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THE BRANDEIS-BARDIN INSTITUTE  
11

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14

15 THE BRANDEIS-BARDIN INSTITUTE,  
a California Corporation,  
16

Plaintiff,  
17

v.  
18

ROCKETDYNE, INC., a Delaware  
corporation; NORTH AMERICAN  
19 AVIATION, INC., a Delaware cor-  
poration; ATOMICS INTERNATION-  
20 AL, INC., a Delaware corpora-  
tion; NORTH AMERICAN ROCKWELL  
21 CORPORATION, a Delaware corpo-  
ration; ROCKWELL INTERNATIONAL  
22 CORPORATION, a Delaware corpo-  
ration; ROCKWELL INTERNATIONAL  
23 SYSTEMS, INC., a Delaware cor-  
poration; and *Does I Through*  
24 *500, inclusive.* Defendants.

NO. CV 95-8316 ABC (RMCx)

THIRD AMENDED COMPLAINT FOR  
DAMAGES TO REAL PROPERTY AND  
DECLARATORY RELIEF

DEMAND FOR TRIAL BY JURY

(F.R.C.P. 38(b) and Local Rule  
3.4.10.1)

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26 Plaintiff alleges:  
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*U.S.S.D. summons*

BY: *[Signature]*  
CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

96 JUN -7 AM 10:37

FILED

I.

This court has original jurisdiction pursuant to:

- a. the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(a);
- b. the court's diversity jurisdiction, 28 U.S.C. § 1332, as plaintiff is situated in the State of California, all defendants have dual citizenship in the States of Delaware and Pennsylvania, and the amount in controversy exceeds \$50,000;
- c. the court's supplemental jurisdiction, 228 U.S.C. § 1367;
- d. the Price-Anderson Amendments, 42 U.S.C. § 2210(n)(2).

According to 42 U.S.C. § 2014(hh), "The substantive rules for decision in such action shall be derived from the law of the state in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section." In this case, the substantive law of the State of California shall apply to this action, and accordingly state-law causes of action must be stated and adjudicated against defendants in this federal court.

II.

Venue is proper in the Central District of California, as the release and damages that give rise to the claim occurred in this district. 42 U.S.C. § 9613(b). The Central District of California is also the district in which the nuclear incident took place. 42 U.S.C. § 2210(n)(2).

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III.

Plaintiff is a non-profit corporation organized and existing under the laws of the State of California, with its principal place of business in the State of California.

IV.

Plaintiff is informed and believes that defendant Rocketdyne, Inc. is a corporation, organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Pennsylvania.

V.

Plaintiff is informed and believes that defendant North American Aviation, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Pennsylvania.

VI.

Plaintiff is informed and believes that defendant Atomics International, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Pennsylvania.

VII.

Plaintiff is informed and believes that defendant North American Rockwell Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Pennsylvania.

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VIII.

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2 Plaintiff is informed and believes that defendant Rockwell In-  
3 ternational Systems, Inc., is a corporation organized and existing  
4 under the laws of the State of Delaware, with its principal place of  
5 business in the State of Pennsylvania.

6 IX.

7 Plaintiff is informed and believes that defendant Rockwell  
8 International Corporation is a corporation organized and existing  
9 under the laws of the State of Delaware, with its principal place of  
10 business in the State of Pennsylvania.

11 X.

12 Defendants, and each of them, during all times pertinent to  
13 this complaint, were the owners and operators of the Santa Susana  
14 Field Laboratory (hereinafter "facility"), located in the County of  
15 Ventura, State of California.

16 XI.

17 Defendants, and each of them, during all times pertinent to  
18 this complaint, operated a nuclear-testing laboratory on the facili-  
19 ty. The multiple releases of radioactive materials from the facili-  
20 ty constitutes nuclear incidents under 42 U.S.C. § 2014(q), which  
21 defines nuclear incident as "any occurrence, including an extraordi-  
22 nary nuclear occurrence, within the United States causing, within or  
23 without the United States, bodily injury, sickness, disease, or  
24 death, or loss of or damage to property, or loss of use of property,  
25 arising out of or resulting from the radioactive, toxic, explosive,  
26 or other hazardous properties of source, special nuclear, or by-prod-  
27 uct material."

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XII.

At all times herein mentioned, defendants, and each of them, were the agents, each of the other, acting within the course and scope of said agency.

XIII.

Plaintiff, at all times pertinent to this complaint, owned property adjacent to the facility in the County of Ventura, State of California (hereinafter "real property").

XIV.

In or about August, 1991, defendants, and each of them, caused plaintiff's soil and groundwater to be tested in order to determine if plaintiff's property was also contaminated. On or about September 3, 1991, initial results of said testing revealed that plaintiff's groundwater was contaminated. Before this date, plaintiff did not know nor could have reasonably known of any potential contamination of plaintiff's property.

XV.

In return for plaintiff's having allowed defendants, and each of them, access to drill monitoring wells on plaintiff's land, defendants, and each of them, agreed on or about June 26, 1991, to toll the statute of limitations on any potential claims plaintiff might have related to contamination of its property through June 26, 1996. Additionally, defendants, and each of them, thereafter agreed on January 4, 1994 to toll the statute of limitations on any potential claims plaintiff might have related to contamination of its property through January 4, 2001.

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1 PLAINTIFF'S FIRST CAUSE OF ACTION AGAINST DEFENDANTS, AND  
2 EACH OF THEM, FOR RESPONSE COSTS UNDER 42 U.S.C. § 9607

3 XVI.

4 Plaintiff repeats and realleges all of the allegations con-  
5 tained in paragraphs I through XV, inclusive, as though said allega-  
6 tions were set forth herein in full.

7 XVII.

8 Defendants, and each of them, while owning and operating facil-  
9 ity, allowed hazardous materials, including, but not limited to tri-  
10 chloroethylene; mercury; polychlorinated biphenyls; dichloroethyl-  
11 ene; vinyl chloride; dioxin compounds; and radioactive tritium,  
12 cesium, and strontium, (hereinafter, "hazardous materials"), to be  
13 disposed of and released into the soil, air, and groundwater.

14 XVIII.

15 These hazardous materials have subsequently seeped into, and  
16 come to be located in the soil and groundwater of the real property.

