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STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Plaintiff,

v.

SIGMA REALTY, INC., LOUIS J.
PATRICELLI AS TRUSTEE OF THE
PATRICELLI FAMILY REVOCABLE
LIVING TRUST AGREEMENT,
AGLAIA AND SIMON G.
SILIVERDIS, JOHN/JANE DOES
1-10 and YXZ CORPORATIONS 1-
10,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION -
: MERCER COUNTY
: DOCKET NO.

CIVIL ACTION

:
: VERIFIED COMPLAINT TO ENFORCE
: FINAL AGENCY ORDER AND FOR
: IMPOSITION OF CIVIL PENALTIES
: IN A SUMMARY PROCEEDING
: PURSUANT TO
: R. 4:67-6 and R. 4:70

Plaintiff State of New Jersey, Department of Environmental Protection ("Department"), by and through its attorney, brings this Verified Complaint against Sigma Realty, Inc. ("Sigma"), Aglaia and Simon G. Siliverdis ("Sigma's officers"), Louis J. Patricelli as Trustee of the Patricelli Family Revocable Living Trust Agreement ("Trust"), John/Jane Does 1-10 (fictitious

persons), and XYZ Corporations 1-10 (fictitious entities) (collectively, "Defendants"), and alleges as follows:

STATEMENT OF THE CASE

1. The Department brings this civil action against Defendants to remedy their longstanding noncompliance with environmental laws and regulations at a commercial property in Ewing Township, which has exposed the surrounding community to environmental and public health hazards for decades.

2. The property located at 1870 North Olden Avenue in Ewing Township, also known as Block 234.02, Lot 8 on the Ewing tax map ("Property"), was operated as a gas station in the 1960s with numerous underground storage tanks ("UST") for gasoline and waste oil.

3. The Patricelli family purchased the Property in 1969 and subsequently developed it into a strip mall, making efforts to remove the USTs and remediate groundwater contamination before the Property was sold to the Trust in 1991, and then to Sigma in 1993. But remediation was never completed and, according to the most recent sampling results, hazardous substances remain in the groundwater at levels high enough to potentially cause indoor air concerns at and near the Property.

4. Remediation of the Property will protect human health and is necessary to prevent contaminated groundwater from affecting nearby properties through the migration of volatile

chemicals from the subsurface into the overlying buildings. Volatile organic compounds have been linked to neurological, reproductive, developmental, cardiovascular, respiratory, and immunological damage in humans. They can linger in the groundwater for an extended period of time and can cause harmful vapors to intrude into homes and businesses.

5. For over a decade, the Department has attempted to compel Defendants to bring the Property into compliance, but they have failed to satisfy their statutory and regulatory obligations.

6. On April 16, 2020, the Department issued an Administrative Order and Notice of Administrative Penalty Assessment ("AONOCAPA") to the Property's current owner, Sigma, which identified specific, outstanding remedial actions required at the Property, including paying overdue annual remediation fees and submitting a remedial investigation report and remedial action report. Sigma did not contest the AONOCAPA and, on or about May 23, 2020, the AONOCAPA became a Final Agency Order ("FAO"), which by law is fully enforceable in Superior Court.

7. Despite the FAO's clear requirements, Sigma has failed to investigate and remediate known contamination at the Property. The Department now seeks to enforce the FAO and collect civil penalties against Sigma. The historical and ongoing failure of Defendants—current and former owners of the Property—to remediate the Property in compliance with applicable laws and regulations

also violates the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, and the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31 ("Brownfield Act"), as amended by the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 to -29 ("SRRA").

8. The Property is in a commercial area presently occupied by several small businesses including a salon and a pizzeria, and is in close proximity to a high school, childcare center, and a freshwater creek.

9. The community surrounding the Property has a significant low-income, minority or limited English proficiency population such that it is considered an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.¹ Historically, such communities across New Jersey have been exposed to disproportionately high levels of air, water, and soil pollution, with accompanying increased negative public health impacts.

10. Residents of all communities should receive fair and equitable treatment in matters affecting their environment,

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 Property is located within an area of Ewing, Mercer County, New Jersey that is listed as an overburdened community on the Department's website pursuant to N.J.S.A. 13:1D-159.

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.

