

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

STATE OF OHIO, ex rel.
MICHAEL DEWINE
OHIO ATTORNEY GENERAL
30 East Broad Street, 25th Floor
Columbus, Ohio 43125,

Plaintiff,

v.

SOIL REMEDIATION INCORPORATED
c/o David Gennaro, Statutory Agent
6065 Arrel-Smith Road
Lowellville, Ohio 44436,

and

DAVID GENNARO
7777 Silver Fox Drive
Youngstown, Ohio 44512,

and

FRANK NAPLES
3044 Thunderbird Drive
Poland, Ohio 44514,

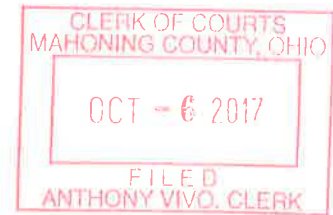
Defendants.

CASE NO.

17-CV-2677

JUDGE

Sweeney



COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTY

Defendants Soil Remediation Incorporated, David Gennaro, and Frank Naples (“Defendants”) have violated Ohio’s air and water pollution control, hazardous waste, and oil and gas laws, codified in Ohio Revised Code (“R.C.”) Chapters 3704, 6111, 3734, and 1509, respectively, and the applicable rules and permits adopted pursuant to those chapters, at their soil remediation facility located at 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio (“Facility”).

Specifically, Defendants have violated the terms and conditions of the Facility's air pollution control permit; failed to install proper storm water controls at the Facility, which has resulted in the unlawful discharge of pollutants to waters of the state; unlawfully stored and disposed of hazardous waste at the Facility; and illegally disposed of oil field waste materials at the Facility.

Plaintiff, State of Ohio ("Plaintiff or State"), by and through its counsel, Ohio Attorney General Michael DeWine, and at the written request of the Director of the Ohio Environmental Protection Agency ("Director" and "Ohio EPA," respectively), and the Chief of the Division of Oil and Gas Resource Management at the Ohio Department of Natural Resources ("ODNR"), therefore institutes this action against Defendants to enforce R.C. Chapters 1509, 3704, 6111, and 3734, and the applicable rules promulgated and permits issued thereunder.

Pursuant to Rule 8(A) of the Ohio Rules of Civil Procedure, Plaintiff states that this Complaint seeks civil penalties in excess of twenty-five thousand dollars (\$25,000.00).

GENERAL ALLEGATIONS

1. Defendants are proper parties to this complaint. Each Defendant is a "person" as defined by R.C. sections 1.59, 1509.01, 3704.01, 6111.01, and 3734.01.
2. Defendant Soil Remediation Incorporated ("SRI") is an Ohio corporation in good standing and registered with the Secretary of State to conduct business in the State of Ohio since 1991. At all times relevant to this Complaint, SRI maintained a principal place of business at 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio 44436.
3. At all times relevant to this Complaint, SRI owned and/or operated the Facility located at 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio 44436.

4. Upon information and belief, SRI is engaged in the business of processing aggregate stone and slag, and treating petroleum-contaminated soil with an onsite thermal soil remediation unit (“SRU”).

5. Upon information and belief, SRI’s industrial activities at the Facility are categorized by Standard Industrial Classification (“SIC”) Code 1442: Construction Sand and Gravel. SIC Codes are four-digit numerical codes assigned by the U.S. government to business entities to classify the primary business of the entity by industry area.

6. Defendant David Gennaro (“Gennaro”) is an individual with a business address of 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio 44436.

7. Upon information and belief, Defendant Gennaro is the owner and President of SRI.

8. Defendant Gennaro, by virtue of his position as the owner and President of SRI, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law as alleged in this Complaint. In addition or in the alternative, Defendant Gennaro knew about or should have known about these violations, and by himself or in conjunction with others, had the authority to prevent or stop these violations but failed to exercise his authority to do so. Defendant Gennaro is personally liable for these violations as alleged in this Complaint.

9. Defendant Frank Naples (“Naples”) is an individual with a business address of 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio 44436.

10. Upon information and belief, Defendant Naples is the Manager of SRI.

11. Defendant Naples, by virtue of his position as the Manager of SRI, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law

as alleged in this Complaint. In addition or in the alternative, Defendant Naples knew about or should have known about these violations, and by himself or in conjunction with others, had the authority to prevent or stop these violations but failed to exercise his authority to do so. Defendant Naples is personally liable for these violations as alleged in this Complaint.

12. Venue lies in the Mahoning County Court of Common Pleas pursuant to Civ. R. 3(B).

AIR POLLUTION CONTROL GENERAL ALLEGATIONS

13. Ohio's air pollution control laws, codified in R.C. Chapter 3704, are designed to protect and enhance the quality of the state's air resources so as to promote the public health, welfare, economic vitality, and productive capacity of the people of the state. R.C. 3704.02.

14. Defendants are "owner[s] or operator[s]," as defined in Ohio Administrative Code ("Ohio Adm.Code") 3745-15-01, of the soil remediation operation located at 6065 Arrel-Smith Road, Lowellville, Mahoning County, Ohio 44436.

15. The soil remediation operation is a "facility" as defined by Ohio Adm.Code 3745-15-01.

16. As part of the soil remediation operation, Defendants operate, or operated, equipment and conduct, or conducted, other activities that emit or cause the emission of "air contaminants" as defined in R.C. 3704.01 and Ohio Adm.Code 3745-15-01.

17. The equipment, operations, and/or activities referenced in paragraph 16 constitute "air contaminant sources," as defined in R.C. 3704.01 and Ohio Adm.Code 3745-31-01, and are "emissions units" as defined in Ohio Adm.Code 3745-31-01.

18. On September 1, 2009, Ohio EPA issued Permit-to-Install and Operate (PTIO) No. P0105320 for Defendants' Facility. The PTIO covers Emissions Unit F001 (Parking lots

and roadways); Emissions Unit F002 (Storage of soils); and Emissions Unit P902 (Soil Remediation Unit).