17 XIX.

18 As a direct result of defendants' disposal and release of haz-  
19 ardous materials and the subsequent seepage into plaintiff's soil  
20 and groundwater, plaintiff has incurred response costs, including  
21 but not limited to the costs of retaining environmental consultants  
22 to investigate and monitor the continuing contamination of plain-  
23 tiff's soil and groundwater, as well as internal administrative  
24 costs, including but not limited to land appraisals and labor costs  
25 involved in such testing of the soil and groundwater. Plaintiff has  
26 also incurred costs of replacing water supply to the facility, as  
27 the contamination has rendered its private groundwater wells unus-

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1 | able. These costs are consistent with the National Contingency  
2 | Plan.

3 | **PLAINTIFF'S SECOND CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
4 | **EACH OF THEM, FOR DECLARATORY RELIEF UNDER 28 U.S.C.**  
5 | **§ 2201**

6 | **XX.**

7 | Plaintiff repeats and realleges all of the allegations con-  
8 | tained in paragraphs I through XV, inclusive, and paragraphs XVII  
9 | through XIX, inclusive, of the first cause of action as though said  
10 | allegations were set forth herein in full.

11 | **XXI.**

12 | An actual controversy has arisen and now exists between plain-  
13 | tiff and defendants, and each of them, relating to liability for re-  
14 | sponse costs due to defendants' disposal and release of hazardous ma-  
15 | terials into the soil, air, and groundwater, contaminating the real  
16 | property, for which plaintiff desires a declaration of rights.

17 | **XXII.**

18 | A declaratory judgment is necessary in that plaintiff contends,  
19 | and defendants, and each of them, deny the following: that defen-  
20 | dants, and each of them, are liable for response costs, both past  
21 | and future, resulting from their disposal and release of hazardous  
22 | materials into the soil, air, and groundwater, contaminating real  
23 | property. Defendants' release of hazardous materials into the soil,  
24 | air, and groundwater, while defendants owned and operated the facil-  
25 | ity, has already occurred, making the legal interests of the parties  
26 | real and immediate.

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1 PLAINTIFF'S THIRD CAUSE OF ACTION AGAINST DEFENDANTS, AND  
2 EACH OF THEM, FOR CONTINUING NUISANCE

3 XXIII.

4 Plaintiff repeats and realleges all of the allegations con-  
5 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
6 through XIX, inclusive, of the first cause of action as though said  
7 allegations were set forth herein in full.

8 XXIV.

9 Defendants' release of hazardous substances into soil and  
10 groundwater, contaminating the facility and the real property, in-  
11 terferes with plaintiff's use and comfortable enjoyment of its prop-  
12 erty.

13 XXV.

14 Defendants' release of hazardous substances into soil, air, and  
15 groundwater, contaminating the real property, is injurious to the en-  
16 vironment, especially since it has become commingled in the ground-  
17 water. Contaminated groundwater obstructs the free use of property,  
18 including exploitation of the groundwater resources underlying the  
19 property, and threatens plaintiff's use and enjoyment of the real  
20 property into which the contaminated groundwater passes.

21 XXVI.

22 In order to remove this threat to the real property and abate  
23 this nuisance, plaintiff has been forced to expend sums in excess of  
24 this court's jurisdictional amount according to proof in connection  
25 with the testing of soil and groundwater, and the removal and reme-  
26 diation of hazardous and radioactive materials from soil and ground-  
27 water. Furthermore, plaintiff has been forced to incur internal ad-  
28 ministrative costs including but not limited to land appraisals and



1 labor costs involved with such testing of the soil and groundwater,  
2 monitoring, removal and remediation.

3 XXVII.

4 As a direct and foreseeable result of the nuisance created by  
5 defendants, plaintiff has been injured in that the real property is  
6 contaminated and is in proximity of the contaminated facility. More-  
7 over, plaintiff has been injured in that it has lost the use of the  
8 contaminated portions of the real property.

9 XXVIII.

10 As a further direct and foreseeable result of the nuisance cre-  
11 ated by defendants, plaintiff's private groundwater wells on real  
12 property have become unusable. Plaintiff has been forced to expend  
13 sums in excess of this court's jurisdictional amount according to  
14 proof in order to obtain municipal water.

15 XXIX.

16 Unless, defendants, and each of them, are restrained by order  
17 of this court, it will be necessary for plaintiff to commence many  
18 successive actions against defendants, and each of them, to secure  
19 compensation for damages sustained, thus requiring a multiplicity of  
20 suits, and plaintiff will be daily threatened with continuing re-  
21 lease of hazardous and radioactive materials.

22 XXX.

23 Unless, defendants, and each of them, are enjoined from contin-  
24 uing to engage in nuclear testing, using, destroying, burning, and/  
25 or disposing of any hazardous and/or toxic materials, plaintiff will  
26 suffer irreparable injury in that the usefulness and economic value

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1 of its property will be substantially diminished, and plaintiff will  
2 be deprived of the comfortable enjoyment of its property.

3 XXXI.

4 Plaintiff has no plain, speedy, or adequate remedy at law, and  
5 injunctive relief is expressly authorized by California Code of Civ-  
6 il Procedure §§ 526 and 731.

7 **PLAINTIFF'S FOURTH CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
8 **EACH OF THEM, FOR PERMANENT NUISANCE**

9 XXXII.

10 Plaintiff repeats and realleges all of the allegations con-  
11 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
12 through XIX, inclusive, of the first cause of action as though said  
13 allegations were set forth herein in full.

14 XXXIII.

15 Defendants' release of hazardous substances into soil and  
16 groundwater, contaminating the facility and the real property, in-  
17 terferes with plaintiff's use and comfortable enjoyment of its prop-  
18 erty.

19 XXXIV.

20 Defendants' release of hazardous substances into soil, air, and  
21 groundwater, contaminating the real property, is injurious to the  
22 environment, especially since it has become commingled in the  
23 groundwater. Contaminated groundwater obstructs the free use of  
24 property, including exploitation of the groundwater resources under-  
25 lying the property, and threatens plaintiff's use and enjoyment of  
26 the real property into which the contaminated groundwater passes.

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1 XXXV.

2 As a direct and foreseeable result of the nuisance created by  
3 defendants, plaintiff has been injured in that the value of the real  
4 property has been substantially reduced in an amount according to  
5 proof. Furthermore, the real property is contaminated, is "stigma-  
6 tized" as contaminated property, and is in proximity of the contami-  
7 nated facility. Moreover, plaintiff has sustained injury in that it  
8 is unable to use the contaminated portions of the real property.

9 XXXVI.

10 As a further direct and foreseeable result of the nuisance cre-  
11 ated by the defendants, plaintiff's private groundwater wells on  
12 real property have become unusable. Plaintiff has been and will be  
13 forced to expend sums in excess of this court's jurisdictional  
14 amount according to proof in order to obtain municipal water. Plain-  
15 tiff also has been and will be forced to incur internal adminis-  
16 trative costs including but not limited to land appraisals and labor  
17 cost involved with the testing of the soil and groundwater.

