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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND, Plaintiffs, v. PECHINEY PLASTICS PACKAGING, INC.; BRISTOL-MYERS SQUIBB COMPANY; MYSET INVESTMENT COMPANY; CITIGROUP, INC.; MRC HOLDINGS, INC.; REXAM BEVERAGE CAN COMPANY; ALBÉA AMERICAS, INC.; and "ABC CORPORATIONS" 1-10 (Names Fictitious), Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - WARREN COUNTY DOCKET NO. Civil Action COMPLAINT Jury Trial Demand

Plaintiffs New Jersey Department of Environmental Protection ("DEP"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, the "Plaintiffs" or the "Department"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, file this Complaint against the above-named defendants (the "Defendants"), and allege as follows:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act (the "Spill Act"), N.J.S.A. 58:10-23.11 through -23.24, the Water Pollution Control Act (the "WPCA"), N.J.S.A. 58:10A-1 through -20, and the common law, for reimbursement of the costs and damages they have incurred, and will incur, as a result of the discharge of hazardous substances and pollutants at the Pohatcong Valley Groundwater Contamination Superfund site in Washington Borough, Washington Township, Franklin Township, and Greenwich Township, Warren County (the "Pohatcong Valley Site" or "Site"). The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or

may be, injured as a result of the discharge of hazardous substances and pollutants at the Site. Further, the Plaintiffs seek an order compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances and pollutants, and to compensate the citizens of New Jersey for the lost value of any injured natural resource.

2. In the mid-20th century, the American National Can Company operated a manufacturing plant in the Pohatcong Valley, a region that encompasses several towns in Warren County, New Jersey. The Valley sits atop the Kittatinny Limestone Aquifer, which supplies drinking water to thousands of residents. Over several decades, TCE seeped from the American National Can Company site into nearby groundwater, creating a plume of contamination as long as nine miles. This hazardous substance can have lasting effects on the human central nervous system and respiratory tract and has been linked to other serious health conditions. In 1989, the Environmental Protection Agency (EPA) designated the area as a Superfund site. New Jersey is seeking natural resource damages for the injury to the groundwater and to recover its remediation costs from the responsible parties.

THE PARTIES

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

4. In addition, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, for which plaintiff DEP is vested with the authority to protect this public trust and to seek compensation for any injury to the natural resources of this State. N.J.S.A. 58:10-23.11a.

5. The Commissioner is the Commissioner of DEP. N.J.S.A. 58:10-23.11b. and N.J.S.A. 58:10A-3. In this capacity, the Commissioner is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-1 through -19.

6. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund (the “Spill Fund”). N.J.S.A. 58:10-23.11j. As chief executive officer of the Spill Fund, the Administrator is authorized to approve and pay any cleanup and removal costs DEP incurs, N.J.S.A. 58:10-23.11f.c. and d., and to

certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d.

7. Defendant Pechiney Plastics Packaging, Inc. ("PPPI") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 4700 Daybreak Parkway, South Jordan, Utah 84095.

8. Defendant Bristol-Myers Squibb Company ("BMS") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 345 Park Avenue, New York, New York 10154.

9. Defendant Myset Investment Company ("Myset") is a former corporation that was organized under the laws of the State of New Jersey and, upon information and belief, was dissolved in 1958.

10. Defendant Citigroup, Inc. ("Citigroup") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 399 Park Avenue, New York, New York 10043.

11. Defendant MRC Holdings, Inc. ("MRC") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 388 Greenwich Street, New York, New York 10013.

12. Defendant Rexam Beverage Can Company ("Rexam") is a corporation organized and existing under the laws of the State of

Delaware, with a principal place of business located at 8770 West Bryn Mawr, Chicago, Illinois 60631.

13. Defendant Albéa Americas, Inc. ("Albéa") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 191 Route 31 North, Washington, New Jersey 07882.

14. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, or are otherwise related to, the identified defendants in this matter.

NATURAL RESOURCES

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

16. The natural resources of this State include the "waters of the State," which are the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction. N.J.S.A. 58:10A-3t.

17. The natural resources of this State, including the waters of the State, have been injured as a result of the discharge of hazardous substances and pollutants at the Site.

AFFECTED NATURAL RESOURCE

Ground Water

18. Ground water is an extremely important natural resource for the people of New Jersey, supplying more than 900 million gallons of water per day, which provides more than half of New Jersey's population with drinking water.

19. Not only does ground water serve as a source of potable water, it also serves as an integral part of the State's ecosystem.

