



2. More specifically, this action seeks a judgment against defendant Northrop Grumman Systems Corporation (“Northrop Grumman”):

- (a) awarding reimbursement to the State of its costs incurred to date in responding to releases and threats of releases of hazardous substances at and from the Sites;
- (b) declaring that Northrop Grumman is liable to the State for the State’s future costs in responding to such releases and threats of releases;
- (c) compensating the State for damages to its natural resources; and
- (d) awarding enforcement costs and interest.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over the State’s claims arising under the laws of the United States, pursuant to 28 U.S.C. §§ 1331 and 2201 and 42 U.S.C. §§ 9607 and 9613, and has supplemental jurisdiction over the common law claims arising under the laws of the State, pursuant to 28 U.S.C. § 1367. The Court also has jurisdiction to enter a declaratory judgment under 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. § 9613.

4. Venue is proper in this District pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) because the threatened and actual releases of hazardous substances that give rise to this action occurred and/or are occurring within this District and the Sites are located within this District.

### **THE PARTIES**

5. Plaintiff State of New York, as a body politic and sovereign entity, brings this action on behalf of itself and as *parens patriae*, trustee, guardian, and representative on behalf of all residents and citizens of the State, particularly those individuals who live in the vicinity of the Sites. The State does so to recover costs and damages that have been incurred by the State in

responding to the release of hazardous substances at and from the Sites pursuant to State Finance Law § 97-b and to obtain other declaratory relief.

6. Plaintiff Basil Seggos, as Commissioner of the New York State Department of Environmental Conservation (“DEC”) and Trustee of the State’s natural resources under state and federal law, brings this action to recover damages for injury to and loss of the State’s natural resources, to recover costs that have been incurred by the State in responding to the release of hazardous substances at and from the Sites, and to obtain other declaratory relief.

7. Northrop Grumman Systems Corporation (“Northrop Grumman”) is a corporation established under the laws of Delaware, with its principal place of business at 2980 Fairview Park Drive in Falls Church, Virginia. Northrop Grumman is authorized to do business in this State with a place of business in Bethpage, New York. Northrop Grumman is the successor to, among other entities, Grumman Aircraft Engineering Corporation and Grumman Corporation.

8. During the period from the 1930s to the present, Northrop Grumman has been the owner of some of the Sites and an operator of all of the Sites. During that ownership and operation, there were releases of hazardous substances on portions of the Sites that Northrop Grumman owned, and Northrop Grumman disposed of hazardous substances on portions of the Sites that Northrop Grumman owned and/or operated.

### **STATUTORY AND REGULATORY BACKGROUND**

#### **CERCLA**

9. Under CERCLA, when there is a release or a threatened release of hazardous substances into the environment from a facility, certain categories of persons are liable to the State for the costs that the State incurs to respond to the release or threatened release as long as

the State's response actions are "not inconsistent with the national contingency plan." 42 U.S.C. § 9607(a).

10. "Hazardous substances" are defined in 42 U.S.C. § 9601(14) and include, but are not limited to, substances that the United States Environmental Protection Agency ("U.S. EPA") has designated as hazardous pursuant to 42 U.S.C. § 9602. The substances that U.S. EPA has designated as hazardous are listed in 40 C.F.R. § 302.4.

11. A "release" includes spilling, escaping, leaching, or disposing "into the environment." 42 U.S.C. § 9601(22). The "environment" includes groundwater, land surface, and subsurface strata. 42 U.S.C. § 9601(8).

12. A "facility" includes "any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located." 42 U.S.C. § 9601(9). It also includes buildings, structures, and equipment. *Id.*

13. The term "respond" includes taking "removal" actions, "remedial" actions, and related enforcement activities. 42 U.S.C. § 9601(25). A "removal" action includes the "cleanup or removal of released hazardous substances from the environment" and the assessment and evaluation of a release. 42 U.S.C. § 9601(23). A "remedial" action means "those actions consistent with permanent remedy taken instead of or in addition to removal actions." 42 U.S.C. § 9601(24).

14. The "national contingency plan" is set forth in 40 C.F.R. Part 300.

15. CERCLA also provides that when there is a release or a threatened release of hazardous substances into the environment from a facility, certain categories of persons are liable for "damages for injury to, destruction of, or loss of natural resources, including the reasonable

costs of assessing such injury, destruction, or loss resulting from such a release.” 42 U.S.C. § 9607(a).

16. The term “natural resources” includes “land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by . . . any State.” 42 U.S.C. § 9601(16).

17. Natural resources damages include, without limitation, injury, destruction, or loss to such natural resources, and the reasonable costs of assessing such injury, destruction, or loss. 42 U.S.C. §§ 9601(6) & (16), 9607(a).

18. The persons liable for response costs and natural resource damages under 42 U.S.C. § 9607(a) include (i) current owners and operators of a facility; and (ii) owners and operators of a facility at the time of disposal of hazardous substances. “Persons” includes, among others, individuals, firms and corporations. 42 U.S.C. § 9601(21).

19. CERCLA provides that, in an action for recovery of costs, “the court shall enter a declaratory judgment on liability for response costs or damages that will be binding in any subsequent action or actions to recover further response costs or damages.” 42 U.S.C. § 9613(g)(2).

### **New York Law**

20. The State’s third and fourth claims for relief are based on New York common law. These claims seek to abate any existing public nuisance and to recover funds that the State has spent and will spend abating any public nuisance and contamination at or from the Sites.

21. A public nuisance is a condition that offends, interferes with, or causes damage to the public in the exercise of rights common to all, in a manner such as to offend public morals, interfere with use by the public of a public place, or endanger or injure the property, health,

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