18 XXXVII.

19 As a further direct and foreseeable result of the nuisance cre-  
20 ated by the defendants, plaintiff has been and will be forced to ex-  
21 pend sums in excess of this court's jurisdictional amount according  
22 to proof in connection with the testing of soil and groundwater.

23 XXXVIII.

24 Defendants' wrongful conduct, in operating nuclear facilities,  
25 using, destroying, burning, and/or disposing of any hazardous and/or  
26 toxic materials, unless and until enjoined and restrained by order  
27 of this court, will cause great and irreparable injury through the  
28 ongoing injury to the property.

1 XXXIX.

2 Plaintiff has no adequate remedy at law for the injuries cur-  
3 rently being suffered and which are threatened, in that defendants  
4 will continue to test nuclear facilities and use, destroy, burn,  
5 and/or dispose of hazardous and/or toxic materials, causing further  
6 injury to real property.

7 **PLAINTIFF'S FIFTH CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
8 **EACH OF THEM, FOR CONTINUING TRESPASS**

9 XL.

10 Plaintiff repeats and realleges all of the allegations con-  
11 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
12 through XIX, inclusive, of the first cause of action as though said  
13 allegations were set forth herein in full.

14 XLI.

15 Plaintiff, as owner of the real property, has a right to pos-  
16 session and use of the real property.

17 XLII.

18 In handling and releasing of hazardous and radioactive materi-  
19 als, defendants, and each of them, were engaged in an ultrahazardous  
20 activity.

21 XLIII.

22 Defendants, and each of them, handled and released such hazard-  
23 ous and radioactive materials in such a manner that said hazardous  
24 and radioactive materials seeped from the facility into the soil,  
25 air, and groundwater of the real property. Such seepage constituted  
26 and continues to constitute a continuing trespass.

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1 XLIV.

2 The conduct of defendants, and each of them, was such that it  
3 knew that its conduct would, to a substantial certainty, result in  
4 hazardous substances' seeping into the soil, air, and groundwater of  
5 the real property.

6 XLV.

7 As a direct and foreseeable result of defendants' aforesaid  
8 conduct, plaintiff has been injured in that the real property is  
9 contaminated and is in proximity to the contaminated facility.  
10 Moreover, plaintiff has sustained injury in that it has lost the use  
11 of the contaminated portions of the real property.

12 XLVI.

13 As a further direct and foreseeable result of defendants' afore-  
14 said conduct, plaintiff's private groundwater wells on real property  
15 have become unusable. Plaintiff has been forced to expend sums in  
16 excess of this court's jurisdictional amount according to proof in  
17 order to obtain municipal water. Such expenditures would not be  
18 necessary absent defendants' aforesaid conduct.

19 XLVII.

20 As a further direct and foreseeable result of defendants' afore-  
21 said conduct, plaintiff has been forced to expend sums in excess of  
22 this court's jurisdictional amount according to proof in connection  
23 with the testing of soil and groundwater, and the removal and  
24 remediation of hazardous and radioactive materials from soil and  
25 groundwater. Plaintiff has been forced to incur internal adminis-  
26 trative costs including but not limited to land appraisal and labor  
27 costs involved in the testing of soil and groundwater and the moni-

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1 toring, removal and remediation of hazardous and radioactive materi-  
2 als from the soil and groundwater. Such expenditures would not be  
3 necessary absent defendants' aforesaid conduct.

4 XLVIII.

5 Defendants' wrongful conduct, in operating nuclear facilities,  
6 using, destroying, burning, and/or disposing of any hazardous and/or  
7 toxic materials, unless and until enjoined and restrained by order  
8 of this court, will cause great and irreparable injury through the  
9 ongoing injury to the property.

10 XLIX.

11 Plaintiff has no adequate remedy at law for the injuries cur-  
12 rently being suffered and which are threatened, in that defendants  
13 will continue to test nuclear facilities and use, destroy, burn,  
14 and/or dispose of hazardous and/or toxic materials, causing further  
15 injury to real property.

16 **PLAINTIFF'S SIXTH CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
17 **EACH OF THEM, FOR PERMANENT TRESPASS**

18 L.

19 Plaintiff repeats and realleges all of the allegations con-  
20 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
21 through XIX, inclusive, of the first cause of action as though said  
22 allegations were set forth herein in full.

23 LI.

24 Plaintiff, as owner of the real property, has a right to pos-  
25 session and use of the real property.

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1 LII.

2 In handling and releasing of hazardous and radioactive materi-  
3 als, defendants, and each of them, were engaged in an ultrahazardous  
4 activity.

5 LIII.

6 Defendants, and each of them, handled and released such hazard-  
7 ous and radioactive materials in such a manner that said hazardous  
8 and radioactive materials seeped from the facility into the soil and  
9 groundwater of the real property. Such seepage constituted and con-  
10 tinues to constitute a permanent trespass.

11 LIV.

12 The conduct of defendants, and each of them, was such that it  
13 knew that its conduct would, to a substantial certainty, result in  
14 hazardous substances' seeping into the soil and groundwater of the  
15 real property.

16 LV.

17 As a direct and foreseeable result of defendants' aforesaid  
18 conduct, plaintiff has been injured in that the value of the real  
19 property has been substantially reduced in an amount according to  
20 proof. Furthermore, the real property is contaminated, is "stigma-  
21 tized" as contaminated property, and is in proximity of the contami-  
22 nated facility. Moreover, plaintiff has sustained injury in that it  
23 has lost the use of the contaminated portions of the real property.

24 LVI.

25 As a further direct and foreseeable result of defendants'  
26 aforesaid conduct, plaintiff's private groundwater wells on real  
27 property have become unusable. Plaintiff has been and will be  
28 forced to expend sums in excess of this court's jurisdictional

1 amount according to proof in order to obtain municipal water. Such  
2 expenditures would not be necessary absent defendants' aforesaid  
3 conduct.

4 LVII.

5 As a further direct and foreseeable result of defendants'  
6 aforesaid conduct, plaintiff has been and will be forced to expend  
7 sums in excess of this court's jurisdictional amount according to  
8 proof in connection with the testing of soil and groundwater.  
9 Plaintiff also has been and will be forced to incur internal admin-  
10 istrative costs including but not limited to land appraisals and  
11 labor costs involved with the testing of soil and groundwater. Such  
12 expenditures would not be necessary absent defendants' aforesaid  
13 conduct.