19. Defendants have, on numerous occasions, operated their soil remediation operation in violation of the terms of PTIO No. P0105320. The violations include, but are not limited to, failing to conduct an emissions test and operating the SRU without complying with the operational restrictions in PTIO No. P0105320, which have an impact on human health and the environment.

20. Revised Code 3704.05(C) provides, in part, that no person who is the holder of a permit issued pursuant to R.C. 3704.03(F) or (G) shall violate any of the permit's terms or conditions.

21. All air pollution control rules referenced in this Complaint have been adopted by the Director pursuant to R.C. Chapter 3704.

22. The general allegations contained in the preceding paragraphs are applicable to Air Pollution Counts One through Five of the Complaint and are incorporated by reference into each as if fully restated therein.

COUNT ONE (AIR POLLUTION)
FAILURE TO PERFORM REQUIRED STACK TEST FOR EMISSIONS UNIT P902

23. PTIO P0105320 requires Defendants to perform emissions testing for emissions unit P902 within one year of the permit issuance and at approximately 2.5 year intervals from the date of the last emissions test demonstrating compliance.

24. Defendants last conducted emissions testing on November 1, 2011. The results of this test were submitted to Ohio EPA on January 12, 2012.

25. From at least July 13, 2014 until present, Defendants failed to perform the required emissions testing for emissions unit P902.

26. The acts or omissions alleged in this Count constitute violations of PTIO P0105320, and R.C. 3704.05(C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3704.06(B) and civil penalties of up to \$25,000 for each day of each violation pursuant to R.C. 3704.06(C), including each day of violation subsequent to the filing of this Complaint.

COUNT TWO (AIR POLLUTION)
OPERATION OF EMISSIONS UNIT P902 IN VIOLATION OF PERMIT

27. PTIO P0105320 requires Defendants, when accepting soils from a site regulated by the State Fire Marshall - Bureau of Underground Storage Tanks (BUSTR) to take a representative sample of the soil to have it analyzed and the results certified by an independent laboratory.

28. Defendants submitted laboratory reports for a project with a sample date of June 26, 2014. The results of this report indicate that the sample taken was not a “representative” sample.

29. PTIO P0105320 requires Defendants, when accepting soils from a site not regulated by the BUSTR, to take a representative sample of the soil and have it analyzed and the results certified by an independent laboratory.

30. Defendants submitted laboratory reports for a project with a sample date of June 13, 2014 and August 8, 2014. The results of these reports indicate that the samples taken were not “representative” samples.

31. The acts alleged in this Count constitute violations of PTIO P0105320, and R.C. 3704.05(C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3704.06(B) and civil penalties of up to \$25,000 for each day of each violation pursuant to R.C. 3704.06(C), including each day of each violation subsequent to the filing of this Complaint.

COUNT THREE (AIR POLLUTION)
FAILURE TO SUBMIT COMPLETE REPORTS

32. PTIO P0105320 requires Defendants to submit an annual permit evaluation report for emissions units F001, F002, and P902.

33. From at least October 10, 2012 and continuing to the present, Defendants submitted permit emissions reports that did not contain all of the required reporting information for emissions units F001, F002, and P902.

34. The acts alleged in this Count constitute violations of PTIO P0105320 and R.C. 3704.05(C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3704.06(B) and civil penalties of up to \$25,000 for each day of each violation pursuant to R.C. 3704.06(C), including each day of each violation subsequent to the filing of this Complaint.

COUNT FOUR (AIR POLLUTION)
IMPROPER STORAGE OF CONTAMINATED SOIL

35. PTIO P0105320 requires Defendants to store all contaminated soil in an enclosure with a paved floor.

36. On September 25, 2015, and other dates to be discovered, Defendants stored a pile of petroleum-contaminated soils on the ground without a paved floor, outside of the enclosure.

37. The acts or omissions alleged in this Count constitute violations of PTIO P0105320 and R.C. 3704.05(C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3704.06(B) and civil penalties of up to \$25,000 for each day of each violation pursuant to R.C. 3704.06(C), including each day of each violation subsequent to the filing of this Complaint.

COUNT FIVE (AIR POLLUTION)
FAILURE TO MAINTAIN RECORDS

38. PTIO P0105320 requires Defendants to maintain daily records for the methods used to control emissions from emissions unit F001.

39. From at least October 10, 2012 and continuing to the present, Defendants failed to maintain complete daily records for the methods used to control emissions from emissions unit F001.

40. PTIO P0105320 requires Defendants to maintain daily records for the methods used to control emissions from emissions unit F002.

41. From at least October 10, 2012 and continuing to the present, Defendants failed to maintain complete daily records for the methods used to control emissions from emissions unit F002.

42. PTIO P0105320 requires Defendants to maintain daily records for emissions unit P902.

43. From at least October 10, 2012 and continuing to the present, Defendants failed to maintain complete daily records for the methods used to control emissions from emissions unit P902.

44. PTIO P0105320 requires Defendants to maintain quarterly records for emissions units F001 and F002.

45. From at least October 10, 2012 and continuing to the present, Defendants failed to properly maintain complete quarterly records for emissions units F001 and F002.

46. The acts or omissions alleged in this Count constitute violations of the PTIO P0105320 and R.C. 3704.05(C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3704.06(B) and civil penalties of up to \$25,000 for each day of

each violation pursuant to R.C. 3704.06(C), including each day of each violation subsequent to the filing of this Complaint.

WATER POLLUTION CONTROL GENERAL ALLEGATIONS

47. Ohio Administrative Code 3745-38-02(A), adopted under R.C. 6111.03(G) and 6111.035(D), provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without applying for and obtaining an Ohio individual National Pollutant Discharge Elimination System (“NPDES”) permit, in accordance with the requirements of Ohio Adm.Code Chapter 3745-33, or obtaining authorization to discharge under a general NPDES permit in accordance with the requirements of Ohio Adm.Code Chapter 3745-38.

