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

NEW JERSEY DEPARTMENT OF :
ENVIRONMENTAL PROTECTION; THE :
COMMISSIONER OF NEW JERSEY :
DEPARTMENT OF ENVIRONMENTAL :
PROTECTION; and THE ADMINISTRATOR :
OF THE NEW JERSEY SPILL :
COMPENSATION FUND, :
Plaintiffs, :

CIVIL ACTION

COMPLAINT

v. :

LITTLE MASON PROPERTIES, LLC; :
IRFAN HASSAN (Individually); :
FIDELITY BUILDERS, INC.; ASTRO :
CLEANERS, INC.; 1576 MAPLE AVENUE :
ASSOCIATES, LLC; EIGHT COPELAND :
ROAD GROUP, LLC; 1601 MAPLE :
HOLDINGS, LLC; ROAD RUNNER FUEL :
SERVICES, LLC; "XYZ CORPORATIONS" :
1 through 10 (Names Fictitious); :
"JOHN AND/OR JANE DOES" 1 through :
10 (Names Fictitious), :
Defendants. :

Plaintiffs the 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 (the "Administrator") (collectively, "Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by and through their attorney, file this Complaint against the above-named Defendants, and allege as follows:

STATEMENT OF THE CASE

1. This is a civil action pursuant to the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24; the Water Pollution Control Act ("WPCA"), N.J.S.A. 58:10A-1 to -20; the Underground Storage of Hazardous Substances Act ("UST Act"), N.J.S.A. 58:10A-21 to -35, and the common law, to compel the defendants to remediate discharges of hazardous substances at the Little Mason Hillside Site.
2. The Little Mason Hillside Site consists of three properties in Hillside Township that are, or were at one point, owned by Little Mason Properties, LLC ("Little Mason"), specifically 1576 Maple Avenue, 208 Williamson Avenue, and 1601 Maple Avenue. A mixed-use commercial/residential building is located on 1576 Maple Avenue and its parking lot is on the adjacent 208 Williamson Avenue property (collectively, "1576 Maple Site"). A former gas station and current service

station ("Road Runner Fuel Site") is located at 1601 Maple Avenue, which is across the street from the 1576 Maple Site. A map showing the properties that comprise the Little Mason Hillside Site is attached as Exhibit A.

3. Over the years, hazardous substances, including petroleum products, tetrachloroethene ("PCE"), and trichloroethene ("TCE"), have been discharged at the 1576 Maple Site and have not been remediated by the defendants. Exposure to those substances has been linked to kidney dysfunction, respiratory tract irritation, and cognitive and neurological effects.
4. Indoor air sampling of the 1576 Maple Avenue building conducted by DEP in 2014 revealed elevated levels of certain dry cleaning chemicals, specifically PCE and TCE, in the indoor air of the building at levels that constituted an Immediate Environmental Concern ("IEC"). As defendants did not take appropriate action to address the IEC, DEP has taken steps to address the potential human health concern.
5. DEP's investigation determined that the indoor air contamination was the result of vapors from a groundwater plume of PCE and TCE contamination caused by discharges of PCE and TCE from the former Astro Cleaners dry cleaner that operated previously at the 1576 Maple Site. DEP also determined that the PCE/TCE groundwater plume was

- contaminating the indoor air of an off-site building located at 1586 Maple Avenue.
6. In 2013, gasoline was observed leaking from a fuel dispenser at the Road Runner Fuel Site. In late 2017 or early 2018, Little Mason elected to stop fuel service at the Road Runner Fuel Site and took the underground storage tanks ("USTs") located there out of service. To date, the Road Runner USTs have not been properly closed in violation of N.J.A.C. 7:14B-9.1(d).
 7. Gasoline and its components pose threats to the environment and public health when they enter the soil and groundwater. Gasoline persists in soil for long periods of time, impeding plant growth and threatening birds and mammals with irritation and toxicity. Gasoline also poses a threat to human health, as ingesting gasoline or inhaling gasoline vapors can cause dizziness, headaches, lung irritation and nervous system disruptions. See, e.g., Agency for Toxic Substances and Disease Registry, Public Health Statement for Automotive Gasoline, Center for Disease Control (June 1995), <https://www.atsdr.cdc.gov/phs/phs.asp?id=466&tid=83>.
 8. Hillside Township is located in the northern portion of Union County, and is bounded by Irvington to the northwest, Newark to the north and east, Elizabeth to the east and south east, and Union Township to the west. Maple Avenue, which bisects

the Little Mason Hillside Site, is a commercial corridor that cuts through the predominately residential areas that surround the Little Mason Hillside Site. Hillside Township's population is approximately 80.6% minority and the median household income is approximately \$70,079. The Little Mason Hillside Site is located within an Urban Enterprise Zone and is approximately 600 yards from an Opportunity Zone.

9. Historically, low-income communities and communities of color across the country have been exposed to disproportionately high and unacceptably dangerous levels of air, water, and soil pollution, with the accompanying potential for increased public health impacts. But residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018).
10. In furtherance of environmental justice principles, Plaintiffs bring this civil action under the Spill Act, WPCA, UST Act, and the common law, to: compel defendants to remediate the discharges of hazardous substances at the 1576 Maple and Road Runner Fuel Sites under DEP's direct oversight; reimburse Plaintiffs for the costs that they have incurred, and will incur, related to those discharges; order Little Mason and Irfan Hassan to pay treble damages for failing to

comply with the May 16, 2016 Spill Act Directive issued for the 1576 Maple Site; compel defendants to properly close the USTs at the Road Runner Fuel Site; order defendants to pay civil penalties for their failures to comply with applicable law; and hold Irfan Hassan individually liable for Little Mason's and Fidelity Builders, Inc.'s failures to remediate and comply with the law.

11. The defendants named in this action are individuals and/or entities responsible for: a) the discharges of hazardous substances at the 1576 Maple Site and/or the Road Runner Fuel Site; and/or b) the operation and maintenance of the USTs at the Road Runner Fuel Site.

THE PARTIES

12. DEP is a principal department within the executive branch of the New Jersey State government. DEP maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. DEP is vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9. The Spill Act and the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 to -29, empower DEP to compel parties responsible for the discharge of hazardous substances

- to remediate the contamination, and recover costs incurred to remediate hazardous substance discharges using public funds.
13. The Commissioner is the Commissioner of the DEP and maintains her principal office at 401 East State Street, Trenton, Mercer County, New Jersey. The Commissioner is authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of the WPCA and/or UST Act. N.J.S.A. 58:10A-32; N.J.S.A. 58:10A-10.c.
 14. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("Spill Fund") and maintains his principal office at 401 East State Street, Trenton, Mercer County, New Jersey. As the 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.
 15. Defendant Little Mason is a single member, limited liability company organized under the laws of the State of Delaware, with a main business address of P.O. Box 511, Wilmington, Delaware. Little Mason's business registration was revoked on October 23, 2015, for failure to appoint a registered agent. Upon information and belief, Little Mason purchased the 1576 Maple Site on January 29, 2015, and the Road Runner Fuel Site on February 28, 2014.

