



IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

JOSEPH BALBACK, Individually and as husband :  
to JOAN BALBACK and JOAN BALBACK, :  
Individually and as wife to JOSEPH BALBACK; :

THENIA BRASBY; :

CHRISTINE BURTON, individually and as the :  
guardian *ad litem* of J.B., E.F., E.F., K.B., and K.B., :  
minor children; :

FAYE BURTON; :

GINA BURTON, individually and as the :  
representative of the Estate of KIWANIS BURTON: :  
and guardian *ad litem* of R.B. and A.B., minors; :

LATROYA BURTON; :

TITUS BURTON; :

CAROL CORDREY, :  
:

CHARLES CORDREY, Individually, as husband to: :  
ELEANOR CORDREY, and as guardian *ad litem* :  
of his grandchildren, OJ and AJ, and ELEANOR :  
CORDREY, Individually, as wife to CHARLES :  
CORDREY, and as guardian *ad litem* for her :  
grandchildren, O.J. and A.J.; :

GERALD CORDREY, JR., Individually and as :  
husband to TILLIE CORDREY and TILLIE :  
CORDREY, Individually and as wife to GERALD :  
CORDREY, JR.; :

JEFFREY DAVIS, SR., Individually, :  
MARY DAVIS, Individually and as guardians :  
*ad litem* of their Grandchild, R.D., II; :

JEFFREY DAVIS, JR., Individually and as guardian: :  
*ad litem* of his children, I.W, J.D and W.D. :  
:

LINDA DENNEY; :

TONEY FLOYD, and CHARLETTA FLOYD; :

COMPLAINT

S18C-06-

JURY TRIAL DEMANDED

GREGORY GAGNON, Individually and as  
husband to MARYKATE GAGNON and  
MARYKATE GAGNON, Individually and as wife  
to GREGORY GAGNON;

LAURA GAGNON;

MARY KATHERINE GAGNON;

TREVOR GALLAGHER, Individually and as  
husband to MEGAN GALLAGHER and MEGAN  
GALLAGHER, Individually and as wife to  
TREVOR GALLAGHER;

BRITTANY HAYES;

KEN HAYNES, and JOANNE HAYNES,

MICHAEL HOUGH, Individually and as husband  
To COLLEEN HOUGH and COLLEEN HOUGH,  
Individually and as wife to MICHAEL HOUGH;

BRANNON JOHNSON;

TOM JOHNSON, Individually and as husband to  
MONICA JOHNSON and MONICA JOHNSON,  
Individually and as wife to TOM JOHNSON;

ERNEST KOLLOCK, Individually and as husband  
to GINGER KOLLOCK and GINGER  
KOLLOCK, Individually and as wife to ERNEST  
KOLLOCK;

MARK LEWIS;

JERRY LYNCH;

GEORGE AND CHERYL MATHES;

LISA MCCABE, Individually and as guardian *ad*  
*litem* of minor children, D.M. and B.M.;

ELIZABETH MERWIN;

JOSEPH MEYER and CHERYL MEYER;

RICHARD MILLER and DEBRA MILLER;

JAMES MOONEY, Individually and as husband to  
EILEEN MOONEY and EILEEN MOONEY,  
Individually and as wife to JAMES MOONEY;

DAMON O’LEARY;

THOMAS O’LEARY, Individually and as husband  
to KIM O’LEARY and KIM O’LEARY,  
Individually and as wife to THOMAS O’LEARY;

MICHAEL ORLEN, Individually and as husband to:  
MICHELLE ORLEN and MICHELLE ORLEN,  
Individually and as wife to MICHAEL ORLEN;

JOHN PAUL, Individually and as husband to  
MARYLOUISE PAUL and MARYLOUISE:  
PAUL, Individually and as wife to JOHN PAUL;

ROBERT PHILLIPS, Individually and as husband  
to JEAN PHILLIPS and JEAN PHILLIPS,  
Individually and as wife to ROBERT PHILLIPS;

JAMES REID, Individually and as husband to  
DONNA REID and DONNA REID, Individually  
and as wife to JAMES REID;

TIFFANY REID, Individually and as guardian *ad*  
*litem* of T.R. and M.R., minors;

NINA DAVIS RODRIQUEZ;

JARAD SCHERA, Individually, and ERIN  
SCHERA, Individually, and as  
guardians *ad litem* of J.S. and J.S., minor children;

FRANCES SCHUCK;

BRUCE SENTMAN and MARYANN SENTMAN;

THOMAS SPIEZIO, Individually and as husband  
To CAROLYN SPIEZIO, and CAROLYN  
SPIEZO, Individually,

|  |   |
|--|---|
| PATSY TAYLOR;  | : |
|  | : |
| BRIAN TOWNES;  | : |
|  | : |
| DANIEL TURPIN, Individually and as husband to        | : |
| PATRICIA TURPIN and PATRICIA TURPIN,                 | : |
| Individually and as wife to DANIEL TURPIN;           | : |
|  | : |
| CHARLES WAYNE;                                       | : |
|  | : |
| DYLAN O’LEARY WELSKO;                                | : |
|  | : |
| RAY WHARTON, SR., Individually and as                | : |
| husband to GERALDINE WHARTON and                     | : |
| GERALDINE WHARTON, Individually and as               | : |
| wife to RAY WHARTON, SR.;                            | : |
|  | : |
| JUNIOR WISE, Individually and as husband to          | : |
| MARTHA WISE and MARTHA WISE,                         | : |
| Individually and as wife to JUNIOR WISE;             | : |
|  | : |
| PRESTON WISE, Individually and as husband to         | : |
| WESCENIA WISE and WESCENIA WISE,                     | : |
| Individually and as wife to PRESTON WISE and         | : |
| as guardians <i>ad litem</i> for their child, P.W.W; | : |
|  | : |
| PRETRESSE WISE;                                      | : |
|  | : |
| PLAINTIFFS,  | : |
|  | : |
| V.   | : |
|  | : |
| MOUNTAIRE FARMS OF DELAWARE,                         | : |
| INC., a Delaware corporation;                        | : |
|  | : |
| MOUNTAIRE FARMS, INC., a Delaware                    | : |
| Corporation, and                                     | : |
|  | : |
| MOUNTAIRE CORPORATION, an Arkansas                   | : |
| Corporation,   | : |
|  | : |
| DEFENDANTS.  | : |

## COMPLAINT

*COME NOW* Plaintiffs, by and through undersigned counsel, make the following Complaint against the Defendants and for their cause of action states the following:

### **I. Parties**

1. Plaintiffs are all residents of the State of Delaware.
2. Defendant Mountaire Farms of Delaware, Inc. is a domestic for-profit corporation which owns and operates approximately 928 acres of farmland north and south of State Route 24, Millsboro, Delaware, among other properties. Its registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.
3. Defendant Mountaire Farms, Inc. is a domestic for-profit corporation. Its registered agent is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.
4. Defendant Mountaire Corporation is a for-profit foreign corporation doing business in Delaware. Its registered agent is Janice A. Atterberry, 1901 Napa Valley Drive, Little Rock, Arkansas, 72212.
5. Defendants may collectively be referred to as “Mountaire.”

### **II. Factual Background**

#### **A. The Mountaire Facility**

6. Mountaire assumed ownership of the poultry processing plant at issue (hereinafter referred to as “the Facility”) in Millsboro, Delaware, in 2000.
7. The Mountaire Facility slaughters and processes approximately two million chickens per day.