20. Ground water provides base flow to streams and other surface water bodies, and influences surface water quality and wetland ecology and the health of aquatic ecosystems.

21. Ground water provides cycling and nutrient movement, prevents salt water intrusion, provides ground stabilization, prevents sinkholes, and provides maintenance of critical water levels in freshwater wetlands.

22. Ground water is a unique resource that supports the State's tourism industry, and is also used for commercial, industrial and agricultural purposes, all of which help sustain the State's economy.

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

GENERAL ALLEGATIONS

24. The Pohatcong Valley Site consists of approximately 9,800 acres of contaminated groundwater and soil in Warren County, New Jersey, currently located in the municipalities of Washington Borough, Washington Township, Franklin Township, and Greenwich Township, all within Warren County, which Plaintiff DEP has designated as Site Remediation Program Interest Nos. G000005662 and 008528.

25. The Site exists within a physiogeologic area of Warren County known as the Pohatcong Valley, a northeast-southwest trending valley bounded by Pohatcong Mountain to the southeast and the Scotts/Oxford Mountains to the northwest. The Pohatcong Creek and several of its smaller tributaries run through the Pohatcong Valley, as does a portion of the former Morris Canal.

26. The major thoroughfare running through the Pohatcong Valley Site is State Highway Route 57, namely the portion of that highway starting near the intersection of Route 31 in Washington Borough, and continuing westbound through Washington, Franklin and Greenwich Townships towards Lopatcong Township.

27. The groundwater that lies in the Pohatcong Valley is the primary source of potable water for approximately 12,000 residents, who obtain their water through public and private wells.

28. The groundwater that lies in the Pohatcong Valley is also utilized for agricultural and industrial purposes.

29. Starting in 1978, two public water supply wells located in the Pohatcong Valley, the Vannatta Street well in Washington Borough, and the Dale Avenue well in Washington Township, were sampled, and found to have elevated levels of TCE and tetrachloroethylene ("PCE").

30. In the Vannatta Street well, which draws water from groundwater approximately 400 feet deep, TCE was detected at concentrations reaching 24 micrograms per Liter ("ug/L"), above the Maximum Contaminant Level ("MCL") for drinking water of 1.0 ug/L for TCE, while PCE was detected as high as 183 ug/L, above the MCL of 2.0 ug/L for PCE.

31. In the Dale Avenue well, which draws water from approximately 200 feet deep, TCE was detected at concentrations reaching 276 ug/L, above the MCL of 1.0 ug/L for TCE, and PCE was detected at concentrations of 7 ug/L, above the MCL of 2.0 ug/L for PCE.

32. As a result of the public water supply contamination, DEP and the Warren County Department of Health provided bottled

water to affected residents and conducted additional investigations.

33. Starting in July 1985, DEP, using public funds, installed public water supply connections to homes and businesses located within contaminated portions of Washington Township within the Site.

34. In July 1985, DEP entered into a contract with Warren County to install approximately 225 service connections and seal impacted private wells.

35. In December 1985, DEP and New Jersey American Water Company entered into a contract to install water mains to replace approximately 223 domestic wells, and also wells used by the Warren County Vocational Technical School and Franklin Township Elementary School.

36. Besides its installation of public water supply connections, DEP installed approximately 150 individual Point of Entry Treatment Systems (“POETS”), which systems treat contaminated water at the points of entry for those homes where public water supply lines did not exist and could not be extended.

37. In approximately November 1989, DEP completed the installation of water mains, service connections, and well-sealing efforts.

38. DEP has also funded the maintenance of all POETS it installed from 1985 to 1989, and, in accordance with DEP's policy, has and will continue to maintain each POET until there is a change in ownership of a residence with a POET, at which time the new owner takes over the maintenance responsibility.

39. In March 1989, the United States Environmental Protection Agency ("EPA") listed the Pohatcong Valley Site on the National Priorities List ("NPL"), thereby designating the site as a Superfund site.

40. Due to its size and complexity, EPA has further divided the Pohatcong Valley Site into three phases, or Operable Units, known as Operable Unit 1, 2 and 3, respectively.

41. Operable Unit 1 ("OU1") addresses groundwater contamination in Washington Borough and portions of Washington Township and Franklin Township where TCE has contaminated groundwater and impacted approximately 5,600 acres.

42. Operable Unit 2 ("OU2") addresses groundwater contamination downgradient of OU1 within portions of Franklin Township and Greenwich Township, and consists of a total of approximately 4,200 acres, a portion of which overlaps with the OU1 impacted area.

43. Operable Unit 3 ("OU3") addresses contaminated soil source areas within OU1, primarily existing at the Washington Facility, defined and described further below.