48. Ohio Administrative Code 3745-38-01, defines “Discharge of a pollutant or pollutants” to mean the “addition of any pollutant to waters of the state from a point source.”

49. Ohio Administrative Code 3745-38-01, defines “Pollutant” to mean sewage, industrial waste, or other waste as defined by R.C. 6111.01(B), (C), and (D), respectively.

50. Ohio Administrative Code 3745-38-01, defines “Point Source” to mean, in part, “any discernible, confined, discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged.”

51. Revised Code 6111.01(C) defines “Industrial Waste” to mean “any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.”

52. Revised Code 6111.01(D), defines “Other wastes” to mean, in part, “garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris, sand, oil, dredged or fill material, or silt, other substances that are not sewage, sludge, sludge materials, or industrial waste, and any other ‘pollutants’ or ‘toxic pollutants’ defined in the Federal Water Pollution Control Act [the “Act”] that are not sewage, sludge, sludge materials, or industrial waste.”

53. Revised Code 6111.01(H) and Ohio Adm.Code 3745-38-01, define “Waters of the state,” to mean “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial ... that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction...”

Industrial Storm Water Permitting Requirements

54. Revised Code 6111.03(J)(1) authorizes the Director of the Ohio EPA to issue permits, and requires that any permit terms and conditions set by the Director shall be designed to achieve and maintain full compliance with the mandatory requirements of the Federal Water Pollution Control Act (“Act”), 33 U.S.C. 1251 et seq., that are imposed by regulation of the Administrator of the U.S. EPA. In accordance with Section 402(p) of the Act, 33 U.S.C. 1342(p), the U.S. EPA Administrator imposed, by regulation, requirements to regulate storm water discharges associated with industrial activity.

55. Ohio Administrative Code 3745-38-03, effective May 19, 2000 through June 30, 2010, and Ohio Adm.Code 3745-38-02, effective July 1, 2010 to present, authorize the Director to issue a general NPDES permit to regulate storm water point sources in Ohio.

56. On December 15, 2011, the Ohio EPA issued NPDES General Permit Authorization to Discharge Storm Water Associated with Industrial Activity No. OHR000005

(“Multi-Sector General Permit” or “MSGP”). The effective date of the Multi-Sector General Permit was January 1, 2012. The Multi-Sector General Permit expired on December 31, 2016.

57. Ohio Administrative Code 3745-38-02, states that the Director may require any person who has submitted a notice of intent to obtain coverage under a general NPDES Permit.

58. Ohio Administrative Code 3745-38-01, defines “Notice of Intent” or “NOI” to “mean the form used to request coverage” under an Ohio NPDES General Permit.

59. On January 12, 2012, Defendant SRI submitted an NOI application to the Ohio EPA to obtain coverage under the Multi-Sector General Permit. On March 9, 2012, the Ohio EPA approved the application request. The effective date of coverage was April 1, 2012. Defendant SRI was assigned Ohio EPA Facility Permit No. 3GR01022*EG.

60. Part 1.3.1 of the MSGP required Defendants, even before submitting an NOI to Ohio EPA, to develop a Storm Water Pollution Prevention Plan (“SWPPP”) pursuant to the requirements in Part 5 of the MSGP and 40 C.F.R. Part 122.

61. A SWPPP is a site-specific, written document that identifies potential sources of storm water pollution at certain industrial facilities and describes the storm water control measures, best management practices, and procedures to be implemented at the site to reduce or eliminate pollutants in storm water discharges to waters of the state.

62. In 2005, Defendants developed a SWPPP to document the selection, design, and installation of control measures that will be implemented at the Facility to reduce or eliminate pollutants in storm water discharges to waters of the state. Defendants revised the SWPPP in 2006, 2012, and 2013.

63. Defendants have repeatedly failed to implement the control measures, best management practices, and procedures listed in the SWPPP, and have failed to comply with the

requirements of the MSGP, resulting in the unlawful discharge of pollutants to waters of the State.

64. Revised Code 6111.04(A) prohibits any person from causing pollution or placing or causing to be placed “any sewage, sludge, sludge materials, industrial waste or other wastes in a location where they cause pollution of any waters of the state” unless that person holds a valid, unexpired [NPDES] permit to do so. Such an action constitutes a “public nuisance,” pursuant to R.C. 6111.04(A)(2).

65. Ohio Administrative Code 3745-1-04 provides that “[t]o every extent practical and possible as determined by the Director, [surface waters of the state] shall be * * * free from suspended solids or other substances that enter the waters as a result of human activity * * * that will adversely affect aquatic life.”

66. Revised Code 6111.07(A) prohibits any person from violating, or failing to perform any duty imposed by R.C. 6111.01 to 6111.08 or violating any order, rule, or term or condition of a permit issued or adopted by the Director of Environmental Protection pursuant to those sections. Each day of violation is a separate offense.

67. All water pollution control rules referenced in this Complaint have been adopted by the Director pursuant to R.C. Chapter 6111.

68. The general allegations contained in the preceding paragraphs are applicable to Water Pollution Counts Six through Fourteen of the Complaint and are incorporated by reference into each as if fully restated therein.

COUNT SIX (WATER POLLUTION)
FAILURE TO PROPERLY STORE CONTAMINATED SOILS

69. Part 2.1 of the MSGP required Defendants to select, design, install, and implement control measures to meet the requirements for control measures and/or best management practices listed in Part 2.1.2 of the MSGP to minimize pollution discharges at the Facility.

70. Part 2.1.2.1 of MSGP required Defendants to install and implement control measures and/or best management practices at the Facility to minimize or eliminate the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff by either locating industrial materials and activities inside or protecting them with storm resistant coverings.

71. Section 3.5.2 of the 2012 revised SWPPP and Section 3.5.4 of the 2013 revised SWPPP provides that petroleum contaminated soil storage piles at the Facility that will be screened, will be stored outside a covered shelter and will be covered with plastic tarps with used tires securing the tarp.

