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

NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION and	:	<u>Civil Action</u>
THE ADMINISTRATOR OF THE NEW	:	
JERSEY SPILL COMPENSATION	:	COMPLAINT
FUND,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
HONEYWELL INTERNATIONAL, INC.,	:	
OCCIDENTAL PETROLEUM	:	
CORPORATION, and	:	
PPG INDUSTRIES, INC.,	:	
	:	
Defendants.	:	

Plaintiffs New Jersey Department of Environmental Protection ("DEP"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively "the Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by way of Complaint

against the above-named defendants, Honeywell International, Inc. ("Honeywell"), Occidental Petroleum Corporation ("Occidental"), and PPG Industries, Inc. ("PPG"), (collectively "the Defendants"), say:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to 23.24 ("the Spill Act") and common law for declaratory and injunctive relief and reimbursement of the cleanup and removal costs they have incurred, and will incur, as a result of the discharge and unsatisfactory storage or containment of hazardous substances, including Chromate Chemical Production Waste ("CCPW"), at numerous sites in the Counties of Hudson and Essex, State of New Jersey.

2. CCPW contains hexavalent chromium, nickel and vanadium, along with other hazardous substances as defined by N.J.S.A. 58:10-23.11b. The United States Environmental Protection Agency ("EPA") classifies hexavalent chromium in the top 25 percent of known human carcinogens, more potent than arsenic, benzene, and polychlorinated biphenyls. It is toxic not only to humans, but also animals and lower life forms, including benthic organisms.

3. The Defendants have assumed some limited responsibility for remediation of certain sites contaminated with CCPW in the counties of Hudson and Essex, State of New Jersey. However, the Defendants have denied responsibility for decades of environmental contamination resulting from their generation, transportation and

discharge of CCPW at numerous sites in and around the Counties of Hudson and Essex, State of New Jersey.

THE PARTIES

4. Plaintiff DEP is a principal department within the Executive Branch of the State government 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.

5. 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, plaintiff Administrator is authorized to approve and pay 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.

6. Defendant Honeywell International, Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 101 Columbia Road, Morristown, New Jersey 07960.

7. Defendant Occidental Petroleum Corporation is a corporation organized under the laws of the State of Delaware, with its principal place of business at 10889 Wilshire Boulevard, Los Angeles, California 90024.

8. Defendant PPG Industries, Inc. is a corporation organized under the laws of the Commonwealth of Pennsylvania, with its principal place of business at One PPG Place, Pittsburgh, Pennsylvania 15272.

9. Defendant Honeywell International, Inc. is the successor corporation to Mutual Chemical Company of America which, from about 1895 to 1954, owned and operated a chromate chemical production facility on West Side Avenue in the City of Jersey City, described on the 1977 municipal tax map of Jersey City, County of Hudson, State of New Jersey as Block 1285, Lots 7 and 7A, and Block 1286, Lots 6A, 6C and 6D ("Honeywell Facility").

10. Defendant Occidental is the successor corporation to Diamond Alkali Company and Diamond Shamrock Corporation which, from about 1948 to 1976, operated a chromate chemical production facility located at 1015 Belleville Turnpike, Kearny, described on the 1978 municipal tax map of the Town of Kearny, County of Hudson, State of New Jersey as Block 287, Lots 46 and 47 ("Occidental Facility").

11. Defendant PPG Industries, Inc. is the successor corporation to Pittsburgh Plate Glass Company and Natural Products Refining Company which, from about 1924 to 1963, operated a chromate chemical production facility located at 880 Garfield Avenue, Jersey City, described on the 1977 municipal tax map of

Jersey City, County of Hudson, State of New Jersey as Block 2025.A, Lot 3.A, and Block 2026.A, Lots 1, 2.A and 3.B ("PPG Facility").

GENERAL ALLEGATIONS

12. Plaintiffs were not in any way responsible for the CCPW discharged in Hudson and Essex Counties, New Jersey.

13. Despite use of due diligence, Plaintiffs have been unable to ascertain which one or more of the Defendants is responsible for the chromate chemical production waste contamination at various Hudson and Essex County CCPW Sites in New Jersey; however, all of that contamination was caused by one or more of the Defendants.

14. The Hudson and Essex County CCPW Sites are all located within 10 miles of the Defendants' chromate chemical production facilities.

15. The Defendants were the only generators of CCPW within a 150 mile radius of Hudson and Essex Counties, New Jersey.

16. During the course of their respective operations, the Defendants generated hundreds of thousands of tons of CCPW in the following amounts: Honeywell and its predecessors 969,500 tons; Occidental and its predecessors 771,500 tons; and, PPG and its predecessors 330,000 tons.

17. Each Defendant generated CCPW waste at its respective chromium production facility and arranged for the removal and disposal of its CCPW from its production plants.

18. Each Defendant knew or should have known that its respective CCPW was being used locally as fill within Hudson and Essex Counties.

19. Each Defendant generated CCPW over a period of decades and disposed of the CCPW over the course of many years, making the identification of transportation services and other evidence identifying the respective generator of the waste, at some sites, impossible.

20. The CCPW generated by the Defendants is indistinguishable, and all of the CCPW is uniformly harmful to the public health and the environment.

21. Defendants either assume no remedial responsibility or, alternatively, blame each other for the contamination at various Hudson and Essex County CCPW Sites.

22. According to analytical testing, each of the three generator facilities (the "Generator Facilities") produced CCPW that was comprised of three to seven percent hexavalent chromium and other hazardous substances.

23. Honeywell, Occidental and PPG, or their predecessors, each distributed a portion of their CCPW from their operations as fill material for use in construction and development projects at residential, commercial and recreational areas throughout Hudson and Essex Counties.

24. Honeywell, Occidental and PPG, or their predecessors, took no measures to prevent the CCPW, which was distributed from their respective Generator Facilities, from being used in a manner that resulted in harm, or threatened harm, to the health, safety and welfare of the citizens of the State of New Jersey, and to the environment.

25. Plaintiffs have identified at least 183 sites, located in Hudson and Essex Counties, New Jersey, which are or were contaminated with CCPW (hereinafter referred to as the "CCPW Site No. ____.")

