



**JURISDICTION AND VENUE**

3. This Court has jurisdiction over the subject matter of this action and over Defendant, pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606(a), 9607(a), and 9613(b).

4. Venue is proper in this district pursuant to 42 U.S.C. §§ 9606(a) and 9613(b) and 28 U.S.C. § 1391(b) and (c), because the Site is located, the claims arose, and the threatened and actual releases of hazardous substance(s) that gave rise to these claims occurred, within this judicial district.

**THE DEFENDANT**

5. Defendant, a Delaware company, is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

6. Hercules Incorporated, a Delaware corporation, “owned” and “operated” the former manufacturing plant at the Site at the time of disposal of a hazardous substance within the meaning of Sections 101(20) and 107(a)(2) of CERCLA, 42 U.S.C. §§ 9601(20) and 9607(a)(2).

7. In August 2016, Hercules Incorporated converted its corporate form into a limited liability company under Delaware law, and changed its name to Hercules LLC.

8. Hercules LLC is currently an “owner” of Operable Unit 1 of the Site within the meaning of Sections 101(20) and 107(a)(1) of CERCLA, 42 U.S.C. §§ 9601(20) and 9607(a)(1).

**GENERAL ALLEGATIONS**

9. The Site is located east of the City of Brunswick in Glynn County, Georgia near the confluence of Terry Creek, Dupree Creek, and the Back River north of the Torras Causeway and east of U.S. Highway 17.

10. EPA has organized the Site into three operable units. Operable Unit 1 consists of an outfall ditch from the former Hercules plant, and is approximately 2.5 acres. Operable Unit 2 consists of multiple areas including: portions of the former Hercules plant east of Highway 17 known as the Marsh Wood Storage Yard, the Main Dredge Spoil Area, the Riverside Dredge Spoil Area, and Carter's Island. Operable Unit 3 includes portions of Dupree and Terry Creeks.

11. Starting in 1911, Hercules Incorporated was the owner and operator of its manufacturing plant in Brunswick, Georgia, which had an outfall ditch into Dupree Creek.

12. From 1948 through 1980, Hercules Incorporated owned and operated the plant where it produced the pesticide toxaphene and discharged wastewater containing toxaphene through the outfall ditch into Dupree Creek, which flows into Terry Creek.

13. Toxaphene is a hazardous substance within the meaning of Section 101(14) of CERCLA.

14. As a result, a hazardous substance within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), was disposed at the Site, including OU1.

15. Defendant, or its corporate predecessor, has been the owner of the property that is now OU1 since at least 1948.

16. Defendant is the current owner of the property comprising OU1.

17. As a result of investigations, the EPA has determined that the Site, including OU1, is contaminated with toxaphene.

18. On June 19, 2017, the EPA issued an Interim Record of Decision ("IROD") setting forth the remedial action to be implemented at OU1 of the Site. The IROD identifies hazardous substances toxaphene, arsenic, and total chromium as contaminants of potential concern, and toxaphene as the primary contaminant of concern. The major components of the remedy include

re-routing the existing ditch into a newly constructed concrete-lined ditch, placement of geo-textile fabric over existing sediment at the currently existing outfall ditch, backfilling the currently existing outfall ditch with compacted clean soil over fabric, armoring the backfill slope of the currently existing outfall ditch, seeding and stabilization of disturbed areas, implementing institutional controls to prevent exposure to contaminants, and conducting monitoring. EPA estimates that the interim remedial action for OU1 will cost approximately \$4,488,450.

19. The IROD is not inconsistent with CERCLA and the National Contingency Plan, 40 C.F.R. Part 300.

20. The manufacturing plant, OU1, and the Site are each a “facility” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. There has been a “release” or a “threatened release” of a “hazardous substance” into the environment at or from the Site, including from OU1, 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).

22. As a result of the release or threatened release of a hazardous substance at or from the Site, the United States has incurred costs authorized by Section 104 of CERCLA, 42 U.S.C. § 9604, as defined by Sections 101(23), (24) and (25) of CERCLA, 42 U.S.C. §§ 9601(23), (24) and (25).

23. EPA has incurred at least \$150,000 in unreimbursed past response costs at the Site.

24. EPA’s response actions taken at or in connection with the Site and the costs incurred incident thereto are not inconsistent with the NCP.

25. The United States will continue to incur response costs in connection with OU1 and the Site.

**FIRST CLAIM FOR RELIEF**  
**(Injunctive Relief for Operable Unit 1)**

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat . . . .

28. The Director of the Superfund Division of EPA Region 4, through delegated authority, has determined that there is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of actual or threatened releases of hazardous substance(s) into the environment at or from OU1.

29. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), Defendant is liable to the United States for injunctive relief to abate and remedy the conditions at OU1 that may present an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substance(s) at or from OU1.

**SECOND CLAIM FOR RELIEF**  
**(Recovery of United States' Response Costs)**

30. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

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

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section-

\* \* \*

(1) the owner and operator of a vessel or a facility, [and]

(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

\* \* \*

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; . . . .

The amounts recoverable under this section shall include interest on the amounts recoverable under subparagraphs (A) through (D) . . . .

32. Pursuant to Section 107(a)(1), 42 U.S.C. § 9607(a)(1), Defendant is liable as a current owner of the outfall ditch which is OU1.

33. Pursuant to Section 107(a)(2), 42 U.S.C. § 9607(a)(2), Defendant is liable as the owner and/or operator of the manufacturing plant facility when disposal of hazardous substances occurred at the Site.

34. Defendant is liable to the United States pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for unrecovered response costs not inconsistent with the NCP incurred by the United States in connection with the Site, plus any applicable interest on the response costs incurred.

35. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in pertinent part that in any action for recovery of costs, “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.”

36. 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 Defendant is liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for further response costs not inconsistent with the NCP incurred by the United States in connection with the Site.

**PRAYER FOR RELIEF**

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

A. Order Defendant to abate the conditions at OU1 that may present an imminent and substantial endangerment to the public health or welfare or environment, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), by performing the remedy selected by EPA in the IROD;

B. Award the United States a judgment against Defendant, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs not inconsistent with the NCP incurred by the United States in connection with the Site, plus any accrued interest on the costs;

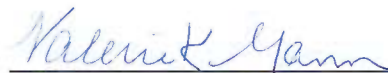
C. Award the United States a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that Defendant is liable to the United States for further response costs not inconsistent with the NCP to be incurred by the United States in connection with the Site; and

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

Respectfully submitted,



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