72. On October 11, 2012, October 24, 2012, February 13, 2013, and other dates to be discovered, Ohio EPA inspected the Facility and discovered large contaminated soil piles or portions of the piles were left uncovered, unsecured, and openly exposed to precipitation and runoff.

73. On September 24, 2015, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed stockpiles of contaminated soil, anti-skid, and sand mixed with anti-skid uncovered, unsecured, and exposed to precipitation events without a protective covering or any control measures installed.

74. Defendants failed to install and implement control measures and/or best management practices to properly store contaminated soil piles at the Facility in accordance with Section 3.5.2 of the 2012 revised SWPPP, Section 3.5.4 of the 2013 revised SWPPP, and Parts 2.1 and 2.1.2.1 of the MSGP.

75. The conduct or omissions alleged in this Count constitute violations of Parts 2.1, 2.1.2.1 of the MSGP, and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT SEVEN (WATER POLLUTION)
FAILURE TO MAINTAIN BERMS TO PREVENT CONTAMINATED RUNOFF

76. Part 2.1.2.1 of MSGP required Defendants to install and implement control measures and/or best management practices to minimize or eliminate the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff. Grading, berming, or curbing to prevent runoff of contaminated flows are listed as control measures or best management practices under Section 2.1.2.1 of the MSGP.

77. Part 2.1.2.3 of the MSGP required Defendants to maintain, in effective operating condition, all control measures that are used to achieve the best management practices required by the MSGP.

78. Section 3.5.2 of the 2012 revised SWPPP and Section 3.5.4 of the 2013 revised SWPPP states that to prevent precipitation from carrying suspended solids to surface water from the treated soil or unpaved areas, straw bales, soil berms, and/or silt fences will be used as storage conditions demand.

79. Section 4.2 of the 2012 and 2013 revised SWPPPs states that Defendants will perform regular maintenance, and as needed, maintenance on storm water controls such as berms, that should be maintained, repaired, or replaced as a result of damage caused by storm events or other means of physical damage.

80. On October 11, 2012, and other dates to be discovered, Ohio EPA staff inspected the Facility and discovered a discharge of contaminated storm water runoff from the Facility's soil remediation operation area due to a breached soil berm.

81. On March 14, 2013, and other dates to be discovered, Ohio EPA staff inspected the Facility and discovered a discharge of untreated, sediment-laden runoff in a previously graded and excavated area because the berms installed in the area were not properly maintained and immediately repaired.

82. On September 24, 2015, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed a discharge of pollutants because a berm serving the soil remediation operation was not maintained.

83. Defendants failed to install and implement control measures and/or best management practices to maintain berms at the Facility to minimize or prevent runoff in accordance with Sections 3.5.2 of the 2012 revised SWPPP and Section 3.5.4 of the 2013 revised SWPPP, Section 4.2 of the 2012 and 2013 revised SWPPPs, and Parts 2.1.2.1 and 2.1.2.3 of the MSGP.

84. The conduct or omissions alleged in this Count constitute violations of Parts 2.1.2.1 and 2.1.2.3 of the MSGP, and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars

(\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT EIGHT (WATER POLLUTION)
FAILURE TO PREVENT SPILLS, LEAKS, AND
OTHER RELEASES OF POLLUTANTS

85. Part 2.1.2.2 of the MSGP required Defendants to implement good housekeeping practices to clean all exposed areas that are potential sources of pollutants, including sweeping in regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers.

86. Part 2.1.2.3 of the MSGP required Defendants to regularly inspect, test, maintain, and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in storm water discharges to receiving waters.

87. Part 2.1.2.4 of the MSGP required Defendants to install and implement control measures and/or best management practices to minimize or eliminate the potential for spills, leaks, and other releases of pollutants that may be exposed to storm water, and develop plans for effective response to such spills if and when they occur.

88. Section 4.1 of the 2012 and 2013 revised SWPPPs states that Defendants will implement good housekeeping practices to prevent pollutants from entering storm water discharges. Good housekeeping practices include the prompt cleanup of any fuels or oils that have been spilled or released from Defendants' fuel tanks, oil drums, or equipment.

89. Section 4.2 of the 2012 and 2013 revised SWPPPs states that Defendants will perform regular maintenance, and as needed, maintenance on all vehicles to prevent the release of oils, fuels, and other fluids.

90. On October 11, 2012, September 24, 2015, and other dates to be discovered, Ohio EPA staff inspected the Facility and discovered numerous onsite vehicles were leaking fluids in areas with the potential to discharge pollutants into waters of the State during a precipitation event.

91. On October 24, 2012, and other dates to be discovered, Ohio EPA staff observed slag and/or gravel material placed over stained soils where numerous vehicles were leaking, and no best management practices were being used in areas where vehicles continued to leak at the Facility.

92. On September 24, 2015, and other dates to be discovered, Ohio EPA staff observed petroleum staining on the ground in a graded and excavated area of the Facility where petroleum contaminated soil had previously been disposed. No best management practices or plans to effectively respond to such spills were implemented.

93. On September 24, 2015, and other dates to be discovered, Ohio EPA staff observed a 1,000 gallon square diesel tank leaking onto the ground in an area exposed to precipitation events. No best management practices or plans to effectively respond to such spills were implemented.

94. On September 24, 2015, and other dates yet to be discovered, Ohio EPA staff observed grease dumped on the ground on the northern side of the maintenance building immediately adjacent to a storm sewer inlet at the Facility. No best management practices or plans to effectively respond to such spills were implemented.

95. Defendants failed to install and implement control measures and/or best management practices at the Facility to minimize or eliminate the potential for spills, leaks, and other releases of pollutants in accordance with Sections 4.1 and 4.2 of the 2012 and 2013 revised

SWPPPs, and Parts 2.1.2.2; 2.1.2.3, and 2.1.2.4 of the MSGP.

