

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	:	
	:	
McGraw Edison Company	:	
a subsidiary of	:	
Cooper Industries, Inc.	:	Director's Final
1510 Pershing Road	:	
Box 510	:	Findings and Orders
Zanesville, Ohio 43701	:	
	:	
Ohio Revised Code Sections	:	
3734.13(A), 3734.20(B), and	:	
6111.03(H)	:	

OHIO EPA  
 MAY 28 1992  
 DEPUTY DIRECTOR'S OFFICE

ADMINISTRATIVE ORDER ON CONSENT

I. JURISDICTION

This Administrative Order on Consent (Consent Order) is issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (OEPA) by Ohio Revised Code (ORC) Sections 3734.13(A), 3734.20(B), and 6111.03(H).

II. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of Ohio EPA and Respondent are (1) to design, implement, and monitor the selected remedial action as described in the Decision Document at the Site in order to meet performance standards required by federal, state, and local law, and (2) to design, implement and monitor the selected remedial action for the landfill operable unit as described in the Decision Document and the landfill remedial design.

III. DEFINITIONS

The terms used in this Consent Order and in the Work Plans, to be attached hereto and incorporated herein, and any documents required by

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By: *Wanda C. ...*

any person, firm, partnership or corporation not a signatory to this Order from any liability he, she, or it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous wastes, hazardous substances, industrial wastes, other wastes, or pollutants at, to or from the Site. The parties to this Consent Order expressly reserve all rights (including any right to contribution or indemnity possessed by the Respondent against any other parties who may be responsible for actual or threatened releases at the Site), claims, demands, and causes of action they have or may have against any and all other persons and entities not subject to this Consent Order.

#### XVI. NOTICE AND LAND USE RESTRICTIONS

A. Respondent shall conform its activities to the restrictions set forth in Remedial Action Land Use Restriction, 1313 Coopermill Road, Zanesville, Ohio, Exhibit D. Respondent shall promptly cause a certified copy of this Consent Order, including Exhibit D, to be recorded in the Muskingum County Recorder's Office after journalization of the Consent Order, and to be sent, certified mail, to Johanna Hildenbrand, 1313 Coopermill Road, Zanesville, Ohio 43701 and to Jack McClelland, Graham, McClelland, McCann & Mansholtern Co., LPA, 400 First National Bank Building, P.O. Box 665, Zanesville, Ohio 45702-0669.

B. To the extent that portions of the Site or areas where work is to be performed are owned by parties other than Respondent, Respondent shall use its reasonable best efforts to ensure that the property owners conform their activities to the restrictions set forth in Exhibit D. In the event that the property owners do not conform their activities to the

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By: Mary Cavin Date \_\_\_\_\_

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restrictions set forth in Exhibit D and OEPA determines that the selected remedy, as described in the Decision Document, needs to be reevaluated, the provisions of Section XXIV, Additional Work, shall apply.

C. Respondent shall use its reasonable best efforts to obtain agreements from the present owner which provide that OEPA will be notified by registered mail at least ninety (90) calendar days prior to any conveyance or intent to convey any interest in land which is known to comprise the Site.

D. Further restrictions on the use of the property are set forth in the Access Agreement between the property owner and Respondent dated as of July 12, 1991 ("Access Agreement," attached hereto as Exhibit C). Respondent shall promptly cause the Access Agreement to be recorded in the Muskingum County Recorder's Office after journalization of the Consent Order. Respondent shall not terminate the Access Agreement without express written consent of OEPA.

#### XVII. OTHER APPLICABLE LAWS

All action required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations including all environmental laws and regulations. OEPA shall promptly consider and decide upon permit applications which Respondent may be required to submit pursuant to the work required to be performed under this Consent Order and approval shall not be unreasonably withheld.

#### XVIII. INDEMNITY

A. Respondent agrees to indemnify, save and hold harmless OEPA from any and all claims or causes of action arising from, or on account of, acts or omissions of the Respondent, their officers, employees,

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**TRANSFER  
NOT NECESSARY**

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*Norma J. Bowman*  
Auditor, Muskingum County, Ohio

STATE OF OHIO, MUSKINGUM COUNTY  
RECEIVED FOR RECORD  
July 7 1992 11:52 AM  
RECORDED July 8 1992  
in Deed Book 1066 Page  
Recorder

*Donald Minick*  
1 ref. \$ 337.00

**AFFIDAVIT OF RICHARD H. UBER**

STATE OF TEXAS )  
COUNTY OF HARRIS ) SS:

Richard H. Uber, being first duly sworn, deposes and says:

1. He is the Manager of Field Operations for Environmental Affairs for Cooper Industries, Inc. ("Cooper Industries"), First City Tower, P.O. Box 4446, Suite 4000, Houston, Texas 77210.

2. He has held that position since before 1991.

3. Cooper Industries is the parent company of Cooper Power Systems ("Cooper Power"), 1510 Pershing Road, P.O. Box 510, Zanesville, Ohio 43701, formerly known as McGraw-Edison Company.

4. Johanna L. Hildenbrand ("Hildenbrand") is the owner of certain real property known as 1313 Coopermill Road, Zanesville, Ohio (the "Site"), which she acquired by quit-claim deed dated October 12, 1989, presented for record October 31, 1989, and recorded in Deed Book 1029, page 251 File No. 7648 in the office of the Recorder of Muskingum County, Ohio. The property is more particularly described in Exhibit A attached hereto and made a part hereof by this reference.

5. Pursuant to an Access Agreement (attached hereto as Exhibit B) dated July 12, 1991 between Hildenbrand and Cooper Power, Hildenbrand has granted to Cooper Power and the Ohio Environmental Protection Agency (the "Ohio EPA") "the nonexclusive right to use the driveways and roadways existing on the Site for the purposes of access, ingress and egress to the Site . . ."

6. Said Access Agreement was entered into for the purpose of the performance of certain cleanup activities required under an Administrative Order on Consent (attached hereto as Exhibit C) which Cooper Power has entered into with the Director of the Ohio EPA.

Further affiant sayeth naught.

*Richard H. Uber*  
Richard H. Uber

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I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date: MAY 28 1992 SUBJECT: D TO CONSENT ORDER

REMEDIAL ACTION LAND USE RESTRICTION  
1311 COOPERMILL ROAD  
ZANESVILLE, OHIO

BEGINNING at an existing baseline control monument, near the southeast corner of the area herein described, identified as monument #2; thence, S 89 degrees 47' 07" W, 59.00 feet to a point at the southeast corner of the parcel herein described, and also being the true point of beginning for said parcel; thence, N 83 degrees 19' 55" W, 319.68 feet to a point at the southwest corner of the parcel herein described, and also being located S 02 degrees 47' 52" E, 35.91 feet from baseline control monument #1; thence, continuing along the parcel herein described, the following five (5) courses and distances: N 04 degrees 05' 25" E, 206.65 feet; N 64 degrees 45' 42" E, 230.99 feet; S. 86 degrees 46' 30" E, 155.19 feet; S 38 degrees 26' 08" E, 236.96 feet; S 54 degrees 43' 49" W, 255.25 feet to the true point of beginning for the parcel herein described.

The above described parcel contains an area of 126,581.5 square feet or 2.975 acres, more or less.

The above described parcel shall not be used in any manner which would adversely affect the integrity of any containment systems or monitoring systems on the parcel, including but not limited to use of the parcel for farming and/or grazing of livestock for consumption, operation of motor or other vehicles, storage of any material or construction on the parcel except as approved by Ohio EPA.

There shall be no consumptive or other use of the groundwater underlying the Site (as defined in Article IV herein) that could cause exposure of humans or animals at the site.

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There shall be no installation, removal, construction, or use of any buildings, walls, pipes, roads, ditches, or any other structures that are a part of the remedial action at the Site except as approved by the Ohio EPA as consistent with the Consent Order.

There shall be no tampering with or removal of the containment or monitoring systems that remain on the Site or adjacent Hildenbrand property as a result of the implementation of the remedial action.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavin Date MAY 28 1992

*(for info)*  
Squire, Sanders + Desjardis  
Huntington Center  
41 So High St  
Columbus, OH 4326

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