44. In June 2005, EPA completed a remedial investigation/feasibility study ("RI/FS") for OU1.

45. On July 13, 2006, EPA issued a Record of Decision ("ROD"), which set forth the remedy for contaminated groundwater in OU1. The remedy set forth in the OU1-ROD consists of pumping and treating the portions of the contaminated groundwater nearer to the source areas and implementing monitored natural attenuation in further downgradient areas of OU1.

46. In June 2009, EPA completed a final RI/FS report for OU2.

47. On September 30, 2010, EPA issued a ROD for OU2, which set the remedy for contaminated groundwater in OU2. The remedy set forth in the OU2-ROD consists of extending additional public water supply mains, implementing monitored natural attenuation, and implementing institutional controls.

48. In March 2015, in the United States District Court for the District of New Jersey, defendants PPPI, BSM, Myset, Citigroup, Rexam and Albéa, amongst others, entered into a Remedial Design/Remedial Action Consent Decree with EPA in the matters of United States of America v. Pechiney Plastic Packaging, Inc., Civil

Action No. 09-cv-05692 and United States of America v. Bristol-Myers Squibb Company, et al., Civil Action No. 13-cv-05798, respectively ("2015 Consent Decree").

49. The 2015 Consent Decree provided that the settling defendants would pay a certain amount of EPA's past and future response costs incurred at the Site, and established that defendant PPPI would undertake the remaining remediation required under OU1 and OU2, as well as certain remediation that would be required under the then-to-be determined remedy for OU3.

50. Through a report dated March 3, 2015, Environ, a consultant for defendant PPPI, submitted to DEP a proposed Classification Exception Area ("CEA"), which, among other things, shows the geographic extent of the TCE contamination in groundwater in the OU1 and OU2 areas.

51. On May 1, 2015, plaintiff DEP established the TCE CEA ("2015 TCE CEA") for both the OU1 and OU2 areas.

52. The areal extent of the 2015 TCE CEA established by plaintiff DEP is consistent with that depicted by Environ on behalf of defendant PPPI.

53. In May 2016, EPA completed a final RI report for OU3, and completed a final FS report for OU3 in June 2016.

54. On September 30, 2016, EPA issued a ROD for OU3, which sets forth the remedy for contaminated soil source areas within

the OU1 area. The remedy set forth in the OU3-ROD consists of deep soil vapor extraction and/or thermal treatment, long-term operation and maintenance of existing soil vapor extraction and sub-slab depressurization systems, long-term groundwater and indoor air monitoring, and implementation of institutional controls.

55. The OU3 remedy is being implemented at those industrial properties where discharges of hazardous substances have occurred historically, resulting in the massive and pervasive groundwater contamination TCE plume that defines the Site.

56. The predominant industrial property at which discharges of hazardous substances have occurred and resulted in the greatest extent of contamination at the Site is the Washington Facility, described further below.

The Washington Facility

57. From 1950 to 1952, Bristol-Myers Company ("BMC"), designed and constructed an industrial facility located at 191 Route 31 North, Washington Borough, and 199 Route 31 North, Washington Township, those contiguous parcels also being known and identified as Block 37, Lots 1 and 2 on the Tax Map of Washington Borough, and Block 30, Lot 17, on the Tax Map of Washington Township, respectively (collectively, the "Washington Facility").

58. The Washington Facility is located on approximately 19.6 acres that are bounded to the north by various commercial properties, to the east by New Jersey State Highway 31, to the west by an abandoned Erie-Lackawanna Railroad line, and to the south by an industrial property known as Area of Concern 1.

59. From 1952 through the present, industrial operations have taken place at the Washington Facility, under a succession of owner-operators.

60. From 1952 until approximately 1998, the industrial operations at the Washington Facility included the manufacture of aluminum cans and aluminum tubes.

61. From approximately 1998 to the present, the industrial operations at the Washington Facility have included the manufacture of plastic tubes and packaging for beauty products.

62. Hazardous substances, as defined in N.J.S.A. 58:10-23.11b., including TCE, were used as solvents at the Washington Facility, and were generated as waste from the production processes, including the cleaning of various products and equipment, and as degreasers.

63. The Washington Facility was designed and constructed with sumps and floor drains in areas of the manufacturing building where solvents from production likely entered the wastewater drainage network.

64. The floor drains in the Washington Facility production building were connected to a stormwater conveyance system that discharged to downgradient drainage areas *via* outfalls or dry wells.