8. The Facility currently includes a feed mill, hatchery, processing plant with three “kill lines,” resource recovery plant, wastewater treatment plant, and approximately 928 acres of farmland.
9. At each kill line, broiler chickens are brought to the Facility, hung by their feet, stunned, and slaughtered. The birds are then defeathered in four steps: scalding, picking, singeing, and washing. The whole birds are then processed into their final products.
10. This entire production process, combined with washing procedures, produces large volumes of wastewater containing remnants of blood, feces, feathers, and other organic matter.
11. Mountaire currently produces approximately 2.4 million gallons per day (MGD) of wastewater.
12. Because the Facility’s wastewater risks contamination to nearby residential water wells used for personal consumption, this wastewater requires treatment to be freed from dangerous levels of harmful contaminants.
13. The wastewater treatment plant consists of a dissolved air flotation unit, anaerobic lagoons that store untreated wastewater, activated sludge, disinfection, and disposal via spray irrigation.
14. Currently, Mountaire stores untreated wastewater in two anaerobic lagoons and its treated wastewater in a third “spray irrigation storage lagoon,” where treated wastewater is stored before being disposed of via spray irrigation.
15. Each anaerobic lagoon is approximately twelve feet deep, covers 2.76 acres, and holds up to eight million gallons of untreated wastewater.

16. The spray irrigation storage lagoon is between 0 and 17 feet deep, covers 3.44 acres, and holds up to 14.2 million gallons of wastewater.
17. Each lagoon is lined with PVC liner to prevent seepage.
18. The purportedly treated water is then disposed of via spray irrigation on the 928 acres of farmland surrounding the processing plant.
19. The thirteen center-pivot spray zones north and south of Route 24 (“the spray fields”) are shown in the figure below, outlined in red:





21. The Facility is further situated on the Columbia Surficial aquifer and the Upper Chesapeake aquifer. These aquifers supply drinking water for human consumption both at the Facility and for surrounding residential wells.
22. Sussex County, Delaware, relies solely on groundwater for public drinking water supplies.
23. The surface waters and groundwater aquifers surrounding the Facility are severely polluted with excess nitrogen and phosphorus.
  - a. The level of nitrate in groundwater unaffected by human activities is believed to be 0.4 mg/L.
  - b. The median nitrate concentration of groundwater and unconfined aquifers throughout Delaware is 4.7 mg/L.
  - c. The median nitrate concentration of groundwater in the Indian River Bay watershed, where Mountaire is located, is 6.4 mg/L.
  - d. Nitrate levels near the soil surface at Mountaire averaged 36.3 mg/L from 2011 to 2016.
24. On information and belief, disposal of wastewater containing manure and/or animal processing residuals waste at Mountaire contributes substantially to the nitrate pollution of groundwater and the surrounding environment.
  - a. Manure and animal processing residuals waste contains two primary forms of nitrogen: ammonium and organic nitrogen.
  - b. Organic nitrogen becomes mobile and available to crops as fertilizer through processes by which microbes decompose organic nitrogen and release ammonium.

- c. Once the organic nitrogen is converted to ammonium, microorganisms in soil convert the ammonium to nitrate in a process called nitrification.
  - d. Both nitrate and ammonium are available to plants as fertilizer. However, plants can only uptake limited amounts of nitrates; excess nitrate remains in the soil when applied at levels greater than the crop's fertilization needs, *i.e.*, the agronomic rate.
  - e. When overapplied over a long period of time, nitrate accumulates in the soil.
    - Moreover, nitrate is highly mobile and susceptible of leaching into groundwater.
25. Leaching of nitrates is accelerated in rapidly permeable soil, where water moves quickly.
  26. Groundwater in this area moves quickly through the sandy soil, at a rate of up to thirty-nine (39) inches per day in a vertical and/or horizontal direction.
  27. Groundwater moves faster and in multiple directions near the Mountaire Facility because of the wastewater sprayed on the fields.
  28. Generally, the closer to the surface waters that lands receiving wastewater are, the shorter the amount of time it takes the groundwater to flow into the surface water.

**C. Mountaire's Permit and History of Violations**

29. Mountaire's wastewater disposal is governed by a Spray Irrigation Operations Permit, DEN No. 359191-04 ("Operations Permit"), and was initially issued by the Delaware Department of Natural Resources and Environmental Control in 2009 and renewed on multiple occasions since then, including in 2017. The Operations Permit contains the following requirements for wastewater disposal:
  - a. The monthly average influent to the wastewater treatment Facility is limited to 2.6 million gallons per day.

- b. The monthly average effluent discharged from the wastewater treatment Facility onto the spray fields is limited to 2.6 million gallons per day.
- c. The average weekly quantity of effluent discharged to any portion of the spray fields is limited to 2.5 inches per acre averaged over a seven-day rolling period.
- d. The quantity of effluent discharged to any portion of the spray fields is limited to 0.25 inches/acre/hour.
- e. The total residual chlorine concentration of treated wastewater must remain between 1.0 mg/L and 4.0 mg/L at all times.
- f. The wastewater treatment Facility is designed for a monthly effluent Total Nitrogen concentration of 15.6 mg/L. If the effluent concentration exceeds 19.5 mg/L in any calendar month, Mountaire is required to resample the wastewater and submit additional analyses to DNREC. If the effluent concentration exceeds 19.5 mg/L over a three-month period, Mountaire must have the wastewater treatment system evaluated to determine the cause of the exceedance and submit a revised Design Engineer Report to DNREC.
- g. The total amount of nitrogen that may be applied to the spray fields in any year—including from effluent, supplemental fertilizers, or any other source—is limited to 320 pounds per acre.
- h. The 5-day Biochemical Oxygen Demand (BOD5) of treated wastewater must not exceed 50 mg/L.
- i. Effluent wastewater must be disinfected such that the discharge does not exceed 200 col/100mL Fecal Coliform.

- j. Treated wastewater must not contain more than 50 mg/L of Total Suspended Solids.
  - k. Otherwise limits the amount of toxic or dangerous substances that may be applied and/or must be disinfected by Defendants.
30. Just two years after Mountaire assumed control of operations at the Millsboro Facility, U.S. EPA determined that Mountaire had contaminated the aquifer underlying the Facility, which served as the sole source of drinking water for surrounding residents.
  31. In March 2003, U.S. EPA entered into a consent decree with Mountaire arising from its conclusion that “poultry operations at the Facility have impacted the nitrate levels in the ground water used as a source of drinking water and therefore caused or contributed to the contamination of the [underground source of drinking water] underlying the site.”
  32. Following the consent order, on July 21, 2005, Mountaire submitted a request to U.S. EPA to terminate the order. EPA rejected this request, however, because Mountaire had failed to “maintain point of use treatment devices on the residences identified” in the consent order. In fact, of at least ten residences with nitrate-contaminated water identified by DHSS, Mountaire had only maintained point of use treatment devices at one.
  33. Mountaire’s violations only continued from there. Despite entering into the consent order in 2003 to abate nitrate contamination, on September 7, 2010, the Groundwater Discharges Section of DNREC issued Mountaire a Non-Compliance Notice (“2010 Notice”) as a result of nitrate concentrations in numerous monitoring wells exceeding the concentrations allowed by the Operations Permit.
  34. The 2010 Notice was predicated upon infield monitoring wells at Mountaire consistently showing average nitrate concentrations of 25 mg/L.