CONTAMINATED SITES

ADMINISTRATIVE CONSENT ORDER SITES ("ACO SITES")

26. An ACO site is a contaminated site for which a responsible party has agreed to take some form of remediation of the site.

27. The ACOs, entered into by Honeywell, Occidental and PPG, required remedial investigation and feasibility studies, followed by remedial action pursuant to a DEP-approved plan and with DEP oversight.

ACO SITES FOR HONEYWELL

28. Defendant Honeywell entered into Administrative Consent Orders with DEP for the remediation of 22 of the 183 known contaminated sites.

29. To date, two of Honeywell's ACO-CCPW sites have received a No Further Action determination letter from DEP and three of Honeywell's ACO-CCPW sites were the subject of litigation in the federal district of New Jersey and are being remediated under the oversight of a federally appointed Special Master. Honeywell has not completed remediation at any of the sites listed in paragraphs 30 through 46, below.

30. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 73, a/k/a the Degan Oil Site, located at 200 Kellogg Street in the City of Jersey City, County of Hudson.

31. On June 17, 1993, Honeywell signed an ACO for Hudson CCPW Site number 87, a/k/a the JCIA site, located at 525 Route 440 in the City of Jersey City, County of Hudson.

32. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 88, a/k/a the JCIA well site, located at 575 Route 440 in the City of Jersey City, County of Hudson.

33. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 90, a/k/a the Baldwin Steel site, located on West Side Avenue in the City of Jersey City, County of Hudson.

34. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 117, a/k/a the Ryerson Steel/Mutual Site, located on Route 440 in the City of Jersey City, County of Hudson.

35. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 124, a/k/a the Roosevelt Lanes Site, located at 427 Route 440 in the City of Jersey City, County of Hudson.

36. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 125, a/k/a the Delphic Consolidation and Distribution Site, located at 60 Kellogg Street in the City of Jersey City, County of Hudson.

37. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 134, a/k/a the Old Dominion (Unitrans) Site, located at 100 Kellogg Street in the City of Jersey City, County of Hudson.

38. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 140, a/k/a the ABF Trucking Site, located at 80 Kellogg Street in the City of Jersey City, County of Hudson.

39. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 144, a/k/a the Bayonne Sewerage Pipeline Site, stretching from 19th to 58th Street in the City of Bayonne, County of Hudson.

40. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 153, a/k/a the Former Morris Canal Site, located on Route 440 in the City of Jersey City, County of Hudson.

41. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 154, a/k/a the College Tower Apartments Site, located at 37 College Tower Drive in the City of Jersey City, County of Hudson.

42. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 155, a/k/a the Food Town Site, located at 265 Ocean Avenue in the City of Jersey City, County of Hudson.

43. On June 17, 1993, Honeywell signed an ACO for CCPW Site number 166, a/k/a the Route 440 Extension Site, located at the end of Route 440 in the City of Jersey City, County of Hudson.

44. On November 8, 1993, Honeywell signed a supplemental ACO for CCPW Site number 71, a/k/a the Communipaw Jug Handle Site, located off Routes 1 and 9 in the City of Jersey City, County of Hudson.

45. On November 8, 1993, Honeywell signed a supplemental ACO for CCPW Site number 79, a/k/a the Route 440 Vehicle Corporation, located at 10 Water Street in the City of Jersey City, County of Hudson.

46. On November 8, 1993, Honeywell signed a supplemental ACO for CCPW Site number 184, a/k/a the M.I. Holdings, Inc. Site, located at 223 West Side Avenue in the City of Jersey City, County of Hudson.

OCCIDENTAL ACO SITES

47. Defendant Occidental entered into Administrative Consent Orders for the remediation of 40 of the 183 known contaminated sites.

48. To date, Occidental has received No Further Action determination letters for 18 of the 40 sites. Occidental has not

completed remediation at any of the sites listed in paragraphs 49 through 70, below.

49. On April 17, 1990, Occidental signed an ACO for CCPW Site number 41, a/k/a the Saint Johnsbury Trucking Site, located at O'Brien and Sellers Street in the Town of Kearny, County of Hudson.

50. On April 17, 1990, Occidental signed an ACO for CCPW Site number 46, a/k/a the Jenkins Enterprises Site, stretching from 79 to 85 3rd Avenue in the Town of Kearny, County of Hudson.

51. On April 17, 1990, Occidental signed an ACO for CCPW Site number 49, a/k/a the Arden Chemical Site, located at 100 Hackensack Avenue in the Town of Kearny, County of Hudson.

52. On April 17, 1990, Occidental signed an ACO for CCPW Site number 50, a/k/a the Janatex Company Site, located at 993 Belleville Turnpike in the Town of Kearny, County of Hudson.

53. On April 17, 1990, Occidental signed an ACO for CCPW Site number 51, a/k/a the Kearny Township Site number 1, located on the Belleville Turnpike in the Town of Kearny, County of Hudson.

54. On April 17, 1990, Occidental signed an ACO for CCPW Site number 54, a/k/a the Pfaff Tool & Mfg. Site, located at McWhirter and Gross Street in the Town of Kearny, County of Hudson.

55. On April 17, 1990, Occidental signed an ACO for CCPW Site number 58, a/k/a the Nicole's Warehouse Site, located at 996 Belleville Turnpike in the Town of Kearny, County of Hudson.

56. On April 17, 1990, Occidental signed an ACO for CCPW Site number 59, a/k/a the Trumbull Asphalt Site, located on the Newark Turnpike in the Town of Kearny, County of Hudson.

57. On April 17, 1990, Occidental signed an ACO for CCPW Site number 60, a/k/a the Tullo Exxon Station Site, located at 61 Lincoln Highway in the Town of Kearny, County of Hudson.

58. On April 17, 1990, Occidental signed an ACO for CCPW Site number 61, a/k/a the Turco Industrial Area Site, located at 590 Belleville Turnpike in the Town of Kearny, County of Hudson.

59. On April 17, 1990, Occidental signed an ACO for CCPW Site number 103, a/k/a the Amtrak Access Road Site, located on the Belleville Turnpike in the Town of Kearny, County of Hudson.

60. On April 17, 1990, Occidental signed an ACO for CCPW Site number 113, a/k/a the Diamond Shamrock Site, located on the Belleville Turnpike in the Town of Kearny, County of Hudson.