14 LVIII.

15 Defendants' wrongful conduct, in testing nuclear facilities,  
16 using, destroying, burning, and/or disposing of any hazardous and/or  
17 toxic materials, unless and until enjoined and restrained by order  
18 of this court, will cause great and irreparable injury through the  
19 ongoing injury to the property.

20 LIX.

21 Plaintiff has no adequate remedy at law for the injuries cur-  
22 rently being suffered and which are threatened, in that defendants  
23 will continue to test nuclear facilities and use, destroy, burn,  
24 and/or dispose of hazardous and/or toxic materials, causing further  
25 injury to real property.

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1 PLAINIFF'S SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS,  
2 AND EACH OF THEM, FOR NEGLIGENCE

3 LX.

4 Plaintiff repeats and realleges all of the allegations con-  
5 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
6 through XIX, inclusive, of the first cause of action as though said  
7 allegations were set forth herein in full.

8 LXI.

9 During the time that defendants, and each of them, occupied the  
10 facility, defendants so negligently maintained, controlled, managed  
11 and operated the facility and, specifically, the handling and re-  
12 lease of the hazardous and radioactive materials, so as to cause  
13 contamination to the soil, air, and groundwater of the real prop-  
14 erty.

15 LXII.

16 In allowing such contamination to occur, defendants, and each  
17 of them, breached the ordinary standard of care owed to plaintiff.

18 LXIII.

19 The contamination of the soil and groundwater of the real prop-  
20 erty has resulted in substantial physical injury to the real proper-  
21 ty and substantial diminution in value of the real property.

22 LXIV.

23 As a direct and foreseeable result of defendants' negligence,  
24 plaintiff has been injured in that the value of the real property  
25 has been substantially reduced in an amount according to proof.  
26 Furthermore, plaintiff has been injured in that it has lost the use  
27 of the contaminated portions of the real property.

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LXV.

As a further direct and foreseeable result of defendants' negligence, plaintiff's private groundwater wells on real property have become unusable. Plaintiff has been and will be forced to expend sums in excess of this court's jurisdictional amount according to proof in order to obtain municipal water. Such expenditures would not be necessary absent defendants' negligence.

LXVI.

As a further direct and foreseeable result of defendants' negligence, plaintiff has been and will be forced to expend sums in excess of this court's jurisdictional amount according to proof in connection with the testing of soil and groundwater, and the removal and remediation of hazardous and radioactive materials from soil and groundwater. Plaintiff has been and will be forced to incur internal administrative costs including but not limited to land appraisals and labor costs. Such expenditures would not be necessary absent defendants' negligence.

**PLAINTIFF'S EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS, AND EACH OF THEM, FOR NEGLIGENCE PER SE**

LXVII.

Plaintiff repeats and realleges all of the allegations contained in paragraphs I through XV, inclusive, and paragraphs XVII through XIX, inclusive, of the first cause of action as though said allegations were set forth herein in full.

LXVIII.

During the time defendants, and each of them, owned and operated the facility, various statutes, ordinances and regulations exist-

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1 ed regarding the handling and release of such hazardous and radioac-  
2 tive materials.

3 LXIX.

4 During the time defendants, and each of them, operated the fa-  
5 cility, defendants, and each of them, failed to comply with or ad-  
6 here to the statutory duty of care regarding the handling and re-  
7 lease of such hazardous and radioactive materials. Such failure to  
8 comply with the statutory duty of care constitutes negligence  
9 *per se*.

10 LXX.

11 Defendants' negligence handling and release of such hazardous  
12 and radioactive materials caused the contamination of the soil and  
13 groundwater of the real property.

14 LXXI.

15 As a direct and foreseeable result of defendants' negligent han-  
16 dling and release of such hazardous and radioactive materials,  
17 plaintiff has been injured in that the value of the real property  
18 has been substantially reduced in an amount according to proof.  
19 Furthermore, the real property is contaminated, is "stigmatized" as  
20 contaminated property, and is in proximity of the contaminated fa-  
21 cility. Moreover, plaintiff has been injured in that it has lost  
22 the use of the contaminated areas of the real property.

23 LXXII.

24 As a further direct and foreseeable result of defendants' neg-  
25 ligent handling and release of such hazardous and radioactive mate-  
26 rials, plaintiff's private groundwater wells on real property have  
27 become unusable. Plaintiff has been and will be forced to expend  
28 sums in excess of this court's jurisdictional amount according to

1 | proof in order to obtain municipal water. Such expenditures would  
2 | not be necessary absent defendants' negligent handling and release  
3 | of such hazardous and radioactive materials.

4 | LXXIII.

5 | As a further direct and foreseeable result of defendants' neg-  
6 | ligent handling and release of such hazardous and radioactive mate-  
7 | rials, plaintiff has been and will be forced to expend sums in ex-  
8 | cess of this court's jurisdictional amount according to proof in  
9 | connection with the testing of soil and groundwater, and the removal  
10 | and remediation of hazardous and radioactive materials from soil and  
11 | groundwater. Plaintiff has been and will be forced to incur inter-  
12 | nal administrative costs including but not limited to land apprais-  
13 | als and labor costs. Such expenditures would not be necessary ab-  
14 | sent defendants' negligent handling and release of such hazardous  
15 | and radioactive materials.

16 | **PLAINTIFF'S NINTH CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
17 | **EACH OF THEM, FOR STRICT LIABILITY (ULTRAHAZARDOUS ACTIVI-**  
18 | **TY)**

19 | LXXIV.

20 | Plaintiff repeats and realleges all of the allegations con-  
21 | tained in paragraphs I through XV, inclusive, and paragraphs XVII  
22 | through XIX, inclusive, of the first cause of action as though said  
23 | allegations were set forth herein in full.

24 | LXXV:

25 | Defendants, and each of them, handled and released hazardous  
26 | and radioactive materials.

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LXXVI.

Accordingly, defendants, and each of them, in handling and releasing hazardous and radioactive materials was engaged in an ultra-hazardous activity and is strictly liable for any damages caused by its conduct.

LXXVII.

In engaging in this ultrahazardous activity, defendants, and each of them, caused the contamination of the soil, air, and groundwater of the real property.

LXXVIII.

The contamination of the soil, air, and groundwater of the real property has resulted in substantial physical injury to the real property and substantial diminution in value of the real property.

LXXIX.

As a direct and foreseeable result of defendants' aforesaid conduct, plaintiff has been injured in that the value of the real property has been substantially reduced in an amount according to proof. Furthermore, the real property is contaminated, is "stigmatized" as contaminated property, and is in proximity of the contaminated facility. Moreover, plaintiff has been injured in that it has lost the use of the contaminated areas of the real property.