96. The conduct or omissions alleged in this Count constitute violations of Parts 2.1.2.2, 2.1.2.3, and 2.1.2.4 of the MSGP and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT NINE (WATER POLLUTION)
FAILURE TO PREVENT EROSION AND THE DISCHARGE OF SEDIMENT

97. Part 2.1.2.5 of the MSGP requires Defendants to stabilize exposed areas and contain runoff using control measures and/or best management practices to minimize onsite erosion, sedimentation, and the resulting discharge of pollutants.

98. Section 4.8 of the SWPPP states that the areas of the Facility that will require active erosion controls are those areas that have active slag excavation/reclamation or storage piles for soil and aggregate. The best management practices to be utilized in these areas include: (a) the tiering of storage piles; (b) trenches at the base of storage piles; (c) aggregate berms; and (d) sediment basins and traps.

99. On October 11, 2012, October 24, 2012, February 13, 2013, and March 14, 2013, and other dates to be discovered, Ohio EPA staff inspected the Facility and discovered soil erosion and sedimentation in areas where grading and excavating activities occurred at the Facility.

100. On October 11, 2012, March 14, 2013, and September 24, 2015, and other dates to be discovered, Ohio EPA staff observed the discharge of sediment-laden runoff to waters of the State from areas where grading and excavating activities occurred at the Facility.

101. On September 24, 2015, and other dates yet to be discovered, Ohio EPA staff discovered the formation of an erosion channel at the Facility because a sediment trap was not properly maintained by the Defendants. Also, Ohio EPA staff observed that sediment from a construction and demolition debris project at the Facility had discharged to a storm water sewer system.

102. The conduct or omissions alleged in this Count constitute violations of Part 2.1.2.5 of the MSGP and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT TEN (WATER POLLUTION)
FAILURE TO PREVENT THE DISCHARGE OF POLLUTANTS
TO WATERS OF THE STATE

103. Revised code 6111.04(A) prohibits any person from causing pollution or placing or causing to be placed any sewage, sludge, sludge materials, industrial wastes or other wastes in a location where they cause pollution of any waters of the state except in accordance with a valid, unexpired permit.

104. Part 1.1.4.1 of the MSGP prohibits storm water discharges that are mixed with non-storm water.

105. Part 2.1 of the MSGP required Defendants to select, design, install, and implement control measures to meet the requirements for control measures and/or best management practices listed in Part 2.1.2 of the MSGP to minimize pollution discharges at the Facility.

106. Part 2.1.2.1 of the MSGP required Defendants to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.

107. Part 2.1.2.5 of the MSGP required Defendants to stabilize exposed areas and contain runoff using structural and nonstructural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants.

108. On October 11, 2012 and March 14, 2013, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed sediment-laden discharges to waters of the State.

109. On February 13, 2013, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed a discharge of a fine black material into a storm sewer catch basin that was flowing with water at the time of the inspection. The black material is a “pollutant,” as defined in Ohio Adm.Code 3745-38-01.

110. On September 24, 2015, and other dates to be discovered, Ohio EPA staff observed sediment from a construction and demolition debris project at the Facility discharge into a storm water sewer system. Further, leachate from the gravel and slag processing area at the Facility was observed discharging into a drainage channel on the Facility.

111. Defendants failed to install and implement control measures and/or best management practices at the Facility to prevent the discharge of pollutants to waters of the State in accordance with Parts 1.1.4.1, 2.1, 2.1.2.1, and 2.1.2.5 of the MSGP, and R.C. 6111.04.

112. The conduct or omissions alleged in this Count constitute violations of Parts 1.1.4.1, 2.1, 2.1.2.1, and 2.1.2.5 of the MSGP, R.C. 6111.04, 6111.07, and Ohio Adm.Code 3745-1-04, for which Defendants are, jointly and severally, subject to injunctive relief pursuant

to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT ELEVEN (WATER POLLUTION)
FAILURE TO PROVIDE OHIO EPA ACCESS TO THE FACILITY

113. Revised Code 6111.05 provides that an authorized representative of the Director may investigate or make inquiries into any alleged act of pollution or failure to comply with R.C. Chapter 6111, an order, rule, the terms and conditions of a permit, or any other determination pursuant thereto. The authorized representative of the Director may enter at reasonable times upon any private or public property to inspect and investigate conditions relating to the pollution of any waters of the state.

114. Appendix B.9 of the MSGP required Defendants to allow Ohio EPA staff to enter the Facility at reasonable times to inspect any facilities, equipment, practices, or operations regulated or required under the MSGP for the purpose of assuring permit compliance.

115. On October 24, 2012 and September 24, 2015, Ohio EPA staff arrived at the facility to conduct a compliance inspection. Defendants failed to provide Ohio EPA access to the facility within a reasonable time to perform the inspection.

116. The conduct or omissions alleged in this Count constitute violations of Appendix B.9 of the MSGP, R.C. 6111.05, and 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT TWELVE (WATER POLLUTION)
FAILURE TO REVISE THE SWPPP

117. Part 3.1 of the MSGP required Defendants to review and revise the selection, design, installation, and implementation of control measures to ensure the following conditions are eliminated and will not be repeated in the future:

- An unauthorized release or discharge at the Facility;
- A discharge that violates a numeric effluent limit;
- When control measures are not stringent enough for the discharge to meet applicable water quality standards;
- An inspection or evaluation of the Facility determines that modifications to control measures are necessary to meet the control measures and/or best management practices in the MSGP; or
- A routine inspection, quarterly visual assessment, or comprehensive site inspection establishes that control measures are not being properly operated and maintained.

118. Part 3.2 of the MSGP required Defendants to review the selection, design, installation, and implementation of control measures to determine if modifications are necessary due to the following conditions:

- Construction or a change in design, operation, or maintenance at the Facility significantly changes the nature of the pollutant discharged in the storm water from the Facility or significantly increases the quantity or pollutants discharged;
or
- Sampling results exceed an applicable benchmark.