61. On April 17, 1990, Occidental signed an ACO for CCPW Site number 116, a/k/a the Standard Chlorine Site, located at 1035 Belleville Turnpike in the Town of Kearny, County of Hudson.

62. On April 17, 1990, Occidental signed an ACO for CCPW Site number 126, a/k/a the Kuehne Chemical Site, located at 86 Hackensack Avenue in the Town of Kearny, County of Hudson.

63. On April 17, 1990, Occidental signed an ACO for CCPW Site number 131, a/k/a the Hackensack River Access Site, located on the Belleville Turnpike in the Town of Kearny, County of Hudson.

64. Occidental agreed to remediate CCPW Site number 149, a/k/a the Seton Leather Company Site, located at 349 Oraton Street in the City of Newark, County of Essex. The Site was later incorporated into its April 17, 1990 ACO.

65. Occidental agreed to remediate CCPW Site number 167, a/k/a the Third Street Right of Way/J.F. Site, located at Third Street and Central Avenue in the Town of Kearny, County of Hudson. The Site was later incorporated into its April 17, 1990 ACO.

66. Occidental agreed to remediate CCPW Site number 168, a/k/a the Third Street Right of Way/PSE&G Site, located at Third Street and Central Avenue in the County of Hudson in the Town of Kearny. The Site was later incorporated into its April 17, 1990 ACO.

67. Occidental agreed to remediate CCPW Site number 176, a/k/a the Reed Mineral Site, located at 339 Central Avenue in the Town of Kearny, County of Hudson. The Site was later incorporated into its April 17, 1990 ACO.

68. Occidental agreed to remediate CCPW Site number 193, a/k/a the McWhirter Road #1 Site, located at McWhirter Road and Sellers Street in the Town of Kearny, County of Hudson. The Site was later incorporated into its April 17, 1990 ACO.

69. Occidental agreed to remediate CCPW Site number 209, a/k/a the Joe's Welding Site, located at 25 O'Brien Road in the

Town of Kearny, County of Hudson. The Site was later incorporated into its April 17, 1990 ACO.

70. Occidental agreed to remediate CCPW Site number 210, a/k/a the Ace Trucking Site, located at 21 Hackensack Avenue in the Town of Kearny, County of Hudson. The Site was later incorporated into its April 17, 1990 ACO.

PPG ACO SITES

71. Defendant PPG entered into Administrative Consent Orders with DEP for the remediation of 61 of the 183 known contaminated sites.

72. To date, PPG has received No Further Action determination letters from DEP on 47 of the 61 sites. PPG has not completed remediation at any of the sites listed in paragraphs 73 through 86, below.

73. On July 19, 1990, PPG signed an ACO for CCPW Site number 63, a/k/a the Baldwin Oils and Commodities Site, located at Caven Point Road and Burma Road in the City of Jersey City, County of Hudson.

74. On July 19, 1990, PPG signed an ACO for CCPW Site number 65, a/k/a the Burma Road Site, located at the west side of Burma Road in the City of Jersey City, County of Hudson.

75. On July 19, 1990, PPG signed an ACO for CCPW Site number 107, a/k/a the Fashionland Site, located at 18 Chapel Avenue in the City of Jersey City, County of Hudson.

76. On July 19, 1990, PPG signed an ACO for CCPW Site number 108, a/k/a the Albanil Dyestuff Site, located at 20 East Linden Avenue in the City of Jersey City, County of Hudson.

77. On July 19, 1990, PPG signed an ACO for CCPW Site number 114, a/k/a the Garfield Avenue Site, located at 880 Garfield Avenue in the City of Jersey City, County of Hudson.

78. On July 19, 1990, PPG signed an ACO for CCPW Site number 121, a/k/a the Garfield Auto Parts Site, located at 942 Garfield Avenue in the City of Jersey City, County of Hudson.

79. On July 19, 1990, PPG signed an ACO for CCPW Site number 132, a/k/a the Town and Country Site, located at 808 Garfield Avenue in the City of Jersey City, County of Hudson.

80. On July 19, 1990, PPG signed an ACO for CCPW Site number 133, a/k/a the Ross Wax Site, located at 22 Halladay Street in the City of Jersey City, County of Hudson.

81. On July 19, 1990, PPG signed an ACO for CCPW Site number 135, a/k/a the Vitarroz Site, stretching from 51 to 99 Pacific Avenue in the City of Jersey City, County of Hudson.

82. On July 19, 1990, PPG signed an ACO for CCPW Site number 137, a/k/a the Rudolph Bass Site, located at 45 Halladay Street in the City of Jersey City, County of Hudson.

83. On July 19, 1990, PPG signed an ACO for CCPW Site number 143, a/k/a the F. Talarico Auto Site, located at 846 Garfield Avenue in the City of Jersey City, County of Hudson.

84. On July 19, 1990, PPG signed an ACO for CCPW Site number 146, a/k/a the Commerce Street Site, located at the foot of Commerce Street in the City of Bayonne, County of Hudson.

85. On July 19, 1990, PPG signed an ACO for CCPW Site number 147, a/k/a the Hartz Mountain Site, located at 999 Baldwin Avenue in the Township of Weehawken, County of Hudson.

86. PPG agreed to remediate CCPW Site number 156, a/k/a the Gregory Park Apartments Site, located at 270 Henderson Street in the City of Jersey City, County of Hudson. The Site was later incorporated into its July 19, 1990 ACO.

HONEYWELL DIRECTIVES SITES

87. On July 2, 1993, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Directive to Honeywell to remediate 27 CCPW contaminated sites, known as CCPW Site numbers 7, 15, 19, 67, 68, 69, 70, 71, 79, 91, 92, 93, 94, 97, 98, 99, 100, 101, 119, 130, 165, 172, 175, 178, 183, 184 and 185, which are further described elsewhere in this complaint ("1993 Honeywell Directive").

88. Defendant Honeywell failed to comply with the 1993 Honeywell Directive by refusing to remediate the sites referenced in paragraph 87, above, with the exception of CCPW Site numbers 71, 79 and 184, for which it later entered into an ACO.