65. The highest concentrations of TCE in soil have been detected under the southwestern corner of the manufacturing building at the Washington Facility in what was historically the Blak-Sol operations, where TCE degreasers were stored, which the EPA has designated as "Area A."

66. In a 2012 remedial investigation report, EPA confirmed a TCE source area exists beneath the manufacturing building at the Washington Facility.

67. TCE is present in the soil under the Washington Facility throughout the overburden and into the weathered bedrock, to a depth of 100 feet below ground surface ("bgs"), at levels above the State's soil criteria for TCE of 1.0 milligrams per kilogram ("mg/kg").

68. In 2007, TCE was detected by a consultant for defendant PPPI at a concentration of 9,500 mg/kg at a depth of 76 feet bgs.

69. EPA's OU1 remedial investigation report also identified solid waste disposal that occurred to the west of the Washington Facility ("western drainage area"), and in a swampy area

south/southwest of the railroad line bordering the Washington Facility ("Warren Lumber Yard Ponded Area").

70. TCE has been detected in soil downgradient from the location of the DL-9 outfall pipe, which originates in Area A of the building at the Washington Facility, at concentrations as high as 52 mg/kg.

71. TCE has been detected in groundwater near the Washington Facility at concentrations exceeding the State's Groundwater Quality Standards ("GWQS") of 1.0 micrograms per Liter ("ug/L").

72. TCE has been detected in groundwater at monitoring well 13 ("MW-13"), installed immediately downgradient of Area A, at concentrations as high as 4,600 ug/L.

73. TCE has also been detected in groundwater at MW-12, immediately downgradient of the Area A contamination, at levels ranging from 74 to 120 ug/L.

74. The detections of TCE in groundwater immediately below and downgradient from the Area A soil contamination confirm that TCE discharges under the manufacturing building migrated down to the bedrock and into the groundwater from the Washington Facility.

75. From 1951 through late 2015, several groundwater production and re-injection wells were used, historically for non-contact cooling, industrial processing, sanitary supply, and the cooling and heating system.

76. In 2013, TCE was detected in the sub-slab soil gas and indoor air within the production building at the Washington Facility at levels exceeding the Immediate Environmental Concern ("IEC") levels for an industrial setting.

77. TCE was detected in sub-slab soil gas at concentrations as high as 8,280,000 micrograms per cubic meter, over 55,000 times the non-residential soil gas screening level of 150 micrograms per cubic meter, and in indoor air at concentrations up to 521 micrograms per cubic meter, over 170 times the non-residential indoor air screening level of 3 micrograms per cubic meter.

78. After the 2013 discovery of elevated TCE in the indoor air at the Washington Facility, use of the TCE contaminated groundwater from production wells was limited to non-contact cooling and industrial processing, and soil vapor extraction and subslab depressurization systems were installed to address the TCE concerns in indoor air.

79. Pursuant to the 2015 Consent Decree, defendant Albéa, the current owner and operator of the Washington Facility, agreed to provide an alternative water source for non-contact cooling that does not use the groundwater, and also agreed to seal and abandon production wells and groundwater injection wells.

80. After construction of the Washington Facility by Bristol-Myers Company from 1950 to 1952, the Sun Tube Corporation,

a wholly-owned subsidiary of Bristol-Myers Company, operated there from 1952 to 1956, producing aluminum cans and tubes ("Sun Tube 1").

81. During Sun Tube 1's ownership and operations at the Washington Facility, hazardous substances, as defined in N.J.S.A. 58:10-23.11b., including TCE, were used in manufacturing processes at the Washington Facility and discharged there, within the meaning of N.J.S.A. 58:10-23.11b.

82. In 1956, the American Can Company acquired Sun Tube 1 and the Washington Facility, and established a new Delaware corporation named Sun Tube Corporation ("Sun Tube 2"), which continued the aluminum can and tube manufacturing operations of Sun Tube 1 at the Washington Facility, and did so until 1958.

83. In 1958, Sun Tube 2 merged with its parent corporation, the American Can Company, and the American Can Company continued operations at the Washington Facility from 1958 through 1986.

84. During Sun Tube 2's and American Can Company's ownership and operations at the Washington Facility, hazardous substances, as defined in N.J.S.A. 58:10-23.11b., including TCE, were used in manufacturing processes at the Washington Facility and discharged there, within the meaning of N.J.S.A. 58:10-23.11b.

85. In 1986, Triangle Industries, Inc. entered into an asset purchase agreement with American Can Company, whereby

Triangle Industries purchased American Can Company's operations and assets, including the Washington Facility. Those operations and assets subsequently were transferred to Triangle Industries, Inc.'s assignee, American Can Packaging, Inc.