119. Part 5.2 of the MSGP required Defendants to modify their SWPPP when necessary to address any of the triggering conditions in Parts 3.1 and 3.2 of the MSGP to meet the control measures and best management practices in the MSGP.

120. Part 5.1.2 of the MSGP required Defendants to include a site description of the Facility in their SWPPP.

121. Part 5.1.3 of the MSGP required Defendants to document in their SWPPP the areas at the Facility where industrial materials or activities are exposed to storm water and from which allowable non-storm water discharges are released.

122. On October 24, 2012, Ohio EPA notified Defendants that the Facility's 2012 revised SWPPP failed to comply with Parts 5.1.2 and 5.1.3 of the MSGP, and failed to identify proper erosion controls and the implementation of sediment settling ponds at the Facility. Ohio EPA required Defendants to immediately revise their SWPPP and submit a revised copy to Director for review upon completion.

123. From October 25, 2012 to December 20, 2012, Defendants failed to revise their SWPPP.

124. On December 21, 2012, Defendants submitted a request to Ohio EPA for an extension of time to submit their revised SWPPP.

125. On January 2, 2013, Ohio EPA approved Defendants' request for an extension and required Defendants to submit a revised SWPPP by January 31, 2013.

126. Defendants submitted a revised SWPPP to Ohio EPA on March 11, 2013, 38 days past the January 31, 2013 deadline.

127. The conduct or omissions alleged in this Count constitute violations of Parts 3.1, 3.2, and 5.2 of the MSGP, and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT THIRTEEN (WATER POLLUTION)
FAILURE TO PREVENT THE DISCHARGE OF OTHER WASTES

128. Part 2.1.2.11 of the MSGP requires Defendants to ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting the materials before discharge.

129. On September 24, 2015, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed the transport of plastic materials during storm events within erosion channels at the Facility. The plastic materials are “other wastes” as defined in R.C. 6111.01(D).

130. Defendants failed to install and implement control measures and/or best management practices at the Facility to prevent the discharge of other wastes or intercept the materials before discharge in accordance with Part 2.1.2.11 of the MSGP.

131. The conduct or omissions alleged in this Count constitute violations of Part 2.1.2.11 of the MSGP, and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

COUNT FOURTEEN (WATER POLLUTION)
**FAILURE TO MINIMIZE THE EXPOSURE OF OTHER WASTES TO
PRECIPITATION EVENTS**

132. Part 2.1.2.1 of the MSGP required Defendants to minimize exposure of manufacturing, processing, and material storage areas to rain, snow, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.

133. On September 24, 2015, and other dates to be discovered, Ohio EPA staff inspected the Facility and observed a dumpster filled with waste materials located near the Facility's soil remediation operations that was uncovered and leaking in an area exposed to precipitation events. The waste materials discovered in the dumpster are "other wastes" as defined in R.C. 6111.01(D).

134. On September 24, 2015, and other dates to be discovered, Ohio EPA staff observed buried plastic materials exposed to the environment due to erosion in numerous locations at the Facility where stabilization was not established.

135. Defendants failed to install and implement control measures and/or best management practices to minimize the exposure of materials to precipitation events in accordance with Part 2.1.2.1 of the MSGP.

136. The conduct or omissions alleged in this Count constitute violations of Part 2.1.2.1 of the MSGP, and R.C. 6111.07, for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 6111.07(B) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 6111.09(A), including each day of each violation occurring after the filing of this Complaint.

HAZARDOUS WASTE GENERAL ALLEGATIONS

137. Defendants' air pollution control permit authorizes Defendants to accept non-hazardous petroleum contaminated soils (or "PCS") and manufactured gas plant (or "MGP") waste from offsite. Upon information and belief, Defendants process and treat the non-hazardous PCS and MGP waste through the SRU at the Facility, and apply the treated materials to its property after treatment.

138. Ohio Administrative Code 3745-51-02 defines a “waste,” with exceptions not applicable to the allegations in this Complaint, as any discarded material.

139. Ohio Administrative Code 3745-51-04(B)(10), states that wastes which are not hazardous wastes include PCS that fail the test for the toxicity characteristics (EPA hazardous waste numbers D018 to D043 only) of Ohio Adm.Code 3745-51-24, and are subject to underground storage tank corrective action regulations under Ohio Adm. Code Chapter 1301:7-9.

140. Petroleum contaminated soils subject to underground storage tank corrective action must be evaluated, at minimum, for the toxicity characteristics of metals and pesticides found in Ohio Adm.Code 3745-51-24.

141. Pursuant to Ohio Adm.Code 3745-51-21 through 3745-51-23, manufactured gas plant waste must be evaluated to determine if it exhibits a characteristic of ignitability, corrosivity, or reactivity.

142. Defendants engaged in the “disposal” of hazardous waste, as that term is defined in R.C. 3734.01(F) and Ohio Adm.Code 3745-50-10(A)(34). “Disposal,” means, in part, the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any hazardous waste into or onto any land or ground or surface water or air.

143. Defendants engaged in the “storage” of hazardous waste, as that term is defined in R.C. 3734.01(M) and Ohio Adm.Code 3745-50-10(A)(122). “Storage,” when used in connection with a hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically, and, at the end of the period, is treated, disposed of, stored elsewhere, or reused, recycled, or reclaimed in a beneficial matter.

144. On April 5, 2012, Defendants received contaminated soils from a store in Indiana, Pennsylvania that were toxic for lead in excess of the regulatory limit of 5 mg/L. Upon information and belief, the contaminated soils containing lead were stored and applied to the property at the Facility.

145. At no time did Defendants have a hazardous waste installation and operation permit for the Facility.

146. The contaminated soils, containing toxic levels of lead that were stored and/or disposed of by Defendants at the Site, are defined as “hazardous wastes” as set forth in R.C. 3734.01(J) and Ohio Adm.Code 3745-51-03, Ohio Adm.Code 3745-51-21 (ignitability) and Ohio Adm.Code 3745-51-24 (toxicity).

