UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC, CARGILL, INC., FLOWSERVE CORPORATION, KELSEY-HAYES COMPANY, NCR CORPORATION, NORTHROP GRUMMAN SYSTEMS CORPORATION, and WASTE MANAGEMENT OF OHIO, INC. Defendants.	Civil Action No. 3:18-cv-00054

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

NATURE OF THE ACTION

1. This is a civil action brought pursuant to Sections 106, 107 and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9606, 9607(a) and 9613(g)(2). The United States seeks to recover certain unreimbursed costs incurred and to be incurred for response activities related to the release and threatened release of hazardous substances from facilities at and near the North Sanitary (aka "Valleycrest") Landfill Superfund Site in Dayton, Ohio ("Site"). The United States also seeks injunctive relief requiring that Defendants perform the selected remedy at the

Site, which requires the installation of a composite barrier system over a portion of the Site and the implementation of other measures to address risks posed by contaminated soils, leachate and landfill gas. Finally, the United States seeks a judgment on liability for Site response costs that will be binding on any subsequent action or actions to recover further Site response costs pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2).

JURISDICTION AND VENUE

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

3. Venue is proper in this district pursuant to CERCLA Section 113(b), 42 U.S.C. § 9613(b), and under 28 U.S.C. § 1391(b) and (c). A substantial part of the events giving rise to the claims asserted herein occurred within this district because (i) the Site is located within this district, (ii) threatened and actual releases of hazardous substances occurred within this district, and (iii) the costs that the United States seeks to recover herein relate to response actions undertaken by the United States at or in connection with the Site.

GENERAL ALLEGATIONS

A) The Site

4. The Site occupies approximately 104 acres and consists of five former sand and gravel quarries where industrial and municipal wastes were dumped from 1966 to 1989. The industrial wastes include volatile organic compounds ("VOCs"), heavy metals, polychlorinated biphenyls ("PCBs"), and other "hazardous substances" within the meaning Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5. The Site is located in a mixed urban, commercial, industrial, and residential area and is directly over the Great Miami Buried Valley Aquifer – a federally designated sole-source

aquifer that provides drinking water for approximately 47,000 people in the Greater Dayton area. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9)

6. EPA has determined that actual and threatened releases of hazardous substances to and from soil and groundwater at the Site, as well as actual and threatened releases of hazardous substances from the Site to the air, pose a substantial risk to human health and welfare.

7. In response to those actual and threatened releases, EPA has incurred, and will continue to incur, response costs that are not inconsistent with the National Contingency Plan ("NCP"), promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605, and as set forth at 40 C.F.R. Part 300.

8. EPA selected a final remedial action for the Site in a record of decision ("ROD") on August 18, 2013. The ROD requires, among other things, the installation of a landfill cap over a large portion of the Site and the extraction and treatment of leachate and contaminated groundwater. Flammable gases, such as methane, trapped in the soils at the Site will be addressed through a landfill gas collection and abatement system. EPA estimates the net present value cost of the remedial action to be approximately $35.5 million.

B) <u>The Defendants</u>

9. Each of the Defendants is a "person," within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10. Defendant Waste Management of Ohio, Inc. ("WM Ohio") is the corporate successor to a common set of corporate predecessors, including North Sanitary Landfill, Inc. ("NSLI") and Industrial Waste Disposal Co, Inc. ("IWDC"). NSLI and IWDC owned or operated the Site at the time of disposal of hazardous substances and, in the case of IWDC, also

accepted and transported hazardous substances to the Site for disposal. As a result, WM Ohio is liable in this action under Sections 107(a)(2) and (a)(4) of CERCLA, 42 U.S.C. §§ 9607(a)(2) and (a)(4).

11. Defendant Bridgestone Americas Tires Operations, LLC ("Bridgestone") is the corporate successor to Firestone Tire & Rubber Company ("Firestone"). Firestone, in turn, was the corporate successor to The Dayton Tire & Rubber Company, which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Bridgestone is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

12. Defendant Cargill, Inc. ("Cargill") owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Cargill is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

13. Defendant Flowserve Corporation ("Flowserve") is the corporate successor to Duriron Company, Inc., which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Flowserve is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

14. Defendant Kelsey-Hayes Company ("Kelsey-Hayes") – a wholly-owned subsidiary of ZF TRW Automotive Holdings Corporation – is corporate successor to Dayton Walther Corporation, which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for

the transport of such substances to the Site for disposal. As a result, Kelsey-Hayes is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

15. Defendant NCR Corporation ("NCR") owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, NCR is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

16. Defendant Northrop Grumman Systems Corporation ("Northrop Grumman") is successor to relevant liabilities of TRW Globe Motors, which was formerly known as Globe Industries ("Globe"). Globe owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Northrop Grumman is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

FIRST CLAIM FOR RELIEF
Cost Recovery under CERCLA Section 107

17. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference.

18. Each of the Defendants is jointly and severally liable to the United States for all unreimbursed response costs incurred by the United States in connection with the Site pursuant to Section 107(a)(4)(A) of CERCLA, 42 U.S.C. § 9607(a)(4)(A).

SECOND CLAIM FOR RELIEF
Claim for Relief under Injunctive Relief under Section 106

19. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference.

20. Each of the Defendants is jointly and severally liable to the United States under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), for injunctive relief to abate the danger or threat presented by releases or threatened release of hazardous substances into the environment at and from the Site.

THIRD CLAIM FOR RELIEF
Declaratory Judgment for Recovery of Further Response Costs

21. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference

22. Each of the Defendants is jointly and severally liable to the United States for any unreimbursed response costs that the United States further incurs in connection with contamination at the Site, not inconsistent with the NCP, pursuant to Sections 107(a) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(g)(2), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States of America prays that this Court

A. Enter judgment against the above-named Defendants, jointly and severally, for all response costs incurred by the United States, including prejudgment interest, in connection with the Site;

B. Enter a judgment against each Defendant for injunctive relief to abate conditions at the Site that may pose an imminent and substantial endangerment to the public health or welfare or the environment;

C. Enter a declaratory judgment of liability against each Defendant for any unreimbursed response costs, not inconsistent with the NCP, that the United States may further incur in connection with the Site;

D. Grant such other relief as the Court deems appropriate.

Respectfully submitted,

FOR THE UNITED STATES

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