16. Little Mason registered with the State of New Jersey as a foreign limited liability company on June 29, 2017, with a principal place of business located at 8 Copeland Road, Denville, Morris County, New Jersey. The registered agent was listed as Marc-Roland Theophile. Little Mason's New Jersey business registration was cancelled in 2020.
17. Defendant Fidelity Builders, Inc. ("Fidelity Builders") is a corporation organized under the laws of the State of New Jersey with a main business address of 329 Newark Avenue, Jersey City, Hudson County, New Jersey. Defendant Irfan Hassan is the registered agent and president of Fidelity Builders. Fidelity Builders' business registration was suspended on December 16, 2011.
18. Defendant Irfan Hassan ("Hassan"), also known as "Arfan Hassan" and "Ifran Hassan," is an individual who resides at 70 Crest Drive, South Orange, Essex County, New Jersey. Hassan is the sole member of Little Mason and the president of Fidelity Builders. Upon information and belief, Hassan is the individual in charge of day-to-day activities of both Little Mason and Fidelity Builders, with the authority to correct violations of applicable laws and regulations.
19. Defendant Astro Cleaners, Inc. ("Astro Cleaners") is a corporation organized under the laws of the State of New Jersey, with a last known place of business at 1576 Maple

Avenue, Hillside, Union County, New Jersey. Upon information and belief, Astro has ceased operations.

20. Defendant 1576 Maple Avenue Associates, LLC, also sometimes referred to as 1576 Maple Avenue, LLC, ("1576 Maple Associates") is a domestic limited liability company organized under the laws of the State of New Jersey, with a last known place of business at 1576 Maple Avenue, Hillside, Union County, New Jersey. Its business registration status was revoked in September 2011. Giuseppe Giudice (commonly known as Joe Giudice) is the principal/managing member of 1576 Maple Associates. Upon information and belief, 1576 Maple Associates owned the 1576 Maple Site from February 5, 2008, until January 29, 2015.

21. Defendant Eight Copeland Road Group, LLC ("ECRG") is a domestic limited liability company organized under the laws of the State of New Jersey, with a principal place of business located at 8 Copeland Road, Denville, Morris County, New Jersey. The registered agent was listed as Marc-Roland Theophile. On March 28, 2018, Theophile executed a quit-claim deed on behalf of Little Mason transferring title to the 1576 Maple Site to ECRG for a nominal amount. Hassan and Little Mason filed a Quiet Title action, UNN-C-0005-20, disputing the transfer of title for the 1576 Maple Site and other properties to ECRG; this action is currently pending.

22. Defendant 1601 Maple Holdings, LLC ("1601 Maple Holdings") is a domestic limited liability company organized under the laws of the State of New Jersey, with a principal place of business located at 666 Main Road, P.O. Box 355, Towaco, Morris County, New Jersey. Its business registration status was revoked in January 2009. Giuseppe Giudice (commonly known as Joe Giudice) is the principal/managing member of 1601 Maple Holdings. 1601 Maple Holdings purchased the Road Runner Fuel Site on September 5, 2006.
23. Defendant Road Runner Fuel Services, LLC ("Road Runner") is a domestic limited liability company organized under the laws of the State of New Jersey, with a principal place of business located at 1601 Maple Avenue, Hillside, Union County, New Jersey.
24. Defendants "XYZ Corporations" 1 through 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, tenants of, or are otherwise related to the named Defendants, or are persons who otherwise participated in, or were responsible for, the discharge(s) of hazardous substances and/or the operation and maintenance of the USTs at the subject site(s).
25. Defendants "John and/or Jane Does" 1 through 10, these names being fictitious, are individuals with identities that cannot

be ascertained as of the filing of this Complaint, certain of whom are persons who otherwise participated in, or were responsible for, the discharge(s) of hazardous substances and/or the operation and maintenance of the USTs at the subject site(s).

THE LITTLE MASON HILLSIDE SITE

26. The Little Mason Hillside Site consists of three nearby properties, comprising a total of approximately 0.77 acres of real property, located in a mixed commercial and residential area in the Township of Hillside, Union County, New Jersey, that are, or were, owned by Little Mason.
27. The three properties comprising the Little Mason Hillside Site are:
 - a. 1576 Maple Avenue ("1576 Maple"), also known as Block 424, Lot 18, on the Tax Map of Hillside Township, which DEP has designated as Site Remediation Program Interest Number 521248;
 - b. 208 Williamson Avenue ("208 Williamson"), also known as Block 424, Lot 19, on the on the Tax Map of Hillside Township, which DEP has designated as Site Remediation Program Interest Number 713711; and
 - c. 1601 Maple Avenue ("1601 Maple"), also known as Block 1003, Lot 1, on the Tax Map of Hillside Township, which

DEP has designated as Site Remediation Program Interest Number 016663.

28. A multi-unit, two-story building, with a basement, that contains five residential units and six commercial units is located at 1576 Maple.
29. 208 Williamson is adjacent to 1576 Maple and serves as the parking lot for the 1576 Maple building. Two USTs for the 1576 Maple building were located primarily on 208 Williamson, though a portion of the USTs and connecting piping cross over onto 1576 Maple.
30. 1576 Maple and 208 Williamson are considered one property and have been under common ownership throughout the time period covered in this complaint and are referred to collectively as the "1576 Maple Site." The 1576 Maple Site and wherever contamination has migrated from the 1576 Maple Site is known as the "1576 Maple Contaminated Site."
31. The 1576 Maple Contaminated Site includes at least one off-site property, specifically 1586 Maple Avenue ("1586 Maple"), also known as Block 425, Lot 1, on the on the Tax Map of Hillside Township. 1586 Maple is located directly across Williamson Street from the 1576 Maple Site. A multi-unit, two-story building, with a basement, that contains six residential units and six commercial units is located at 1586 Maple. DEP's investigations determined that 1586 Maple has

been impacted by contamination emanating from the 1576 Maple Site.

32. 1601 Maple is located across the street from the 1576 Maple Site, and is referred to as the "Road Runner Fuel Site." The Road Runner Fuel Site and wherever contamination has migrated from the Road Runner Fuel Site is known as the "Road Runner Fuel Contaminated Site."

GENERAL ALLEGATIONS - 1576 MAPLE CONTAMINATED SITE

33. Astro Cleaners, a dry cleaner, operated in the northeast portion of the commercial building located at the 1576 Maple Site from approximately 1989 until 1991.
34. Prior to purchasing the 1576 Maple Site, 1576 Maple Associates, Little Mason, and ECRG failed to perform any environmental investigation or due diligence.
35. On March 29, 2010, DEP was notified of petroleum product in the basement sump of the building located at 1576 Maple. DEP assigned Incident Report Number 10-03-29-1717-46 to the incident ("1576 Petroleum Discharge").
36. On March 29, 2010, DEP determined that the petroleum product was leaching through the basement wall of the building located at 1576 Maple.
37. On April 5, 2010, DEP conducted a soil investigation behind the building located at 1576 Maple and on the adjacent parking

lot at 208 Williamson. DEP observed petroleum-saturated soil during the investigation.

38. As a result of the investigation, DEP determined that the petroleum product originated on 208 Williamson.
39. On June 20, 2011, DEP filed a Spill Act lien, docketed as DJ 180113-11, in the amount of \$31,056.83 against 1576 Maple Associates for DEP's cleanup and removal costs incurred at 1576 Maple related to the 1576 Petroleum Discharge.
40. On April 1 and 2, 2014, as part of a regional vapor intrusion investigation, DEP conducted vapor intrusion sampling in the basement of the 1576 Maple building, directly below the location of the former drycleaner. DEP detected PCE in the indoor air sample at a concentration of 620 micrograms per cubic meter (" $\mu\text{g}/\text{m}^3$ ") and in the sub-slab soil gas sample at a concentration of 6,000,000 $\mu\text{g}/\text{m}^3$.
41. The concentration of PCE in the indoor air sample was far greater than DEP's Residential and Non-Residential Indoor Air Screening Levels of 9 $\mu\text{g}/\text{m}^3$ and 47 $\mu\text{g}/\text{m}^3$, respectively and DEP's Indoor Air Residential and Non-Residential Rapid Action Levels of 84 $\mu\text{g}/\text{m}^3$ and 360 $\mu\text{g}/\text{m}^3$, respectively. Because the Rapid Action Levels were exceeded, the case was deemed an Immediate Environmental Concern. The PCE concentration in the sub-slab soil gas sample was more than 16,000 times greater than both DEP's Residential and Non-Residential Soil

Gas Screening Levels of 470 $\mu\text{g}/\text{m}^3$ and 2,400 $\mu\text{g}/\text{m}^3$, respectively.