11. The Department now brings this civil action to enforce the FAO against Sigma and assert a claim under the Spill Act against all Defendants, pursuant to the authority vested in the Department by its enabling legislation, N.J.S.A. 13:1D-1 to -19; the Spill Act, N.J.S.A. 58:10-23.11 to -23.24; the Brownfield Act, N.J.S.A. 58:10B-1 to -31; the SRRA, N.J.S.A. 58:10C-1 to -29 ("SRRA"); and the rules and regulations promulgated pursuant thereto. The Department also seeks the imposition of additional civil penalties for Sigma's violation of an FAO, pursuant to N.J.S.A. 58:10-23.11u(d).

12. With regard to the Department's claim against Sigma, the Spill Act, Brownfield Act, SRRA, Penalty Enforcement Law, N.J.S.A. 2A:58-10 to -12, and Rules 4:67-6 and 4:70 authorize the Department to seek enforcement of the FAO and imposition of civil penalties in a summary manner.

13. Defendants, as current and prior owners of a contaminated site, are jointly and severally liable for the remediation of hazardous substances discharged at the Property.

PARTIES

14. The Department is a principal agency within the Executive Branch of the State vested with the authority to conserve natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.

15. The Department maintains its principal office at 401 East State Street, Trenton, Mercer County, New Jersey.

16. Defendant Sigma is a corporation organized under the laws of the State of New Jersey, with a principal place of business located at 10 Knoll Tavern Road, Flemington, New Jersey, 08822. Sigma is the current owner of the Property and acquired it from the Trust on June 29, 1993.

17. Defendants Aglaia and Simon G. Siliverdis are Sigma's sole registered officers and representatives and reside at 10 Knoll Tavern Road, Flemington, New Jersey, 08822. On information and belief, Aglaia and Simon G. Siliverdis exercised authority and control over and were responsible for the day-to-day activities of Sigma, and had the authority to correct violations of applicable laws and regulations, including compliance with the FAO.

18. Upon information and belief, Defendant Trust is a revocable living trust created under the laws of the State of Florida in 1991. Upon information and belief, the Trust's sole living trustee is Louis J. Patricelli, residing at 3376 Florida

Ave, Oviedo, Florida, 32765-7968. The Trust owned the Property from September 10, 1991 to June 29, 1993.

FACTUAL ALLEGATIONS

19. The Property consists of approximately 0.96 acres of real property located in a commercial area of Ewing.

20. The Property is bounded by North Olden Avenue to the south; a tire shop to the east; a property containing a child care center, convenience store, and parking lot to the north and northeast; and a property that contains both a church and a high school to the west and northwest.

21. The West Branch Shabakunk Creek, a freshwater 2 - non-trout (FW2-NT) water body, is located approximately 300 feet south of the Property.

22. Cities Service Oil Company owned and operated the Property as a gas station in the 1960s.

23. In 1969, Louis and Elizabeth Patricelli acquired the Property and subsequently converted it into a strip mall.

24. On September 10, 1991, Louis and Elizabeth Patricelli conveyed the Property to the Trust, of which they served as trustees.

25. On March 10, 1993, the Trust removed three 4,000-gallon gasoline USTs and one 1,000-gallon waste oil UST from the Property and discovered evidence that at least one tank had leaked, including holes in the USTs, stained soil, and a sheen on

groundwater that had collected in the excavation. During the UST removal, the Trust excavated roughly two hundred tons of material and collected soil samples.

26. The Trust's environmental consultant called the Department Hotline to report the discharge, and the discharge was assigned case number 93-03-10-0909-24.²

27. On May 4, 1993, groundwater samples were collected from the UST excavation area. A UST Closure Report dated June 1993 stated that those samples contained concentrations of ethylbenzene and total xylenes that exceeded the Department's Class II-A Ground Water Quality Standards ("GWQS").

28. Sigma acquired the Property from the Trust on June 29, 1993. As of today, Sigma continues to own the Property and operates it as a strip mall.

29. On June 28, 1996, ENSA Environmental, Inc. submitted a Remedial Action Workplan ("RAW") to the Department on behalf of the Trust. The 1996 RAW reported that additional groundwater samples collected on February 14, 1996 contained concentrations of benzene, toluene, and total xylenes above the GWQS. On July 11, 1996, the Department notified the Trust that the 1996 RAW could not be approved because the groundwater contamination plume had not been fully delineated. In response, the Trust installed

² The Department has designated the Property as Site Remediation Program Interest Number PI 024240.

another monitoring well, conducted quarterly groundwater monitoring, and submitted additional reports, but the delineation remained incomplete.