89. On March 2, 1994, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Directive to Honeywell to fund the remediation of 14 CCPW contaminated sites, known as CCPW Site numbers 7, 15, 19, 67,

combined site 68, 69, 104, 105 and 130, 70, 94, 100, 101, and 165, which are further described elsewhere in this complaint ("1994 Honeywell Directive").

90. Defendant Honeywell failed to comply with the 1994 Honeywell Directive by refusing pay for the remediation of the sites referenced in paragraph 89, above.

91. On August 3, 1995, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Directive to Honeywell to remediate five additional CCPW contaminated sites, known as CCPW Site numbers 17, 86, 138, 162, and 180, which are further described elsewhere in this complaint ("1995 Honeywell Directive").

92. Defendant Honeywell failed to comply with the 1995 Honeywell Directive by refusing to remediate the sites referenced in paragraph 91, above.

93. On January 8, 1998, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Directive to Honeywell to remediate eight additional CCPW contaminated sites, known as CCPW Site numbers 187, 188, 189, 196, 197, 198, 199, and 200, which are further described elsewhere in this complaint ("1998 Honeywell Directive").

94. Defendant Honeywell failed to comply with the 1998 Honeywell Directive by refusing to remediate the sites referenced in paragraph 93, above.

PPG DIRECTIVE SITES

95. On August 3, 1995, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Directive to PPG to remediate 3 CCPW-contaminated sites, known as CCPW Site numbers 139, 141, and 186. However, a prior Joint Directive to all three Generators required the remediation of these sites.

HONEYWELL, OCCIDENTAL AND PPG JOINT DIRECTIVES

96. On February 28, 1994, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Joint Directive to Honeywell, Occidental and PPG to remediate eight CCPW-contaminated sites, known as CCPW Site numbers 20, 21, 86, 139, 141, 150, 174 and 186 which are further described elsewhere in this complaint. However, CCPW Site number 141 is undergoing remediation by a nondefendant.

97. Defendants Honeywell, PPG and Occidental failed to comply with the 1994 Joint Directive ("1994 Joint Directive") by refusing to remediate the sites referenced in paragraph 96, above.

98. On August 3, 1995, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Joint Directive to Honeywell, Occidental and PPG to remediate certain CCPW-contaminated sites, known as CCPW Site numbers 20, 21, 77, 150, 152, and 174, which are further described elsewhere in this complaint. However, CCPW sites 20, 21, 150 and 174 were also the subject of the 1994 Joint Directive.

99. Defendants Honeywell, PPG and Occidental failed to comply with the 1995 Joint Directive ("1995 Joint Directive") by refusing to remediate the sites referenced in paragraph 98, above.

100. On January 8, 1998, DEP, pursuant to N.J.S.A. 58:10-23.11f, issued a Joint Directive to Honeywell, Occidental and PPG to remediate seven additional CCPW-contaminated sites, known as CCPW Site numbers 192, 202, 203, 204, 205, 206 and 207, which are further described elsewhere in this complaint.

101. Defendants Honeywell, PPG and Occidental failed to comply with the 1998 Joint Directive ("1998 Joint Directive") by refusing to remediate the sites referenced in paragraph 100, above.

PUBLICLY FUNDED SITES

102. While the CCPW found at the 183 sites is identifiable, by virtue of its chemical and physical characteristics, as having been generated by one or more of the Defendants' chromate chemical production facilities, the CCPW from any one of the Defendants' chromate chemical production facilities is physically and chemically indistinguishable from the CCPW generated at either of the other defendants' chromate chemical production facilities.

103. Publicly Funded Sites ("Publicly Funded Sites") are CCPW-contaminated sites in which the source of the contamination is one or more of the Defendants, but the responsibility of any individual defendant is denied or undetermined.

104. The generator Defendants have assumed no responsibility for remediation of the Publicly Funded Sites. As a result, Plaintiffs have been and will be forced to remediate these sites at the expense of the taxpayers. Paragraphs 105 through 157, below, list the Publicly Funded Sites.

105. CCPW Site # 7 ("Site # 7") is located at the Intersection of the New Jersey Turnpike and Communipaw Avenue, and is designated as Block 2151, Lots C4, A7, E4, A6, B6 & 23A on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

106. CCPW Site # 15 ("Site # 15") is located at Liberty State Park, east of the Environmental Interpretive Center, and is designated as Block 2154, Lot 22K & 33D on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

107. CCPW Site #17 ("Site # 17") is located at Newark Avenue and Howell Street, and is designated as Block 606.1, Lot B on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

108. CCPW Site #19 ("Site # 19") is located at Phillip Street Junction, and is designated as Block 2154, Lots 6, 7.B, 11, 8.A, 9.B, 12.A & 15 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

109. CCPW Site # 20 ("Site # 20") is located at the New Jersey Turnpike below Overpass 14B, and is designated as Block 1491, Lots 1D4 & 1G3 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

110. CCPW Site # 21 ("Site # 21") is located on the New Jersey Turnpike at Piers 20 and 21, and is designated as Block 1507, Lots 18, 20 & 23 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

111. CCPW Site # 67 ("Site # 67") is located between Chapel and Linden Avenue, west of the New Jersey Turnpike, and is designated as Block 1505, Lot A.2 & Z.1 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

112. CCPW Site #68 ("Site # 68) is located at the foot of Clendenny Avenue, and is designated as Block 1746 & 1746.5, Lots B.1, B.3 & H.2 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

113. CCPW Site # 69 ("Site # 69") is located at the rear of a Bradlees Department Store, and is designated as Block 1746.5, Lot 1, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

114. CCPW Site # 70 ("Site # 70") is located on Communipaw Avenue, and is designated as Block 1746, Lot C.4, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

115. CCPW Site # 77 ("Site # 77") is located at 383 Eighth Street, and is designated as Block 0417, Lot 28 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

116. CCPW Site # 86 ("Site # 86") is located at 123 Duffield Avenue, and is designated as Block 673, Lot 3A on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

117. CCPW Site # 91 ("Site #91") is located on the New Jersey Turnpike near Johnston Street, and is designated as Block 2145, Lot 62 on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

118. CCPW Site # 92 ("Site # 92") is located under the New Jersey Turnpike near Ash Street, and is designated as Block 60, Lot 19H, 19L, 19Q, 19R & A5, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

119. CCPW Site # 93 ("Site # 93") is located at the East Side plant yard, and is designated as Block 2151 & 2152, Lots PL.A & E6, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

120. CCPW Site # 94 ("Site # 94) is located at 18th Street and Jersey Avenue, and is designated as Block 0331, Lot PL.A on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

121. CCPW Site # 97("Site # 97") is located near Secaucus Road, and is designated as Block 1000, Lot S, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

122. CCPW Site # 98 ("Site # 98") is located at or near County Road, and is designated as Block 1200, Lot 68A, 71 and 72, on the tax maps of the Township of Jersey City.