86. In 1987, American Can Packaging, Inc. merged into the National Can Corporation, with the surviving entity being named the American National Can Company ("ANC Company").

87. From 1987 through 1998, ANC Company owned and operated at the Washington Facility, continuing the manufacture of aluminum cans and products.

88. During ANC Company's ownership and operations at the Washington Facility, hazardous substances, as defined in N.J.S.A. 58:10-23.11b., were used in manufacturing processes at the Washington Facility and discharged there, within the meaning of N.J.S.A. 58:10-23.11b.

89. In April 1999, defendant PPPI acquired ANC Company's plastic packaging business and the Washington Facility from ANC Company.

90. Defendant PPPI owned and operated at the Washington Facility from 1999 to July 2010, manufacturing plastic packaging there.

91. During defendant PPPI's ownership and operations at the Washington Facility, hazardous substances, as defined in N.J.S.A.

58:10-23.11b., were discharged there, within the meaning of N.J.S.A. 58:10-23.11b.

92. Since approximately July 2010 through the present, defendant Albéa, has owned and operated at the Washington Facility, and has manufactured plastic tubing for beauty products there.

93. During defendant Albéa's ownership and operations at the Washington Facility, hazardous substances, as defined in N.J.S.A. 58:10-23.11b., were discharged there, within the meaning of N.J.S.A. 58:10-23.11b.

The Defendants

Defendants BMS and Myset

94. At the time of Sun Tube 1's 1956 sale of the Washington Facility and business operations to American Can Company, Sun Tube 1 changed its name to defendant Myset.

95. Sun Tube 1 was a wholly-owned subsidiary of BMC, as was defendant Myset.

96. On or about August 1, 1958, BMC issued an undertaking in favor of defendant Myset ("1958 Undertaking"), whereby BMC agreed to pay, satisfy, and discharge completely all debts, liabilities and obligations, known or unknown, outstanding or which may thereafter arise, of Myset.

97. Pursuant to the 1958 Undertaking, defendant Myset dissolved, and all of Myset's remaining assets and business were distributed to BMC.

98. In 1989, BMC merged with Squibb Corporation, and the surviving entity became known as Bristol-Myers Squibb Company, or defendant BMS.

99. BMS is the successor to BMC, and to any and all liabilities of BMC arising from BMC's involvement in the funding, design and construction of the Washington Facility.

100. Defendant BMC is also the successor to defendant Myset, formerly known as Sun Tube 1, and to any and all liabilities of Myset arising from Myset and Sun Tube 1's ownership of, and operations at, the Washington Facility.

Defendants Citigroup and MRC

101. Sun Tube 2 operated from 1956 to 1958, at which time Sun Tube 2 merged with its parent, American Can Company. American Can Company owned and operated the Washington Facility from 1958 to 1986.

102. In 1986, American Can Company entered into an asset purchase agreement with Triangle Industries, Inc. ("Triangle") ("1986 Asset Purchase Agreement"), whereby Triangle and its assignee, American Can Packaging, Inc., acquired the Washington

Facility and American Can Company's business at the Washington Facility.

103. Pursuant to the 1986 Asset Purchase Agreement between American Can Company and Triangle, Triangle and its assignee, American Can Packaging, Inc., agreed to assume the environmental liabilities of American Can Company arising from the Washington Facility.

104. In April 1987, after the asset purchase agreement with Triangle, American Can Company changed its name to Primerica Corporation ("Primerica 1").

105. On December 15, 1988, Commercial Credit Group Inc. acquired Primerica 1 in a stock transaction, and, simultaneously, changed its name from Commercial Credit Group, Inc. to Primerica Corporation ("Primerica 2").

106. As part of the December 1988 stock transaction, Primerica 1 was merged into a newly-formed and wholly-owned subsidiary of Primerica 2, which was named Primerica Holdings, Inc.

107. In December 1992, Primerica 2 and Primerica Holdings, Inc. merged, with the surviving entity retaining the name Primerica Corporation (for purposes of this Complaint, Primerica 2).

108. On or about December 31, 1993, The Travelers Corporation was merged into Primerica 2 by virtue of Primerica 2's acquisition

of the stock of The Travelers Corporation, and Primerica 2 changed its name to The Travelers Group, Inc. as part of the acquisition.

109. On or about October 8, 1998, The Travelers Group, Inc. merged with Citicorp, with the surviving entity being named, Citigroup, Inc., or defendant Citigroup.