30. On September 16, 1997, the Trust removed a 1,500-gallon oil UST from the Property and discovered evidence indicating that the UST had leaked, including holes in the tank and stained soils.

31. Between 1997 and 2007, the Trust performed further soil sampling and groundwater monitoring, submitted numerous reports to the Department, and implemented a bio-injection program³ to remediate soil and groundwater contamination. In a 2007 report entitled "Remedial Action Report", the Trust's environmental consultant at the time, Hill Environmental (c/k/a Brookside Environmental), concluded that the bio-injection program was ineffective.

32. As of the last known sampling event conducted at the Property in 2010, which demonstrated a benzene concentration of 82 ug/L - a concentration in excess of the applicable GWQS of 1 ug/L - the groundwater at the Property remained contaminated.

³ Bio-injection is a type of bioremediation that stimulates the growth of certain microorganisms which use contaminants in soil and/or groundwater as a source of food and energy. Contaminants that can be treated using bioremediation include oil and other petroleum products, solvents, and pesticides. For this Site in particular, environmental consultant Hill Environmental injected a slurry of calcium peroxide into the contaminated soil to enhance aerobic bioremediation of the petroleum-related contaminants in soil and groundwater.

33. Between 2011 and 2013, the Department sent Louis Patricelli four letters to notify him of the Trust's obligation to comply with remediation requirements and deadlines pursuant to SRRA. During subsequent years, the Trust informed the Department and Sigma that it did not have sufficient funds to complete the remediation.

34. Between June 2016 and August 2018, the Department communicated with Sigma and its attorney at the time to discuss the outstanding remediation requirements.

35. On or about November 21, 2019, the Department issued Sigma a Notice of Violation ("NOV"), directing it to address the ongoing site remediation violations at the Property, but Sigma did not respond to the NOV or address the violations.

36. On April 16, 2020, the Department issued Sigma the AONOCAPA, identified as PEA200001-024240, which was delivered via certified mail on or about May 2, 2020.

37. The AONOCAPA alleged that, pursuant to N.J.S.A. 58:10-23.11b and N.J.A.C. 7:1E-5.7(a)(2)(ii), Sigma is responsible for remediating the contamination at the Property in accordance with the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-1.1 to -16.3. The AONOCAPA also assessed \$105,000 in civil administrative penalties.

38. In addition, as stated in the AONOCAPA, the Department was required to undertake direct oversight of the Property because

the remedial investigation was not completed by the statutory timeframe of May 7, 2014. See N.J.S.A. 58:10C-27; N.J.A.C. 7:26C-14.2. As a result, Sigma was required to comply with the Department's requirements for direct oversight in N.J.A.C. 7:26C-14.2(b).

39. The Department informed Sigma in the AONOCAPA that it had a right to request a hearing within twenty days and that, if it failed to do so, the AONOCAPA would become a Final Order on the twenty-first day following Sigma's receipt of the AONOCAPA.

40. Sigma did not request an administrative hearing or otherwise contest the AONOCAPA within twenty days of receipt of the AONOCAPA. As such, on May 23, 2020, the AONOCAPA became a FAO. See N.J.A.C. 7:26C-9.10(b); 9.12(d)(2).

41. After issuing the AONOCAPA in 2020, the Department attempted to contact Sigma's officers several times with no success.

42. All of the Department's correspondence with Sigma regarding the outstanding violations at the Property has been directed to Sigma's officers at their home address, which is also Sigma's principal place of business. On information and belief, Aglaia and Simon G. Siliverdis are the sole officers, agents, and representatives of Sigma, and are responsible for Sigma's business operations and regulatory compliance.

43. On November 30, 2020, the Department issued a letter to Sigma notifying its officers of the FAO, which was delivered via certified mail on or about December 4, 2020. Sigma did not appeal the FAO.

44. The final order was filed with the Clerk of the Superior Court on July 21, 2021, and assigned docket number DJ-088650-21. On or about March 11, 2022, the Department sent a letter to Sigma notifying it of the judgment entered against it.

45. On March 17, 2022, Sigma retained a Licensed Site Remediation Professional ("LSRP"), as required by the FAO and N.J.A.C. 7:26C-2.3(a)(1) and (2).