LXXX.

As a further direct and foreseeable result of defendants' aforesaid conduct, plaintiff's private groundwater wells on real property have become unusable. Plaintiff has been and will be forced to expend sums in excess of this court's jurisdictional amount according to proof in order to obtain municipal water. Such

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1 expenditures would not be necessary absent defendants' aforesaid  
2 conduct.

3 LXXXI.

4 As a further direct and foreseeable result of defendants' afore-  
5 said conduct, plaintiff has been and will be forced to expend sums  
6 in excess of this court's jurisdictional amount according to proof  
7 in connection with the testing of soil and groundwater, and the  
8 removal and remediation of hazardous and radioactive materials from  
9 soil and groundwater. Plaintiff has been and will be forced to  
10 incur internal administrative costs including but not limited to  
11 land appraisals and labor costs. Such expenditures would not be  
12 necessary absent defendants' aforesaid conduct.

13 **PLAINTIFF'S TENTH CAUSE OF ACTION AGAINST DEFENDANTS, AND**  
14 **EACH OF THEM, FOR INTENTIONAL INTERFERENCE WITH THE PRO-**  
15 **SPECTIVE CIVIL ACTION BY SPOILIATION OF EVIDENCE**

16 LXXXII.

17 Plaintiff repeats and realleges all of the allegations con-  
18 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
19 through XIX, inclusive, of the first cause of action as though said  
20 allegations were set forth herein in full.

21 LXXXIII.

22 Defendants, and each of them, were aware that they may be lia-  
23 ble for their release of hazardous and radioactive materials. De-  
24 fendants and each of them knew of the existence of plaintiff's  
25 claims on account of the incidents described above and further knew  
26 that preservation and inspection of documents containing information  
27 regarding the extent of contamination on the facility and defen-

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1 dants' liability for such contamination would be essential to plain-  
2 tiff's successful prosecution of its claims.

3 LXXXIV.

4 Plaintiff is informed and believes and thereon alleges that de-  
5 fendants, and each of them, wilfully, wrongfully, and with the spe-  
6 cific intent to minimize plaintiff's chances of recovering compen-  
7 sation for the injuries described above, maliciously concealed,  
8 lost, or destroyed the documents containing evidence regarding the  
9 extent of contamination on the facility and defendants' liability  
10 for said contamination.

11 LXXXV.

12 By reason of the foregoing, plaintiff has lost the opportunity  
13 to inspect and admit as evidence in this action potential documents  
14 demonstrating the extent of the contamination of the facility, de-  
15 fendants' knowledge of said contamination, and their liability for  
16 such contamination. These documents are necessary for the prepara-  
17 tion and presentation of plaintiff's case and for plaintiff's oppor-  
18 tunity to obtain reasonable compensation for its loss.

19 LXXXVI.

20 As a proximate result of the acts of defendants described  
21 above, plaintiff has suffered damages in that plaintiff's opportuni-  
22 ty to obtain reasonable compensation for its damages arising from  
23 said contamination has been significantly prejudiced.

24 LXXXVII.

25 The aforementioned acts were done wilfully and maliciously,  
26 and with intent to injure and oppress plaintiff, and therefore  
27 plaintiff is entitled to exemplary and punitive damages.

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1 PLAINIFF'S ELEVENTH CAUSE OF ACTION AGAINST DEFENDANTS,  
2 AND EACH OF THEM, FOR MISREPRESENTATION AND SUPPRESSION OF  
3 MATERIAL FACTS

4 LXXXVIII.

5 Plaintiff repeats and realleges all of the allegations con-  
6 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
7 through XIX, inclusive, of the first cause of action as though said  
8 allegations were set forth herein in full.

9 LXXXIX.

10 Plaintiff alleges that, in addition to the above-described con-  
11 duct of defendants, and each of them, said defendants have contin-  
12 ually misrepresented to plaintiff and/or suppressed material facts  
13 concerning the types of toxic substances released and/or improperly  
14 disposed of at the facility and/or the degree of contamination of  
15 plaintiff's environment and real property from the facility. Based  
16 upon present knowledge and belief, plaintiff alleges that defen-  
17 dants, and each of them, misrepresented to the plaintiff and/or sup-  
18 pressed material facts concerning the release and/or improper dis-  
19 posal of toxic substance, which misrepresentation and suppression  
20 include; but are not limited to, the following acts, or failures to  
21 act:

22 A. On or about March 25, 1959, fission gas was released from  
23 the AE-6 Nuclear Reactor contaminating the containment room and cer-  
24 tain operating staff.

25 B. On or about July, 1959, a partial meltdown occurred in the  
26 SRE Nuclear Reactor resulting in the release in excess of 10,000  
27 Curies of radiation. Radioactive contaminated sodium coolant was

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1 disposed in sodium burn pits which resulted in the release of  
2 radioactive gas into the surrounding atmosphere and soil.

3 C. In or about the early 1960's, approximately 5000 gallons  
4 of radioactive waste water was released by ROCKWELL into the leach  
5 field, which contamination was not cleaned up until 1978.

6 D. In or about 1964, a Nuclear Reactor suffered a fuel clad-  
7 ding melting in approximately 80% of the fuel rods resulting in the  
8 release of various fission products into the atmosphere.

9 E. In or about 1969, a Nuclear Reactor suffered a fuel clad-  
10 ding melting in approximately 80% of the fuel rods resulting in the  
11 release of various fission products into the atmosphere.

12 F. On or about May 19, 1971, a sodium fire occurred resulting  
13 in the release of radioactive gas into the atmosphere.

14 G. On or about February 14, 1975, ROCKWELL discovered that a  
15 leach field had been draining contaminated water at a rate of  
16 25 gallons per hour for a period of 5 days.

17 H. On or about July 29, 1975, a fire occurred during the pro-  
18 cessing of a radioactive fuel slug resulting in the release of  
19 radioactive contamination into the atmosphere.

20 I. On or about January 20, 1979, ROCKWELL discovered elevated  
21 concentrations of radioactivity in the water of a retention pond.  
22 Although ROCKWELL determined that the probable cause of the elevated  
23 radioactivity was an "accidental release," heavy rainfall forced  
24 ROCKWELL to pump the retention pond releasing water into a creek  
25 running through the Bell Canyon residential community.

26 J. In or about May, 1989, Richard Schwartz, then president of  
27 ROCKETDYNE, represented that "no radioactive or chemical contamina-  
28 tion has ever been found off-site on the ground, in the ground or in

1 | the water near our Santa Susana facility," and that "groundwater  
2 | tests conducted on-site have revealed no radioactive contamination."

