IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA, Plaintiff, v. ARAMARK UNIFORM & CAREER APPAREL, LLC.	)	Civil Action No. 3:17-cv-04062

COMPLAINT

Plaintiff, 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 Administrator of the United States Environmental Protection Agency ("EPA"), files this Complaint and alleges as follows:

NATURE OF ACTION

1. This is a civil action for recovery of response costs brought by the United States pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a).

2. The United States seeks recovery from defendant Aramark Uniform & Career Apparel, LLC ("Aramark") for costs incurred and to be incurred at or in connection with the Coyne Textile Services Superfund Site ("Site") located in Huntington, Wayne County, West Virginia.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action, and the parties hereto, pursuant to 42 U.S.C. §§ 9607 and 9613(b) and 28 U.S.C. §§ 1331 and 1345.

4. Venue is proper in this District pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) and (c) because the release or threatened release of hazardous substances occurred in this District, and the Site is located in this District.

DEFENDANTS

5. Defendant Aramark is a limited liability company organized under the laws of Delaware and is the successor, through a series of mergers and name changes, to the liability of Means Services, Inc., formerly known as F.W. Means & Company.

6. Aramark is a "person" within the meaning of CERCLA Sections 101(21) and 107, 42 U.S.C. §§ 9601(21) and 9607.

GENERAL ALLEGATIONS

A. Site Description and Background.

7. The Site is located at and around 1111 Vernon Street, Huntington, Wayne County, West Virginia, and includes a 6.4 acre parcel ("the Property") as well as an area of contaminated groundwater which has migrated beyond the Property. The Site is located on relatively flat ground that drains northward to the Ohio River, approximately 3500 feet away.

8. An area of contaminated soil containing an estimated 640 to 1900 pounds of perchloroethylene ("PCE" or "PERC"), also known as tetrachloroethylene, and its degradation products, trichloroethene ("TCE"), 1,2-dichloroethene ("DCE"), and vinyl chloride ("VC") is located on the Property, in large part beneath a one story building where dry cleaning was performed ("the Building").

9. Groundwater contaminated with PCE has migrated northward from the Property toward a nearby residential community. The contaminated groundwater has migrated under railroad tracks and under nearby Westmoreland Park, where some of it seeps to the surface,

becomes part of the surface water system, and enters the surface water drainage system of drains and buried pipes. Residences are located within several hundred feet of the park.

10. Vapors contaminated with PCE and its degradation products emanate from the contaminated soil and groundwater, rise through the unsaturated soils into the interior of the Building on the Site, and can pose a threat to any workers or other persons in the Building.

B. Ownership and Operation of Industrial Laundry and Dry Cleaning.

11. Defendant owned and operated an industrial laundry facility on the Property from approximately 1971 until 1982. Defendant operated dry cleaning processes as part of its laundry business.

12. Mid-West Towel and Linens owned and operated the Property from 1982 to 1985, and Coyne Textile Services, Inc. ("Coyne") owned and operated the Property from 1985 to 2006.

13. The dry cleaning process used PCE as a cleaning solvent which was disposed of at the Property from 1971 until the dry cleaning ceased at the Property. Defendant disposed of PCE during the time it owned the Property, through its operation of the dry cleaning equipment which discharged wastewater containing PCE to the drainage system and sewers, where it was released into the subsurface soils through cracks and joints and other openings in the underground piping. On information and belief, PCE similarly was spilled, leaked, or otherwise disposed of as it flowed in trenches which led from the area of the dry cleaning machines to a pit in the maintenance area of the Building.

14. Defendant's dry cleaning contaminated the Site with PCE and its degradation products.

15. On December 10, 1971, F.W. Means & Company, an Illinois corporation, acquired the Property from a battery manufacturer. It owned and operated an industrial laundry

facility at the Property which included dry cleaning processes. On July 2, 1979, F.W. Means changed its name to Means Services, Inc. and continued the same business until 1982.

16. In 1982, ARA Sub, a wholly-owned subsidiary of ARA Service, Inc., made a public tender offer and acquired the outstanding shares of Means Services, Inc.

17. On or about June 1, 1982, prior to completing the mergers with ARA Sub, Means Services, Inc. sold the assets associated with the industrial laundry and dry cleaning facility, including dry cleaning equipment, and the Property to Mid-West Towel and Linen Service, Inc. Means Services, Inc.'s liabilities did not transfer with the sale of assets.

18. Defendant Aramark has succeeded to the liabilities of Means Services, Inc., through various mergers and name changes, including a series of mergers and name changes in August 1982, a merger in 1984, and subsequent name changes.

19. Mid-West owned and operated a dry cleaning and industrial laundry facility at the Property until 1985.

20. On January 10, 1985, Mid-West conveyed the Property to Coyne who owned and operated an industrial laundry facility at the Property until 2006. Coyne performed some dry cleaning but ended those operations on or before 1990.

21. In 2006, Coyne transferred the Property to another party, the Wayne County Economic Development Authority, Inc. ("WCEDA").