110. In November 1991, defendant MRC was incorporated and is a wholly-owned subsidiary of defendant Citigroup.

111. Defendant MRC was established by its parent company to assume certain liabilities of American Can Company, including liabilities of American Can Company at the Washington Facility, and to address certain environmental issues of American Can Company, including environmental issues arising from American Can Company's operations at the Washington Facility.

112. Defendant Citigroup is the successor to American Can Company, and to any and all liabilities of American Can Company arising from American Can Company's ownership of and operations at the Washington Facility.

113. Defendant MRC also assumed any and all liabilities of American Can Company arising from American Can Company's ownership and operations at the Washington Facility.

Defendants PPPI and Rexam

114. In 1987, American Can Packaging, Inc., Triangle's subsidiary and assignee under the 1986 Asset Purchase Agreement

with American Can Company, was merged into National Can Corporation, with the surviving entity being known as American National Can Company ("ANC Company").

115. ANC Company owned and operated the Washington Facility from 1987 to 1999, incorporating plastics packaging into the business operations there.

116. In 1998, Pechiney S.A. and Pechiney Corporation acquired all issued and outstanding stock of Triangle, and all of Triangle's ownership interest of its subsidiary, ANC Company.

117. In 1999, defendant PPPI was incorporated in Delaware and was formed as a wholly-owned subsidiary of ANC Company.

118. After its formation in 1999, defendant PPPI entered into a Contribution, Assignment and Assumption Agreement ("1999 Assumption Agreement"), whereby ANC Company transferred its plastic packaging business and assets, including the Washington Facility, to defendant PPPI, and defendant PPPI also agreed to assume any and all environmental liabilities of ANC Company at the Washington Facility.

119. Defendant PPPI's liabilities at the Washington Facility exist through the 1999 Assumption Agreement of the environmental liabilities of ANC Company at the Washington Facility, and defendant PPPI's separate and distinct ownership of, and

operations at, the Washington Facility, which resulted in the discharge of hazardous substances.

120. In 2000, after its plastic packaging business was divested to defendant PPPI, ANC Company, then a subsidiary of American National Can Group, Inc., was acquired by Rexam Acquisition Subsidiary, Inc., a subsidiary of Rexam, PLC, by virtue of Rexam Acquisition Subsidiary, Inc.'s purchase of all publicly traded shares of American National Can Group, Inc.

121. After the stock purchase, in 2000, ANC Company and its parent, American National Can Group, Inc., became wholly-owned subsidiaries of Rexam Acquisition Subsidiary, Inc.

122. Subsequently, but also in 2000, American National Can Group, Inc. and Rexam Acquisition Subsidiary, Inc. merged to become American National Can Group, Inc.

123. In December 2000, American National Can Group, Inc. changed its name to Rexam Beverage Can Company, or defendant Rexam.

124. Defendant Rexam is the successor to any and all liabilities of ANC Company at the Washington Facility as a result of ANC Company's ownership of, and operation at, the Washington Facility.

125. Defendant Rexam is also the successor to any and all liabilities of Triangle, ANC Company's predecessor, including liabilities associated with ANC Company's ownership of, and

operation at, the Washington Facility, by virtue of Triangle's acquisition of the assets and business of American Can Company in 1986.

Defendant Albéa

126. Defendant Albéa, formerly known as Twist Beauty Packaging, Inc., acquired the Washington Facility from defendant PPPI in July 2010, and continues to own and operate the Washington Facility to the present.

Plaintiffs' Cleanup and Removal Costs and Damages

127. The Plaintiffs were not a signatory to the 2015 Consent Decree, were not enumerated as parties under Section III, "Parties Bound," of the 2015 Consent Decree, and otherwise did not participate in the 2015 Consent Decree.

128. Under the 2015 Consent Decree, the Plaintiffs did not receive reimbursement of DEP's past or future cleanup and removal costs, nor did Plaintiffs recover any damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances and pollutants at the Site.

129. While remediation efforts are ongoing, at present, soil and groundwater under the Washington Facility remain contaminated with TCE and other hazardous substances, as defined in N.J.S.A. 58:10-23.11b.

130. The TCE remaining in the soil at the Washington Facility is an ongoing source of groundwater and vapor contamination.

131. DEP has expended public funds towards the remediation and public health protection efforts at the Pohatcong Valley Site, namely through provision of alternate water supplies through the 1980s extension of public waterlines and the installation of maintenance of POETs.

132. The "natural resources" of this State, as defined in N.J.S.A. 58:10-23.11b, including the waters of the State, have been injured as a result of the discharges of hazardous substances at the Washington Facility.