35. In response to the 2010 Notice, Mountaire proposed a number of wastewater treatment upgrades designed to achieve an effluent Total Nitrogen concentration of under 15.6 mg/L.
36. But these upgrades did not correct the problem and, since early 2015, effluent total nitrogen concentrations have exceeded the 15.6 mg/L allowed under the Operations Permit.
37. Because of ongoing violations of the effluent limitations prescribed in the Operations Permit, DNREC issued Mountaire's 2017 Operations Permit renewal with a Schedule of Compliance. The Schedule of Compliance required a Corrective Action Plan to be submitted to DNREC by August 31, 2017, addressing the elevated Total Nitrogen concentrations.
38. Mountaire's failure to submit a Corrective Action Plan and persistent violations of myriad permit conditions resulted in a second Notice of Violation issued by DNREC in November 2017 ("2017 NOV"). The 2017 NOV outlined the following violations:
  - a. Data analysis of Mountaire's effluent showed Total Nitrogen concentrations as high as 76.75 mg/mL in April 2017.
  - b. On September 5, 2017, DNREC received a notice that effluent composite samples were being collected from an invalid sampling point.
  - c. On August 31, 2017, grab samples collected at spray pivots, *i.e.*, from wastewater being applied to the fields surrounding Mountaire, showed Fecal Coliform levels exceeding 1,000,000 col/100mL. The same samples showed total chlorine residual at .2 mg/L, well beneath the 1.0 mg/mL minimum set out in Mountaire's Operations Permit.

- d. On September 7, 2017, DNREC was notified that not all flow from the clarifiers discharged into the storage lagoon, but instead were discharging directly to central pivots, where they were discharged onto fields.
- e. Effluent Total Nitrogen concentrations have been exceeding 15.6 mg/L since 2015.
- f. Effluent Total Nitrogen concentrations have been as high as 641 mg/L in September of 2017.
- g. In violation of its Operations Permit and its design criteria following the 2010 Notice, Mountaire's effluent Total Nitrogen concentrations have consistently been above 15.6 mg/L. Concentrations have routinely been above 100mg/L, as reflected in the following table from the 2017 NOV:

| Characteristic | Date       | Result | Unit |
|----------------|------------|--------|------|
| Total Nitrogen | 1/4/2017   | 56.2   | mg/L |
| Total Nitrogen | 2/8/2017   | 41.86  | mg/L |
| Total Nitrogen | 3/1/2017   | 18.76  | mg/L |
| Total Nitrogen | 4/24/2017  | 76.75  | mg/L |
| Total Nitrogen | 5/25/2017  | 30.8   | mg/L |
| Total Nitrogen | 6/21/2017  | 31.47  | mg/L |
| Total Nitrogen | 7/28/2017  | 26     | mg/L |
| Total Nitrogen | 8/30/2017  | 406    | mg/L |
| Total Nitrogen | 9/14/2014  | 368    | mg/L |
| Total Nitrogen | 9/21/2017  | 356    | mg/L |
| Total Nitrogen | 9/26/2017  | 641    | mg/L |
| Total Nitrogen | 9/28/2017  | 210    | mg/L |
| Total Nitrogen | 9/29/2017  | 320    | mg/L |
| Total Nitrogen | 10/2/2017  | 172    | mg/L |
| Total Nitrogen | 10/3/2017  | 163    | mg/L |
| Total Nitrogen | 10/4/2017  | 142    | mg/L |
| Total Nitrogen | 10/5/2017  | 164    | mg/L |
| Total Nitrogen | 10/6/2017  | 184    | mg/L |
| Total Nitrogen | 10/9/2017  | 151    | mg/L |
| Total Nitrogen | 10/10/2017 | 182    | mg/L |
| Total Nitrogen | 10/9/2017  | 151    | mg/L |
| Total Nitrogen | 10/10/2017 | 182    | mg/L |
| Total Nitrogen | 10/11/2017 | 105    | mg/L |
| Total Nitrogen | 10/12/2017 | 98     | mg/L |
| Total Nitrogen | 10/13/2017 | 102    | mg/L |
| Total Nitrogen | 10/16/2017 | 98.2   | mg/L |
| Total Nitrogen | 10/17/2017 | 122    | mg/L |
| Total Nitrogen | 10/18/2017 | 136    | mg/L |
| Total Nitrogen | 10/19/2017 | 111    | mg/L |
| Total Nitrogen | 10/20/2017 | 118    | mg/L |

- h. In 2015, Mountaire exceeded its permit limit of 320 lbs./acre-year for Nitrogen on eleven of its thirteen fields.
- i. In August 2017, Mountaire had already exceeded its permitted total amount of Nitrogen for the year on nine of its thirteen fields.
- j. On six of those fields, Mountaire had disposed of over 320 lbs./acre—its annual limit—in August alone.
- k. The following table shows Mountaire’s noncompliant applications of nitrate as of September 2017, with violations in red:

| Field | Jan   | Feb   | Mar   | Apr    | May   | Jun   | Jul              | Aug    | Sep    | TOTAL          |
|-------|-------|-------|-------|--------|-------|-------|------------------|--------|--------|----------------|
| CB3   | 20.2  | 13.37 | 9.82  | 16.58  | 16.24 | 13.78 | Failed to Report | 413.95 | 2.44   | <b>506.38</b>  |
| CB3A  | 28.89 | 37.81 | 13.99 | 0      | 27.99 | 27.23 | Failed to Report | 0      | 0      | <b>135.91</b>  |
| CB3B  | 47.47 | 19.61 | 7.33  | 39.01  | 26.26 | 21.76 | Failed to Report | 104.75 | 355.36 | <b>621.55</b>  |
| CB3C  | 19.36 | 23.92 | 13.69 | 94.83  | 0     | 0     | Failed to Report | 484.21 | 402.03 | <b>1038.04</b> |
| CB3DE | 23.71 | 19.47 | 8.71  | 107.68 | 16.05 | 8.65  | Failed to Report | 344.21 | 195.11 | <b>723.59</b>  |
| CB3DW | 44.24 | 22.7  | 6.15  | 0      | 41.37 | 45.26 | Failed to Report | 179.21 | 0      | <b>338.93</b>  |
| WHBJ1 | 15.28 | 24.48 | 9.09  | 51.24  | 6.31  | 1.13  | Failed to Report | 24.95  | 71.80  | <b>204.28</b>  |
| WHBJ2 | 40.9  | 32.79 | 12.72 | 56.07  | 17.8  | 25.61 | Failed to Report | 388    | 253.10 | <b>826.99</b>  |
| WHBJ3 | 29.56 | 13.08 | 15.13 | 51.88  | 16.95 | 19.3  | Failed to Report | 344.29 | 312.46 | <b>802.65</b>  |
| WHBJ4 | 21.42 | 0     | 7.36  | 18.07  | 14.86 | 14.67 | Failed to Report | 338.24 | 196.07 | <b>610.69</b>  |
| WHBJ5 | 31.99 | 24.66 | 13.07 | 50.67  | 4.37  | 5.29  | Failed to Report | 268.04 | 211.51 | <b>609.60</b>  |
| WHBJ6 | 47.58 | 29.88 | 0.04  | 63.18  | 11.16 | 13.14 | Failed to Report | 481.19 | 183.21 | <b>829.38</b>  |
| WHBJ7 | 35.64 | 20.43 | 12.99 | 24.92  | 19.1  | 19.04 | Failed to Report | 212.35 | 186.96 | <b>531.43</b>  |

- l. Mountaire's treated wastewater routinely exceeded the daily permissible average concentration of Biochemical Oxygen Demand (BOD5), 50 mg/L. From 2015 through 2017, Mountaire violated this standard twenty-nine times, with daily average BOD5 levels reaching as high as 1200 mg/L, or twenty-four times the permissible concentration.
- m. Mountaire's treated wastewater routinely exceeded the daily permissible average concentration of Total Suspended Solids (TSS), 50 mg/L. In 2016 and 2017, Mountaire violated this standard twenty-four times, with daily average TSS concentrations reaching as high as 4220 mg/L, or over eighty-four times the permissible concentration.
- n. Mountaire's treated wastewater routinely exceeded the daily permissible average concentration of Fecal Coliform, 200 col/100mL. In 2017, Mountaire violated this standard nine times, with daily average Fecal Coliform concentrations reaching as high as 1,100,000 mg/L, or 5,500 times the permissible concentration.