42. As part of the same regional investigation, DEP also conducted vapor intrusion sampling on April 1 and 2, 2014, at the nearby 1586 Maple building. DEP detected PCE and TCE in the indoor air sample at concentrations of 17 $\mu\text{g}/\text{m}^3$ and 3 $\mu\text{g}/\text{m}^3$, respectively, and in the sub-slab soil gas sample at concentrations of 83,000 $\mu\text{g}/\text{m}^3$ and 14,000 $\mu\text{g}/\text{m}^3$, respectively.
43. The concentrations of PCE and TCE in the 1586 Maple indoor air sample were less than or equal to DEP's Residential and Non-Residential Indoor Air Screening Levels of 9 $\mu\text{g}/\text{m}^3$ and 47 $\mu\text{g}/\text{m}^3$, respectively, for PCE, and 3 $\mu\text{g}/\text{m}^3$ and 3 $\mu\text{g}/\text{m}^3$, respectively, for TCE. However, the PCE and TCE concentrations in the 1586 Maple sub-slab soil gas sample were more than ten times greater than DEP's Residential and Non-Residential Soil Gas Screening Levels of 470 $\mu\text{g}/\text{m}^3$ and 2,400 $\mu\text{g}/\text{m}^3$, respectively, for PCE, and 27 $\mu\text{g}/\text{m}^3$ and 150 $\mu\text{g}/\text{m}^3$, respectively, for TCE.
44. On August 12 and 13, 2014, DEP conducted a soil investigation at the 1576 Maple Site and sampled the soil beneath the building's basement. PCE was detected in the soil at a concentration of 5.64 milligrams per kilogram ("mg/kg"), which exceeded DEP's Residential Direct Contact Soil Remediation Standard of 2.0 mg/kg, DEP's Non-Residential

Direct Contact Soil Remediation Standard of 5.0 mg/kg and DEP's Default Impact to Ground Water Screening Level of 0.005 mg/kg that were in effect at the time.

45. On August 12 and 13, 2014, DEP conducted a groundwater investigation at the 1576 Maple Site and detected the following contaminants at the listed concentrations: PCE at 52,524.12 micrograms per liter ("µg/L"), TCE at 3,228.57 µg/L, cis-1,2-dichloroethene at 13,582.85 µg/L, 1,1 dichlorethene at 14.75 µg/L, 1,1,1,2-tetrachloroethane at 63 µg/L, and vinyl chloride at 1,361.17 µg/L.
46. The concentrations of PCE, TCE, 1,1 dichlorethene, 1,1,1,2-tetrachloroethane, and vinyl chloride in the groundwater samples far exceeded DEP's Vapor Intrusion Ground Water Screening Levels of 31 µg/L, 2.0 µg/L, 260 µg/L, 6.0 µg/L, and 1.0 µg/L, respectively, and each contaminant's DEP Ground Water Quality Standard of 1.0 µg/L, 1.0 µg/L, 1.0 µg/L, 1.0 µg/L, and 1.0 µg/L, respectively. The concentration of cis-1,2-dichloroethene in the groundwater samples also far exceeded the DEP Ground Water Quality Standard of 70 µg/L.
47. On September 4, 2014, DEP field investigators/staff reported the groundwater contamination to the DEP Hotline. DEP assigned Incident Report Number 14-09-04-1431-17 to the reported discharge ("1576 PCE/TCE Discharge").

48. On January 29, 2015, a deed was recorded that made it appear that Little Mason acquired title to only 1576 Maple and not to 208 Williamson. Based on that deed, on March 28, 2016, DEP filed a second Spill Act lien, docketed as DJ 053350-16, in the amount of \$31,056.83 against 1576 Maple Associates for DEP's cleanup and removal costs incurred at 208 Williamson related to the 1576 Petroleum Discharge. A corrective deed was later filed on February 23, 2018, to fix the error and clarify the January 29, 2015 deed included 1576 Maple and 208 Williamson.
49. On May 25, 2017, DEP amended DJ 180113-11 to increase the amount of the lien to \$101,492.36 and to name Little Mason in the lien as a discharger and/or person in any way responsible for the hazardous substances. The additional cleanup and removal costs were incurred as a result of DEP's activities related to the 1576 PCE/TCE Discharge.
50. On April 18, 2018, DEP amended DJ 180113-11 again to increase the amount of the lien to \$600,065.37 to reflect DEP's additional cleanup and removal costs related to the 1576 PCE/TCE Discharge.
51. Astro Cleaners used PCE, a common dry cleaning solvent, when it operated on the 1576 Maple Site.
52. Short term exposure to high levels of PCE and TCE can cause central nervous system effects such as headaches, dizziness,

sleepiness, lack of coordination, or effects on vision, hearing, and balance.

53. Long term exposure to PCE and TCE can affect the central nervous system, kidney, liver, immune system, male reproductive system, and the developing fetus.
54. Based upon its investigations through 2014, DEP determined that:
- a. Hazardous substances, including petroleum products, PCE, and TCE were discharged at the 1576 Maple Site;
 - b. A vapor intrusion investigation determined that an Immediate Environmental Concern (pursuant to N.J.A.C. 7:26E-1.8, when contamination in indoor air is at a level greater than DEP's vapor intrusion rapid action level) existed in the 1576 Maple building; and
 - c. Groundwater contamination resulting from the hazardous substances discharged at the 1576 Maple Site migrated onto 1586 Maple resulting in the extremely elevated concentrations of PCE and TCE in the vapors below that building's slab.

DEP's Enforcement Efforts

55. On August 10, 2011, DEP placed a compliance assistance call to Giuseppe Giudice - the principal/managing member of 1576 Maple Associates. During the call, DEP advised Giudice of 1576 Maple Associates' obligation to retain a licensed site

remediation professional ("LSRP") to remediate the petroleum products discharged at 1576 Maple Site. Giudice advised that a LSRP would not be retained.

56. On March 15, 2012, DEP placed another compliance assistance call to Giudice. Giudice again advised that 1576 Maple Associates would not retain a LSRP.
57. On September 19, 2012, DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("1576 Maple Associates AONOCAPA") to 1576 Maple Associates due to its failure to retain an LSRP as required by N.J.A.C. 7:26C-2.2(a), pay fees and oversight costs as required by N.J.A.C. 7:26C-1.4(a), and to submit an initial receptor evaluation as required by N.J.A.C. 7:26C-1.12(c). In the AONOCAPA, DEP assessed a \$55,000 penalty and ordered 1576 Maple Associates to hire an LSRP, complete the remediation, pay fees and oversight costs, and submit an initial receptor evaluation.
58. 1576 Maple Associates received the 1576 Maple Associates AONOCAPA on October 4, 2013.
59. 1576 Maple Associates did not request an administrative hearing, and the AONOCAPA became a final agency order on or about November 4, 2013. DEP docketed the final agency order on December 15, 2014, and the order bears docket number DJ-240157-14.