133. DEP has incurred, and will likely continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility.

FIRST COUNT

Spill Act

134. DEP and the Administrator repeat each allegation of paragraph nos. 1 through 133 above as though fully set forth in its entirety herein.

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

136. Except as otherwise provided in N.J.S.A. 58:10-23.11g.12, which is not applicable here, any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance that is discharged, shall be liable, jointly and severally, without regard to fault for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.(c).

137. Except as otherwise exempted under N.J.S.A. 58:10-23.11g.12, which exemptions are not applicable here, the discharge of hazardous substances is a violation of the Spill Act, for which the discharger or person in any way responsible for the discharged hazardous substance, is strictly liable, jointly and severally, without regard to fault. N.J.S.A. 58:10-23.11g.c.(1).

138. DEP has incurred, and may continue to incur, costs as a result of the discharge of hazardous substances at the Washington Facility.

139. The Administrator has certified, and may continue to certify, for payment, valid claims made against the Spill Fund concerning the Site, and, further, has approved, and may continue to approve, other appropriations for the Site.

140. DEP and the Administrator also have incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State

that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility.

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

142. The Defendants are dischargers, and/or are the successors to dischargers, of hazardous substances at the Washington Facility, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility. N.J.S.A. 58:10-23.11g.c.(1).

143. The Defendants, as the owners of the Washington Facility at the time hazardous substances were discharged there, and/or as successors to the owners of the Washington Facility at the time hazardous substances were discharged there, also are persons in any way responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator

have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility. N.J.S.A. 58:10-23.11g.c.(1).

144. Defendants Citigroup, Rexam, PPPI, and Albéa, as the knowing purchasers of the Washington Facility, and/or as successors to the knowing purchasers of the Washington Facility, a property at which hazardous substances were previously discharged, are also persons in any way responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that DEP and the Administrator have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility. N.J.S.A. 58:10-23.11g.c.(3).

145. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); natural resource restoration

and replacement costs, N.J.S.A. 58:10-23.11u.b.(4); and for any other unreimbursed costs or damages DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

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

PRAYER FOR RELIEF

WHEREFORE, DEP and the Administrator pray that this Court:

a. Order the Defendants to reimburse DEP and the Administrator, jointly and severally, without regard to fault, for all cleanup and removal costs and damages they have incurred, including lost value and reasonable assessment costs for any natural resource of this State injured as a result of the discharge of hazardous substances at the Washington Facility, with applicable interest;

b. Enter declaratory judgment against each Defendant, jointly and severally, without regard to fault, for all cleanup and removal costs and damages DEP and the Administrator will incur, including lost value and reasonable assessment costs, for any natural resource of this State injured as a

result of the discharge of hazardous substances at the Washington Facility;

c. Enter judgment against the Defendants, jointly and severally, without regard to fault, compelling each Defendant to perform, under DEP's oversight, or to fund DEP's performance of, any further assessment of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Washington Facility, and compelling each Defendant to compensate the citizens of New Jersey for the lost value of any injured natural resource.

d. Award DEP and the Administrator their costs and fees in this action; and

e. Award DEP and the Administrator such other relief as this Court deems appropriate.

SECOND COUNT

Water Pollution Control Act

147. The Commissioner repeats each allegation of paragraph nos. 1 through 146 above as though fully set forth in its entirety herein.

148. Defendants Citigroup, Rexam, PPPI, and Albéa, are each a "person" within the meaning of N.J.S.A. 58:10A-3.

149. Except as otherwise exempted pursuant to N.J.S.A. 58:10A-6d. and p., which is not applicable here, it is unlawful for any person to discharge any pollutant except to the extent the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit issued by the Commissioner pursuant to the WPCA, or pursuant to a valid National Pollutant Discharge Elimination System permit issued pursuant to the federal Water Pollution Control Act, 33 U.S.C.A. §§1251 to - 1387. N.J.S.A. 58:10A-6a.

150. The unauthorized discharge of pollutants is a violation of the WPCA for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6a.

151. DEP has incurred, and will continue to incur, costs as a result of the discharge of pollutants at the Washington Facility.

152. DEP also has incurred, and will continue to incur, costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Washington Facility.

153. The costs and damages DEP has incurred, and will incur, for the Pohatcong Valley Site are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4).

154. Defendants Citigroup, Rexam, PPPI, and Albéa, and/or their respective predecessors at the Washington Facility, discharged pollutants at the Washington Facility, which discharges were neither permitted pursuant to N.J.S.A. 58:10A-6a., nor exempted pursuant to N.J.S.A. 58:10A-6d. or N.J.S.A. 58:10A-6p., and are liable, without regard to fault, for all costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Washington Facility. N.J.S.A. 58:10A-6a.