3 |       K.    Despite the foregoing representations, it was not until  
4 | May, 1989, that ROCKETDYNE first disclosed to any federal or state  
5 | agencies that ROCKETDYNE operated a hazardous material waste dump,  
6 | identified as the Sodium Burn Pit, at the SSFL. Plaintiff is pres-  
7 | ently informed and believes that the Sodium Burn Pit was used by  
8 | ROCKETDYNE from the early 1960's to 1978, and ROCKETDYNE has had  
9 | actual knowledge of contamination at the Sodium Burn Pit since 1978.

10 |       L.    Despite the foregoing representations, it was not until  
11 | May of 1989 that ROCKETDYNE first disclosed to any federal or state  
12 | agencies that ROCKETDYNE employs a process of shooting bullets into  
13 | unlabeled canisters containing hazardous waste materials, which pro-  
14 | cess has been in place since approximately 1969.

15 |       M.    On or about July, 1989, the United States Environmental  
16 | Protection Agency (hereinafter "EPA") conducted a review of ROCKWELL  
17 | Environmental Reports. The EPA noted as follows:

18 |           1.   ROCKWELL lab personnel analyze soil for gross  
19 | alpha and beta radioactivity, which procedure is ineffec-  
20 | tive in assessing environmental radioactivity;

21 |           2.   ROCKWELL lab personnel heat soil samples in a  
22 | muffle furnace for 8 hours at 500 degrees C, which process  
23 | volatilizes most man-made radionuclides;

24 |           3.   ROCKWELL lab personnel use inappropriate "coun-  
25 | ters" to determine gross alpha and beta radioactivity in  
26 | water samples, which process produces invalid results;

27 |           4.   ROCKWELL lab personnel wash and heat vegetation  
28 | samples prior to counting, which processes either removes

1 any contamination from the sample, or volatilizes any pres-  
2 ent radionuclides; and

3 5. ROCKWELL never collected soil or water samples  
4 to be analyzed for Tritium, a radioactive isotope of  
5 Hydrogen.

6 As a result of the foregoing conduct by ROCKWELL personnel, the EPA  
7 concluded that "Rocketdyne does not have a good 'handle' on where  
8 radiation has been inadvertently or intentionally dumped onsite."

9 N. On or about July 21 and 26, 1994, certain ROCKWELL employ-  
10 ees conducted a series of "burns" at an open air test site at the  
11 Santa Susana Field Laboratory. "Burns" are a process of combusting  
12 or exploding energetic materials.

13 O. On or about July 26, 1994, certain ROCKWELL employees were  
14 killed when certain energetic materials, including, but not limited  
15 to, Triaminoguanidine Nitrate ("TAGN"), detonated and exploded.

16 P. Immediately following the July 26, 1994, explosion, ROCK-  
17 WELL represented that the purpose of the burns was to conduct tests.  
18 However, and in direct contradiction to its representation, ROCKWELL  
19 has agreed, and formally stipulated, to the following:

20 1. ROCKWELL has been unable to locate any recorded  
21 test data associated with the burns or to establish that  
22 the test instruments at the site were in fact functioning  
23 during the burns;

24 2. On July 21 and 26, 1994, ROCKWELL did not have  
25 the permit required by RCRA to dispose of TAGN, which was  
26 a hazardous waste; and

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1           3.    That one or more ROCKWELL employees knowingly  
2    disposed of the TAGN on July 21 and 26, 1994 without a  
3    permit.

4    As a result of the foregoing, on or about April 5, 1996, ROCKWELL  
5    entered into a Plea Agreement whereby ROCKWELL plead guilty to three  
6    counts of felony disposal and storage of TAGN, and further agreed to  
7    a fine of \$6,500,000.00 to be imposed as a result of the foregoing  
8    actions.  Indeed, on or about April 11, 1996, the United States Dis-  
9    trict Court for the Central District of California, the Honorable  
10   Mariana R. Pfaelzer presiding, accepted ROCKWELL's plea of guilty.

11                   XC.

12       The foregoing, among other, misrepresentations and/or suppres-  
13   sion of material facts by defendants, and each of them, were per-  
14   formed with the intent to induce the plaintiff to refrain from ac-  
15   tion in reliance upon defendants' wrongful conduct.

16                   XCI.

17       Plaintiff justifiably relied upon the misrepresentations made  
18   by defendants and/or was unaware of the suppression of material  
19   facts by defendants and as a result of said defendants' wrongful  
20   conduct, plaintiff refrained from taking action to protect itself  
21   and its environment from contamination.

22                   XCII.

23       Plaintiff alleges that as a direct and proximate result of the  
24   above-described conduct of the defendants, and each of them, plain-  
25   tiff suffered the grave and serious type of damages and contamina-  
26   tion as previously alleged in this complaint.

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1 XCIH.

2 The aforementioned acts of defendants were willful, wanton, ma-  
3 licious, and oppressive, and, where permitted by law, justify the  
4 awarding of exemplary and/or punitive damages in an amount suffi-  
5 cient to punish defendants.

6 **PLAINTIFF'S TWELFTH CAUSE OF ACTION AGAINST DEFENDANTS,**  
7 **AND EACH OF THEM, FOR NEGLIGENT MANUFACTURE**

8 XCIV.

9 Plaintiff repeats and realleges all of the allegations con-  
10 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
11 through XIX, inclusive, of the first cause of action as though said  
12 allegations were set forth herein in full.

13 XCV.

14 Defendants, and each of them, negligently, carelessly, and un-  
15 lawfully owned, leased, sold, operated, manufactured, installed, re-  
16 paired, constructed, designed, serviced, and maintained the nuclear  
17 reactors and/or other structures housing radioactive materials lo-  
18 cated on the facility. Said nuclear reactors, rocket engines, and/  
19 or rocket testing equipment and their component parts were designed,  
20 manufactured, and sold by defendants, and each of them, to other en-  
21 tities, thereby being placed on the market and into the stream of  
22 commerce. Defendants, and each of them, were normally engaged in  
23 the business of designing, manufacturing, and selling said nuclear  
24 reactors, rocket engines, and/or rocket testing equipment and their  
25 component parts. Such conduct resulted in the multiple releases of  
26 radioactive materials, resulting in injuries and damages to plain-  
27 tiff which are hereinafter set forth.

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XCVI.