123. CCPW Site # 99 ("Site # 99") is located at 375 Routes 1 and 9, and is designated as Block 1627.1, Lot 1H, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

124. CCPW Site #100 ("Site # 100") is located east of Richard Street, and is designated as Block 1492, Lots 1, 1A, 2, 3B & 6, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

125. CCPW Site # 101 ("Site # 101") is located at Stockton Avenue and Routes 1 and 9, and is designated as Block 1639A & 1650, Lots 5C & F4, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

126. CCPW Site # 119 ("Site # 119") is located at Kellogg Street, and is designated as Block 1288.A, Lot 14, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

127. CCPW Site # 130 ("Site # 130") is located on Communipaw Avenue, and is designated as Block 1746, Lot C.3, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

128. CCPW Site # 138 ("Site # 138") is located at the foot of Oak Street, and is designated as Block 381, Lot 10C1, on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

129. CCPW Site # 139 ("Site # 139") is located at the foot of East 22nd Street, and is designated as Block A on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

130. CCPW Site # 150 ("Site # 150") is located at the foot of East 5th Street, and is designated as Block 431, Lots C-1, D-1, on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

131. CCPW Site # 152 ("Site # 152") is located at 140 East 22nd Street, and is designated as Block 305, 306 Lots 2B1 and A, on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

132. CCPW Site # 162 ("Site # 162") is located between Oak and 5th Street, and is designated as the Conrail Rail Spur on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

133. CCPW Site # 165 ("Site # 165") is located at the foot of Jersey Avenue and Aetna Street, and is designated as Block 2145, Lots 41R and 41N, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

134. CCPW Site # 172 ("Site # 172") is located at Warren Street, and is designated as Block 107, 108, 140, 141, Lots B, B1, C and WA2.EA, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

135. CCPW Site # 174 ("Site # 174") is located at First Street, and is designated as Block 383, 384, Lots 1,2 & 1-8 on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

136. CCPW Site # 175 ("Site # 175") is located at Grand Street, and is designated as Block 60, Lots A & B, on the tax maps of the Township of Jersey City, Hudson County, New Jersey. This Site consists of approximately 104,000 square feet.

137. CCPW Site # 177 ("Site # 177") is located at Hook Road, and is designated as Block 418, Lot 2, on the tax maps of the Township of Bayonne, Hudson County, New Jersey.

138. CCPW Site # 178 ("Site # 178") is located at Burma Road and Theodore Conrad Drive, and is designated as Block 1497, Lot PL1.B, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

139. CCPW Site # 180 ("Site # 180") is located on Howell Street, and is designated as Block 603 & 652, Lot 2-3 & 6-7, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

140. CCPW Site # 183 ("Site # 183") is located at Sludge Line, between Randolph Street and Arlington Avenue, and is designated as Block 1974.5, Lot T.1, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

141. CCPW Site # 185 ("Site # 185") is located at Jersey Avenue, and is designated as Block 60, Lot 33, 34, 42 and 19G, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

142. CCPW Site # 186 ("Site # 186") is located at 947 Garfield Avenue, and is designated as Block 1967, Lot A.2, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

143. CCPW Site # 187 ("Site # 187") is located at the Route 440 median strip, between Danforth and Carbon Place, in the Township of Jersey City, Hudson County, New Jersey.

144. CCPW Site # 188 ("Site # 188") is located at Sussex Street (West of Warren and East of Hudson Streets), in the Township of Jersey City, Hudson County, New Jersey.

145. CCPW Site # 189 ("Site # 189") is located at Henderson and Second Street, and is designated as Henderson Street # 1, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

146. CCPW Site # 192 ("Site # 192") is located at Eastern Spur at Piers 10S and 11S, and is designated as New Jersey Turnpike, Newark, on the tax maps of the Township of Newark, Essex County, New Jersey.

147. CCPW Site # 196 ("Site # 196") is located at the former CRRNJ Freight Yard at Liberty State Park, and is designated as the POTW Outfall Line, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

148. CCPW Site # 197 ("Site # 197") is located at Grand Street, between Washington and Warren Streets, and is designated as Grand Street, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

149. CCPW Site # 198 ("Site # 198") is located behind the Hartz Mountain Building, Caven Point Road, and is designated as Block 1494, Lots 12 & 13, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

150. CCPW Site # 199 ("Site # 199") is located at Sludge Line, between Randolph Avenue and Halladay Street, and is designated as Block 2044.5, Lots A & A2, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

151. CCPW Site # 200 ("Site # 200") is located at Sludge Line, between Arlington Avenue and Martin Luther King Drive, and is designated as Block 1788, Lot A, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

152. CCPW Site #202 ("Site # 202") is located between Pacific Street and the New Jersey Turnpike 14C Toll Booth, and is designated as Block 2033, Lot 7, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

153. CCPW Site # 203 ("Site # 203") is located at the New Jersey Transit Light Rail Line, 200 feet east of West Side Avenue, and is designated as Block 1781, Lot A1, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

154. CCPW Site # 204 ("Site # 204") is located at the west side of the New Jersey Turnpike, at the foot of Monitor Street, and is designated as Block 2145, Lot 41C, 56 and 62, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

155. CCPW Site # 205 ("Site # 205") is located at the northwest corner of First Street and Washington Blvd., and is designated as Block 109, Lot A-East, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

156. CCPW Site # 206 ("Site # 206") is located at 200 Theodore Conrad Drive, and is designated as Polarome International, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

157. CCPW Site # 207 ("Site # 207") is located at 942, 944 and 946 Garfield Avenue, and is designated as Block 1948, Lot 4B, 42A and 41A, on the tax maps of the Township of Jersey City, Hudson County, New Jersey.