C. Response Actions at the Site.

22. In or about 1998, the West Virginia Department of Environmental Protection ("WVDEP") learned from Coyne of the existence of a pit containing PCE and other chemicals inside the Building. Coyne had discovered the pit in 1995 while installing its wastewater treatment system in the Building.

23. PCE is a hazardous substance pursuant to Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), is a listed hazardous substance pursuant to 40 C.F.R. § 302.4, and is a solvent commonly used in dry cleaning operations. PCE, TCE, DCE, and VC easily migrate – i.e., volatilize – from the soil or groundwater into the air spaces within unsaturated soils and can migrate into buildings overlying the contaminated soil or groundwater. PCE, TCE, and VC are known or suspected human carcinogens.

24. Coyne excavated the pit in 1995 but did not notify WVDEP of its discovery for several years.

25. In 1998 and 1999, pursuant to a WVDEP Order, Coyne monitored the groundwater at the Site through monitoring well MW-5 and detected the presence of PCE, TCE, and DCE.

26. In 2008, WCEDA, then owner of the Property conducted a focused groundwater assessment which indicated that groundwater contaminated with high levels of PCE, TCE, and DCE was migrating from the Building toward Westmoreland Park. Air samples collected in 2009 from beneath the Building's concrete floors also showed high levels of PCE.

27. In 2010, at the request of WVDEP, EPA conducted an assessment of PCE contamination at the Site, including sampling of surface and groundwater and of the soils under the Building. EPA also monitored vapors in the subsurface under the Building and in the indoor air.

28. EPA found PCE, TCE and DCE had already migrated into the air within the Building, where concentrations exceeded acceptable levels for chronic exposure to workers. The contaminated soils were acting as a continuing source of contamination and posed a threat to nearby residences if groundwater continued to migrate northward.

29. On March 3, 2011, EPA issued an Action Memorandum for a time-critical removal action to mitigate the threats posed by the release of hazardous substances at the Site, including among other things, continuing the sampling, monitoring and evaluating the contamination at the Site; sealing off pathways for the vapors into the Building; and minimizing migration of contaminated groundwater through use of an air sparging/soil vapor extraction system to prevent the contaminated plume from reaching the nearby residences.

30. Concentrations of PCE and its degradation products in the groundwater continued to increase. On July 11, 2011, EPA expanded the scope of the time-critical removal action to include chemical oxidation treatment of the mass of PCE, which would reduce the duration of the removal action and increase the effectiveness of the vapor treatment of contaminated emissions. The oxidizing chemicals also would potentially transform the PCE to compounds that were less toxic and that would pose less of a vapor intrusion threat.

31. EPA constructed the air sparging/soil vapor extraction system and performed the removal action until 2017.

32. Thereafter, Aramark agreed to perform the response action at the Site under an Administrative Settlement Agreement and Order on Consent for Removal Response Action, Docket No. CERC-03-0221DC, effective January 19, 2017.

33. The release and threat of a release at the Site is on-going and the removal action is continuing at the Site.

34. To date, the response action has prevented the PCE contamination from entering the private residences and PCE levels inside the Building are under control.

D. EPA's Response Costs.

35. The United States has incurred at least $8,087,046.12 in response costs at or in connection with the Site within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), including for the time-critical removal action described above.

36. The response costs were incurred by the United States in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, and have not been reimbursed.

37. The United States continues to incur response costs within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

CLAIM FOR RELIEF

(CERCLA Cost Recovery under Section 107)

38. The allegations contained in paragraphs 1 to 37 are realleged and incorporated herein by reference.

39. There was a "release" or "threatened release" of hazardous substances into the environment at and from the Site, within the meaning of Sections 101(8), 101(14), 101(22), 104(a), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(8), 9601(14), 9601(22), 9604(a), and 9607(a).

40. The Site, including its surface and sub-surface soils and water, is a "facility" within the meaning and scope of Sections 101(9) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(9), 9607(a).

41. Hazardous substances were "disposed" of at the Site, within the meaning of Sections 101(14), 101(29), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(29), and

9607(a), on numerous occasions during the period of Mean Services' ownership and operation of the industrial laundry and dry cleaning facility at the Site.

42. Defendant Aramark is liable for response costs incurred by the United States in connection with the Site pursuant to Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), as the successor to Means Services Inc. who was the owner and operator of the Property at the time of disposal of hazardous substances.

43. Defendant Aramark is jointly and severally liable for all response costs incurred or to be incurred by the United States with respect to the Site, including prejudgment interest on all such costs.

44. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is entitled to a declaratory judgment that the Defendants are liable for any future response costs that are incurred by the United States at or in connection with the Site.

PRAYER FOR RELIEF

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

A. Enter judgment in favor of the United States and against the Defendant, jointly and severally, for all unreimbursed costs incurred by the United States for response actions in connection with the Site, plus accrued interest thereon;

B. Enter a declaratory judgement against the Defendant pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), finding the Defendant liable for future response costs incurred by the United States in connection with the Site and any area to which the

hazardous substances from the Site may have migrated; and

C. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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