41. As a proximate and direct result of Mountaire's wanton, willful, negligent, unpermitted, illegal, and reckless disposal of waste containing nitrogen, nitrogen as nitrates, and other contaminants:
  - a. the total nitrogen concentrations in the groundwater have routinely been in excess of 100 mg/L in this time frame, reaching as high as 641 mg/L.
  - b. These levels have been in violation of the permit issued by DNREC for the spray fields since at least 2015.
  - c. Groundwater monitoring wells have consistently exceeded the drinking water standard of for nitrates of 10 mg/L and Mountaire has not shown improvement in this drinking water standard since 2000.
  - d. Groundwater data from 2016 indicates that the nitrate levels were as high as 92.5 mg/L, *i.e.*, 9.5 times the legal limit.
  - e. Groundwater data from 2017 indicates that the nitrate levels were as high as 65.8, *i.e.*, 6.5 times the legal limit.
42. Mountaire's disposal has made it a routine violator of state and federal drinking water standards for nitrates.
43. Mountaire's waste handling and disposal has impacted the environment, the Plaintiffs, and the general public, and has failed to comply with its permit issued by DNREC and a number of state and federal laws by:
  - a. Discharging effluent inconsistent with the terms and conditions of the permit;
  - b. Failing to submit a "Plan of Corrective Action" relative to effluent Total Nitrogen concentrations;

- c. Failing to maintain and operate all structures, pipelines, systems and equipment for collection, treatment control, and monitoring;
  - d. Failing to provide requisite Five-Day Non-Compliance Notifications for Total Nitrogen, Total Chlorine Residual, bypassing storage lines, and others;
  - e. Diverting flows by-passing part of the treatment Facility's permitted process flow;
  - f. Failing to monitor and report complete representative data; and
  - g. Other violations.
44. As a proximate and direct result of Mountaire's reckless, negligent, willful, wanton, and intentional acts, Plaintiffs' wells have been contaminated by elevated levels of nitrates and other chemical and biological constituents.
45. As a proximate and direct result of Mountaire's reckless, negligent, willful, wanton, and intentional acts, Plaintiffs have unknowingly been consuming dangerous and polluted drinking water, which contains, *inter alia*, elevated levels of nitrates and other chemical and biological constituents.
46. As a proximate and direct result of Mountaire's reckless, negligent, willful, wanton, and intentional acts, Plaintiffs have suffered and continue to suffer a diminution in property value, personal injuries, future medical monitoring, and other economic injuries including the need for deep well drilling and/or public water connection.

**D. Dangers Caused by Mountaire's Failures**

47. The Safe Drinking Water Act ("SDWA") defines the Maximum Contaminant Level ("MCL") of a contaminant as the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. U.S. EPA has identified the MCL

for nitrate as 10 mg/L as nitrogen. EPA has determined that above this level, nitrate poses a health threat to the population in general, and an acute health threat to children under six months of age.

48. Ingested nitrate is readily and completely absorbed from the upper small intestine from which it is distributed throughout the body.
49. Nitrate levels at or above this level have been known to cause a potentially fatal blood disorder in infants under six months of age called methemoglobinemia or "blue baby" syndrome, in which there is a reduction in the oxygen-carrying capacity of blood.
50. Pregnant women and fetuses are also considered particularly susceptible to negative health effects of elevated nitrate levels.
51. Other negative health effects of drinking water with elevated nitrate levels include:
  - a. Congenital malformations;
  - b. Thyroid malfunction;
  - c. Gastrointestinal malfunction;
  - d. Cardiac effects, disorders and malfunction;
  - e. Inflammatory reactions; and
  - f. Other health effects.
52. The presence of elevated *fecal coliform* reasonably indicates the presence of other pathogens in Plaintiffs' drinking water.
53. These pathogens reasonably cause illness and/or disease including gastrointestinal damage, diarrhea, and other infections, stomach problems, and illnesses.

### **E. Plaintiffs' Property Damage and Injuries Sustained**

54. The impacts on numerous private wells in the area has impacted and diminished the value of all properties in the area using private wells, including but not limited to, Plaintiffs' properties.
55. Plaintiffs **Joan and Joseph Balback** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
  - a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.

- g. Plaintiffs have experienced elevated levels of contamination in their wells including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury, including a bacterial infection in his bloodstream (Joseph Balback), as well as severe gastrointestinal problems (Joan Balback).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Joseph Balback and Joan Balback are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

56. Plaintiff **Thenia Brasby** of Jersey Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes

including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

57. Plaintiff **Christine Burton**, individually and as the guardian *ad litem* for J.B., E.F., E.F., K.B. and K.B., her minor children, of Herbert Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of the airborne contaminants, dusts and odors caused by Defendants' conduct, Plaintiffs, Christine Burton, J.B., E.F., E.F., K.B., and K.B. have suffered permanent and serious respiratory injuries, including asthma.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

58. Plaintiff **Faye Burton** of Herbert Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.



- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well and activities causing airborne contaminants, dusts and odors, Plaintiff has suffered permanent and serious injury including gastrointestinal injuries and respiratory impairment.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

59. Plaintiff **Gina Burton**, individually and as the representative of the Estate of Kiwanis Burton and guardian *ad litem* for R.B. and A.B., minors, of Herbert Lane and William Street Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including

solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing airborne contaminants, dusts and odors, Plaintiffs have suffered permanent and serious injury.
- h. Upon information and belief, as a direct and proximate result of Defendants' conduct, Plaintiffs have suffered permanent and serious injury including inflammatory processes and gastrointestinal issues, and asthma (Gina Burton) and breathing problems, acute asthma and death (Kiwanis Burton).
- i. Plaintiff Gina Burton, as the representative of the Estate of Kiwanis Burton, deceased, is pursuing the estate claims for the injuries Kiwanis Burton suffered during his life. Plaintiff Gina Burton, individually as surviving parent, is also pursuing a wrongful death claim as a result of Kiwanis Burton's death, which would not have occurred at the time it did or in the manner it did, but for Defendants' conduct as described above.
- j. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

60. Plaintiff **Latroya Burton**, of William Street Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
  - f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
  - g. In addition, the airborne dusts and pollutants caused by Defendants Mountaire's disposal activities have directly and proximately caused Plaintiff's injuries.
  - h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

61. Plaintiff **Titus Burton** of Herbert Lane, Millsboro, Delaware has experienced extremely foul and offensive odors impacting his residence from the neighboring application of wastes on the Mountaire Spray Disposal Sites.
- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impacts on Plaintiff's private well have damaged the use and enjoyment of his property and have diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
  - f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use his water for its intended purposes.
  - g. Upon information and belief, as a direct and proximate result of Defendants' activities resulting in the release of airborne pollutants and contaminants, Plaintiff has suffered permanent and serious injury including respiratory impairment.

- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his property.

62. Plaintiff **Carol Cordrey** of John J. Williams Highway, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- g. Plaintiff has experienced elevated levels of contamination in her well including, but not limited to, nitrates.

- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

63. Plaintiffs **Charles and Eleanor Cordrey, individually and as guardians *ad litem* for their grandchildren, O.J. and A.J., minors**, of John J. Williams Highway, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.