147. Defendants violated Ohio’s hazardous waste laws by establishing a hazardous waste facility without a permit, and by storing and disposing of hazardous wastes at the Facility without a hazardous waste installation and operation permit.

148. Revised Code 3734.02(E) states that “no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with [R.C. 3734.05.]”

149. Revised Code 3734.02(F) states, in part, that “no person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to [any properly-permitted hazardous waste facility.]”

150. Revised Code 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734, any rule adopted under it, or any order issued under R.C. 3734.13.

151. All hazardous waste rules referenced in this Complaint have been adopted by the Director pursuant to R.C. Chapter 3734.

152. The general allegations contained in the preceding paragraphs are applicable to Hazardous Waste Counts Fifteen and Sixteen of the Complaint and are incorporated by reference into each as if fully restated therein.

COUNT FIFTEEN (HAZARDOUS WASTE)
ESTABLISHMENT AND OPERATION OF
HAZARDOUS WASTE FACILITY WITHOUT A PERMIT

153. On March 14, 2013, and other dates to be discovered, Defendants established and operated a hazardous waste facility at the Facility without a hazardous waste permit issued in accordance with R.C. 3734.05.

154. The conduct or omissions alleged in this Count constitute violations of R.C. 3734.02(E) and R.C. 3734.11(A), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13, and for which Defendants are, jointly and severally, liable for a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 3734.13, including each day of each violation occurring after the filing of this Complaint.

COUNT SIXTEEN (HAZARDOUS WASTE)
UNLAWFUL STORAGE AND DISPOSAL OF A HAZARDOUS WASTE

155. Ohio Administrative Code 3745-51-24(A) states that a waste exhibits a characteristic of toxicity, if using the toxicity characteristic leaching procedure (“TCLP”), the extract from a representative sample of the waste contains relevant contaminants equal to or greater than the maximum concentrations of contaminants listed in the table at Ohio Adm. Code

rule 3745-51-24(B).

156. Pursuant to Ohio Adm. Code rule 3745-51-24(B), the toxicity for lead (D008) has a regulatory limit of 5 milligrams per liter (“mg/L”).

157. On March 14, 2013, and other dates yet to be discovered, Ohio EPA staff conducted a complaint investigation at the Facility after reviewing analytical sampling data submitted by the Defendants to the Ohio EPA on May 18, 2012, pursuant to Defendants’ air pollution control permit.

158. The investigation and review of the sampling data established that Defendants received and stored contaminated soils at the Facility that contained lead with a toxicity level of 8.4 mg/l, which exceeds the hazardous waste characteristic levels listed in Ohio Adm.Code 3745-51-24.

159. The investigation also established that Defendants unlawfully disposed of the contaminated soils that were hazardous for lead at the Facility without a permit.

160. Defendants violated R.C. 3734.02(F) by storing and disposing of hazardous waste at the Facility without a hazardous waste installation and operation permit.

161. The conduct or omissions alleged in this Count constitute violations of R.C. 3734.02(F) and R.C. 3734.11(A), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 3734.10 and R.C. 3734.13, and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of violation pursuant to R.C. 3734.13, including each day of each violation occurring after the filing of this Complaint.

ODNR OIL AND GAS RESOURCE MANAGEMENT GENERAL ALLEGATIONS

162. Revised Code 1509.01(U), defines “Brine” to mean “all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well.”

163. Upon information and belief, Defendants have received hundreds of loads of brine or other liquid or solid oil and gas drilling wastes, as defined in R.C. 1509.01(H), and disposed of the wastes on the ground or in pits at the Facility from June 2009 through January 2013.

164. Upon information and belief, Defendants accepted over 30,000 tons of oil and gas wastes and brine.

165. On April 23, 2013, Ohio EPA staff inspected the Facility and discovered brine or other oil and gas wastes were disposed of at the Facility.

166. Analytical results from soil samples collected on April 23, 2013, confirmed brine or other oil and gas wastes were disposed of on the property at the Facility and caused harm to the environment.

167. Revised Code 1509.22(A), provides, in part, that “no person shall place or cause to be placed in ground water or in or on the land or discharge or cause to be discharged in surface water brine, crude oil, natural gas, or other fluids associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources that causes or could reasonably be anticipated to cause damage or injury to public health or safety or the environment.”

168. At all times relevant, R.C. 1509.22(C)(1), provided that brine only be disposed of pursuant to the specific methods set forth therein.

169. All oil and gas resource management rules referenced in this Complaint have been adopted by the Chief pursuant to R.C. Chapter 1509.

170. The general allegations contained in the preceding paragraphs are applicable to the Oil and Gas Count Seventeen of this Complaint and are incorporated by reference into the Count as if fully restated therein.

COUNT SEVENTEEN (ODNR OIL AND GAS)
UNLAWFUL DISPOSAL OF OIL AND GAS PRODUCTION DRILLING WASTE

171. On January 30, 2013, April 23, 2013, and other dates to be discovered, Defendants unlawfully disposed of brine or other oil and gas wastes by dumping the waste on the ground at the Facility.

172. The conduct or omissions alleged in this Count constitute violations of R.C. 1509.22(A) or (C), for which Defendants are, jointly and severally, subject to injunctive relief pursuant to R.C. 1509.04(G) and for which Defendants are, jointly and severally, liable to pay to the State a civil penalty of up to ten thousand dollars (\$10,000) for each day of violation pursuant to R.C. 1509.33(A), including each day of each violation occurring after the filing of this Complaint.