155. Pursuant to N.J.S.A. 58:10A-10c., the Commissioner may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10c.(1); for the reasonable costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10c.(2); any reasonable cost incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10c.(3); compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Washington Facility,

N.J.S.A. 58:10A-10c.(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10c.(5).

PRAYER FOR RELIEF

WHEREFORE, the Commissioner prays that this court:

a. Enter an order assessing the Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, for the reasonable costs for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;

b. Enter declaratory judgment against Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, assessing all reasonable costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;

c. Enter an order assessing Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, for all compensatory damages and other actual damages incurred for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Washington Facility;

d. Enter declaratory judgment against Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, assessing all compensatory damages and other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Washington Facility;

e. Enter an order assessing Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, for the actual amount of any economic benefits they have accrued, including any savings realized from avoided capital or noncapital costs, the return they have earned on the amount of avoided costs, any benefits that Defendants Citigroup, Rexam, PPPI, and Albéa have enjoyed as a result of a competitive market advantage, or any other benefit they have received as a result of having violated the WPCA;

f. Enter declaratory judgment against Defendants Citigroup, Rexam, PPPI, and Albéa, without regard to fault, assessing

those Defendants for the actual amount of any economic benefits that will accrue to them, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage those Defendants have enjoyed, or any other benefit that will accrue to them as a result of having violated the WPCA;

g. Award plaintiff Commissioner her costs and fees in this action; and

h. Award plaintiff Commissioner such other relief as this Court deems appropriate.

THIRD COUNT

Public Nuisance

156. The Plaintiffs repeat each allegation of paragraph nos. 1 through 155 above as though fully set forth in its entirety herein.

157. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

158. The use, enjoyment and existence of uncontaminated natural resources are rights common to the general public.

159. The groundwater contamination at the Pohatcong Valley Site constitutes a physical invasion of public property and an

unreasonable and substantial interference, both actual and potential, with the exercise of the public's common right to this natural resource.

160. As long as the ground water remains contaminated due to the Defendants' conduct, the public nuisance continues.

161. Until the ground water is restored to its 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 ground water.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages that the Plaintiffs have incurred, including the lost value and reasonable assessment costs for any natural resource of this State injured as a result of the discharge of hazardous substances and pollutants at the Washington Facility, with applicable interest;

b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, the lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result

of the discharge of hazardous substances and pollutants at the Washington Facility;

c. Enter declaratory judgment against each Defendant, compelling each Defendant to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances and pollutants at the Washington Facility, including compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;

d. Award the Plaintiffs their costs and fees in this action; and

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

FOURTH COUNT

Trespass

161. The Plaintiffs repeat each allegation of paragraph nos. 1 through 160 above as though fully set forth in its entirety herein.

162. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

163. The hazardous substances in the groundwater constitute a physical invasion of public property without permission or license.

164. Each Defendant is liable for trespass, and continued trespass, because the hazardous substances and pollutants in the ground water at the Site resulted from discharges of hazardous substances and pollutants at the Washington Facility.

165. As long as the ground water remains contaminated due to the Defendants' conduct, each Defendants' trespass continues.

166. Until the ground water is restored to its pre-discharge condition, the Defendants are liable for trespass, and continued trespass, upon public property.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court:

a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages that the Plaintiffs have incurred, including the lost value and reasonable assessment costs for any natural resource of this State injured as a result of the discharge of hazardous substances and pollutants at the Washington Facility, with applicable interest;

b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages that the Plaintiffs may

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

c. Enter judgment against the Defendants, compelling the Defendants to perform, under the DEP's oversight, or to fund the DEP's performance of, any further assessment of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances and pollutants at the Washington Facility, and compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource;

d. Award the Plaintiffs their costs and fees in this action;

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

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

By: /s/ A. Paul Stofa
A. Paul Stofa
Deputy Attorney General

/s/ Daniel J. Harrison
Daniel J. Harrison
Deputy Attorney General

Dated: August 1, 2018

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that A. Paul Stofa, Deputy Attorney General, is hereby designated as trial counsel for the 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 the Plaintiffs at this time, nor is any non-party known to the Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

JURY DEMAND

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

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

By: /s/ A. Paul Stofa_____
A. Paul Stofa
Deputy Attorney General

/s/ Daniel J. Harrison
Daniel J. Harrison
Deputy Attorney General

Dated: August 1, 2018