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9-29-03

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA Plaintiff, v. GENERAL ELECTRIC COMPANY, Defendant.	Civil Action No. 03cv4668 (HAA)

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Regional Administrator of the United States Environmental Protection Agency ("EPA") for Region II, files this complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C § 9607, as amended ("CERCLA"), for recovery of response costs incurred in connection with the Grand Street Mercury Superfund Site ("Site") located in Hoboken, Hudson County, New Jersey.

JURISDICTION AND VENUE

2. 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 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Section 113(b) of CERCLA, 42 U.S.C. § 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.

DEFENDANT

4. The General Electric Company ("GE") is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. GE and its predecessor corporation, Cooper Hewitt Electric Company ("Predecessor"), owned and operated the Site from in or about 191 to in or about 1948. During the time that GE and its Predecessor owned and operated the Site, manufacturing operations were conducted at the Site involving the use of mercury, resulting in the disposal of mercury at the Site.

THE SITE

6. The Site encompasses approximately 0.63 acres, and is located at 720 and 722-732 Grand Street, City of Hoboken, Hudson County, New Jersey and includes the areal extent of the contamination from the property, including any properties to which hazardous substances have migrated or threaten to migrate.

RESPONSE ACTIONS BY THE UNITED STATES

7. To address the release or threatened release of hazardous substances at the Site, EPA has conducted response activities in connection with the Site, pursuant to CERCLA Section 104, 42 U.S.C. § 9604. EPA has incurred costs related to such response activities.

8. Among other activities, EPA undertook an emergency removal action during 1996-1997. The removal action included providing temporary relocation for residents of the building located at 722-732 Grand Street, security and maintenance of the buildings at 720 and 722-32 Grand Street, sampling and screening of the buildings and the personal possessions of the residents, and transportation, treatment and/or disposal of contaminated materials.

9. In April 1997, EPA completed a Baseline Risk Assessment for the Site. A draft Focused Feasibility Study that analyzed remedial alternatives for the Site was completed in July 1997.

10. EPA issued a Record of Decision on September 30, 1997, which describes the remedial action selected by EPA for the Site. The remedy includes, among other things: continued temporary relocation and eventual permanent relocation of the residents of the building located at 722-732 Grand Street; gross mercury decontamination and demolition of the two buildings at 720 and 722-732 Grand Street; excavation and disposal of soils containing elevated

concentrations of mercury; evaluation of Site groundwater; sampling and assessment of soils at adjacent properties and evaluation of the need for future remediation of the adjacent properties.

11. On or about April 1, 1998, EPA issued Unilateral Administrative Order II-CERCLA 98-0108 ("UAO") to GE pursuant to Section 106 of CERCLA. Following certain amendments to the UAO, GE is complying with the UAO and undertaking the on-Site response actions required by the UAO.

12. EPA issued an Explanation of Significant Differences ("ESD") on April 17, 2003 setting forth its determination that soil in the backyards of five adjacent residential properties must also be addressed as part of the remedial action.

CLAIM FOR RELIEF (RESPONSE COSTS)

13. Paragraphs 1-12, above, are realleged and incorporated herein by reference.

14. Mercury is a "hazardous substance" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

15. Mercury was "disposed" of at the Site, within the meaning of Section 101(29) of CERCLA, 42 U.S.C. § 9601(29).

16. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C § 9601(9).

17. Defendant GE is liable as an owner and/or operator of the Site at the time of disposal of a hazardous substance, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

18. At all times relevant to this action, there was a release or threatened release of hazardous substances into the environment at the Site, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

19. The release or threatened release of hazardous substances at the Site has caused the United States to incur costs for response, as defined in Sections 101(23), 101(24) and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23), 9601(24) and 9601(25). All of the response actions at the Site are authorized by Section 104 of CERCLA, 42 U.S.C. § 9604.

20. The costs incurred by the United States in conducting the response actions at the Site were incurred in a manner not inconsistent with the National Contingency Plan, promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605 and codified at 40 C.F.R. Part 300.

21. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), defendant GE is jointly and severally liable to the United States for all unreimbursed response costs incurred by the United States at the Site.

22. Defendant GE is also liable to the United States for interest on these costs, pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), and for the expenses the United States incurs in seeking to recover these costs, pursuant to CERCLA Section 101(25), 42 U.S.C. § 9601(25).

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Court:

a. Order defendant GE, jointly and severally, to pay all unreimbursed response costs that have been incurred, or will be incurred by the United States in connection with the Site, plus enforcement costs and interest;

b. Award the United States the costs of this action; and

c. Grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

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Dated: 7/26/03

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