

## New Jersey State Judge Denies DEP Request Regarding Natural Resource Damages

Environmental and Land Use

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Superior Court Judge Rachelle Lea Harz denied a request from the New Jersey Department of Environmental Protection (“DEP”) for the Judge to issue an Order clarifying her previous August 19, 2022 decision related to DEP’s claims against Hexcel and Fine Organics Corp. for contamination at a site of former operations in Lodi. Judge Harz previously found that the DEP’s claims against the two companies were barred by the 2013 consent judgment the companies entered into in a separate case related to the Diamond Alkali Superfund Site. In her decision, Judge Harz found that the location of the former facility was within the area of the Superfund site and subject to the terms of the consent order. Thus, she dismissed the claims in August 2022.

Judge Harz noted that the consent judgment does allow the State to seek claims for natural resource damages in the future if it meets the criteria to bring such a claim under the Consent Decree. In addition, as the defendants asserted, the case was dismissed without prejudice. Thus, DEP can bring claims in the future if they are supportable.

*For more information, contact:*

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