- h. Upon information and belief, as a direct and proximate result of Defendants' activities causing the release of airborne dusts and other contaminants, Plaintiffs have suffered permanent and serious injury including severe asthma, and respiratory impairment (Eleanor Cordrey).
  - i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
  - j. Plaintiffs Charles Cordrey and Eleanor are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.
64. Plaintiffs **Gerald** and **Tillie Cordrey, Jr.** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts on Plaintiffs' private well have damaged the use and enjoyment of their property and have diminished the value of that property
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendant's impacts on Plaintiffs' well and the airborne release of odors, dusts and other contaminants, Plaintiffs have suffered permanent and serious injuries.
- h. Defendant's waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and their property.
- i. The Cordreys are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

65. Plaintiffs **Jeffrey Davis, Sr., individually, Mary Davis, Individually and as guardians ad litem for their grandchild, R. D., II** of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.



- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities leading to the airborne release of dust and contaminants, Plaintiffs have suffered permanent and serious injury including *h. pylori* bacterial infection, respiratory and breathing issues (Jeff Davis, Sr.), as well as respiratory and breathing issues (Mary Davis).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

66. Plaintiffs **Jeffrey Davis, Jr., individually, and as guardian *ad litem* for his children, I.W., J.D., and W.D.** of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
  - g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
  - h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury.

- i. In addition, the airborne dusts and pollutants caused by Mountaire's disposal activities have directly and proximately caused Plaintiffs' injuries.
  - j. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
67. Plaintiff **Linda Denney** of Shawnee Court, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
  - e. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
  - f. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well, Plaintiff has suffered permanent and serious injury, including severe gastrointestinal issues.

- g. In addition, the airborne dusts and pollutants caused by Defendants Mountaire's disposal activities have directly and proximately caused Plaintiff's injuries.
  - h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.
68. Plaintiffs **Toney and Charletta Floyd** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.



odors and dust, Plaintiff has suffered from *h. pylori* bacterial infection (Laura Gagnon)

- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs.

70. Plaintiffs **Gregory and MaryKate Gagnon** of Indian Meadow Circle, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.

- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities leading to airborne contaminants, odors and dust, Plaintiffs have suffered permanent and serious injuries, including respiratory infections impacting his lung transplant (Gregory Gagnon), as well as gastrointestinal issues (Mary Kate Gagnon).
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs.
- i. Plaintiffs Gregory Gagnon and Mary Kate Gagnon are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

71. Plaintiff **Mary Katherine Gagnon** of Indian Meadow Circle, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including

solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property.
- e. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- f. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well activities causing emissions of contaminants and dust, Plaintiff has suffered permanent and serious injury, including spastic bowel syndrome and other gastrointestinal issues as well as skin inflammation.
- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff.

72. Plaintiffs **Trevor and Megan Gallagher** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including



solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury, including but not limited to gastrointestinal issues (Trevor Gallagher), as well as gastrointestinal issues and two miscarriages (Megan Gallagher).
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- i. Plaintiffs Trevor Gallagher and Megan Gallagher are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

73. Plaintiff **Brittany Hayes** of Herbert Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- e. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well and activities causing airborne contaminants, odors and dust, Plaintiff has suffered permanent and serious injury including respiratory impairment.
- f. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff.

74. Plaintiffs **Ken and Joanne Haynes** of Possum Point Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. The odors as well as impacts on private wells in the area have impacted and diminished the value of Plaintiffs' property.
- d. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

75. Plaintiffs **Michael and Colleen Hough** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.

- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their wells including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing the airborne release of dusts, odors, and other contaminants, Plaintiffs have suffered permanent and serious injury including miscarriage (Colleen Hough).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Michael Hough and Colleen Hough are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

76. Plaintiff **Brannon Johnson** of Jersey Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.

- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of his property and have diminished the value of that property.
- e. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use his water for its intended purposes.
- f. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his property.

77. Plaintiffs **Tom and Monica Johnson** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area has also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink water. Plaintiffs have noticed brown stains on dishes, the need to constantly change filters in their water heater, and orange coloring on Plaintiffs' humidifier.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury including but not limited autoimmune issues and inflammatory responses (Monica Johnson).
- i. In addition, the airborne dusts and pollutants caused by Defendants Mountaire's disposal activities have directly and proximately caused Plaintiffs' injuries.
- j. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- k. Plaintiffs Tom Johnson and Monica Johnson are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

78. Plaintiffs **Ernest and Ginger Kollock** Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Upon information and belief, as a direct and proximate result of Defendants' activities causing airborne emissions of odors, dusts, and other contaminants, Plaintiffs have suffered permanent and serious injury, including but not limited to asthma and difficulty breathing.
  - g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

h. Plaintiffs Ernest Kollock and Ginger Kollock are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

79. Plaintiff **Jerry Lynch** of Possum Point Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.

c. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his property.

80. Plaintiffs **George and Cheryl Mathes** of Possum Point Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.



- c. The odors as well as impacts on private wells in the area have impacted and diminished the value of Plaintiffs' property.
- d. In addition, the airborne dusts and pollutants caused by Defendants Mountaire's disposal activities have directly and proximately caused Plaintiffs' injuries.
- e. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

81. Plaintiffs **Lisa McCabe**, individually and as guardian *ad litem* for minor children, D.M. and B.M. of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.

- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injuries, including a congenital defect known as Microtia/Atresia and its sequela, as well as hemifacial microsomia and associated hearing loss (B.M.), as well as learning disabilities and cognitive impairment (D.M.).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

82. Plaintiff **Elizabeth Merwin** of Possum Point Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of her property and have diminished the value of that property.
- e. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- f. Plaintiff has experienced elevated levels of contamination in her well including, but not limited to, nitrates.
- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

83. Plaintiff **Joseph Meyer** of Possum Point Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- d. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his property.

84. Plaintiff **Cheryl Meyer** of Possum Point Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- e. Plaintiff has experienced elevated levels of contamination in her well including, but not limited to, nitrates.
- f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

85. Plaintiffs **Richard and Debra Miller** of Possum Point Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- d. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

86. Plaintiffs **James and Eileen Mooney** of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.

- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' activities causing the airborne release of odors, dusts, and contaminants, Plaintiff James Mooney has suffered permanent and serious injury, including severe aggravation of his allergies.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- i. Plaintiffs James Mooney and Eileen Mooney are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

87. Plaintiff **Damon O'Leary** of Jersey Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including

solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts on Plaintiff's private well have damaged the use and enjoyment of the property.
- e. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use his water for its intended purposes.
- f. Plaintiff has experienced elevated levels of contamination in his well including, but not limited to, nitrates.
- g. Upon information and belief, as a direct and proximate result of Defendants' activities causing the airborne release of odors, dusts, and other contaminants, Plaintiff has suffered difficulty breathing.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff.

88. Plaintiffs **Thomas and Kim O'Leary** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including

solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered severe systemic inflammation.
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Thomas O'Leary and Kim O'Leary are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

89. Plaintiffs **Michael and Michele Orlen** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.



- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury including gastrointestinal issues, (Michael Orlen).
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- i. Plaintiffs Michael Orlen and Michelle Orlen are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future

suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

90. Plaintiffs **John and Marylouise Paul** of Indian Meadows Circle, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing the airborne release of odors,

dusts, and other contaminants, Plaintiffs have suffered permanent and serious injury including gastrointestinal issues and exacerbation of asthma.

- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- i. Plaintiffs John Paul and Marylouise Paul are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

91. Plaintiffs **Robert and Jean Phillips** of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.

- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury including low blood oxygen level (Robert Phillips), as well as gastrointestinal issues (Jean Phillips).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Robert Phillips and Jean Phillips are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

92. Plaintiffs **James and Donna Reid** of Herbert Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing the airborne release of odors, dusts, and other contaminants, Plaintiffs have suffered permanent and serious injury including respiratory and gastrointestinal problems (James Reid & Donna Reid).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs James Reid and Donna Reid are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above

stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

93. Plaintiff, **Tiffany Reid, Individually and as guardian *ad litem* of T.R. and M.R.**, minor plaintiffs, of Herbert Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- e. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- f. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, Plaintiffs have suffered permanent and serious injury including exacerbation of asthma and miscarriage (Tiffany Reid).

- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well, minor Plaintiffs have been repeatedly exposed to significantly elevated levels of contaminants.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs.

94. Plaintiff **Nina Davis Rodriguez** of Justice Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- e. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well, Plaintiff has suffered permanent and serious injury including miscarriages, gastrointestinal issues and other injuries.
- f. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff.

95. Plaintiff **Jarad and Erin Schera**, individually and as guardian *ad litem* of J.S. and J.S., minor children, of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
  - g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
96. Plaintiff **Frances Schuck** of Jersey Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.



- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiff's private well has damaged the use and enjoyment of her property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- f. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well, Plaintiff has suffered permanent and serious injury including gastrointestinal issues.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and her property.

97. Plaintiffs **Maryann and Bruce Sentman** of Justice Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

98. Plaintiffs **Thomas and Carolyn Spiezio** of Dagsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendant Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and caused them economic harm.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area has also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing emissions of contaminants and dust, Plaintiff has suffered permanent and serious injury including complications due to low blood oxygen levels. (Carolyn).
- h. Plaintiffs Thomas Spiezio and Carolyn Spiezio are husband and wife. As a result of the Defendants' wrongful conduct which caused Carolyn Spiezio's above stated injuries, Thomas Spiezio has and will in the future suffer a loss

of support, consortium and society of his spouse, together with related mental anguish and pain and suffering.

99. Plaintiff **Patsy Taylor** of Herbert Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiff's private well has damaged the use and enjoyment of her property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiff has experienced elevated contaminant levels including, but not limited to nitrates.
  - g. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.



- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his property.

101. Plaintiffs **Daniel and Patricia Turpin** of Jersey Road, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing airborne odors, dusts, and

other contaminants, Plaintiffs have suffered permanent and serious injury including breathing problems and gastrointestinal issues. (Daniel Turpin).

- h. In addition, the airborne dusts and pollutants caused by Defendants Mountaire's disposal activities have directly and proximately caused Plaintiffs' injuries.
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Daniel Turpin and Patricia Turpin are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

102. Plaintiff **Charles Wayne**, who occupies land on Jersey Road to operate his business, has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy his business property, including preventing him from operating his business in the normal course of business.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well used in his business has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get

rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.

- d. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiff's property.
- e. Plaintiff has been unable to safely use water in his business operations for its intended purposes.
- f. Plaintiff has experienced elevated levels of contamination in his well including, but not limited to, nitrates.
- g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiff and his business property.

103. Plaintiff **Dylan Welsko** of Jersey Road, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors have impacted the Plaintiff's ability to use and enjoy his land, including preventing him from enjoying the outdoors, taking walks, and outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use his water for its intended purposes.



- e. Plaintiff has experienced elevated contaminant levels including, but not limited to nitrates.
- f. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiff's well, Plaintiff has suffered permanent and serious injury including severe gastrointestinal issues requiring a portion of his intestine to be removed.
- g. Defendants' waste application and its associated offense and impacts has adversely affected and irreparably injured Plaintiff.

104. Plaintiffs **Geraldine and Ray Wharton** of Nor Easter Drive, Millsboro, Delaware, have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.

- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' impacts on Plaintiffs' well and activities causing the airborne release of odors, dusts, and other contaminants, Plaintiffs have suffered permanent and serious injury including difficulty breathing (Ray Wharton).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Ray Wharton, Sr. and Geraldine Wharton are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

105. Plaintiffs **Junior and Martha Wise** of Herbert Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.

- b. Plaintiffs have experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
- e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
- f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
- g. Plaintiffs have experienced elevated levels of contamination in their well including, but not limited to, nitrates.
- h. Upon information and belief, as a direct and proximate result of Defendants' activities causing the airborne release of odors, dusts, and other contaminants, Plaintiffs have suffered permanent and serious injury including respiratory impairment and complications caused by lack of O<sub>2</sub> in blood flow (Martha Wise).
- i. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.
- j. Plaintiffs Junior Wise and Martha Wise are husband and wife. As a result of the Defendants' wrongful conduct which caused each Plaintiff spouse's above

stated injuries, that Plaintiff's spouse has and will in the future suffer a loss of support, consortium and society of his or her spouse, together with related mental anguish and pain and suffering.

106. Plaintiffs **Preston and Wescenia Wise, individually and as guardians *ad litem* for their child, P.W.W.** of Herbert Lane, Millsboro, Delaware have been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.
- a. The foul and offensive odors and dust have impacted the Plaintiffs' ability to use and enjoy their land, including preventing them from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
  - b. Plaintiffs have experienced and continue to experience these foul and offensive odors as a proximate result of Defendants' activities.
  - c. Plaintiffs' private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
  - d. The impact on Plaintiffs' private well has damaged the use and enjoyment of their property and has diminished the value of that property.
  - e. The impacts Defendants' activities have caused on the groundwater quality in the area have also impacted and diminished the value of Plaintiffs' property.
  - f. Plaintiffs have been unable to safely drink, bathe, shower, and otherwise use their water for its intended purposes.
  - g. Defendants' waste application and its associated offense and impacts have adversely affected and irreparably injured Plaintiffs and their property.

107. Plaintiff **Pretrresse Wise** of Herbert Lane, Millsboro, Delaware has been impacted by the application of wastes on the Mountaire Spray Disposal Sites at the Facility.

- a. The foul and offensive odors and dust have impacted the Plaintiff's ability to use and enjoy her land, including preventing her from enjoying the outdoors, taking walks, and other outdoor and indoor recreation.
- b. Plaintiff has experienced and continues to experience these foul and offensive odors as a proximate result of Defendants' activities.
- c. Plaintiff's private well has been impacted by Defendants Mountaire's ongoing and continuous use of the Spray Disposal Fields to get rid of wastes including solids, liquid and other wastes containing nitrogen, nitrates, nitrites, bacteria and other hazardous and deleterious constituents.
- d. Plaintiff has been unable to safely drink, bathe, shower, and otherwise use her water for its intended purposes.
- e. Defendants' waste application and its associated offense and impacts has adversely affected and irreparably injured Plaintiff.

### **III. Causes of Action**

#### **Negligence Count I**

108. Each of the preceding paragraphs is incorporated by reference herein.

109. At all relevant times Defendants Mountaire owed a duty of care to Plaintiffs to act in a reasonable manner under the circumstances.

110. Mountaire breached this duty by:

- a. Failing to use reasonable care to treat and dispose of its wastes in a way that protect Plaintiffs and other members of the public who are and were reasonably foreseeable;
- b. Discharging contaminants into and onto the ground that were likely, if not known, to pose a threat to the environment, groundwater, and the drinking water used by Plaintiffs and the public, endangering their health and safety;
- c. Spraying untreated and minimally treated wastes onto hundreds of acres of property;
- d. Spraying excessive amounts of nitrogen-containing compounds, including nitrates, in excess of agronomic rates for crops tended on the spray fields;
- e. Failing to comply with the terms of the permit as indicated above, including negligently discharging wastes with elevated levels of total nitrogen, nitrates in drinking water, fecal coliform, and other elevated levels of dangerous contaminants;
- f. Discharging effluent in direct violation with the terms and conditions of the permit;
- g. Failing to submit a “Plan of Corrective Action” relative to effluent Total Nitrogen concentrations as required;
- h. Discharging contaminants, including, but not limited to, nitrates, nitrogen, bacteria, and other contaminants, into and onto its property in such a way as to impair the groundwater, making the water non-potable and a public

health threat and doing so in such a manner and duration so as to contaminate the water supply of the local public, including Plaintiffs;

- i. Applying a volume and type of waste material that has led to objectionable and offensive odors that have adversely impacted Plaintiffs and the general public;
- j. Failing to maintain and operate all structures, pipelines, systems and equipment for collection, treatment control and monitoring;
- k. Failing to provide requisite Five-Day Non-Compliance Notifications for Total Nitrogen, Total Chlorine Residual, bypassing storage lines, and others;
- l. Failing to monitor and report complete representative data; and  
Being otherwise negligent

111. The dusts and odors generated by Mountaire's waste disposal activities have impacted and continue to impact Plaintiffs and the general public as Mountaire continues to engage in these activities.