60. Around May 2018, DEP received payment of the \$55,000 docketed penalty assessed in the 1576 Maple Associates AONOCAPA from Defendant ECRG. However, to date, 1576 Maple Associates has not complied with the 1576 Maple Associates AONOCAPA.
61. On May 16, 2016, DEP sent a letter requesting 1576 Maple Associates sign and return a site access agreement, granting DEP and its contractors access to 208 Williamson to perform the remediation in accordance with the Spill Act, and the regulations promulgated thereunder, specifically N.J.A.C. 7:26C and N.J.A.C 7:26E.
62. LSRP Sam Habib was purportedly retained on January 21, 2015, by Little Mason to address the vapor intrusion issues related to the 1576 Maple Site and other environmental concerns. However, an LSRP retention form was not submitted to DEP confirming the retention.
63. On May 16, 2016, DEP issued a Spill Act Directive and Notice to Insurers ("1576 Maple Directive") to Little Mason pursuant to N.J.S.A. 58:10-23.11f.a. The 1576 Maple Directive ordered Little Mason to clean up and remove the hazardous substances that were discharged at the 1576 Maple Site by remediating those discharges in accordance with N.J.A.C. 7:26C-2.3 and the listed site-specific requirements and timeframes.

64. Specifically, the 1576 Maple Directive ordered Little Mason to hire an LSRP, submit an Initial Receptor Evaluation Form, submit an IEC Response Form, conduct a vapor intrusion investigation (within 90 days), submit a PA/SI, install a soil vapor extraction system, submit an IEC Engineered Response Action Report, submit an IEC source control report, complete a remedial investigation, and implement a remedial action for soil and groundwater.
65. On July 4, 2016, Hassan submitted a letter to DEP confirming that Little Mason would complete, in a timely manner, the vapor intrusion investigation and related tasks recommended by its LSRP to comply with the 1576 Maple Directive and agreed to provide funding to complete the required work.
66. On July 14, 2016, DEP advised Hassan that Little Mason had failed to comply with the 1576 Maple Directive within the specified timeframes.
67. On July 21, 2016, Little Mason's LSRP conducted indoor air and sub-slab sampling at the 1576 Maple Site. The sampling results showed PCE in the indoor air at a concentration of 2,710 $\mu\text{g}/\text{m}^3$ (an increase of 576%) and in the sub-slab soil gas at a concentration of 1,740,000 $\mu\text{g}/\text{m}^3$. On August 8, 2016, the LSRP reported the discharge to the DEP Hotline and DEP

assigned the discharge Incident Report Number 16-08-26-1150-56.

68. Because Little Mason failed to comply with the 1576 Maple Directive within the specified timeframes, DEP also requested that Little Mason sign and return a site access agreement granting DEP and its contractors access to 1576 Maple Site to perform the remediation in accordance with the Spill Act, and the regulations promulgated thereunder, specifically N.J.A.C. 7:26C.
69. When Hassan failed to execute the site access agreement on behalf of Little Mason, DEP filed complaints in the Superior Court of New Jersey, Chancery Division, Union County to obtain access to the 1576 Maple Site, Docket Nos. UNN-C-030-17 and UNN-C-032-17, and the neighboring property, 1586 Maple Avenue. The Court issued orders granting DEP access to the 1576 Maple Site on March 31, 2017. On March 23, 2017, the owner of 1586 Maple executed an access agreement giving DEP access to 1586 Maple.

DEP's Remedial Activities

70. To control the PCE and TCE vapors in the 1576 and 1586 Maple buildings, DEP installed sub-slab depressurization systems ("SSDS") in both buildings. Construction of the SSDS at 1586 Maple began on August 1, 2017, and was completed on October 12, 2017.

71. Installation of the SSDS in the 1576 building began on October 16, 2017 and continued until December 21, 2017.
72. On November 1-2, 2017, DEP installed three monitoring wells at the 1576 Maple Site.
73. As part of the remediation of the 1576 Petroleum Discharge, on November 30, 2017, DEP removed two leaking USTs and the visually contaminated soil associated with the USTs from the 1576 Maple Site.
74. The 1576 Maple Contaminated Site has not been remediated by the defendants and DEP has expended and will continue to expend public funds to operate and maintain the SSDS in both buildings, and to conduct a remedial investigation to determine extent of the contamination.

GENERAL ALLEGATIONS - ROAD RUNNER FUEL CONTAMINATED SITE

75. From approximately 2015 until approximately September 12, 2017, the former Turbo Fuel gas station operated on the Road Runner Fuel Site.
76. Starting around September 12, 2017, a Road Runner Fuel Station began operating on the Road Runner Fuel Site.
77. Prior to purchasing the Road Runner Fuel Site, 1601 Maple Holdings and Little Mason failed to perform any environmental investigation or due diligence.

78. In 1988, a UST system consisting of two 6,000-gallon and one 4,000-gallon gasoline USTs within a common tank field and piping system was installed at the Road Runner Fuel Site ("Road Runner USTs").
79. From September 1, 2012, until July 1, 2014, the UST Registration for the Road Runner USTs listed the UST Owner as "1601 Maple Ave Assoc. LLC," c/o Joe Giudice, and the UST Operator as Fidelity Builders, Inc., c/o Irfan Hassan, President.
80. From July 1, 2014, until June 30, 2015, the UST Registration for the Road Runner USTs listed the UST Owner as "Little Masons, LLC," c/o Irfan Hassan, Owner, and the UST Operator as OL Transporter, LLC, c/o Christopher Tadros, President.
81. From September 12, 2017, until June 30, 2018, the UST Registration for the Road Runner USTs listed the UST Owner as "Little Masons, LLC," c/o Irfan Hassan, Owner, and the UST Operator as Road Runner Fuel Services, LLC, c/o Larry Embry. The 2017-2018 UST Registration is the most recent registration for the Road Runner USTs.
82. Since Little Mason acquired the Road Runner Fuel Site, Little Mason met its financial responsibility obligations for the Road Runner USTs by including the Road Runner USTs in a Nautilus Insurance Policy, which provided coverage for the USTs at approximately twelve gas stations that are, or were,

owned and/or operated by Hassan, Little Mason, Fidelity Builders, and/or other entities owned, related to, or controlled by Hassan.

83. Upon information and belief, gasoline dispensing services stopped at the Road Runner Fuel Site in late 2017 or early 2018. Since that time, an automotive repair facility has operated at the Road Runner Fuel Site.
84. By February 8, 2018, the Road Runner USTs had been removed from the Nautilus Insurance Policy.
85. Pursuant to the Underground Storage Tank Rules, N.J.A.C. 7:14B-9.1(d), any UST which is out of service for greater than 12 months without complying with the requirements of N.J.A.C. 7:14B-9.1(c) shall be closed in accordance with N.J.A.C. 7:14B-9.2 through 9.3.

Enforcement Efforts

86. Over several years, DEP and/or inspectors from the Union County Office of Environmental Health conducted multiple inspections of the Road Runner Fuel Site that identified numerous violations of the UST Regulations and related regulations.
87. On June 19, 2009, an inspector from the Union County Office of Environmental Health Inspection conducted an inspection of the Road Runner Fuel Site and observed the following violations:

- a. The Stage 2 vapor controls on the gasoline pumps were not functioning properly in violation of N.J.A.C. 7:27-16.3(e);
 - b. The cathodic protection system(s) for the USTs and product piping were not functioning properly, and/or not being properly maintained and tested, in violation of N.J.A.C. 7:14B-4.1(a)1 and 2 and N.J.A.C. 7:14B-5.2(a)2i;
 - c. The release detection system was not operating according to manufacturer's specifications in violation of N.J.A.C. 7:14B-6.1(a)2;
 - d. The required monthly release detection monitoring was not being performed in violation of N.J.A.C. 7:14B-6.5(a)4-8;
 - e. The corrosion protection system for the in-service metallic product piping was not functioning properly in violation of N.J.A.C. 7:14B-4.1(a)1; and
 - f. The owner/operator failed to maintain certain test results from the monitoring system in violation of N.J.A.C. 7:14B-6.7(f).
88. On April 9, 2013, an inspector from the Union County Office of Environmental Health conducted an inspection of the Road Runner Fuel Site and observed gasoline leaking from the meters at dispenser 3 onto the soil. The inspector reported the

gasoline discharge to DEP's Hotline and DEP assigned incident number 13-04-09-1108-37 to the discharge ("Gasoline Discharge").

