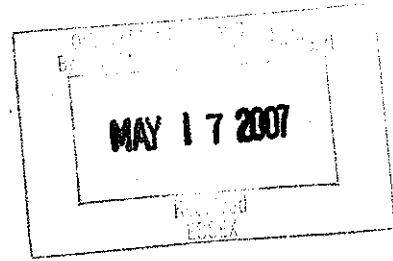


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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. L 3887-07

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION ; THE
COMMISSIONER OF THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION; and THE
ADMINISTRATOR OF THE NEW
JERSEY SPILL COMPENSATION
FUND,

Plaintiffs,

v.

COOPER INDUSTRIES, INC. and
DII INDUSTRIES, LLC,

Defendants.

Civil Action

COMPLAINT

Plaintiffs New Jersey Department of Environmental Protection ("DEP"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "the Plaintiffs"), having their

principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by way of Complaint against the above-named defendants ("the Defendants"), say:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20, and the common law, for reimbursement of the costs and damages they have incurred, and will incur, as a result of the discharge of pollutants and hazardous substances at the Dresser Industries site in the Cities of East Orange and Newark, Essex County. The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the site. Further, the Plaintiffs seek an order compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances, including restoring any injured resource to its pre-discharge condition, and to compensate the citizens of New Jersey for the lost value of any injured natural resource.

THE PARTIES

2. Plaintiff DEP is a principal department within the Executive Branch of the State government, vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.

3. In addition, the State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, for which plaintiff DEP is vested with the authority to protect this public trust and to seek compensation for any injury to the natural resources of this State. N.J.S.A. 58:10-23.11a.

4. Plaintiff Commissioner is the Commissioner of plaintiff DEP. N.J.S.A. 58:10-23.11b. and N.J.S.A. 58:10A-3. In this capacity, plaintiff Commissioner is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19.

5. Plaintiff Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("the Spill Fund"). N.J.S.A. 58:10-23.11j. As chief executive officer of the Spill Fund, plaintiff Administrator is authorized to approve and pay any cleanup and removal costs plaintiff DEP incurs, N.J.S.A. 58:10-23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d.

6. Defendant Cooper Industries, Inc. ("Cooper") is a corporation organized and existing under the laws of the State of Ohio, with a principal place of business located at 600 Travis, Suite 5800, Houston, Texas.

7. In 2004, defendant Cooper merged with McGraw-Edison Company ("McGraw-Edison"), a Delaware corporation that was a subsidiary of Cooper prior to the merger.

8. McGraw-Edison purchased Worthington Pump and Machinery Corporation ("Worthington Pump"), a New Jersey Corporation, in 1979.

9. Worthington Pump was the successor in interest to Worthington Corporation ("Worthington"), a Delaware Corporation dissolved in 1975.

10. Defendant Cooper is the successor-in-interest to Worthington, Worthington Pump, and McGraw-Edison.

11. Defendant DII Industries, LLC. ("DII") is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business located at 10200 Bellaire Boulevard, Houston, Texas 77072-5206.

12. Defendant DII is the successor-in-interest to Dresser Industries, Inc. ("Dresser"), a Delaware Corporation, having reorganized as a limited liability company in 2002.

AFFECTED NATURAL RESOURCES

13. The "natural resources" of this State are all land, fish, shellfish, wildlife, biota, air, water and other such resources owned, managed, held in trust or otherwise controlled by the State. N.J.S.A. 58:10-23.11b.

14. The natural resources of this State include the "waters of the State," which are the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction. N.J.S.A. 58:10A-3t.

15. The natural resources of this State, including the waters of the State, have been injured as a result of the discharge of pollutants and hazardous substances at the Dresser Industries site.

Ground Water

16. Ground water is an extremely important natural resource for the people of New Jersey, supplying more than 900 million gallons of water per day, which provides more than half of New Jersey's population with drinking water.

17. Not only does ground water serve as a source of potable water, it also serves as an integral part of the State's ecosystem.

18. Ground water provides base flow to streams and other surface water bodies, and influences surface water quality and wetland ecology and the health of aquatic ecosystems.

19. Ground water provides cycling and nutrient movement, prevents salt water intrusion, provides ground stabilization,

prevents sinkholes, and provides maintenance of critical water levels in freshwater wetlands.

