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Environmental Protection and the Administrator  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,  
NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION, and  
ADMINISTRATOR, NEW JERSEY SPILL  
COMPENSATION FUND

Plaintiffs,

V.

Civil Action No.

HERCULES LLC,

Defendant.

## COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorney, acting at the request of the Regional Administrator of the United States Environmental Protection Agency (“EPA”) for Region II, the New Jersey Department of Environmental Protection (“NJDEP”), and the Administrator of the New Jersey Spill Compensation Fund (“Administrator”) by and through the New Jersey Attorney General file this complaint and allege as follows:

## NATURE OF THE ACTION

1. This is a civil action brought under to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as

amended, 42 U.S.C. §§ 9606 & 9607 (“CERCLA”), and the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 (“the Spill Act”).

2. The United States seeks injunctive relief and recovery of costs incurred in response to releases and threatened releases of hazardous substances into the environment at or from the Hercules, Inc. Superfund Site (“Site”), located in Gibbstown, Gloucester County, New Jersey.

3. NJDEP and the Administrator of the New Jersey Spill Compensation Fund seek certain injunctive relief and the reimbursement of costs they have incurred and will incur for the discharge of hazardous substances at the Site.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action and over the parties under 28 U.S.C. §§ 1331 and 1345 and Sections 106, 107, and 113(b) of CERCLA, 42 U.S.C. §§ 9606, 9607 & 9613(b).

5. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) and Sections 106(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a) & 9613(b), because the releases or threatened releases of hazardous substances that gave rise to this claim occurred in this district, and because the Site is located in this district.

### **THE PARTIES**

6. The United States is authorized to seek costs of removal or remedial action, as well as injunctive relief necessary to abate the imminent and substantial

endangerment to the public health or welfare, or the environment, that may result from an actual or threatened release or threatened release of a hazardous substance at or from a facility. 42 U.S.C. §§ 9606(a), 9607(a).

7. NJDEP is a principal department within the Executive Branch of the State of New Jersey, 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.

8. The 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, the Administrator is authorized to approve and pay any cleanup and removal costs Plaintiff NJDEP incurs, N.J.S.A. 58:10-23.11f.c & .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.

9. Defendant Hercules LLC (“Hercules”) is a limited liability corporation organized under the laws of the State of Delaware, with headquarters located at 1313 North Market Street, Wilmington, Delaware, 19894, and is a “person” as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10. At relevant times, Hercules owned and operated the Site.

## **STATUTORY BACKGROUND**

11. CERCLA was enacted in 1980 to provide a comprehensive governmental mechanism for abating releases and threatened releases of hazardous substances and other pollutants and contaminants, and for funding the costs of such abatement and related enforcement activities, which are known as “response” actions, 42 U.S.C. §§ 9604(a), 9601(25).

12. Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1), provides:

Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment.

13. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this Section –

(1) the owner and operator of a vessel or a facility,  
[and]

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