112. As a proximate and direct result of Defendants' negligence, Plaintiffs have suffered serious economic and non-economic harm including personal injuries, property damages, diminution in home value, loss of use and enjoyment of property, and other damages.

113. Plaintiffs' right to be free of negligence under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Negligence *Per Se***  
**Count II**

114. Each of the preceding paragraphs is incorporated by reference herein.

115. At all relevant times, Defendants Mountaire owed a duty of care to Plaintiffs to act in a manner consistent with laws and regulations designed to protect a class of individuals, of which Plaintiffs are members.
116. These statutes and regulations include compliance with:
- a. The Clean Water Act (33 U.S.C. §1251, *et seq.*) and the related rules requiring land disposal of sludges to be permitted and to be done in compliance with all permit requirements and conditions;
  - b. 7 Del. Ch. § 6002, *et seq.* and corresponding rules and regulations requiring Mountaire to comply with the terms of the State permit.
  - c. Other federal, state, and local statutes, rules and regulations.
117. Mountaire breached this duty by failing to comply with the federal and state laws, permits, rules and regulations.
118. The odors and dusts generated by Mountaire's illegal and unpermitted waste disposal activities have impacted and continue to impact Plaintiffs and the general public as Mountaire continues to engage in these activities.
119. Plaintiffs have experienced irritation of eyes, nose, skin and throat as well as difficulties breathing due to the odors and dusts generated by Mountaire's illegal and unpermitted waste disposal activities.
120. Plaintiffs have experienced contamination of their private wells, diminution of their home values, property damages, and personal injuries as a result of Mountaire's illegal and unpermitted waste disposal activities, including spraying, dumping, and disposing of wastes in excess of permit limits and in disregard of its anticipated or known impacts on the local and regional groundwater.



121. As a proximate and direct result of Defendants' negligence *per se*, Plaintiffs have suffered serious economic and non-economic harm including personal injuries, property damages, diminution in home value, loss of use and enjoyment of property, and other damages.
122. Plaintiffs' right to be free of negligence under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Absolute Nuisance/ Strict Liability**  
**Count III**

123. Each of the preceding paragraphs is incorporated by reference herein.
124. Defendants Mountaire used and sprayed certain chemicals and substances in its waste disposal process.
125. Mountaire's use and disposal of these substances was not a matter of common practice or usage.
126. Mountaire had control, or the right to control, the use and disposal of these substances used in its waste disposal process.
127. Mountaire's use and disposal of these substances was inappropriate because a community of people lived in close proximity to the spray fields and that community both breathed the local air containing dusts and odors proximately caused by Mountaire and its activities and relied on well-water that was hydrologically connected to the water impaired by Mountaire and its activities.
128. The disposal and treatment (or lack thereof) of these wastes created a high degree of risk of harm to Plaintiffs and their real property.
129. There was likelihood that the harm caused by the wastes would be great.
130. Mountaire lacked the ability to eliminate the risk by the exercise of reasonable care.

131. The wastes or portions thereof entered the groundwater at the Plaintiffs' home property and travelled with the groundwater down gradient to the Plaintiffs' domestic wells.
132. Plaintiffs suffered economic and non-economic damages as a result of Mountaire's abnormally dangerous activity.
133. Plaintiffs used the water from the well for cooking, drinking and cleaning and were exposed to the contaminated water and now have an increased risk of developing serious diseases.
134. The contamination of the local aquifer impacting numerous private wells also caused a devaluation of the Plaintiffs' real property.
135. Mountaire's use and disposal of these wastes in an area where they knew or should have known that citizens relied exclusively on well water for cooking, drinking and cleaning and where residents recreate, live, and breathe in the local air impacted by Mountaire and its activities is an abnormally dangerous and/or ultrahazardous activity and an absolute nuisance.
136. The dusts and odors generated by Mountaire's waste disposal activities have impacted and continue to impact Plaintiffs as Mountaire continues to engage in these activities.
137. Mountaire is liable for harm caused by their use and disposal of chemicals and wastes even if Defendants used the utmost care to prevent harm to any person, including Plaintiffs.
138. An entity undertaking abnormally dangerous and/or ultra-hazardous activity is strictly liable for any and all harm caused by such activity without regard to negligence.
139. Defendants Mountaire by their aforesaid activities were at all times pertinent hereto engaged in an abnormally dangerous and/or ultra-hazardous activity.

140. Plaintiffs have been harmed as aforesaid by the abnormally dangerous and/or ultra-hazardous activities of Defendants.
141. Plaintiffs have experienced irritation of eyes, nose, skin and throat as well as difficulties breathing due to the odors and dusts generated by Mountaire's illegal and unpermitted waste disposal activities.
142. Plaintiffs' right to be free of harm from abnormally dangerous and/or ultra-hazardous activities and absolute nuisances under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Public Nuisance**  
**Count IV**

143. Each of the preceding paragraphs is incorporated by reference herein.
144. Defendants Mountaire released substances into the aquifer that flows to Plaintiffs' properties.
145. These substances are invading and have invaded Plaintiffs' property and are present today.
146. These acts constitute public nuisances and cause/have caused real, substantial, unreasonable injury, damage and/or interference with Plaintiffs' use of their property.
147. Plaintiffs suffered harm of a kind different from that suffered by other members of the public.
148. Mountaire's public nuisance proximately caused Plaintiffs to suffer economic and non-economic damages, as Plaintiffs used the water from the wells for cooking, drinking and cleaning. Plaintiffs were exposed to the contaminated water and now have an increased risk of developing serious diseases.

149. The dusts and odors generated by Mountaire's waste disposal activities have impacted and continue to impact Plaintiffs as Mountaire continues to engage in these activities.
150. Plaintiffs have experienced irritation of eyes, nose, skin and throat as well as difficulties breathing due to the odors and dusts generated by Mountaire's illegal and unpermitted waste disposal activities.
151. The contamination of the local aquifer and numerous private wells also proximately caused injury and a devaluation of the value of Plaintiffs' property.
152. Plaintiffs' right to be free of nuisance under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Private Nuisance**  
**Count V**

153. Each of the preceding paragraphs is incorporated by reference herein.
154. Defendants Mountaire released substances into the aquifer that flows to Plaintiffs' home property.
155. Mountaire's waste disposal activities created obnoxious and offensive odors which led to an unreasonable interference with Plaintiffs' use and enjoyment of their properties.
156. Mountaire's wastes, odors, and dusts are invading and have invaded Plaintiffs' property and are present today.
157. The odors generated by Mountaire's waste disposal activities have impacted and continue to impact Plaintiffs and the general public as Mountaire continues to engage in these activities.
158. These acts constitute private nuisances and cause/have caused real, substantial, unreasonable injury, damage and/or interference with Plaintiffs' use of their property.

159. Plaintiffs suffered harm of a kind different from that suffered by other members of the public.
160. Mountaire's private nuisance caused Plaintiffs to suffer economic and non-economic damages as Plaintiffs used the water from the wells for cooking, drinking and cleaning. Plaintiffs were exposed to the contaminated water and now have an increased risk of developing serious diseases.
161. The contamination of the local aquifer and numerous private wells also proximately caused injury and a devaluation of the value of Plaintiffs' property.
162. Plaintiffs' right to be free of nuisance under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Trespass**  
**Count VI**

163. Each of the preceding paragraphs is incorporated by reference herein.
164. Defendants Mountaire intentionally disposed of wastes on spray fields proximate to Plaintiffs' properties.
165. This intentional disposal resulted in the migration of its wastes into the aquifer that flows directionally to Plaintiffs' residential property and ultimately into the groundwater on Plaintiffs' properties.
166. These wastes or portions thereof have invaded and continue to invade Plaintiffs' property, particularly and directly through their migration in the local aquifer.
167. Mountaire's trespass proximately caused Plaintiffs to suffer economic and non-economic damages as Plaintiffs used the water from the wells for cooking, drinking, and cleaning. Plaintiffs were exposed to the contaminated water and now have an increased risk of developing serious diseases.

168. The trespass and contamination of the local aquifer and numerous private wells also proximately caused injury and a devaluation of the value of Plaintiffs' property.
169. Plaintiffs' right to be free of trespass under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Failure to Warn**  
**Count VII**

170. Each of the preceding paragraphs is incorporated by reference herein.
171. At all relevant times, Defendants Mountaire had a duty to warn of dangerous conditions created by the spray fields, and dangers to Plaintiffs.
172. Mountaire failed to warn Plaintiffs of these dangerous conditions by:
- a. Failing to warn Plaintiffs of elevated levels of Total Nitrogen, nitrates, fecal coliform, and other dangerous substances;
  - b. Failing to report to DNREC the presence of dangerous substances and/or non-compliance with the terms of its permit or federal and state statutes and corresponding rules and regulations.
173. As a proximate and direct result of Defendants' failure to warn, Plaintiffs have and continue to suffer economic and non-economic damages as Plaintiffs used the water from the wells for cooking, drinking, and cleaning. Plaintiffs were exposed to the contaminated water and now have an increased risk of developing serious diseases.
174. The contamination of the wells also caused a devaluation of the Plaintiffs' property.
175. Plaintiffs' right to be free of negligence under the common law of the State of Delaware has been denied by Defendant Mountaire.

**Recklessness**  
**Count VIII**

176. Each of the preceding paragraphs is incorporated by reference herein.
177. At all relevant times, Defendants Mountaire owed a duty of care to Plaintiffs to act in a reasonable manner under the circumstances.
178. Mountaire breached this duty by:
- a. Failing to use reasonable care to treat and dispose of its wastes in a way that protects Plaintiffs and other members of the public who are and were reasonably foreseeable;
  - b. Discharging contaminants into and onto the ground that were likely, if not known, to pose a threat to the environment, groundwater, and the drinking water used by Plaintiffs and the public, endangering their health and safety;
  - c. Spraying untreated and minimally treated wastes onto hundreds of acres of property;
  - d. Spraying excessive amounts of nitrogen-containing compounds, including nitrates, in excess of agronomic rates for crops tended on the spray fields;
  - e. Failing to comply with the terms of the permit as indicated above, including negligently discharging of wastes with elevated levels of total nitrogen, nitrates in drinking water, fecal coliform, and other elevated levels of dangerous contaminants;
  - f. Discharging effluent in direct violation with the terms and conditions of the permit;

- g. Failing to submit a “Plan of Corrective Action” relative to effluent Total Nitrogen concentrations as required;
- h. Discharging contaminants, including, but not limited to, nitrates, nitrogen, bacteria, and other contaminants, into and onto its property in such a way as to impair the groundwater, making the water non-potable and a public health threat and doing so in such a manner and duration so as to contaminate the water supply of the local public, including Plaintiffs;
- i. Applying a volume and type of waste material that has led to objectionable and offensive odors that have adversely impacted Plaintiffs and the general public;
- j. Failing to maintain and operate all structures, pipelines, systems and equipment for collection, treatment control and monitoring;
- k. Failing to provide requisite Five-Day Non-Compliance Notifications for Total Nitrogen, Total Chlorine Residual, bypassing storage lines, and others;
- l. Failing to monitor and report complete representative data; and
- m. Being otherwise reckless.

179. The odors and dusts generated by Mountaire’s waste disposal activities have impacted and continue to impact Plaintiffs and the general public as Mountaire continues to engage in these activities.

180. The actions taken by Defendants Mountaire show a complete disregard for the regulations, permit requirements, law, and rights and wellbeing of Plaintiffs and local



community members and were thus, reckless, willful, wanton, or oppressive, and merit an award of punitive damages.

181. As a direct and proximate result of Defendants' recklessness and intentional, willful, wanton, and reckless acts, Plaintiffs have been injured.
182. Plaintiffs' right to be free of recklessness under the common law of the State of Delaware has been denied by Defendants.

**Medical Monitoring**  
**Count IX**

183. Each of the preceding paragraphs is incorporated by reference herein.
184. Each of the Plaintiffs were directly and physically contacted by contaminants of Defendants' spray fields in that each ingested the contaminated water and/or inhaled contaminants from Defendants' spray fields.
185. These contaminants included, but are not limited to:
  - a. Nitrates;
  - b. Infectious pathogens including but not limited to fecal coliforms;  
and
  - c. Other contaminants.
186. Each physical contact is an exposure to Plaintiffs that has placed Plaintiffs at a highly elevated risk of contracting or developing any of the following:
  - a. For small children, methemoglobinemia;
  - b. For pregnant women or women seeking to become pregnant,  
miscarriage;
  - c. Gastrointestinal disease including but not limited to cancer; and
  - d. Other diseases or health effects.

187. For each of these conditions, there are medical monitoring techniques available to identify the onset of the disease at an early stage and significantly improve the prognosis of individuals exposed to the aforementioned contaminants.
188. As a proximate and direct result of Defendants' actions, Plaintiffs require periodic medical monitoring to identify, treat and improve the onset of these diseases, health effects and disease processes.

**Wrongful Death – 10 DEL. C. 3724**  
**Count X**

189. Each of the preceding paragraphs is incorporated by reference herein.
190. Plaintiff Gina Burton is the mother of the deceased Kiwanis Burton.
191. As a proximate and direct result of the wrongful acts of Defendants Mountaire, Kiwanis Burton died after suffering a severe asthma attack while at home and being subjected to odors and air pollution caused by Defendants.
192. Gina Burton seeks all damages allowable by law, including:
- (1) Deprivation of the expectation of pecuniary benefits to her that would have resulted from the continued life of the deceased;
  - (2) Loss of contributions for support;
  - (3) Loss of family, and household services;
  - (4) Reasonable funeral expenses not to exceed \$7,000, or the amount designated in § 5546(a) of Title 29, whichever is greater;
  - (5) Past, present and future mental anguish and pain and suffering.

**WHEREFORE**, Plaintiffs pray that the Court:

- (a) Enter a judgment jointly and severally against the Defendants;
- (b) Enter a judgment against all of the Defendants for compensatory damages;

- (c) Enter a judgment against all of the Defendants for special damages;
- (d) Enter a judgment against all the Defendants for punitive damages;
- (e) Enter a judgment against Defendant for costs and pre- and post-judgment interest;
- (f) Require medical monitoring;
- (g) Award costs and fees; and
- (h) Require such other and further relief as the Court deems just and proper under the circumstances.

Date: June 28, 2018

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