89. On April 9, 2013, the inspector issued a Notice of Violation/Notice of Potential Violation ("NOV") to Joe Giudice for:

- a. The Gasoline Discharge;
- b. Failure to keep spill catchment basins, dispenser sumps and piping sumps clean of product as required by N.J.A.C. 7:14B-15.1(d);
- c. Failure to operate and maintain the Stage 1 and 2 vapor control equipment on the gas pumps in proper working order in violation of the Air Pollution Control Rule, N.J.A.C. 7:27-16.3(d); and
- d. Instructing Joe Giudice to:
 - i. Hire an LSRP and perform a site investigation;
 - ii. Within seven days, repair the rectifier and then test the cathodic protection system to ensure that it operates properly, perform hydrostatic tests on spill buckets, and submit copy of UST insurance policy;
 - iii. Within twenty four hours, replace the damaged hose on the leaking gasoline dispenser, fix the vent pipe, and after repairs are completed test the

Stage 1 vapor control system to ensure that it functions properly, and submit copies of the repair invoices to the inspector; and

iv. Update the facility's air permits to reflect new company name and operator.

90. As a result of the Gasoline Discharge, DEP issued a Delivery Ban/Cease Use Administrative Order ordering Joe Giudice to immediately cease use of Dispenser 3 until the Dispenser was repaired.
91. 1601 Maple Holdings was the owner of 1601 Maple at the time of the Gasoline Discharge. Fidelity Builders was the operator of the Road Runner USTs at the time of Gasoline Discharge.
92. Gasoline and its components pose threats to the environment and public health when they enter the soil and groundwater.
93. Gasoline discharged to soil and groundwater from USTs can also evaporate through soil, and the resulting vapor can intrude into human-occupied spaces that are either currently on the Site, or might be constructed at the Site in the future, and that are located wherever contaminated groundwater has migrated, posing an inhalation threat.
94. Gasoline discharged to groundwater from USTs can be drawn into nearby potable or irrigation wells and ingested, or otherwise contacted, by persons using the wells.

95. Typically, gasoline contains more than 150 chemicals, including benzene, toluene, ethylbenzene and xylene, which also are known as the BTEX compounds.
96. Many adverse health effects of gasoline are due to individual chemicals in gasoline, mainly BTEX, that are present in small amounts.
97. Exposure to BTEX compounds pose a danger to human health, including damage to the liver, kidneys, central nervous system, and eyes.
98. Benzene is a known human carcinogen, and is associated with increased incidence of leukemia.
99. On August 13, 2013, DEP left a message for Hassan advising that the Confirmed Discharge Notification Form should have been submitted within 15 days after the discharge and an LSRP should have been retained within 45 days after the discharge.
100. On April 17, 2014, DEP issued a Notice of Civil Administrative Penalty Assessment ("1601 NOCAPA") to 1601 Maple Holdings and Fidelity Builders, assessing penalties totaling \$39,600 for the violation the release detection requirements in N.J.A.C. 7:14B-6.2(a)1 found during the June 19, 2009 inspection; for the violation of the cathodic protection requirements in N.J.A.C. 7:14B-4.1(a) found during the June 19, 2009 inspection; and for the violations of vapor control

- requirements in N.J.A.C. 7:27-16.3(e) found during the June 19, 2009 and April 9, 2013 inspections.
101. 1601 Maple Holdings and Fidelity Builders did not request an administrative hearing, and the 1601 NOCAPA became a final agency order on or about April 27, 2014. DEP docketed the final agency order against 1601 Maple Holdings on May 5, 2015, (docket number DJ 048395-15) and against Fidelity Builders on March 23, 2015 (docket number DJ 064214-15).
102. On or about May 10, 2018, DEP received payment of the docketed penalty from Defendant ECRG.
103. In 2016, Hassan retained an LSRP for the Gasoline Discharge.
104. On or about April 11, 2016, an Initial Receptor Evaluation ("IRE") was submitted for the Gasoline Discharge. The submitted forms were signed and certified by "Arfan Hassan, Owner," believed to be an alias of Defendant Hassan.
105. In May 2016, an LSRP retained by Hassan conducted limited soil and groundwater sampling at the Road Runner Fuel Site and detected PCE and TCE in one groundwater sample in concentrations of 7.0 and 7.4 µg/L, respectively. No soil samples contained concentrations of volatile organic compounds ("VOCs") exceeding DEP's Impact to Ground Water Soil Screening Levels.
106. The concentrations of TCE in the groundwater sample exceeded DEP's Vapor Intrusion Ground Water Screening Level of 2.0

µg/L and the concentrations of PCE and TCE in the groundwater sample exceeded the Ground Water Quality Standard of 1.0 µg/L for both contaminants.

107. On or about August 31, 2016, a Site Investigation Report ("SIR") was submitted for the Gasoline Discharge and reported the results of the May 2016 sampling. The submitted forms were signed and certified by Hassan.
108. In 2018, DEP received payment of the docketed penalty from Marc-Roland Theophile and the violations identified in the 1601 NOCAPA have been corrected.
109. On July 5, 2018, DEP issued a Notice of Deficiency to Little Mason and Road Runner Fuel (the owner and operator of the Road Runner USTs per the most recent UST registration) advising them that DEP had been informed that the Road Runner USTs had been out-of-service for approximately two years and instructing them to update the UST registration to reflect the current status of the Road Runner USTs; and take the necessary steps to properly close the Road Runner USTs.
110. On July 19, 2019, the LSRP advised DEP that there were still plans to remove the Road Runner USTs.
111. To date, the Road Runner USTs have been out of service for more than two years but have not been properly closed, and a site investigation report has not been submitted, as required by N.J.A.C. 7:14B-9.2 through 9.3.

112. To date, 1601 Maple Holdings and Fidelity Builders have not completed the remedial investigation for the Gasoline Discharge; completed a preliminary assessment to determine the source of the elevated concentration of PCE & TCE in the groundwater sample; or determined if a vapor intrusion investigation of nearby residential properties is required.

FIRST COUNT

Violations of the Spill Act

113. DEP and the Administrator repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

114. Petroleum products, gasoline, PCE, TCE, cis-1,2-dichloroethene, 1,1 dichlorethene, 1,1,1,2-tetrachloroethane, and vinyl chloride are "hazardous substances" as defined in N.J.S.A. 58:10-23.11b.

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

116. The costs that DEP and the Administrator have incurred, and will incur, for the remediation of the 1576 Maple Contaminated Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b., and are recoverable pursuant to N.J.S.A. 58:10-23.11u.b.(2), (4), and (5).
117. Defendants are "persons" within the meaning of N.J.S.A. 58:10-23.11b.
118. Astro Cleaners, as the owner and operator of the 1576 Maple Site at the time hazardous substances were discharged therefrom, is a discharger or a person in any way responsible for hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
119. 1576 Maple Associates, as the owner and operator of the 1576 Maple Site at the time hazardous substances were discharged therefrom, is a discharger or a person in any way responsible for hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).

120. 1576 Maple Associates, Little Mason, and ECRG, as purchasers of the previously contaminated 1576 Maple Site that knew or should have known about the contamination at the time of its acquisition, are persons in any way responsible for hazardous substances, and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
121. Hassan, as the sole member of Little Mason and the person who controls Little Mason, is a person in any way responsible for discharged hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
122. By failing to comply with the 1576 Maple Directive, Little Mason is strictly liable, without regard to fault, in an amount up to three times the cleanup and removal costs that Plaintiffs have incurred, and will incur in the future, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11f.a.(1).

