

12.19.18

Weber 
Gallagher

New Jersey Advancing Environmental Justice Initiative Through Multiple Recent Lawsuit Filings all over New Jersey

New Jersey's Attorney General has recently targeted various corporate entities conducting business in lower income and minority neighborhoods for alleged pollution as part of an "environmental justice" initiative. Adding to the multiple similar lawsuits filed a few months ago, just this past week, as many as eight more lawsuits have been filed for alleged statutory violations. These lawsuits include New Jersey's Spill Act and Water Pollution Control Act, as well as various common law theories based on allegations of groundwater and soil contamination that go as far back as 50 years ago in certain cases. Damages sought by the State include losses for any natural resource by the discharge of hazardous substances; funding for further assessment, clean up costs and restoration of natural resources plus treble damages; compensation for the lost value of any injured natural resource; and attorneys' fees. Thus far, the State has focused on sites in Newark, Phillipsburg, Flemington, Trenton, Pennsauken, Palmyra, and Camden, as well as other "targeted areas" around the State.

New Jersey's Attorney General has organized this initiative as the Environmental Enforcement and Environmental Justice Section and has announced the intention of repurposing existing resources and hiring additional attorneys. The stated objective by this initiative is to address the "disproportionate sources of pollution and the consequent health effects" of urban areas and other communities. The State Attorney General has indicated that even more of these suits can be expected to be filed in the coming months.

Comment: Due to this new initiative, businesses currently or formerly operating in New Jersey, out of State businesses that conducted business with businesses that operated in New Jersey, and their insurers/reinsurers are potentially at risk of getting drawn into this latest round of environmental litigation, which has aspects of both "traditional environmental site liability" and new "environmental justice" (nuisance, trespass, community impact) combined. This is the first major litigation effort of this kind by the State of New Jersey in more than a decade and may be just the beginning of many more such actions, as the State seeks to recover costs for infrastructure, natural resource and urban area revitalization.