HEALTH STUDIES

158. Between 1989 and 1997, DEP and the New Jersey Department of Health ("DOH") engaged in extensive investigations and studies into the impact to human health and the environment of exposure to the constituents of CCPW discharged in and around Hudson County. The costs incurred by the State of New Jersey, in conducting these studies, exceeded 2.3 million dollars.

159. The health studies referred to in Paragraph 158, above, were measures taken to investigate, prevent or mitigate damages to the public health, safety or welfare, and as such, are cleanup and removal costs with the meaning of N.J.S.A. 58:10-23.11b.

LIABILITY UNDER THE SPILL ACT

COUNT I

Spill Act

160. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 159, above, as if set forth in its entirety herein.

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

162. Plaintiffs DEP and the Administrator have incurred, and will continue to incur, costs as a result of the discharge and unsatisfactory storage or containment of hazardous substances at the CCPW Sites enumerated in Paragraphs 171, 180, 189, 198 and 202 of Counts II through VI of this Complaint, *infra*.

163. The costs the Plaintiffs have incurred, and will incur, for the CCPW Sites are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

164. Defendants are the dischargers of hazardous substances at the CCPW Sites, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs as a result of the discharge of hazardous substances at the CCPW Sites. N.J.S.A. 58:10-23.11g.c.(1).

165. Defendants, as the generators of hazardous substances that were discharged at the CCPW Sites, fall within the scope of the liability imposed on persons "in any way responsible" for the discharged hazardous substances, and therefore are liable, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the CCPW Sites. N.J.S.A. 58:10-23.11g.c.(1).

166. Pursuant to N.J.S.A. 58:10-23.11u.a.(1) (a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., 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.

167. Pursuant to N.J.S.A. 58:10-23.11u.a.(1) (a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

168. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs or damages paid from the Spill Fund.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order Defendants to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the CCPW Sites, with applicable interest;

- b. Enter declaratory judgment against Defendants, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the CCPW Sites;
- c. Enter judgment against Defendants, compelling Defendants to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the CCPW Sites;
- d. Award the Plaintiffs their costs and fees in this action; and,
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

COUNT II

Spill Act

169. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 168, above, as if forth in its entirety herein.

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

171. Plaintiffs DEP and the Administrator have incurred, and will continue to incur, costs as a result of the discharge and unsatisfactory storage or containment of hazardous substances at

CCPW Site numbers 71, 73, 79, 87, 88, 90, 117, 124, 125, 134, 140, 144, 153, 154, 155, 166, and 184 ("Honeywell Sites").

172. The costs the Plaintiffs have incurred, and will incur, for the Honeywell Sites are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

173. Honeywell is the discharger of hazardous substances at the Honeywell Sites, and is liable, jointly and severally, without regard to fault, for all cleanup and removal costs as a result of the discharge of hazardous substances at the Honeywell Sites. N.J.S.A. 58:10-23.11g.c.(1).

174. Honeywell, as the generator of hazardous substances that were discharged at the Honeywell Sites, falls within the scope of the liability imposed on persons "in any way responsible" for the discharged hazardous substances, and therefore is liable, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Honeywell Sites. N.J.S.A. 58:10-23.11g.c.(1).

175. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., 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.

176. Pursuant to N.J.S.A. 58:10-23.11u.a.(1) (a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

177. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs or damages paid from the Spill Fund.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order Honeywell to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the Honeywell Sites, with applicable interest;
- b. Enter declaratory judgment against Honeywell, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the Honeywell Sites;
- c. Enter judgment against Honeywell, compelling Honeywell to perform, jointly and severally, under plaintiff DEP's

oversight, any further remediation of hazardous substances discharged at the Honeywell Sites;

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

COUNT III

Spill Act

178. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 177, above, as if set forth in its entirety herein.

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

180. Plaintiffs DEP and the Administrator have incurred, and will continue to incur, costs as a result of the discharge and unsatisfactory storage or containment of hazardous substances at CCPW Site numbers 41, 46, 49, 50, 51, 54, 58, 59, 60, 61, 103, 113, 116, 126, 131, 149, 167, 168, 176, 193, 209, and 210 ("Occidental Sites").

181. The costs the Plaintiffs have incurred, and will incur, for the Occidental Sites are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

182. Occidental is the discharger of hazardous substances at the Occidental Sites, and is liable, jointly and severally, without

regard to fault, for all cleanup and removal costs as a result of the discharge of hazardous substances at the Occidental Sites. N.J.S.A. 58:10-23.11g.c.(1).

183. Occidental, as the generator of hazardous substances that were discharged at the Occidental Sites, falls within the scope of the liability imposed on persons "in any way responsible" for the discharged hazardous substances, and therefore is liable, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Occidental Sites. N.J.S.A. 58:10-23.11g.c.(1).

184. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., 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.

185. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

186. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior

Court for any unreimbursed costs or damages paid from the Spill Fund.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order Occidental to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the Occidental Sites, with applicable interest;
- b. Enter declaratory judgment against Occidental, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the Occidental Sites;
- c. Enter judgment against Occidental, jointly and severally, compelling Occidental to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the Occidental Sites;
- d. Award the Plaintiffs their costs and fees in this action;
and,
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

COUNT IV

Spill Act

187. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 186, above, as if set forth in its entirety herein.

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

189. Plaintiffs DEP and the Administrator have incurred, and will continue to incur, costs as a result of the discharge and unsatisfactory storage or containment of hazardous substances at CCPW Site numbers 63, 65, 107, 108, 114, 121, 132, 133, 135, 137, 143, 146, 147, and 156 ("PPG Sites").

190. The costs and damages the Plaintiffs have incurred, and will incur, for the PPG Sites are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

191. PPG is the discharger of hazardous substances at the PPG Sites, and is liable, jointly and severally, without regard to fault, for all cleanup and removal costs as a result of the discharge of hazardous substances at the PPG Sites. N.J.S.A. 58:10-23.11g.c.(1).

192. PPG, as the generator of hazardous substances that were discharged at the PPG Sites, falls within the scope of the liability imposed on persons "in any way responsible" for the

discharged hazardous substances, and therefore is liable, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the PPG Sites. N.J.S.A. 58:10-23.11g.c.(1).

193. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., 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.

194. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b., for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

195. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs or damages paid from the Spill Fund.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order PPG to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the PPG Sites, with applicable interest;
- b. Enter declaratory judgment against PPG, jointly and severally, without regard to fault, for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the PPG Sites;
- c. Enter judgment against PPG, jointly and severally, compelling PPG to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the PPG Sites;
- d. Award the Plaintiffs their costs and fees in this action; and,
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

COUNT V

Liability for Three Times the Cost of Remediation

196. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 195, above as if set forth in its entirety herein.

197. Plaintiff DEP issued Directives to Honeywell for remediation of the sites listed in paragraphs 87, 89, 91 and 93.

198. Defendant-generator Honeywell failed to comply with the Directives by refusing to remediate the sites listed in the Directives, which include CCPW Site numbers 7, 15, 17, 19, 67, 68, 69, 70, 91, 92, 93, 94, 97, 98, 99, 100, 101, 119, 130, 138, 162, 165, 172, 175, 178, 180, 183, 185, 188, 189, 196, 197, 198, 199 and 200.

199. By failing to comply with the Directives, the defendant Honeywell is jointly and severally liable in an amount equal to three times the cleanup and removal costs plaintiffs DEP and Administrator have incurred, and will incur, for the CCPW sites referenced in paragraph 198, above. N.J.S.A. 58:10-23.11f.a(1).

WHEREFORE, Plaintiff DEP and Administrator pray that this Court:

- a. Order defendant Honeywell, jointly and severally, to reimburse plaintiff DEP for three times the cleanup and removal costs incurred by plaintiff DEP for the sites referenced in paragraph 198, above;
 - b. Order defendant Honeywell, jointly and severally, to reimburse plaintiff DEP for three times the cost of all future remediation for the sites referenced in paragraph 198, above;
 - c. Award plaintiff DEP its costs and fees in this action;
- and,

d. Award plaintiff DEP such relief as the Court deems appropriate.

COUNT VI

Liability for Three Times the Cost of Remediation

200. Plaintiffs DEP and Administrator repeat each allegation of paragraph numbers 1 through 199, above, as if set forth in its entirety herein.

201. Plaintiff DEP issued Joint Directives to Honeywell, PPG and Occidental for remediation of the sites listed in paragraphs 96, 98 and 100.

202. Defendants Honeywell, Occidental and PPG failed to comply with the Joint Directives by refusing to remediate the sites listed in the Joint Directives, which include CCPW Site numbers 20, 21, 77, 86, 139, 141, 150, 152, 174, 177, 186, 192, 202, 203, 204, 205, 206 and 207.

203. By failing to comply with the Joint Directives, the defendants Honeywell, Occidental and PPG are jointly and severally liable in an amount equal to three times the cleanup and removal costs plaintiffs DEP and Administrator have incurred, and will incur, for the CCPW sites listed in the Joint Directives.

N.J.S.A. 58:10-23.11f.a(1).

WHEREFORE, Plaintiff DEP and Administrator pray that this Court:

- a. Order defendants Honeywell, Occidental and PPG to reimburse plaintiff DEP, jointly and severally, for three times the cleanup and removal costs incurred by DEP for the sites listed in Paragraph 202, above;
- b. Order defendants Honeywell, Occidental and PPG to reimburse plaintiff DEP, jointly and severally, for three times the cost of all future remediation of the Sites listed in Paragraph 202, above;
- c. Award plaintiff DEP its costs and fees in this action; and,
- d. Award plaintiff DEP such relief as the Court deems appropriate.

COUNT VII

Strict Liability

204. Plaintiffs repeat each allegation of Paragraphs 1 through 203, above, as if set forth in its entirety herein.

205. Soil, ground water, surface water and wetlands are natural resources of the State held in trust by the State.

206. The use, enjoyment and existence of uncontaminated natural resources is a right common to the general public.

207. The soil, ground water, surface water and wetlands contamination at the CCPW Sites constitutes a physical invasion of public property and an unreasonable and substantial interference,

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

208. CCPW contains various hazardous substances, including high concentrations of hexavalent chromium, and is, therefore, an inherently dangerous material that poses a high degree of risk to people and the environment.

209. Plaintiffs were not in any way responsible for the CCPW discharged in Hudson and Essex Counties, New Jersey.

210. Despite use of due diligence, Plaintiffs have been unable to ascertain which one or more of the Defendants is responsible for the chromate chemical production waste contamination at various Hudson and Essex County CCPW Sites in New Jersey; however, all of that contamination was caused by one or more of the Defendants.

211. The Hudson and Essex County CCPW Sites are all located within 10 miles of the Defendants' chromium production facilities.

212. The Defendants were the only generators of CCPW within a 150 mile radius of Hudson and Essex Counties, New Jersey.

213. During the course of their respective operations, the Defendants generated hundreds of thousands of tons of CCPW in the following amounts: Honeywell and its predecessors 969,500 tons; Occidental and its predecessors 771,500 tons; and, PPG and its predecessors 330,000 tons.

214. Each Defendant generated CCPW waste at its respective chromium production facility and arranged for the removal and disposal of its CCPW from its production plants.

215. Each Defendant knew or should have known that its respective CCPW was being used locally as fill within Hudson and Essex counties.

216. Each Defendant generated CCPW over a period of decades and disposed of the CCPW over the course of many years, making the identification of transportation services and other evidence identifying the respective generator of the waste, at some sites, impossible.

217. The CCPW generated by the Defendants is indistinguishable, and all of the CCPW is uniformly harmful to the public health and the environment.

218. Defendants either assume no remedial responsibility or, alternatively, blame each other for the contamination at various Hudson and Essex County CCPW Sites.

219. Each Defendant knew or should have known that its respective CCPW was being used locally as fill within Hudson and Essex counties, and that the uses their CCPW was being put to were likely to result in great harm.

220. The disposal or use of CCPW as fill created risks that could not be eliminated through the use of reasonable care.

221. The use of a hazardous substance as fill is not common.

222. The use of CCPW as fill was inappropriate.

223. The use of CCPW as fill had minimal or no value to the community, as it heaves, migrates and is harmful to people and the environment.