123. Due to Little Mason's failure to comply with the 1576 Maple Directive, Hassan, as the sole member of Little Mason and the person who controls Little Mason, is strictly liable, without regard to fault, in an amount up to three times the cleanup and removal costs that DEP and the Administrator have incurred, and will incur in the future, related to the 1576 Maple Contaminated Site. N.J.S.A. 58:10-23.11f.a.(1).
124. 1601 Maple Holdings, as the operator and owner of the Road Runner Fuel Site at the time hazardous substances were discharged therefrom, is a discharger or a person in any way responsible for hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the Road Runner Fuel Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
125. Fidelity Builders, as the operator of the USTs at the time hazardous substances were discharged therefrom, is a discharger and a person in any way responsible for hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the Road Runner Fuel Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).

126. Hassan, as a person who owned and controlled Fidelity Builders, is a person in any way responsible for discharged hazardous substances, and is therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the Road Runner Fuel Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
127. XYZ Corporations 1-10, are persons in any way responsible for discharged hazardous substances and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
128. John and/or Jane Does 1-10 are persons in any way responsible for discharged hazardous substances and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs DEP and the Administrator have incurred, and will incur, related to the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site. N.J.S.A. 58:10-23.11g.c.(1).
129. 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); and for any other unreimbursed costs DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

130. The Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund pursuant to N.J.S.A. 58:10-23.11q.

131. Pursuant to N.J.S.A. 58:10-23.11u.d, Defendants are subject, upon order of the court, to a civil penalty of up to \$50,000 per day for their failure to remediate the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site, as appropriate. Each day the violation continues is a separate and distinct violation.

WHEREFORE, DEP and the Administrator demand judgment in their favor:

a. For the 1576 Maple Contaminated Site:

i. Ordering Astro Cleaners; 1576 Maple Associates; Little Mason; Hassan; ECRG; XYZ Corporations 1-10; and John and/or Jane Does 1-10 jointly and severally, without regard to fault, to reimburse DEP and the Administrator for all cleanup and removal costs DEP and the Administrator have

incurred related to the 1576 Maple Contaminated Site, with applicable interest;

ii. Ordering Little Mason and Hassan to reimburse DEP and the Administrator, without regard to fault, in an amount equal to three times all cleanup and removal costs DEP and the Administrator have incurred related to the 1576 Maple Contaminated Site, with applicable interest;

iii. Entering declaratory judgment against Astro Cleaners; 1576 Maple Associates; Little Mason; Hassan; ECRG; XYZ Corporations 1-10; and John and/or Jane Does 1-10, jointly and severally, without regard to fault, requiring them to pay all cleanup and removal costs DEP and the Administrator will incur related to the 1576 Maple Contaminated Site;

iv. Entering declaratory judgment against Little Mason and Hassan without regard to fault, in an amount equal to three times all cleanup and removal costs DEP and the Administrator will incur related to the 1576 Maple Contaminated Site;

v. Entering declaratory judgment against Astro Cleaners; 1576 Maple Associates; Little Mason; Hassan; ECRG; XYZ Corporations 1-10; and John

and/or Jane Does 1-10, compelling them to complete the remediation of the 1576 Maple Contaminated Site in accordance with SRRA and all other applicable laws and regulations;

vi. Assessing civil penalties as provided by N.J.S.A. 58:10-23.11u against Astro Cleaners; 1576 Maple Associates; Little Mason; Hassan; ECRG; XYZ Corporations 1-10; and John and/or Jane Does 1-10 for their failure to remediate the 1576 Maple Contaminated Site;

b. For the Road Runner Fuel Contaminated Site:

i. Ordering 1601 Maple Holdings; Little Mason; Fidelity Builders; Hassan; XYZ Corporations 1-10; and John and/or Jane Does 1-10, jointly and severally, without regard to fault, to reimburse DEP and the Administrator for all cleanup and removal costs Plaintiffs have incurred related to the Road Runner Fuel Contaminated Site, with applicable interest;

ii. Entering declaratory judgment against 1601 Maple Holdings; Little Mason; Fidelity Builders; Hassan; XYZ Corporations 1-10; and John and/or Jane Does 1-10, jointly and severally, without regard to fault, requiring them to pay all cleanup and removal costs

DEP and the Administrator will incur related to the Road Runner Fuel Contaminated Site;

- iii. Entering declaratory judgment against 1601 Maple Holdings; Little Mason; Fidelity Builders; Hassan; XYZ Corporations 1-10; and John and/or Jane Does 1-10, compelling them to complete the remediation of the Road Runner Fuel Contaminated Site in accordance with SRRA and all other applicable laws and regulations;
- iv. Assessing civil penalties as provided by N.J.S.A. 58:10-23.11u against 1601 Maple Holdings; Little Mason; Fidelity Builders; Hassan; XYZ Corporations 1-10; and John and/or Jane Does 1-10 for their failure to remediate the Road Runner Fuel Contaminated Site;
- c. Awarding DEP and the Administrator their costs and fees incurred in this action;
- d. Awarding DEP and the Administrator any other relief this Court deems appropriate; and
- e. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site.

SECOND COUNT

Violations of the Water Pollution Control Act

132. The Commissioner repeats and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.
133. Except as otherwise exempted pursuant to N.J.S.A. 58:10A-6.d. and p., 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. §1251 to 1387. N.J.S.A. 58:10A-6.a.
134. 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-6(a).
135. Petroleum products, gasoline, PCE, TCE, cis-1,2-dichloroethene, 1,1 dichlorethene, 1,1,1,2-tetrachloroethane, and vinyl chloride are "pollutants" as defined in N.J.S.A. 58:10A-3(u).
136. Defendants are "persons" within the meaning of N.J.S.A. 58:10A-3.

137. Astro Cleaners and 1576 Maple Associates discharged pollutants at the 1576 Maple Site; these discharges were neither permitted under N.J.S.A. 58:10A-6.a., nor exempted under N.J.S.A. 58:10A-6.d. or N.J.S.A. 58:10A-6.p.
138. 1601 Maple Holdings and Fidelity Builders discharged pollutants at the Road Runner Fuel Site; these discharges were neither permitted under N.J.S.A. 58:10A-6.a., nor exempted under N.J.S.A. 58:10A-6.d. or N.J.S.A. 58:10A-6.p.
139. Pursuant to N.J.S.A. 58:10A-3, a "person" includes a "responsible corporate official."
140. Hassan is a "person" within the meaning of N.J.S.A. 58:10A-3 because he is both Little Mason's and Fidelity Builders' "responsible corporate official," and he is therefore liable, without regard to fault, for all costs incurred related to the discharge of pollutants at the 1576 Maple Site and the Road Runner Fuel Site. N.J.S.A. 58:10A-6.a.
141. The Commissioner has incurred, and will incur, costs and damages because of the discharges of pollutants at the 1576 Maple Site and the Road Runner Fuel Site.
142. The costs and damages the Commissioner has incurred, and will incur, for the 1576 Maple Contaminated Site and the Road Runner Fuel Contaminated Site are recoverable within the meaning of N.J.S.A. 58:10A-10.c.(2)to(4).

143. Pursuant to N.J.S.A. 58:10A-10.c., the Commissioner may bring an action in the Superior Court for: injunctive relief, N.J.S.A. 58:10A-10.c.(1); the reasonable costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10.c.(2); the reasonable costs 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-10.c.(3); 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-10.c.(5).