As a direct and foreseeable result of defendants' aforesaid conduct, plaintiff has been injured, in that the value of the real property has been substantially reduced in an amount according to proof. Furthermore, the real property is contaminated, is "stigmatized" as contaminated property, and is in proximity to the contaminated facility. Moreover, plaintiff has sustained injury, in that it has lost the use of the contaminated portions of the real property.

XCVII.

As a further, direct, and foreseeable result of defendants' aforesaid conduct, plaintiff's private groundwater wells on real property have become unusable. Plaintiff has been forced to expend sums in order to obtain municipal water. Such expenditures would not have been necessary but for defendants' aforesaid conduct.

XCVIII.

As a further, direct, and foreseeable result of defendants' aforesaid conduct, plaintiff has been, and will be, forced to expend sums according to proof in connection with the testing of soil, air, and groundwater and the removal and remediation of radioactive materials from the soil, air, and groundwater. Plaintiff has been, and will be, forced to incur internal administrative costs, including but not limited to land appraisal and labor costs involved in the testing of soil, air, and groundwater and the removal and remediation of radioactive materials from the soil, air, and groundwater. Such expenditures would not have been necessary but for defendants' aforesaid conduct.

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1 PLAINIFF'S THIRTEENTH CAUSE OF ACTION AGAINST DEFENDANTS,  
2 AND EACH OF THEM, FOR STRICT PRODUCTS LIABILITY

3 XCIX.

4 Plaintiff repeats and realleges all of the allegations con-  
5 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
6 through XIX, inclusive, of the first cause of action as though said  
7 allegations were set forth herein in full.

8 C.

9 In connection with the design, engineering, manufacture, assem-  
10 bly, distribution, installation, sale, rental, supply, lease, deliv-  
11 ery, labeling, modifying, maintenance, and repair of said nuclear  
12 reactors and their component parts, said nuclear reactors and their  
13 component parts contained defects of design and manufacture which  
14 were known to defendants, and each of them, or which should have  
15 been known to them in the exercise of reasonable care. Said nuclear  
16 reactors, rocket engines, and/or rocket testing equipment and their  
17 component parts were designed, manufactured, and sold by defendants,  
18 and each of them, to other entities, thereby being placed on the  
19 market and into the stream of commerce. Defendants, and each of  
20 them, were normally engaged in the business of designing, manufac-  
21 turing, and selling said nuclear reactors, rocket engines, and/or  
22 rocket testing equipment and their component parts. As a sole, di-  
23 rect, and proximate result of the existence of said defects, said  
24 defects caused the multiple releases of radioactive materials, re-  
25 sulting in injuries and damages as more fully set forth hereinbelow.

26 CI.

27 As a direct and foreseeable result of defendants' aforesaid con-  
28 duct, plaintiff has been injured, in that the value of the real

1 | property has been substantially reduced in an amount according to  
2 | proof. Furthermore, the real property is contaminated, is "stigma-  
3 | tized" as contaminated property, and is in proximity to the contami-  
4 | nated facility. Moreover, plaintiff has sustained injury, in that  
5 | it has lost the use of the contaminated portions of the real prop-  
6 | erty.

7 | CII.

8 | As a further, direct, and foreseeable result of defendants'  
9 | aforesaid conduct, plaintiff's private groundwater wells on real  
10 | property have become unusable. Plaintiff has been forced to expend  
11 | sums in order to obtain municipal water. Such expenditures would  
12 | not have been necessary but for defendants' aforesaid conduct.

13 | CIII.

14 | As a further, direct, and foreseeable result of defendants'  
15 | aforesaid conduct, plaintiff has been, and will be, forced to expend  
16 | sums according to proof in connection with the testing of soil, air,  
17 | and groundwater and the removal and remediation of radioactive mate-  
18 | rials and/or hazardous materials from the soil, air, and ground-  
19 | water. Plaintiff has been, and will be, forced to incur internal  
20 | administrative costs, including but not limited to land appraisal  
21 | and labor costs involved in the testing of soil, air, and ground-  
22 | water and the removal and remediation of radioactive materials from  
23 | the soil, air, and groundwater. Such expenditures would not have  
24 | been necessary but for defendants' aforesaid conduct.

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1 PLAINIFF'S FOURTEENTH CAUSE OF ACTION AGAINST DEFENDANTS,  
2 AND EACH OF THEM, FOR BREACH OF WARRANTY

3 CIV.

4 Plaintiff repeats and realleges all of the allegations con-  
5 tained in paragraphs I through XV, inclusive, and paragraphs XVII  
6 through XIX, inclusive, of the first cause of action as though said  
7 allegations were set forth herein in full.

8 CV.

9 Defendants, and each of them, at all relevant time periods,  
10 were engaged in the design, engineering, building, construction,  
11 erecting, assembly, packaging, labeling, manufacture, installation,  
12 maintenance, repair, modifying, servicing, fixing, leasing, sale,  
13 supply, distribution, and delivery of certain products to third  
14 parties which include, but are not limited to, the United States De-  
15 partment of Energy. Specifically, such products include, but are  
16 not limited to, the following:

- 17 A. Nuclear reactors;
- 18 B. Rocket engines and/or rocket testing equipment;
- 19 and their component parts;
- 20 C. Nuclear generated energy;
- 21 D. Component parts of nuclear reactors;
- 22 E. Fuel elements for nuclear reactors;
- 23 F. Structures housing radioactive materials;
- 24 G. Plutonium Fuel;
- 25 H. Uranium Carbide Fuel;
- 26 I. Various chemicals;
- 27 J. Various chemical by-products; and

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1 K. Technology and training procedures in the fabrica-  
2 tion, use, development, operation, and maintenance  
3 of nuclear reactors.

4 In connection with the design, engineering, building, construction,  
5 erecting, assembly, packaging, labeling, manufacture, installation,  
6 maintenance, repair, modifying, servicing, fixing, leasing, sale,  
7 supply, distribution, and delivery of the foregoing subject prod-  
8 ucts, defendants, and each of them, did represent and warrant, both  
9 expressly and impliedly, that said products were fit and proper for  
10 the uses and purposes for which they were intended. Said represen-  
11 tations and warranties were, in fact, false and untrue, in that said  
12 products allowed the multiple releases of radioactive materials, re-  
13 sulting in injuries and damages as set forth hereinbelow.

14 CVI.

15 As a direct and foreseeable result of defendants' aforesaid  
16 conduct, plaintiff has been injured, in that the value of the real  
17 property has been substantially reduced in an amount according to  
18 proof. Furthermore, the real property is contaminated, and is in  
19 proximity to the contaminated facility. Moreover, plaintiff has  
20 sustained injury, in that it has lost the use of the contaminated  
21 portions of the real property.