20. Ground water is a unique resource that supports the State's tourism industry, and is also used for commercial, industrial and agricultural purposes, all of which help sustain the State's economy.

21. There are thousands of sites in New Jersey confirmed as having ground water contaminated with pollutants and hazardous substances.

GENERAL ALLEGATIONS

22. The Dresser Industries site consists of approximately 16 acres of real property located on 14 Fourth Avenue, City of East Orange, Essex County, New Jersey, this property being also known and designated as Block 81, Lot 1, on the Tax Map of the City of East Orange, and Block 1942, Lot 4, and Block 1943, Lot 10, on the Tax Map of the City of Newark ("the Dresser Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. 020696.

23. The Dresser Property is bordered to the east by North 12th Street, to the south by 4th Avenue, to the west by the Newark and Bloomfield division of the Conrail railroad line, and to the north by Springdale Avenue.

24. Residential, commercial and industrial properties surround the Dresser Property.

25. Beginning in 1955, Worthington, a predecessor of defendant Cooper, began acquiring the lots comprising the Dresser Property when it purchased the portion identified as Block 81, Lot 1, on the Tax Map of the City of East Orange.

26. In 1958, Worthington purchased the remainder of the Dresser Property, which is designated as Block 1942, Lot 4, and Block 1943, Lot 10, on the Tax Map of the City of Newark.

27. In December 1972, Worthington Pump, another of defendant Cooper's predecessors, purchased the Dresser Property from Worthington.

28. In December 1980, Worthington Pump sold the Dresser Property to McGraw-Edison. At the time, Worthington Pump was a subsidiary of McGraw-Edison.

29. In February 1985, McGraw-Edison sold the Dresser Property to Dresser.

30. In January 1992, Dresser sold the Dresser Property to defendant Cooper.

31. In December 2000, defendant Cooper sold the Dresser Property to LDN, LLC ("LDN"), the current owner of record.

32. During the time that defendant Cooper and defendant DII's predecessors owned the Dresser Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within

the meaning of N.J.S.A. 58:10-23.11b., which substances included metals, methyl tertiary butyl ether ("MTBE"), tetrachloroethene ("PCE"), trichloroethene ("TCE"), and benzene, toluene, ethylbenzene and xylene ("BTEX").

33. From 1955 through February 1985, Worthington and/or Worthington Pump manufactured and assembled industrial pumps, electrical equipment, steam turbines, compressors and air conditioning equipment, at the Dresser Property.

34. Worthington and/or Worthington Pump used, stored and handled hazardous substances, certain of which were discharged there within the meaning of N.J.S.A. 58:10-23.11b, which substances included metals, MTBE, PCE, TCE and BTEX.

35. At various time from July 24, 1977, through February 1985, Worthington and/or Worthington Pump also used, stored and handled "pollutants," as defined in N.J.S.A. 58:10A-3n., at the Dresser Property, certain of which were "discharged" to the waters of the State within the meaning of N.J.S.A. 58:10A-3e., which pollutants include metals, MTBE, PCE, TCE and BTEX.

36. From February 1985 through December 1985, Dresser assembled pumps at the Dresser Property, which involved the use, storage, and handling of hazardous substances, certain of which were discharged there, which substances included metals, MTBE, PCE, TCE, and BTEX.

37. At various time from February 1985 through December 1985, Dresser also used, stored and handled pollutants at the Dresser Property, certain of which were "discharged" to the waters of the State, which pollutants include metals, MTBE, PCE, TCE and BTEX.

38. Dresser ceased its manufacturing activities at the Dresser Property in December 1985. Since December 1985, the Dresser Property has been vacant.

39. The Site has been the subject of two remedial investigations pursuant to the Environmental Cleanup Responsibility Act ("ECRA"), now known as the Industrial Site Recovery Act ("ISRA"), N.J.S.A. 13:1K-6 to -14.

40. McGraw-Edison's February 1985 sale of the Dresser Property to Dresser triggered McGraw-Edison's responsibilities under ECRA.

41. McGraw-Edison and plaintiff DEP entered into an administrative consent order on February 19, 1985 ("1985 ACO"), wherein McGraw-Edison agreed to remediate the Site as required by ECRA.

42. Between 1987 and 1989, McGraw-Edison performed a remedial investigation to determine the nature and extent of the contamination at the Site. Results from sampling performed during the remedial investigation revealed the presence of various hazardous substances at concentrations exceeding plaintiff DEP's

cleanup criteria in the soils and ground water, which substances included metals, PCE, TCE, and BTEX.

43. As a result of the findings from the remedial investigation, McGraw-Edison submitted a cleanup plan for the Dresser Property to plaintiff DEP in October 1989, which plaintiff DEP approved on January 3, 1990.

44. The cleanup plan McGraw-Edison submitted to plaintiff DEP primarily provided for the remediation of contaminated soils via removal and capping, removal of seven underground storage tanks ("USTs"), and for further groundwater sampling.

45. McGraw-Edison subsequently submitted a revised cleanup plan to plaintiff DEP, which plaintiff DEP approved on or about September 23, 1991.

46. The revised plan that McGraw-Edison submitted to plaintiff DEP called for the installation of additional monitoring wells for delineating the groundwater contamination, and provided for the demolition of all existing buildings at the Dresser Property.

47. McGraw-Edison subsequently conducted additional groundwater monitoring, and demolished the on-site buildings between April 1992 and January 1993.

48. Dresser's January 1992 sale of the Dresser Property to defendant Cooper triggered Dresser's obligation to perform its own remedial investigation under ECRA.

49. Based upon the findings from its remedial investigation, Dresser subsequently submitted a remedial action workplan ("RAWP") to plaintiff DEP on January 9, 1992.

50. Because of the ongoing parallel remedial investigation of the Site by McGraw-Edison, the Dresser RAWP was limited to addressing any potential concerns involving the company's operations at the Dresser Property during 1985.

51. On March 14, 1994, Dresser received a "No Further Action Letter," within the meaning of N.J.S.A. 13:1K-8, from plaintiff DEP for the environmental concerns relating to its operations at the Dresser Property, which memorialized plaintiff DEP's determination that Dresser remediated the concerns related to its operations in accordance with the applicable remediation regulations.

52. On July 6, 1995, defendant Cooper, as McGraw-Edison's successor-in-interest, submitted a RAWP to plaintiff DEP for the six remaining areas of concern ("AsOC") at the Site.

53. The AsOC for which defendant Cooper submitted the RAWP to plaintiff DEP in July 1995 were the former catch basins, remaining leaky USTs, the area of contaminated soils at the center of the Dresser Property, the former drum storage area, the remaining groundwater contamination, and the remaining asbestos-containing materials.

54. The RAWP that defendant Cooper submitted to plaintiff DEP in July 1995 primarily provided for additional groundwater and soils sampling.

55. In January 1996, defendant Cooper submitted a revised RAWP to plaintiff DEP, in which defendant Cooper proposed imposing a declaration of environmental restrictions, now known as a "deed notice," as defined in N.J.A.C. 7:26E-1.8, on the Dresser Property, which is an institutional control providing notice of remaining contamination above unrestricted use soil remediation standards, the use restrictions posed by the contamination, and the engineering controls, if any, which are applicable.

56. Defendant Cooper proposed imposing the declaration of environmental restrictions because of concentrations of hazardous substances exceeding DEP's cleanup criteria in the soils at the Dresser Property, which proposal plaintiff DEP conditionally accepted on March 28, 1996.

57. In August 1999, defendant Cooper proposed establishing a Classification Exception Area ("CEA") and a Well Restriction Area ("WRA") for the Site, which would restrict usage of the designated ground water, and restrict the installation of new potable wells. Defendant Cooper proposed doing so because BTEX, cadmium and lead concentrations were still exceeding plaintiff DEP's ground water quality standards and Primary Drinking Water Standards.

58. On July 11, 2002, plaintiff DEP approved defendant Cooper's proposed CEA and WRA for the Site, which were for lead, cadmium, 1,2 dichloroethylene ("DCE"), Dichloroethane ("DCA"), vinyl chloride, PCE, TCE and BTEX.

59. The CEA/WRA has a total area of 425,000 square feet, or approximately 11 acres, and an estimated duration of 40 years (i.e., until July 10, 2042).

60. On December 17, 2003, plaintiff DEP, LDN and defendant Cooper agreed to amend the 1985 ACO, now called a remediation agreement, to designate LDN as lead responsible party for completing the remediation of the Site, which remediation is ongoing.

61. Although McGraw-Edison, defendant Cooper and LDN have engaged in various remedial activities concerning the Site, the ground water remains contaminated.

FIRST COUNT

Spill Act

62. The Plaintiffs repeat each allegation of paragraph nos. through 61 above as though fully set forth in its entirety herein.

63. Each Defendant is a "person" within the meaning of N.J.S.A. 58:10-23.11b.

64. Except as otherwise provided in N.J.S.A. 58:10-23.11g.12, any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance that is discharged, shall

be liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.(c).

65. Except as otherwise exempted under N.J.S.A. 58:10-23.11g.12, the discharge of hazardous substances is a violation of the Spill Act, for which any person who is the discharger of, or is in any way responsible for, any hazardous substance that is discharged is strictly liable, jointly and severally, without regard to fault. N.J.S.A. 58:10-23.11g.c.(1).

66. Plaintiff DEP has incurred, or may incur, costs as a result of the discharge of hazardous substances at the Dresser Property.

67. Plaintiff Administrator has certified, or may certify, for payment, valid claims made against the Spill Fund concerning the Site, and, further, has approved, or may approve, other appropriations for the Site.

68. The Plaintiffs also have incurred, and will continue to incur, costs and damages, including lost value and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Dresser Property.

69. The costs and damages the Plaintiffs have incurred, and will incur, for the Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

70. The Defendants are the successors-in-interest to the dischargers of hazardous substances at the Dresser Property, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Dresser Property. N.J.S.A. 58:10-23.11g.c.(1).

71. The Defendants, as the successors-in-interest to the owners of the Dresser Property at the time hazardous substances were discharged there, also are persons in any way responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Dresser Property. N.J.S.A. 58:10-23.11g.c.(1).

72. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including

the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); natural resource restoration and replacement costs, N.J.S.A. 58:10-23.11u.b.(4); and for any other unreimbursed costs or damages plaintiff DEP incurs under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

73. Pursuant to N.J.S.A. 58:10-23.11q., plaintiff Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs or damages paid from the Spill Fund.

74. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(c) and N.J.S.A. 58:10-23.11u.d., plaintiff DEP may bring a summary action in the Superior Court against anyone who violates a provision of the Spill Act for a civil penalty.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of hazardous substances at the Dresser Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of hazardous substances at the Dresser Property;
- c. Enter judgment against the Defendants, jointly and severally, without regard to fault, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Dresser Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource.
- d. Award the Plaintiffs their costs and fees in this action;
and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

SECOND COUNT

Water Pollution Control Act

75. The Plaintiffs repeat each allegation of paragraph nos. 1 through 74 above as though fully set forth in its entirety herein.

76. Each Defendant is a "person" within the meaning of N.J.S.A. 58:10A-31.

77. Except as otherwise exempted pursuant to N.J.S.A. 58:10A-6d. and p., it is unlawful for any person to discharge any pollutant except to the extent the discharge conforms with a valid New Jersey Pollutant Discharge Elimination System permit issued by plaintiff Commissioner pursuant to the Water Pollution Control Act, or pursuant to a valid National Pollutant Discharge Elimination System permit issued pursuant to the federal Water Pollution Control Act, 33 U.S.C.A. §§1251 to - 1387. N.J.S.A. 58:10A-6a.

78. The unauthorized discharge of pollutants is a violation of the Water Pollution Control Act for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6a.

79. Plaintiff DEP has incurred, and will continue to incur, costs as a result of the discharge of pollutants at the Dresser Property.

80. Plaintiff DEP also has incurred, and will continue to incur, costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that

has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Dresser Property.

81. The costs and damages plaintiff DEP has incurred, and will incur, for the Site are recoverable within the meaning of N.J.S.A. 58:10A-10c.(2)-(4).

82. The Defendants are the successors-in-interest to the dischargers of pollutants at the Dresser Property, which discharges were neither permitted pursuant to N.J.S.A. 58:10A-6a., nor exempted pursuant to N.J.S.A. 58:10A-6d. or N.J.S.A. 58:10A-6p., and are liable, without regard to fault, for all costs and damages, including compensatory damages and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the discharge of pollutants at the Dresser Property. N.J.S.A. 58:10A-6a.

83. Pursuant to N.J.S.A. 58:10A-10c., plaintiff Commissioner may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10A-10c.(1); for the reasonable costs of any investigation, inspection, or monitoring survey which led to establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10c.(2); any reasonable cost incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10c.(3); compensatory damages

and any other actual damages for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Dresser Property, N.J.S.A. 58:10A-10c.(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10c.(5).

PRAYER FOR RELIEF

WHEREFORE, plaintiff Commissioner prays that this Court:

- a. Temporarily and permanently enjoin the Defendants by requiring the Defendants to remove, correct, or terminate the adverse effects upon water quality resulting from any unauthorized discharge of pollutants;
- b. Enter an order assessing the Defendants, without regard to fault, for the reasonable costs for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;
- c. Enter declaratory judgment against the Defendants, without regard to fault, assessing all reasonable costs

that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violation, including the costs of preparing and litigating the case;

- d. Enter an order assessing the Defendants, without regard to fault, for all reasonable costs incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Dresser Property;
- e. Enter declaratory judgment against the Defendants, without regard to fault, assessing all reasonable costs that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Dresser Property;
- f. Enter an order assessing the Defendants, without regard to fault, for all compensatory damages and other actual damages incurred for any natural resource of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Dresser Property;
- g. Enter declaratory judgment against the Defendants, without regard to fault, assessing all compensatory damages and other actual damages for any natural resource

of this State that has been, or may be, lost or destroyed as a result of the unauthorized discharge of pollutants at the Dresser Property;

- h. Enter an order assessing the Defendants, without regard to fault, for the actual amount of any economic benefits they have accrued, including any savings realized from avoided capital or noncapital costs, the return they have earned on the amount of avoided costs, any benefits the Defendants have enjoyed as a result of a competitive market advantage, or any other benefit they have received as a result of having violated the Water Pollution Control Act;
- i. Enter declaratory judgment against the Defendants, without regard to fault, assessing Defendants for the actual amount of any economic benefits that will accrue to them, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage the Defendants have enjoyed, or any other benefit that will accrue to them as a result of having violated the Water Pollution Control Act;
- j. Award plaintiff Commissioner her costs and fees in this action; and

k. Award plaintiff Commissioner such other relief as this Court deems appropriate.

THIRD COUNT

Public Nuisance

84. The Plaintiffs repeat each allegation of paragraph nos. 1 through 83 above as though fully set forth in its entirety herein.

85. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

86. The use, enjoyment and existence of uncontaminated natural resources are rights common to the general public.

87. The groundwater contamination at the Site constitutes a physical invasion of public property and an unreasonable and substantial interference, both actual and potential, with the exercise of the public's common right to this natural resource.

88. As long as the ground water remains contaminated due to the conduct of the Defendants and their predecessors, the public nuisance continues.

89. Until the ground water is restored to its pre-injury quality, the Defendants are liable for the creation, and continued maintenance, of a public nuisance in contravention of the public's common right to clean ground water.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Property, with applicable interest;
- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Dresser Property;
- c. Enter judgment against the Defendants, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Dresser Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to

compensate the citizens of New Jersey for the lost value of any injured natural resource.

- d. Award the Plaintiffs their costs and fees in this action; and
- e. Award the Plaintiffs such other relief as this Court deems appropriate.

FOURTH COUNT

Trespass

90. The Plaintiffs repeat each allegation of paragraph nos. 1 through 89 above as though fully set forth in its entirety herein.

91. Ground water is a natural resource of the State held in trust by the State for the benefit of the public.

92. The Defendants are liable for trespass, and continued trespass, since pollutants and hazardous substances were discharged at the Dresser Property.

93. As long as the ground water remains contaminated, the Defendants' trespass continues.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs DEP and Administrator pray that this Court:

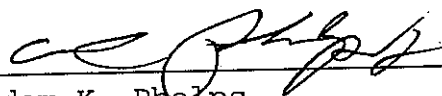
- a. Order the Defendants to reimburse the Plaintiffs for all cleanup and removal costs and damages, including

restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs have incurred for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Dresser Property, with applicable interest;

- b. Enter declaratory judgment against the Defendants for all cleanup and removal costs and damages, including restitution for unjust enrichment, lost value and reasonable assessment costs, that the Plaintiffs will incur for any natural resource of this State injured as a result of the discharge of pollutants and hazardous substances at the Dresser Property;
- c. Enter judgment against the Defendants, compelling the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of pollutants and hazardous substances at the Dresser Property, including restoring any injured resource to its pre-discharge condition, and compelling the Defendants to compensate the citizens of New Jersey for the lost value of any injured natural resource.

- d. Award the Plaintiffs their costs and fees in this action;
and
- e. Award the Plaintiffs such other relief as this Court
deems appropriate.

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Adam K. Phelps
Deputy Attorney General

Dated: 05/16/07

DESIGNATION OF TRIAL COUNSEL


Pursuant to R. 4:25-4, the Court is advised that Adam K. Phelps, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to the Plaintiffs at this time, nor is any non-party known to the Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such

non-party later becomes known to the Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Adam K. Phelps
Deputy Attorney General

Dated: 05/16/07

CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial pleadings (not motions) under R. 4:5-1.

Pleadings will be rejected for filing under R. 1:5-6(c) if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE: CK CG CA

CHG/CK NO.:

AMOUNT:

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME:
Adam Phelps, Deputy Attorney General

TELEPHONE NO.:
(609)984-6640

COUNTY OF VENUE: Essex

FIRM NAME (If Applicable): Office of the Attorney General,
Department of Law & Public Safety, Division of Law

DOCKET NUMBER (When Available):
Not Assigned **L 3887-07**

OFFICE ADDRESS:
Richard J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, NJ 08625-0093

DOCUMENT TYPE: Complaint

JURY DEMAND: YES NO

NAME OF PARTY (e.g., John Doe, Plaintiff):
New Jersey Department of Environmental
Protection and Administrator, New Jersey
Spill Compensation Fund, Plaintiffs

CAPTION: New Jersey Department of Environmental Protection
and Administrator, New Jersey Spill Compensation Fund v.
Cooper Industries, Inc. and DII Industries, LLC.

CASE TYPE NUMBER
(See reverse side for listing): 156

IS THIS A PROFESSIONAL MALPRACTICE CASE? YES NO

If You Have Checked "Yes," See N.J.S.A. 2A:53A-27 and
Applicable Case Law Regarding Your Obligation to File an
Affidavit of Merit.

RELATED CASES PENDING? YES NO

IF YES, LIST DOCKET NUMBERS:

DO YOU ANTICIPATE ADDING ANY PARTIES (arising
out of the same transaction or occurrence)?

 YES NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

 NONE UNKNOWN

~~THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE~~

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO THE PARTIES HAVE IF YES, IS THAT EMPLOYER-EMPLOYEE FRIEND-NEIGHBOR OTHER (explain)
A CURRENT, PAST OR RELATIONSHIP: Regulatory
RECURRENT RELATIONSHIP?

 YES NO FAMILIAL BUSINESS

B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE YES NO
FOR PAYMENT OF FEES BY THE LOSING PARTY?

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL
MANAGEMENT OR ACCELERATED DISPOSITION.

MAY 17 2007

RECEIVED
ESSEX

DO YOU OR YOUR CLIENT NEED ANY DISABILITY
ACCOMMODATIONS?

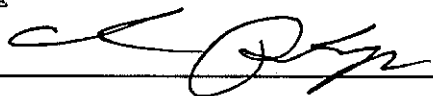
 YES NO

IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:

WILL AN INTERPRETER BE NEEDED? YES NO

IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE



ESSEX COUNTY - CIVIL DIVISION
SUPERIOR COURT OF NJ
465 MARTIN LUTHER KING JR BLVD
NEWARK NJ 07102

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 693-6851
COURT HOURS

DATE: MAY 21, 2007
RE: NJ DEPT OF ENVIRONMENTAL PROTECTION VS COOPER INDU
DOCKET: ESX L -003887 07

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE
JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST
DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON RACHEL N. DAVIDSON

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 004
AT: (973) 693-6459 EXT 4527.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: ADAM K. PHELPS
ATTORNEY GENERAL DEPT ENV
HUGHES JUSTICE COMPLEX
CN093
TRENTON NJ 08625-0093

JUGBONE

Superior Court of New Jersey
Essex County Courts Building
Room# _____ Bldg. _____
470 Dr. Martin Luther King, Jr. Blvd.
Newark, N.J. 07102-1681

FROM K. ATLAS
Deputy Attorney General of New Jersey
RICHARD J. HUGHES JUSTICE COMPLEX
25 MARKET STREET
P.O. BOX 093
NEWARK

~~NEWARK~~ 07102-1681



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