WHEREFORE, the Commissioner demands judgment in her favor:

a. Permanently enjoining Astro Cleaners; 1576 Maple Associates; Little Mason; Hassan; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10; and John

and/or Jane Does 1-10 by requiring Defendants to remove, correct, or terminate the adverse effect upon water quality resulting from any unauthorized discharge(s) of pollutants;

- b. Entering an order requiring defendants Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10; and John and/or Jane Does 1-10, without regard to fault, to pay DEP its reasonable costs incurred for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;
- c. Entering declaratory judgment against Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10; and John and/or Jane Does 1-10, 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;
- d. Entering an order requiring Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10; and John

- and/or Jane Does 1-10, without regard to fault, to pay DEP all reasonable costs it incurred removing, correcting or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at 1576 Maple Site and Road Runner Fuel Site;
- e. Entering declaratory judgment against Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10 and John and/or Jane Does 1-10, without regard to fault, requiring them to pay DEP all reasonable costs it will incur removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at 1576 Maple Site and Road Runner Fuel Site;
- f. Entering an order requiring Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10; and John and/or Jane Does 1-10, without regard to fault, to pay 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 these Defendants have enjoyed as a result of a competitive

market advantage, or any other benefit they have received from having violated the WPCA;

- g. Entering declaratory judgment against Little Mason; 1576 Maple Associates; Astro Cleaners; 1601 Maple Holdings; Fidelity Builders; XYZ Corporations 1-10 and John and/or Jane Does 1-10, without regard to fault, requiring these Defendants to pay DEP 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 to them as a result of a competitive market advantage these Defendants have enjoyed, or any other benefit that will accrue to them as a result of having violated the WPCA;
- h. Awarding the Commissioner her costs and fees in this action;
- i. Awarding the Commissioner such other relief as this Court deems appropriate; and
- j. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site.

THIRD COUNT

Violations of the UST Act

144. The Commissioner repeats and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.
145. An "owner or operator who intends to close [an] underground storage tank system shall implement a closure plan which consists of a site investigation set forth in N.J.A.C. 7:26E-3.3 and a tank decommissioning plan" N.J.A.C. 7:14B-9.2.
146. When there is a suspected discharge of a hazardous substance, the owner or operator of a UST is required to investigate for a suspected release. N.J.A.C. 7:14B-7.1. If the investigation is inconclusive as to whether a discharge occurred, the owner or operator is required to conduct a site investigation pursuant to N.J.A.C. 7:26E-3.14. N.J.A.C. 7:14B-7.2.
147. Little Mason is the most recent registered owner of the Road Runner USTs and the most recent registered UST Operator is Road Runner.
148. Gasoline dispensing services stopped at the Road Runner Fuel Site in late 2017/early 2018.
149. As of February 8, 2018, the Road Runner USTs were removed from the Nautilus Insurance Policy that covers USTs at

approximately twelve gas stations that are, or were, owned and/or operated by Hassan, Little Mason, Fidelity Builders, and/or other entities owned or controlled by Hassan.

150. Pursuant to N.J.A.C. 7:14B-9.1(d), any UST that is out of service for greater than 12 months without complying with the requirements of N.J.A.C. 7:14B-9.1(c) shall be closed in accordance with N.J.A.C. 7:14B-9.2 through 9.3.

151. Due to the removal from the Nautilus Insurance Policy, and Little Mason's and Road Runner's failure to maintain a UST registration and failure to perform release detection monitoring, the Road Runner USTs have not been in compliance with the requirements of N.J.A.C. 7:14B-9.1(c) and must be closed in accordance with N.J.A.C. 7:14B-9.2 through 9.3.

152. On July 19, 2019, Little Mason's LSRP advised DEP that Little Mason still plans to remove the Road Runner USTs.

153. To date, the Road Runner USTs have been out of service for more than two years but have not been closed and removed as required by N.J.A.C. 7:14B-9.2 through 9.3.

WHEREFORE, the Commissioner demands judgment in her favor:

- a. Declaring Little Mason and Road Runner to be in violation of the UST Act and its implementing regulations;
- b. Ordering Little Mason and Road Runner to obtain a Notice of Intent permit to remove the Road Runner USTs and

provide notification to DEP at least 14 calendar days prior to removal work beginning;

- c. Ordering Little Mason and Road Runner to conduct a site investigation for the closure of the Road Runner USTs in accordance with all applicable laws and regulations;
- d. Ordering Little Mason and Road Runner to fully investigate and remediate all discharges discovered at and from the Road Runner USTs in accordance with all applicable laws and regulations;
- e. Ordering Little Mason and Road Runner to pay a civil penalty pursuant to N.J.S.A. 58:10A-10.e;
- f. Ordering Little Mason and Road Runner to compensate the Commissioner for all reasonable costs that have been and will be incurred for any investigation, inspection, or monitoring that led, or will lead, to the establishment of a violation, including the costs of preparing and litigating the case;
- g. Ordering Little Mason and Road Runner to pay the Commissioner the actual amount of any economic benefits they have accrued or will accrue, including any savings realized from avoided capital or noncapital costs, the returns they have earned or will earn on the amount of avoided capital or noncapital costs, any benefits they have enjoyed or will enjoy as a result of a competitive

market advantage, or any other benefit they have received or will receive as a result of having violated the UST Act;

- h. Awarding the Commissioner her costs and fees in this action;
- i. Awarding the Commissioner any other relief that this Court deems just and proper; and
- j. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site.

FOURTH COUNT

Unjust Enrichment

- 154. The Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.
- 155. Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan have failed to perform or fund the remediation of the 1576 Maple Contaminated Site.
- 156. Plaintiffs have used and will continue to use public funds to remediate the 1576 Maple Contaminated Site.
- 157. Plaintiffs' expenditure of public funds for the remediation of the 1576 Maple Contaminated Site, which was and is these

Defendants' obligation to fully fund and/or perform, has unjustly enriched Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan.

158. Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan have not reimbursed Plaintiffs for the funds Plaintiffs have spent to conduct the remediation of the 1576 Maple Contaminated Site.

WHEREFORE, Plaintiffs demand judgment in their favor:

- a. Declaring that Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan have been unjustly enriched by Plaintiffs' expenditure of public funds to perform the remediation of the 1576 Maple Contaminated Site;
- b. Ordering Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan to reimburse Plaintiffs for the costs Plaintiffs have incurred, and will incur, to perform the remediation of the 1576 Maple Contaminated Site, with applicable interest;
- c. Entering judgment against Astro Cleaners, Little Mason, 1576 Maple Associates, and Hassan for all other compensatory and consequential damages; and
- d. Awarding the Plaintiffs such other relief as this Court deems appropriate.

FIFTH COUNT

Individual Liability under the Common Law against
Hassan

159. The Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.
160. Hassan is the sole member of Little Mason and the president of Fidelity Builders.
161. DEP personnel have had numerous conversations and communications with Hassan concerning the compliance issues at both the 1576 Maple Site and the Road Runner Fuel Site.
162. Hassan is the individual in charge of day-to-day activities of both Little Mason and Fidelity Builders, and has the authority to correct violations of applicable laws and regulations.
163. Hassan has failed to take the actions necessary for Little Mason and Fidelity Builders to remediate the 1576 Maple Contaminated Site and the Road Runner Fuel Contaminated Site as required by the Spill Act and SRRA.
164. "Corporate officials" who exercise complete dominance over corporate entities responsible for statutory violations, including the Spill Act, SRRA, the UST Act, and Final Orders, and who abuse the corporate forms of such entities, are individually liable for such statutory violations.

165. As the sole member of Little Mason, Hassan is solely responsible for ensuring that Little Mason complies with New Jersey's environmental laws and regulations and has the full authority and ability to take any and all necessary actions in order to ensure that Little Mason complies with all applicable law and regulations.