PRAYER FOR RELIEF

THEREFORE, Plaintiff respectfully requests that this Court:

A. Permanently enjoin Defendants, pursuant to R.C. 3704.06(B), to comply with R.C. Chapter 3704 and rules adopted thereunder; including but not limited to:

1. Order Defendants to conduct emissions testing for emissions unit P902.
2. Order Defendants to comply with all emissions limitations and operation restrictions contained in any permits issued by the Director for Defendants' operations;

3. Order Defendants to comply with all reporting and record-keeping requirements contained in any permits issued by the Director for Defendants' operations;
4. Order Defendants to comply with all other terms and conditions of any permits issued by the Director for Defendant's operations;

B. Permanently enjoin Defendants from accepting solid waste, hazardous waste, and/or hazardous substances at the Facility without prior written authorization for the acceptance of such materials from the Director of Ohio EPA;

C. Permanently enjoin Defendants from accepting oil and gas wastes, including brine, at the Facility without prior written authorization for the acceptance of such wastes from the Chief of the Division of Oil and Gas Resources Management at the ODNR;

D. Permanently enjoin Defendants from accepting materials at the Facility for treatment in the soil remediation unit other than those materials identified in the PTIO No. P0105320 for Defendants' Facility.

E. Permanently enjoin Defendants from accepting manufactured gas plant waste at the Facility for treatment in the soil remediation unit. Order Defendants to apply for a modification of the PTIO to prohibit Defendants from accepting manufactured gas plant waste at their facility.

F. Permanently enjoin Defendants to obtain authorization from the Director of Ohio EPA prior to accepting any materials other than those specified in the PTIO;

G. Permanently enjoin Defendants to remove and properly dispose of all solid waste contained within loads of petroleum contaminated soils accepted and stored at the Facility prior to treatment in the soil remediation unit;

H. Permanently enjoin Defendants from disposing of contaminated soils at the Facility that have not been properly treated by the soil remediation unit. All contaminated soils

accepted for treatment at the Facility shall be treated in the soil remediation unit no more than 60 days after acceptance;

I. Permanently enjoin Defendants to keep copies of all shipping papers and/or manifests for each load of materials delivered to the Facility, for a period of no less than five years of receipt;

J. Permanently enjoin Defendants from storing and/or managing hazardous waste at the Facility. Defendants shall reject any loads of hazardous waste within 72 hours of arrival at the Facility;

K. Permanently enjoin Defendants to comply with R.C. Chapter 6111 and the rules adopted thereunder;

L. Order Defendants to comply with the terms and conditions of Multi-Sector General Permit No. OHR000006;

M. Order Defendants to submit to Chris Moody, or his successor, at Ohio EPA-Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087, an amended SWPPP to Ohio EPA within 30 days;

N. Order Defendants to identify in the amended SWPPP an area no greater than two acres at the Facility that will serve as an Active Treated Soil Placement Area, and to clearly identify the soil placement limits of the Active Treated Soil Placement Area in the amended SWPPP;

O. Order Defendants to immediately stabilize all remaining areas of the Facility using appropriate storm water controls;

P. Order Defendants to submit to Chris Moody, or his successor, at Ohio EPA Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087, a certification that the amended SWPPP is being fully implemented within thirty (30) days;

Q. Order Defendants to submit to Chris Moody, or his successor, at Ohio EPA Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087, signed copies of all reports, records, notifications, and certifications required by the amended SWPPP to confirm Defendants have implemented and complied with the terms of the amended SWPPP for a period of no less than eight years;

R. Order Defendants to submit to Mitchell Mathews, or his successor, Ohio EPA, Lazarus Government Center, 50 West Town St., Suite 700, Columbus, Ohio 43215, a Waste Evaluation and Management Plan within 30 days;

S. Order Defendants to submit to Mitchell Mathews, or his successor, at the address listed in Paragraph R above a groundwater monitoring plan to establish a baseline for historical contamination of the Facility and to characterize the impact of any soil disposal activities that have occurred at the Facility. At a minimum, the groundwater plan shall include: (1) groundwater monitoring from wells located upgradient of the Facility; (2) groundwater monitoring from wells located downgradient of the Facility; (3) a map of the proposed groundwater monitoring well locations; (4) engineering details regarding the design of the groundwater wells to be constructed; (5) specific contaminants of concern to be monitored that are directly associated with the Facility's industrial activities; and (6) a quarterly frequency for monitoring the groundwater wells;

T. Order Defendants to submit to Chief Richard Simmers, or his successor, at ODNR Division of Oil and Gas Resources Management, 2045 Morse Road, Building F-2, Columbus, Ohio 43229, a Sampling and Analysis Plan within 30 days;

U. Order Defendants, pursuant to R.C. 3704.06(C), to pay a civil penalty for the air pollution violations set forth Counts One through Five in the amount of Twenty-Five Thousand Dollars (\$25,000.00) per day for each day of each violation of R.C. Chapter 3704, and the rules promulgated and permits issued thereunder, including each day of each violation occurring after the filing of this Complaint;

V. Order Defendants, pursuant to R.C. 6111.09(A), to pay to the State of Ohio a civil penalty for the water pollution violations set forth in Counts Six through Fourteen in the amount of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation of R.C. Chapter 6111, and the rules promulgated and permits issued thereunder, including each day of each violation occurring after the filing of this Complaint;

W. Order Defendants, pursuant to R.C. section 3734.13(C), to pay to the State of Ohio a civil penalty for the hazardous waste violations set forth in Counts Fifteen through Sixteen in the amount of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation of R.C. Chapter 3734 and the rules promulgated thereunder, including each day of each violation occurring after the filing of this Complaint;

X. Order Defendants, pursuant to R.C. section 1509.33(A), to pay to the State of Ohio a civil penalty for the ODNR oil and gas violations set forth Count Seventeen in the amount of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation of R.C. Chapter 1509 and the rules promulgated thereunder, including each day of each violation occurring after the filing of this Complaint;

Y. Order the Defendants to pay all costs and fees for this action, including attorney fees incurred by the Office of the Ohio Attorney General;

Z. Retain jurisdiction of this suit for the purpose of making any order or decree which it may deem necessary at any time to carry out its judgment; and

AA. Grant such other relief as may be just.

Respectfully submitted,

MICHAEL DEWINE
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