22 CVII.

23 As a further, direct, and foreseeable result of defendants'  
24 aforesaid conduct, plaintiff's private groundwater wells on real  
25 property have become unusable. Plaintiff has been forced to expend  
26 sums in order to obtain municipal water. Such expenditures would  
27 not have been necessary but for defendants' aforesaid conduct.

28 \ \ \

CVIII.

As a further, direct, and foreseeable result of defendants' aforesaid conduct, plaintiff has been, and will be, forced to expend sums according to proof in connection with the testing of soil, air, and groundwater and the removal and remediation of radioactive materials from the soil, air, and groundwater. Plaintiff has been, and will be, forced to incur internal administrative costs, including but not limited to land appraisal and labor costs involved in the testing of soil, air, and groundwater and the removal and remediation of radioactive materials and/or hazardous materials from the soil, air, and groundwater. Such expenditures would not have been necessary but for defendants' aforesaid conduct.

WHEREFORE, plaintiff prays for judgement against defendants, and each of them, as follows:

*On its first cause of action:*

1. For response costs in an amount in excess of \$50,000 or according to proof;
2. For prejudgment interest from the date of the expenditures concerned;
3. For costs of this action; and
4. For such other and further relief as the court deems just and proper.

*On its second cause of action:*

1. That the court declare plaintiff's and defendants' respective rights and duties as to liability for future response costs resulting from defendants' disposal and release of hazardous substances and their subsequent seepages into the soil and groundwater of the real property; and

1           2.    For such other and further relief as the court deems just  
2 and proper.

3           *On its third and fifth causes of action:*

4           1.    For damages in an amount according to proof, including,  
5 but not limited to:

6           a.    costs incurred for testing of soil and groundwater  
7 and removal and remediation of the contamination of the soil and  
8 groundwater of the real property, including but not limited to land  
9 appraisals and labor costs;

10           b.   loss of use of plaintiff's real property;

11           c.   lost profits;

12           d.   costs incurred for the provision of municipal water;

13 and

14           2.    For prejudgment interest on all damages, according to law;

15 and

16           3.    For costs of this action; and

17           4.    For a court order requiring defendants to stop all activi-  
18 ties in the nature of nuclear testing, using, destroying, burning,  
19 and/or disposing of any hazardous and toxic materials on the facili-  
20 ty; and

21           5.    For a court order requiring defendants to properly and  
22 lawfully engage in complete and timely remediation of the hazardous  
23 materials on defendants' property in full compliance with all appli-  
24 cable State and Federal guidelines, regulations, statutes, and laws  
25 to the satisfaction of the State and Federal regulatory agencies and  
26 authorities with jurisdiction over the facility; and

27           6.    For such other and further relief as the Court deems just  
28 and proper.

1           **On its fourth and sixth causes of action:**

2           1.    For damages in an amount according to proof, including,  
3 but not limited to:

4           a.    costs incurred and to be incurred for testing of soil,  
5 and groundwater and removal and remediation of the contamination of  
6 the soil and groundwater of the real property, including but not  
7 limited to land appraisals and labor costs;

8           b.    diminution in value of the real property;

9           c.    loss of use of real property;

10          d.    lost profits;

11          e.    costs incurred and to be incurred for the provision  
12 of municipal water;

13          2.    For prejudgment interest on all damages, according to law;

14          3.    For costs of this action; and

15          4.    For a court order requiring defendants to stop all activi-  
16 ties in the nature of nuclear testing, using, destroying, burning,  
17 and/or disposing of any hazardous and toxic materials on the facili-  
18 ty; and

19          5.    For such other and further relief as the Court deems just  
20 and proper.

21           **On its seventh through ninth and twelfth through four-**  
22 **teenth causes of action:**

23          1.    For damages in an amount according to proof, including,  
24 but not limited to:

25          a.    costs incurred and to be incurred for testing of soil  
26 and groundwater and removal and remediation of the contamination of  
27 the soil and groundwater of the real property, including but not  
28 limited to land appraisals and labor costs;

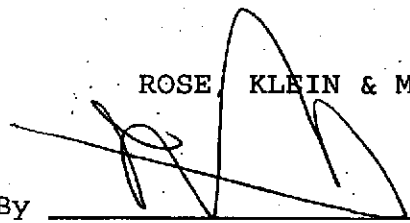
- 1 b. diminution in value of the real property;
- 2 c. loss of use of real property;
- 3 d. lost profits;
- 4 e. costs incurred and to be incurred for the provision
- 5 of municipal water;

- 6 2. For prejudgment interest on all damages, according to law;
- 7 3. For costs of this action; and
- 8 4. For such other and further relief as the Court deems just
- 9 and proper.

10 *On its tenth and eleventh causes of action:*

- 11 1. For compensatory damages according to proof;
- 12 2. For punitive damages;
- 13 3. For prejudgment interest on all damages, according to law;
- 14 4. For costs of this action; and
- 15 5. For such other and further relief as the Court deems just
- 16 and proper.


17 DATED: June 6, 1996

ROSE, KLEIN & MARIAS  


By \_\_\_\_\_  
David A. Rosen  
Attorneys for Plaintiff,  
THE BRANDEIS-BARDIN INSTITUTE

22 DATED: June 6, 1996

LAW OFFICES OF HELEN E. ZUKIN

By   
Helen E. Zukin  
Attorneys for Plaintiff,  
THE BRANDEIS-BARDIN INSTITUTE

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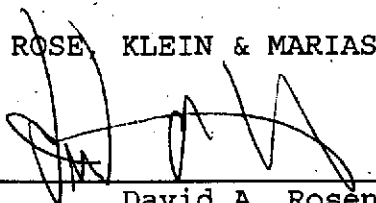
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rules of Civil Procedure (Rule 38(b)) and  
Local Rule 3.4.10.1, plaintiff hereby demands a jury trial in the  
above-entitled action.

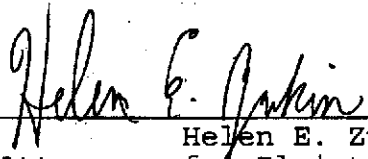
DATED: June 6, 1996

ROSE, KLEIN & MARIAS

By   
David A. Rosen  
Attorneys for Plaintiff,  
THE BRANDEIS-BARDIN INSTITUTE

DATED: June 6, 1996

LAW OFFICES OF HELEN E. ZUKIN

By   
Helen E. Zukin  
Attorneys for Plaintiff,  
THE BRANDEIS-BARDIN INSTITUTE