166. As the president of Fidelity Builders and designated contact person for the operator on the Turbo Fuel UST registration at the time of the Gasoline Discharge, Hassan is responsible for ensuring that Fidelity Builders complies with New Jersey's environmental laws and regulations and has the full authority and ability to take any and all necessary actions in order to ensure that Fidelity Builders complies with all applicable law and regulations.

WHEREFORE, Plaintiffs demand judgment in their favor against Hassan, individually:

- a. Ordering Hassan, jointly and severally, without regard to fault, to reimburse DEP for any and all cleanup and removal costs DEP has incurred related to the 1576 Maple Contaminated Site, with applicable interest;
- b. Entering declaratory judgment against Hassan, jointly and severally, without regard to fault, for all cleanup and removal costs DEP will incur as related to the 1576

Maple Contaminated Site and the Road Runner Fuel Contaminated Site;

- c. Entering declaratory judgment against Hassan, compelling him to perform the remediation of the 1576 Maple Contaminated Site and the Road Runner Fuel Contaminated Site in accordance with SRRA and all other applicable laws and regulations;
- d. Awarding DEP its costs and fees incurred in this action;
- e. Finding Hassan in violation of the final agency orders;
- f. Granting such other relief as the Court deems just and proper; and
- g. Reserving the right to bring a claim against Defendants in the future for natural resource damages arising out of the 1576 Maple Contaminated Site and/or the Road Runner Fuel Contaminated Site.

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

Dated: August 27, 2020

By: S/ Buffy L. Wilson
Buffy L. Wilson
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Buffy L. Wilson, 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

- a. The matters in controversy in this action are the subject of the following related actions:
 - i. Jest Holdings LLC v. Eight Copeland Road Group LLC, et al., Docket No. SWC-F-00756-19. This is a foreclosure action by the mortgage holder on the 1576 Maple Site, in which Little Mason and Hassan have intervened; and
 - ii. Irfan Hassan, et al., v. Marc-Roland Theophile, et al., Docket No. UNN-C-0005-20. This is a quiet title/fraudulent transfer action concerning approximately 15 properties allegedly fraudulently transferred by Theophile to ECRG from Little Mason. Approximately thirteen foreclosure actions, in various states of progress, and five title actions, spread over five counties, have been consolidated into this case;

iii. Township of Little Falls vs. Little Mason Properties, LLC, et al., Docket No.: PAS L-000334-20. This is a condemnation action of a residential property owned by Little Mason by the Township of Little Falls. The Spill Fund was named as a defendant due to its Spill Fund lien, DJ 180113-11, against Little Mason which attached to all real property owned by Little Mason. Little Mason also filed a cross claim against the Spill Fund disputing the amount of the Spill Fund lien.

b. There is no 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).

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

Dated: August 27, 2020

By: S/ Buffy L. Wilson
Buffy L. Wilson
Deputy Attorney General

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

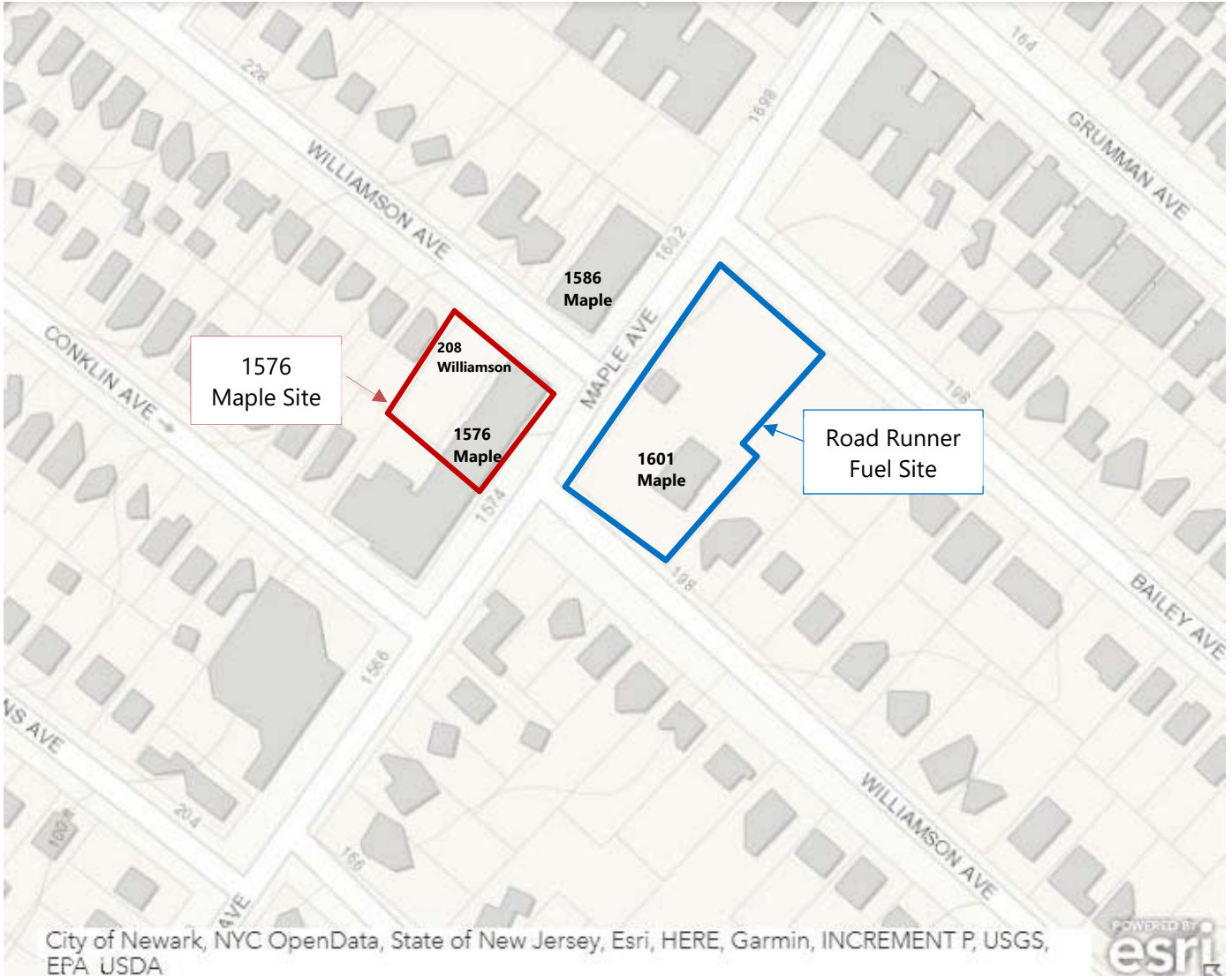
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

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

Dated: August 27, 2020

By: S/ Buffy L. Wilson
Buffy L. Wilson
Deputy Attorney General

EXHIBIT A - Map of the Little Mason Hillside Site



Civil Case Information Statement

Case Details: UNION | Civil Part Docket# L-002746-20

Case Caption: NJ DEP'T OF ENV'TL P ROTECTION VS
LITTLE MASON P

Case Initiation Date: 08/27/2020

Attorney Name: BUFFY L WILSON

Firm Name: ATTORNEY GENERAL LAW

Address: 25 MARKET STREET PO BOX 93

TRENTON NJ 08625

Phone:

Name of Party: PETITIONER : NJ Dep't of Env'tl Protection

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: ENVIRONMENTAL/ENVIRONMENTAL COVERAGE
LITIGATION

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: NJ Dep't of Env'tl Protection?
NO

Are sexual abuse claims alleged by: Commissioner of NJDEP? NO

Are sexual abuse claims alleged by: Administrator of NJ Spill Fund? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

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

08/27/2020
Dated

/s/ BUFFY L WILSON
Signed