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CLERK U.S. DIST. COURT
Eastern District of California

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CV - F 94 - 5984

REC SSH

UNITED STATES OF AMERICA,

Plaintiff,

v.

VALLEY WOOD PRESERVING, INC.,
FONTANA WOOD PRESERVING, INC.,
HAROLD LOGSDON,
JOYCE LOGSDON, and
MICHAEL LOGSDON,

Defendants.

Civil Action No.

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 ("U.S. EPA"),
alleges as follows:

[illegible]

1. This is a civil action brought pursuant to sections 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607, 9613, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"). The United States brings this action to recover costs it has incurred, and will incur, in responding to releases and threatened releases of hazardous substances into the environment from the Valley Wood Preserving, Inc. facility located in Stanislaus County, California ("the Valley Wood facility").

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. At times relevant hereto, Defendant Valley Wood Preserving, Inc. owned and operated the facility which is the subject of this action.

5. Defendant Fontana Wood Preserving, Inc. is the alter ego of, and/or successor-in-interest to, Valley Wood Preserving, Inc., by virtue, inter alia, of having commenced operations of a similar nature to Valley Wood Preserving, Inc. shortly after

1 Valley Wood ceased operations, having a common nucleus of owners,
2 directors, officers, employees, and corporate headquarters, and
3 having purchased certain of the assets of Valley Wood.

4 6. At times relevant hereto, Defendants Harold Logsdon and
5 Joyce Logsdon were the owners of the property on which Valley
6 Wood Preserving, Inc. operated its wood preserving facility.

7 7. At times relevant hereto, Defendant Harold Logsdon was
8 President of Valley Wood Preserving, Inc., directly and
9 personally controlled operations that resulted in the release of
10 hazardous substances, and held a principal interest in the
11 corporation.

12 8. At times relevant hereto, Defendant Michael Logsdon was
13 co-manager of Valley Wood Preserving, Inc., held a principal
14 interest in it, and directly and personally controlled operations
15 that resulted in the release of hazardous substances.

16 9. Each of the above-captioned defendants is a "person"
17 within the meaning of section 101(21) of CERCLA, 42 U.S.C.
18 § 9601(21).

19 10. Each of the above-captioned defendants has owned and/or
20 operated the Valley Wood facility, within the meaning of section
21 107(a) of CERCLA, 42 U.S.C. § 9607(a).

22 GENERAL ALLEGATIONS

23 11. Beginning in or about 1973, and continuing through at
24 least 1979, the Valley Wood facility was the site of a wood-
25 treating operation which used hazardous substances. The site
26 comprises some 13 acres of land in an unincorporated area of
27 Stanislaus County, California.

1 12. As a result of the wood-treating operations of Valley
2 Wood Preserving, Inc., the Valley Wood site is contaminated with
3 hazardous substances which were disposed of at the site.

4 13. There were and are "releases," as defined at section
5 101(22) of CERCLA, 42 U.S.C. § 9601(22), and the threat of
6 continuing releases, of "hazardous substances," as defined in
7 section 101(14) of CERCLA, 42 U.S.C. § 9601(14), into the
8 environment at the Valley Wood site.

9 14. The releases and threatened releases of hazardous
10 substances at the Valley Wood site necessitated the United
11 States' "removal" activities, within the meaning of section
12 101(23) of CERCLA, 42 U.S.C. § 9601(23).

13 15. The Valley Wood site is a "facility" within the meaning
14 of section 101(9) of the CERCLA, 42 U.S.C. § 9601(9).

15 16. The Valley Wood site was listed on the National
16 Priorities List (NPL), as defined in section 105 of CERCLA, 42
17 U.S.C. § 9605, on March 31, 1989. 59 Fed. Reg. 13302.

18 CLAIM FOR RELIEF

19 17. The allegations of paragraphs 1 through 16 are included
20 in this claim for relief.

21 18. The United States has incurred costs in connection with
22 response measures associated with the Valley Wood site, pursuant
23 to section 104 of CERCLA, 42 U.S.C. § 9604. The United States is
24 continuing to incur costs, including enforcement costs associated
25 with the recovery of funds expended as a result of the disposal
26 of hazardous substances at the site.

27 19. As of April 30, 1994, the United States had incurred
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1 unreimbursed response costs related to the Valley Wood site
2 estimated to be \$1,244,608. On September 30, 1991, EPA sent a
3 demand for its costs to date to potentially responsible parties,
4 including certain named defendants.

5 20. The costs incurred by the United States in connection
6 with the Valley Wood site were for actions taken in response to
7 the release or threat of release of hazardous substances at the
8 site.

9 21. The United States' actions taken at the Valley Wood
10 site and the costs incurred incident thereto were not
11 inconsistent with the National Contingency Plan, which was
12 promulgated under section 105(a) of CERCLA, 42 U.S.C. § 9605(a),
13 and is codified at 40 C.F.R. Part 300 et seq.

14 22. Under section 107(a) of CERCLA, 42 U.S.C. § 9607(a),
15 each of the defendants is jointly and severally liable to the
16 United States for all costs incurred by the United States at the
17 Valley Wood site.

18 REQUEST FOR RELIEF

19 WHEREFORE, the United States requests that the Court:

- 20 1. Enter judgment against each of the defendants,
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1 jointly and severally, to reimburse the United States for all
2 costs incurred by the United States in connection with the Valley
3 Wood site;

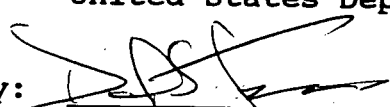
4 2. Enter a declaratory judgment holding the defendants
5 jointly and severally liable for all future response costs;

6 3. Award the United States its costs; and

7 4. Grant such other and further relief as is
8 appropriate.

9 Respectfully submitted,

10 
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