACO that it is currently in violation of, including immediately removing Tank 1 and Tank 2 in accordance with N.J.A.C. 7:14B-9.1(b), and in so doing:
  - i. Obtain a Notice of Intent to close Tank 1 and Tank 2 and comply with temporary out of service requirements in the American Petroleum Institute Publication 1604, in compliance with N.J.A.C. 7:14B-9.1(b);
  - ii. Ordering MSCC to update its tank registration by submitting a Facility Certification Questionnaire to the Department verifying that Tank 1 and Tank 2 are out of service;
- c. Ordering MSCC to pay a civil penalty pursuant to N.J.S.A. 58:10A-24.6(c) for continuing noncompliance with an FAO issued pursuant to the UST Act; and
- d. Granting such other relief as the Court deems just and proper.

**COUNT II**

**Enforcement of the 2022 AONOCAPA as a Final Agency Order for UST Violations**

65. The Department repeats and incorporates each of the foregoing paragraphs as if fully set forth herein.

66. To date, MSCC has not fully complied with the 2022 AONOCAPA. MSCC has refused to correct the outstanding UST violations concerning Tank 1 and Tank 2 and has refused to abate the newly discovered violations concerning Tank 3. Specifically:

- a. MSCC has not updated its UST registration with the Department to demonstrate that Tank 1, Tank 2, and Tank 3 are out of service;
- b. MSCC has not painted fill-port covers solid black;
- c. MSCC did not obtain the required substantial modification permit to upgrade cathodic protection system on Tank 3 in order to put the tank back into use, and;
- d. MSCC failed to obtain a Notice of Intent to remove Tank 1 and Tank 2, and retain an LSRP or obtain a Notice of Intent to remove all tanks and retain an LSRP.

67. The 2022 AONOCAPA is a FAO.

68. Pursuant to R. 4:67-6 and R. 4:70, the Department is entitled to summary enforcement of the FAO.

**WHEREFORE**, Plaintiff, the Department demands judgment against Defendant MSCC:

- a. Finding Defendant MSCC in violation of the January 2022 AONOCAPA;
- b. Enforcing the January 2022 AONOCAPA immediately against MSCC to require MSCC to update its UST registration to

- show all tanks are out of service;
- c. Ordering MSCC to paint fill-port covers solid black;
  - d. Ordering MSCC to obtain a Notice of Intent to remove Tank 1, Tank 2, and Tank 3;
  - e. Ordering MSCC to immediately close Tank 1, Tank 2, and Tank 3;
  - f. Ordering MSCC to pay a civil penalty pursuant to N.J.S.A. 58:10A-24.6(c) for continuing noncompliance with an FAO issued pursuant to the UST Act; and
  - g. Granting such other relief as the Court deems just and proper.

**COUNT III**

**Violations of the Spill Act, the Brownfield Act, and SRRA**

69. The Department repeats and incorporates each of the foregoing paragraphs as if fully set forth herein.

70. Any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance, shall be liable, jointly and severally, without regard to fault for all cleanup and removal costs no matter by whom incurred, except as otherwise provided in N.J.S.A. 58:10-23.11g12, which is not applicable here. N.J.S.A. 58:10-23.11g.c(1). Contamination, as defined by N.J.S.A. 58:10-23.11, means any discharged hazardous substance, hazardous waste as defined pursuant to section 1 of

P.L.1976, c.99 (C.13:1E-38), or pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3).

71. As owners of the Site when the discharge occurred, Defendants Estate of Rafael Martin and Maria Martin are persons "in any way responsible" for the discharges resulting from the 1990 gasoline spill and any other hazardous discharges at the Site.

72. Further, Defendant MSCC is a person "in any way responsible" for the discharges resulting from the 1990 gasoline spill and any other hazardous discharges at the Site.

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

74. 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.

75. Defendants are "persons" as defined in the Brownfield Act. N.J.S.A. 58:10B-1, and therefore are required to remediate the hazardous substances at the Site.

76. Defendants failed to remediate the hazardous substances discharged at the Site. The failure to remediate the contamination at the Site and emanating therefrom is a violation of the Spill Act. N.J.S.A. 58:10-23.11.c.

77. SRRA established a statutory timeframe for completion of the remedial investigation report by May 7, 2014, in the event a spill occurred prior to May 7, 1999, and the remedial investigation was not completed by May 7, 2014. Compulsory Direct Oversight was triggered if the May 7, 2014 deadline was missed and a statutorily allowed extension to May 7, 2016, was not requested.

78. Defendants' failure to submit an RIR by May 7, 2014, triggered compulsory Direct Oversight.

79. The person(s) responsible for remediation of a site in Direct Oversight must establish and maintain a Remediation Funding Source ("RFS") pursuant to N.J.A.C. 7:26C-5.2(k).

80. Defendants have failed to establish or maintain an RFS or comply with other Direct Oversight requirements.

**WHEREFORE,** Plaintiffs demand judgment in their favor:

a. Finding Defendants in violation of the Spill Act, the Brownfield Act, and SRRA and their implementing regulations by:

- i. ceasing remediation actions which resulted in dismissal of the previously retained LSRP;
- ii. failing to rehire an LSRP within 45 days as required under SRRA, which was by October 9, 2020;
- iii. failing to submit a RAR by the mandated May 7, 2021, deadline pursuant to SRRA; and

- iv. failing to comply with SRRA direct oversight requirements.
- b. Ordering Defendants to re-retain an LSRP within thirty (30) days;
- c. Ordering Defendant to complete remediation of the Site pursuant to the Spill Act and its implementing regulations and the Brownfield Act and its implementing regulations;
- d. Ordering Defendants to establish and maintain a Remediation Funding Source, comply with all other Direct Oversight requirements at N.J.A.C. 7:26C-14, and enter an ACO with the Department to establish due dates for direct oversight requirements and completion of remediation requirements;
- e. Reserving the Department's right to bring a future claim against Defendants for natural resource damages arising out of the discharge of hazardous substances at the Site during Defendants' ownership and operation;
- f. Assessing civil penalties as provided by N.J.S.A. 58:10-23.11u against Defendants for their failure to remediate the Site;
- g. Awarding the Department its costs and fees in this action; and

h. Awarding the Department any other relief that the Court  
deems just and proper.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Debra A. Allen  
Debra A. Allen  
Deputy Attorney General

Dated: September 28, 2023

**VERIFICATION**

I, Michael Hollis, by way of certification, state that:

1. I am employed by the New Jersey Department of Environmental Protection within the Division of Waste and UST Compliance and Enforcement.
2. I am the Supervisor assigned to this case for the Division.
3. I have read the Verified Complaint and certify that the factual allegations contained in paragraphs 1-21 and 38-60 of the Verified Complaint are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Michael Hollis

Michael Hollis  
Bureau Chief  
UST Compliance and Enforcement  
Division of Waste & UST  
Compliance and Enforcement  
New Jersey Department of  
Environmental Protection

Dated: September 28, 2023



**VERIFICATION**

I, Ann H. Wolf, by way of certification, state that:

1. I am employed by the New Jersey Department of Environmental Protection in the Enforcement and Information Support Element within the Contaminated Site Remediation and Redevelopment Program ("CSRPP").
2. I am the Supervisor assigned to this case for CSRPP.
3. I have read the Verified Complaint and certify that the factual allegations contained in paragraphs 1-4, 8-37, and 60 of the Verified Complaint are true and correct to the best of my knowledge.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Ann H. Wolf

Ann H. Wolf  
Assistant Director  
Enforcement and Information  
Support Element  
Contaminated Site Remediation  
Program  
New Jersey Department of  
Environmental Protection

Dated: September 28, 2023

**VERIFICATION**

I, Charles Walters, by way of certification, state that:

1. I am employed by the New Jersey Department of Law and Public Safety, Division of Law as an investigator.
2. I have read the Verified Complaint and certify that the factual allegations contained in paragraphs 12-20 of the Verified Complaint are true and correct to the best of my knowledge.
3. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Charles Walters

Charles Walters  
Investigator  
New Jersey Department of Law and  
Public Safety  
Division of Law

Dated: September 28, 2023

**DESIGNATION OF TRIAL COUNSEL**

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

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Debra A. Allen  
Debra A. Allen  
Deputy Attorney General

Dated: September 28, 2023

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

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

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Debra A. Allen  
Debra A. Allen  
Deputy Attorney General

Dated: September 28, 2023

**CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES**

Undersigned counsel certifies that the matters in controversy in this action are currently not the subject of any other pending action in any court or arbitration proceeding known to Plaintiff at this time, nor is any non-party known to 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 matter or non-party later becomes known to Plaintiff, an amended certification will be filed and served upon all other parties and filed with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Debra A. Allen  
Debra A. Allen  
Deputy Attorney General

Dated: September 28, 2023