46. On April 2, 2022, the Department sent Sigma a financial viability package to assess Sigma's ability to fund the remediation at the Property. The Department followed up numerous times to inquire into the status of the financial viability package after Sigma missed the 30-day deadline to submit the requested documents. Sigma submitted the package on or about August 5, 2022. As of the date of this filing, the Department has not yet fully processed the financial package to assess completeness and evaluate Sigma's financial viability.

47. To date, Defendants have failed to comply with the following remediation requirements:

- a. Pay outstanding annual remediation fees to the New Jersey Site Remediation & Waste Management Program, in the

amount of \$16,620, as required by N.J.A.C. 7:26C-2.3(a)4 and -4.3;

b. Submit a remedial investigation report ("RIR") by the statutory timeframe of May 7, 2014, pursuant to N.J.A.C. 7:26C-3.3(a)4. Failure to comply with this statutory timeframe triggered the Department's duty to undertake direct oversight of the Property pursuant to N.J.S.A. 58:10C-27 and N.J.A.C. 7:26C-14.2;

c. Comply with the direct oversight requirements pursuant to N.J.A.C. 7:26C-14.2(b) - in particular, submit a cost estimate, establish a remediation funding source, submit a public participation plan, submit a direct oversight remediation summary report, and submit a remediation funding source surcharge; and

d. Conduct the required remedial actions and submit a remedial action report ("RAR") by the mandatory timeframe of May 7, 2021, as required by N.J.A.C. 7:26E-5.8 and N.J.A.C. 7:26C-3.3(b)6.

48. Remediation is crucial because the Property is located within approximately 150 feet of a high school, 350 feet of a child care center, and 300 feet of the West Branch Shabakunk Creek - a FW2-NT water body.

49. Because the groundwater contamination is not delineated and the last known sample data showed benzene up to 82 ug/L, which

is above the Department's current Vapor Intrusion Groundwater Screening Level for benzene of 23 ug/L, a vapor intrusion investigation may be necessary.

50. The last known levels of hazardous substances present in the groundwater are high enough to potentially cause indoor air concerns at and near the Property because the hazardous substances can volatilize and migrate up through soil, and the resulting vapor can intrude into human-occupied spaces that are either currently on the Property or might be constructed there in the future, and that are located wherever contaminated groundwater has migrated ("Contaminated Site"), posing an inhalation threat.

51. Exposure to benzene through inhalation can cause neurological symptoms such as drowsiness, dizziness, headaches, and unconsciousness in humans. Therefore, prompt compliance is necessary to protect public health and safety, as well as the environment.

52. The Department is entitled to enforce the FAO against Sigma, and to pursue relief against all Defendants under the Spill Act.

FIRST COUNT

ENFORCEMENT OF FINAL AGENCY ORDER AGAINST DEFENDANT SIGMA ON A SUMMARY BASIS

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

54. The AONOCAPA issued on April 16, 2020 required Sigma to remediate the contamination at the Contaminated Site and pay the fees and penalties assessed therein.

55. Pursuant to N.J.A.C. 7:26C-9.10(b) and 9.12(d)(1), the AONOCAPA became a FAO on May 23, 2020, because Sigma did not request an administrative hearing or otherwise contest the AONOCAPA within twenty days of receipt of the AONOCAPA.

56. Sigma's failure to comply with the requirements of the AONOCAPA, which is now an FAO, constitutes a violation of the FAO.

57. Pursuant to Rule 4:67-6, the Department is entitled to summary enforcement of the FAO in Superior Court.

WHEREFORE, the Department demands judgment against Sigma:

- a. Finding Sigma in violation of the FAO;
- b. Ordering Sigma to comply with the FAO, as follows:
 - i. Pay all required fees, including outstanding annual remediation fees in the amount of \$16,620, pursuant to N.J.A.C. 7:26C-2.3(a)4;
 - ii. Submit an RIR, pursuant to N.J.A.C. 7:26C-3.3(a)4;
 - iii. Comply with the Department's direct oversight requirements, pursuant to N.J.A.C. 7:26C-14.2(b), as follows:
 - (1) submit a cost estimate to the enforcement manager, pursuant to N.J.A.C. 7:26C-14.2(b)(2)(i);
 - (2) establish a remediation funding source,

pursuant to N.J.A.C. 7:26C-14.2(b)(2)(ii);

(3) submit a Public Participation Plan, pursuant to N.J.A.C. 7:26C-14.2(b)(2)(iii);

(4) submit a direct oversight remediation summary report, pursuant to N.J.A.C. 7:26C-14.2(b)(2)(v); and

(5) submit a remediation funding source surcharge pursuant to N.J.A.C. 7:26C-14.2(b)(5);

iv. Conduct the required remedial action and submit an RAR, pursuant to N.J.A.C. 7:26C-3.3(b)6.

c. Awarding the Department its costs and fees in this action;

d. Granting such other relief as the Court deems just and proper.

SECOND COUNT

IMPOSITION OF ADDITIONAL CIVIL PENALTIES AGAINST DEFENDANT SIGMA ON A SUMMARY BASIS

58. The Department repeats the allegations in the foregoing paragraphs as though set forth in their entirety herein.

59. Pursuant to N.J.S.A. 58:10-23.11u(a) and (d), any person who violates the Spill Act, 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 of up to \$50,000 per day for each violation, and each day's continuance of the violation constitutes a separate violation.

60. Sigma is a "person" within the meaning of the Spill Act, N.J.S.A. 58:10-23.11b.

61. As set forth above, Sigma has failed to comply with the AONOCAPA which is now an FAO.

62. The Department may bring an action against Sigma in Superior Court seeking the imposition of penalties pursuant to N.J.S.A. 58:10-23.11u which, along with costs, may be recovered by the Department in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 to -12, N.J.S.A. 58:10-23.11u.d., and R. 4:70.

WHEREFORE, the Department demands judgment against Sigma:

- a. Finding Sigma in violation of the FAO;
- b. Imposing upon Sigma, pursuant to Rule 4:70 and N.J.S.A. 58:10-23.11u(a) and (d), a civil penalty for each day that the violations continued on the Property;
- c. Awarding such other relief as the Court deems just and proper.
- d. 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.

THIRD COUNT

VIOLATION OF THE SPILL ACT AND BROWNFIELD ACT (AS AMENDED BY SRRA) AGAINST DEFENDANTS TRUST, SIGMA, AND SIGMA'S OFFICERS

63. The Department repeats each allegation in the preceding

paragraphs as though fully set forth herein.

64. The above-referenced contamination at the Property has not been remediated, in violation of the Spill Act. N.J.S.A. 58:10-23.11.c.

65. Each of the Defendants – the Trust, Sigma, and Sigma’s officers – are “persons” within the meaning of the Spill Act. N.J.S.A. 58:10-23.11b.

66. The strict liability provision of the Spill Act, N.J.S.A. 58:10-23.11g.c.(1), provides in pertinent part:

any person who has discharged a hazardous substance, or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. Such person shall also be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs incurred by the department or a local unit pursuant to subsection b. of section 7 of P.L.1976, c.141 (C.58:10-23.11f).

67. Petroleum products, including gasoline and fuel oil, are hazardous substances under the Spill Act. N.J.S.A. 58:10-23.11b.

68. Defendants are dischargers or persons in any way responsible for the hazardous substances discharged on the Property and, as such, are 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.c.(1).

69. Under N.J.S.A. 58:10-23.11u of the Spill Act, the

Department may bring a civil action in the Superior Court against any person who has violated the Spill Act or any rule, regulation, plan, information request, access request, order, or directive promulgated or issued pursuant thereto:

- a. For injunctive relief, N.J.S.A. 58:10-23.11u.b.(1);
- b. For the costs incurred for any investigation, cleanup or removal, and for the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2);
- c. For any other related costs incurred by the Department under the Spill Act; and
- d. For the Court's assessment of civil penalties for violations of the Spill Act, N.J.S.A. 58:10-23.11u.d.

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

71. As amended by SRRA (P.L. 2009, c. 60, §30, effective May 7, 2009), 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.c.(1) of the Spill Act has an affirmative obligation to remediate discharges of hazardous substances. N.J.S.A. 58:10B-1.3.a.

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

73. As persons liable under the Spill Act, Defendants have

an affirmative obligation to remediate the hazardous substances discharged on the Property pursuant to the Brownfield Act, N.J.S.A. 58:10B-1.3.a.

74. As persons responsible for conducting the remediation, Defendants were required to comply with the remediation requirements enumerated in N.J.S.A. 58:10B-1.3.b.

75. Defendants did not comply with N.J.S.A. 58:10B-1.3.b.(4), (5), and (8): they did not establish a remediation funding source, pay all applicable fees and oversight costs, or meet the remediation timeframes established by the Department.

76. As provided in N.J.S.A. 58:10B-1.3.b.(8), a person responsible for conducting the remediation must meet the mandatory remediation timeframes and expedited site-specific timeframes established by the Department pursuant to N.J.S.A. 58:10C-28 of SRRA.

77. Pursuant to N.J.S.A. 58:10C-28, the Department promulgated the Administrative Requirements for the Remediation of Contaminated Sites ("ARRCS") regulations, N.J.A.C. 7:26C. The ARRCS regulations establish: (a) the requirement to pay all applicable fees and oversight costs, N.J.A.C. 7:26C-2.3(a)4 and -4.3; (b) the statutory timeframe for completing a remedial investigation of the subject property and submitting an RIR, N.J.A.C. 7:26C-3.3(a)4; (c) the mandatory timeframe for completing the remediation of the Contaminated Site and submitting an RAR,

N.J.A.C. 7:26C-3.3(b)6; and (d) the Department's requirements for direct oversight, N.J.A.C. 7:26C-14.2(b).

78. As persons responsible for conducting the remediation, Defendants are in violation of N.J.S.A. 58:10B-1.3.c(3). Specifically, they failed to (a) pay annual remediation fees as required by N.J.A.C. 7:26C-2.3(a)4 and -4.3; (b) submit an RIR by the statutory timeframe of May 7, 2014, as required by N.J.A.C. 7:26C-3.3(a)4; (c) submit an RAR by May 7, 2021, as required by N.J.A.C. 7:26C-3.3(b)6; and (d) comply with the direct oversight requirements set forth in N.J.A.C. 7:26C-14.2(b).

79. Any person who fails to comply with the provisions of N.J.S.A. 58:10B-1.3 of the Brownfield Act shall be liable and subject to the enforcement provisions established in N.J.S.A. 58:10-23.11.u of the Spill Act. N.J.S.A. 58:10B-1.3.e.

WHEREFORE, the Department demands judgment against the Defendants:

- a. Finding Defendants liable and obligated to remediate the Property pursuant to N.J.S.A. 58:10B-1.3.a, and in violation of N.J.S.A. 58:10B-1.3.a for their failure to do so;
- b. Finding Defendants liable without regard to fault for all cleanup and removal costs no matter by whom incurred, pursuant to N.J.S.A. 58:10-23.11g.c.(1);
- c. Finding Defendants liable and obligated pursuant to N.J.S.A. 58:10B-1.3.c.(3) to comply with each of the above-

cited remediation requirements of N.J.S.A. 58:10B-1.3.b, and in violation of N.J.S.A. 58:10B-1.3.c.(3) and N.J.S.A. 58:10B-1.3.b for their failure to do so;

d. Directing Defendants to remediate the Contaminated Site in accordance with N.J.S.A. 58:10B-1.3 of the Brownfield Act, SRRA, and all remediation statutes, regulations and/or directions from the Department;

e. Assessing civil penalties against Defendants pursuant to N.J.S.A. 58:10-23.11u.d for their violations of the above-cited remediation requirements of N.J.S.A. 58:10B-1.3 and applicable Department regulations;

f. Awarding the Department any costs it may incur to investigate the discharge of hazardous substances at the Property and emanating from the Property, and its costs of preparing and litigating this action, together with interest, to the full extent allowed by law;

g. Granting the Department such other relief as this Court deems just, equitable, and appropriate; and

h. Reserving the State of New Jersey's right to bring a claim in the future for natural resource damages arising out of the discharges of hazardous substances on the Property.

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for New Jersey Department of
Environmental Protection

By: /s/ Rachel Manning
Rachel Manning
Deputy Attorney General

Dated: August 23, 2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, the Court is advised that Rachel Manning, Deputy Attorney General, is hereby designated as trial counsel for Plaintiff New Jersey Department of Environmental Protection.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

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

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW
JERSEY
Attorney for New Jersey
Department of Environmental
Protection

By: /s/ Rachel Manning
Rachel Manning
Deputy Attorney General

Dated: August 23, 2022

VERIFICATION OF PLEADING

I, Gillian Schwert, being of full age, certify as follows:

1. I am employed by the New Jersey Department of Environmental Protection within the Site Remediation and Waste Management Program.
2. I am the enforcement manager assigned to the Property.
3. I have read the Verified Complaint.
4. I certify that the factual allegations contained in the Verified Complaint are true and correct to the best of my knowledge.
5. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Gillian Schwert
Gillian Schwert

Dated: August 23, 2022