224. Defendants' causing or allowing their respective CCPW to be discharged at the CCPW sites makes the Defendants strictly liable for engaging in an abnormally dangerous activity.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants, jointly and severally, to reimburse the Plaintiffs for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the CCPW Sites;
 - b. Enter declaratory judgment against the Defendants, jointly and severally, for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the CCPW Sites;
 - c. Enter judgment against the Defendants, jointly and severally, compelling them to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the CCPW Sites;
 - d. Award the Plaintiffs their costs and fees in this action;
- and,

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

COUNT VIII

Public Nuisance

225. Plaintiffs repeat each allegation of Paragraph numbers 1 through 224, above, as if set forth in its entirety herein.

226. Soil, ground water, surface water and wetlands are natural resources of the State held in trust by the State.

227. The use, enjoyment and existence of uncontaminated natural resources is a right common to the general public.

228. The soil, ground water, surface water and wetlands contamination at the CCPW Sites constitute a physical invasion of public property and an unreasonable and substantial interference, both actual and potential, with the exercise of the public's common right to these natural resources.

229. As long as the soil, ground water, surface water and wetlands remain contaminated due to the Defendants' conduct, the public nuisance continues.

230. Until the soil, ground water, surface water and wetlands are restored to their pre-injury quality, the Defendants are liable for the creation, and continued maintenance, of a public nuisance in contravention of the public's common right to clean soil, ground water, surface water and wetlands.

231. Plaintiffs were not in any way responsible for the CCPW discharged in Hudson and Essex Counties, New Jersey.

232. Despite use of due diligence, Plaintiffs have been unable to ascertain which one or more of the Defendants is responsible for the chromate chemical production waste contamination at various Hudson and Essex County CCPW Sites in New Jersey; however, all of that contamination was caused by one or more of the Defendants.

233. The Hudson and Essex County CCPW Sites are all located within 10 miles of the Defendants' chromium production facilities.

234. The Defendants were the only generators of CCPW within a 150 mile radius of Hudson and Essex Counties, New Jersey.

235. During the course of their respective operations, the Defendants generated hundreds of thousands of tons of CCPW in the following amounts: Honeywell and its predecessors 969,500 tons; Occidental and its predecessors 771,500 tons; and, PPG and its predecessors 330,000 tons.

236. Each Defendant generated CCPW waste at its respective chromium production facility and arranged for the removal and disposal of its CCPW from its production plants.

237. Each Defendant knew or should have known that its respective CCPW was being used locally as fill within Hudson and Essex counties.

238. Each Defendant generated CCPW over a period of decades and disposed of the CCPW over the course of many years, making the

identification of transportation services and other evidence identifying the respective generator of the waste, at some sites, impossible.

239. The CCPW generated by the Defendants is indistinguishable, and all of the CCPW is uniformly harmful to the public health and the environment.

240. Defendants either assume no remedial responsibility or, alternatively, blame each other for the contamination at the various Hudson and Essex County CCPW Sites.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants, jointly and severally, to reimburse the Plaintiffs for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the CCPW Sites;
- b. Enter declaratory judgment, jointly and severally, against the Defendants for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the CCPW Sites;
- c. Enter judgment against the defendants, jointly and severally, compelling them to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the CCPW Sites;

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

COUNT IX

Negligence

241. Plaintiffs repeat each allegation of Paragraphs 1 through 240, above as if set forth in its entirety herein.

242. Soil, ground water, surface water and wetlands are natural resources of the State held in trust by the State.

243. The use, enjoyment and existence of uncontaminated natural resources is a right common to the general public.

244. The soil, ground water, surface water and wetlands 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 these natural resources.

245. Defendants knew or should have known of the contamination and resulting harmful effects of discharging their respective CCPW.

246. Despite this knowledge, Defendants voluntarily and negligently caused the CCPW to be discharged at the CCPW Sites.

247. Defendants respective discharges of CCPW were the proximate cause of the contamination of the soil, ground water, surface water and wetlands at the CCPW Sites.

248. Plaintiffs were not in any way responsible for the CCPW discharged in Hudson and Essex Counties, New Jersey.

249. Despite use of due diligence, Plaintiffs have been unable to ascertain which one or more of the Defendants is responsible for the chromate chemical production waste contamination at various Hudson and Essex County CCPW Sites in New Jersey; however, all of that contamination was caused by one or more of the Defendants.

250. The Hudson and Essex County CCPW Sites are all located within 10 miles of the Defendants' chromium production facilities.

251. The Defendants were the only generators of CCPW within a 150 mile radius of Hudson and Essex Counties, New Jersey.

252. During the course of their respective operations, the Defendants generated hundreds of thousands of tons of CCPW in the following amounts: Honeywell and its predecessors 969,500 tons; Occidental and its predecessors 771,500 tons; and, PPG and its predecessors 330,000 tons.

253. Each Defendant generated CCPW waste at its respective chromium production facility and arranged for the removal and disposal of its CCPW from its production plants.

254. Each Defendant knew or should have known that its respective CCPW was being used locally as fill within Hudson and Essex counties.

255. Each Defendant generated CCPW over a period of decades and disposed of the CCPW over the course of many years, making the

identification of transportation services and other evidence identifying the respective generator of the waste, at some sites, impossible.

256. The CCPW generated by the Defendants is indistinguishable, and all of the CCPW is uniformly harmful to the public health and the environment.

257. Defendants either assume no remedial responsibility or, alternatively, blame each other for the contamination at various Hudson and Essex County CCPW Sites.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants, jointly and severally, to reimburse the Plaintiffs for all cleanup and removal costs that the Plaintiffs have incurred as a result of the discharge of hazardous substances at the CCPW Sites;
- b. Enter declaratory judgment, jointly and severally, against the Defendants for all cleanup and removal costs that the Plaintiffs will incur as a result of the discharge of hazardous substances at the CCPW Sites;
- c. Enter judgment against the Defendants, jointly and severally, compelling them to perform, under plaintiff DEP's oversight, any further remediation of hazardous substances discharged at the CCPW Sites;

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

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:

Anna M. Lascurain
Deputy Attorney General

Dated:

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Anna M. Lascurain, Deputy Attorney General, is hereby designated as trial counsel for plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b) (2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to plaintiffs at this time, nor is any non-party known to 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 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).

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By:

Anna M. Lascurain
Deputy Attorney General

Dated: