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U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

4: 02CV01488FRB

UNITED STATES OF AMERICA,	)	
Plaintiff	)	Civil Action No. _____
v.	)	
MALLINCKRODT, INC.; SHELL OIL COMPANY, INC.; and SOLUTIA, INC.	)	
Defendants	)	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and at the request of the United States Environmental Protection Agency ("EPA"), alleges as follows:

NATURE OF ACTION

1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, as amended by the Superfund Amendments and Reauthorization Act of 1986. The United States brings this action to recover response costs it has incurred in responding to releases and threatened releases of hazardous substances into the environment at and from the Great Lakes Container Corporation Superfund Site in St. Louis, Missouri.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c) because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

DEFENDANTS

4. Mallinckrodt, Inc. ("Mallinckrodt") is a corporation incorporated under the laws of the State of New York, with its principal place of business at 675 McDonnell Boulevard, St. Louis, Missouri 63134.

5. Shell Oil Company, Inc. ("Shell") is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 910 Louisiana Street, Houston, Texas 77002-4904.

6. Solutia, Inc. ("Solutia") is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 575 Maryville Centre Drive, St. Louis, Missouri, 63141.

GENERAL ALLEGATIONS

A. Site Ownership and Operation

7. The Great Lakes Container Corporation Superfund Site (the "Site") is an eleven-acre site located on 42 Ferry Street in St. Louis, Missouri. The Site encompasses land and improvements that formerly were the location of a drum reclamation business, as well as certain neighboring property.

8. From approximately 1952 to approximately 1986 the Site was the location of a

facility that reconditioned used steel drums.

9. From approximately 1952 to 1976, the drum reconditioning business was operated under the name "Northwestern Cooperage Company" by Members of the Tureen family; Nabor Realty & Investment Company; Nabor Industries, Inc. ("Nabor Industries"); Northwestern Cooperage Company, a Delaware corporation ("NWCC-Delaware"); Great Lakes Container Corporation, a Delaware corporation ("GLCC-Delaware"); and International Minerals & Chemicals Company ("IMC").

10. The 3016 Corporation and the Great Lakes Container Corporation, both Michigan corporations, owned and/or operated the facility between 1976 and 1986.

B. Site Operations

11. The facility at the Great Lakes Container Corporation Site acquired, reconditioned, and marketed used steel barrels and drums.

12. The facility processed both closed-head drums, which had been used to hold primarily oil or petroleum-derivative products, and open-head drums, which had been used to contain a wide variety of products, such as glue, paint, ink, rubber cement, and baking enamel.

13. The open-head drums were processed by being sent through an incinerator, a shot-blaster, and a hydraulic expander. The closed-head drums were flushed with acids and sent through a shot blaster and a de-denting machine. Both kinds of drums were then re-painted.

14. The processes generated wastes that included residues of the contents of the drums; incinerator ash; bag house waste; and sludge from the re-painting booth.

15. In peak processing times, the facility processed 3,000 to 4,000 drums daily, and the facility maintained an inventory of 100,000 to 200,000 drums that were awaiting reconditioning.

16. Shell shipped approximately 1,000 to 1,500 drums a day to the Site.

17. Some or all of the Shell drums reconditioned at the Site contained residues of hazardous substances.

18. The hazardous substances removed from the Shell drums, including liquids in the drums and paint residue on the outside of the drums, were not returned to Shell.

19. Monsanto sold used drums to be reconditioned at the Site.

20. Some or all of the Monsanto drums reconditioned at the Site contained residues of hazardous substances.

21. Throughout the period from 1952 to 1986, the Site became contaminated with lead, polychlorinated biphenyls ("PCBs"), chlordane, and asbestos.

C. EPA Response Actions at the Site

22. On January 22, 1996, the Superfund Division Director of EPA Region 7 approved an Action Memorandum that authorized a removal action to stabilize conditions at the Site.

23. Between January 23 and February 2, 1996, the Site was secured with a fence and drums were over-packed and staged for subsequent transport.

24. On September 4, 1997, EPA approved a second Action Memorandum that authorized a removal action to clean up the Site.

25. After the approval of the second Action Memorandum, EPA contractors inspected the Site, cleared vegetation, and took samples.

26. On March 26, 1997, EPA approved an amendment to the Second Action Memorandum that raised the cost ceiling and authorized increasing the scope of the removal action.

27. Between March 26, 1997 and September 30, 1998, EPA and its contractors

excavated approximately 820 buried drums and 50,000 cubic yards of soil contaminated with lead, PCBs, and chlordane and transported them to appropriate off-site landfills. EPA also delivered about 61,000 cubic yards of backfill material to the Site, treated 560,000 gallons of contaminated water, and removed 232 cubic yards of asbestos-contaminated material.

28. As of February 6, 2002, EPA had expended approximately $9,127,244.30 in response costs in connection with the Site, including indirect costs and pre-judgment interest.

CERCLA LIABILITY

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

> (1) the owner and operator of . . . a facility,
>
> (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, [and]
>
> (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for —
>
> > (A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan . . . .

30. The Site is a "facility," as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

31. Various parts of the reconditioning equipment at the at the Site, including but not limited to the incinerator, the shot-blaster, and the hydraulic expander, were all "facilities" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

32. There were "releases" and "threatened releases," as those terms are defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), of "hazardous substances," as that term is

defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), at or from the Site.

33. The releases and threatened releases of hazardous substances at the Site caused the United States to incur "response" costs, as that term is defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

34. Nabor Industries, NWCC-Delaware, GLCC-Delaware, IMC, Mallinckrodt, Monsanto, Solutia, and Shell are "persons," as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

35. Nabor Industries was the owner and/or operator of the Site, including the physical plant and equipment, from about July 1959 to about November 1970.

36. There was "disposal," as that term is defined in Section 101(29) of CERCLA, 42 U.S.C. § 9601(29), and Section 1004 of the Solid Waste Disposal Act, 42 U.S.C. § 6903, of hazardous substances at the Site, including the physical plant and equipment, while Nabor Industries was the owner and/or operator.

37. NWCC-Delaware was the owner and/or operator of the Site, including the physical plant and equipment, from about October 1970 to about October 1974.

38. There was disposal of hazardous substances at the Site, including the physical plant and equipment, while NWCC-Delaware was the owner and/or operator.

39. GLCC-Delaware was the owner and/or operator of the Site, including the physical plant and equipment, from about October 1974 to about June 1975.

40. There was disposal of hazardous substances at the Site, including the physical plant and equipment, while GLCC-Delaware was the owner and/or operator.

41. IMC was the owner and/or operator of the Site, including the physical plant and equipment, from about June 1975 to about August 1976.

42. There was disposal of hazardous substances at the Site, including the physical plant and equipment, while IMC was the owner and/or operator.

43. IMC was the successor-in-interest of Nabor Industries, NWCC-Delaware, and GLCC-Delaware.

44. Mallinckrodt is the successor-in-interest of Nabor Industries, NWCC-Delaware, GLCC-Delaware, and IMC.

45. Monsanto by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances it owned or possessed, which hazardous substances were disposed of at the Site.

46. At the time of the response actions, the Site contained the same kinds of hazardous substances that Monsanto had arranged to have treated or disposed of.

47. Solutia is the successor to the liability of Monsanto for costs EPA incurred at or in connection with the Site.

48. Shell by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances it owned or possessed, which hazardous substances were disposed of at the Site.

49. At the time of the response actions, the Site contained the same hazardous substances that Shell had arranged to have treated or disposed of.

CLAIM FOR RELIEF

50. Paragraphs 1 through 49 are realleged and incorporated herein by reference.

51. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), each defendant is jointly and severally liable to the United States for all costs incurred and to be incurred by the United States in connection with the Site not inconsistent with the national contingency plan.

52. CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2), provides in pertinent part that in any cost recovery action brought under CERCLA Section 107, 42 U.S.C. § 9607, "the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages."

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, respectfully requests that the Court:

1. Enter judgment in favor of the United States and against defendants Mallinckrodt, Solutia, and Shell jointly and severally, for all response costs incurred by the United States in connection with the Site, including interest;

2. Enter declaratory judgment in favor of the United States and against defendants Mallinckrodt, Solutia, and Shell jointly and severally, for all further costs the United States may incur in connection with the Site

3. Award the United States its costs in this action; and

4. Grant such other relief as is appropriate.

Respectfully submitted,

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