

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION

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UNITED STATES OF AMERICA	:	
and STATE OF ILLINOIS,	:	
	:	
Plaintiffs,	:	
	:	Civil No. 3:23-cv-01934
v.	:	
	:	
GREAT LAKES SYNERGY CORPORATION,	:	
	:	
Defendant.	:	
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COMPLAINT

The United States of America, by authority of the Attorney General of the United States, acting at the request and on behalf of (a) the Secretary of the Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (FWS), and (b) the Administrator of the U.S. Environmental Protection Agency (EPA), and the State of Illinois (the “State”), by authority of the Illinois Attorney General, acting at the request and on behalf of the Illinois Environmental Protection Agency (“IEPA”), through the undersigned attorneys, file this complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action brought by the United States and the State (collectively, “Plaintiffs”) against Defendant Great Lakes Synergy Corporation (“Defendant” or “Great Lakes”) pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9606 and 9607. Plaintiffs seek several forms of relief relating to releases and threatened releases of hazardous substances from facilities at Area 7 of the Additional and Uncharacterized Sites

Operable Unit (“Area 7 Pesticides Site” or “Site”) at the Crab Orchard National Wildlife Refuge (CONWR or “Refuge”) National Priorities List Site located near Marion, Illinois.

2. The United States alleges that Defendant is liable for injunctive relief and reimbursement of response costs incurred or to be incurred for response actions taken or to be taken at or in connection with the release or threatened release of hazardous substances at the Site pursuant to CERCLA Sections 106 and 107(a)(4)(A), 42 U.S.C. §§ 9606 and 9607(a)(4)(A). The State alleges that Defendant is liable for reimbursement of response costs incurred or to be incurred for response actions taken or to be taken at or in connection with the release or threatened release of hazardous substances at the Site pursuant to CERCLA Section 107(a)(4)(A), 42 U.S.C. § 9607(a)(4)(A).

JURISDICTION AND VENUE

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

4. Venue is proper in this district pursuant to CERCLA Section 113(b), 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c) because the claims arose and the releases of hazardous substances occurred in this district.

BACKGROUND ON THE SITE AND THE STATUTE

The Site

5. During World War II, the Illinois Ordnance Plant was located on a portion of the area now occupied by the Crab Orchard National Wildlife Refuge. In 1947, Congress established the Refuge, which encompasses over 40,000 acres located primarily in Williamson County, near Marion, Illinois. The enabling legislation assigned DOI, through FWS, the

responsibility of managing the area as a national wildlife refuge, with the additional mission of supporting private industrial activity in certain portions of the Refuge.

6. Pursuant to CERCLA Section 105, 42 U.S.C. § 9505, EPA placed the Refuge on the CERCLA National Priorities List (NPL) in 1987, 52 Fed. Reg. 27,620, 27,631 (July 22, 1987). Since that time, seven “operable units” have been designated at the Refuge to organize the investigation and cleanup of the NPL site. One such operable unit is known as the “Additional and Uncharacterized Sites Operable Unit” (“AUS OU”). The Site, designated as the “Area 7 Pesticides Site” is part of the AUS OU.

7. The Area 7 Pesticides Site is located approximately 1.5 miles east of the intersection of Highway 148 and Ogden Road. The warehouses in the Area 7 Pesticides Site are part of what was once a World War II era complex of 35 identical warehouses constituting the Illinois Ordnance Plant’s “inert storage” area. All buildings within the Area 7 Pesticides Site were identified with an “IN” prefix to signify their location within the inert storage area.

8. From 1951 to 1971, Great Lakes, formerly known as Great Lakes Terminal and Transport Co., leased four warehouses at the Site: Buildings IN-1-3, IN-1-4, IN-1-5, and IN-1-6 (collectively, the “Warehouses”). At least two of the Warehouses received, stored, and shipped commercial quantities of pesticides.

Response Activities at the Site

9. Pursuant to CERCLA, DOI and EPA may take “response” actions in response to the release and threatened release of hazardous substances at and from facilities, including contaminated sites.

10. CERCLA Section 107(a)(4)(A), 42 U.S.C. § 9607(a)(4)(A), authorizes the United States and states to recover costs that they incur in response to the release and threatened release of hazardous substances, to the extent such costs are not inconsistent with the National

Contingency Plan (“NCP”). The statute imposes liability for such costs on certain classes of potentially responsible parties (“PRPs”), including parties that owned or operated a facility at the time of disposal of a hazardous substance.

11. Under CERCLA Section 106(a), 42 U.S.C. § 9606(a), when EPA (or DOI) 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, EPA (or DOI) may: (i) seek the assistance of the U.S. Department of Justice to secure court-ordered relief as may be necessary to abate such danger or threat; and (ii) take other actions including issuing such orders as may be necessary to protect public health and welfare and the environment.

12. In response to the release or threatened release of hazardous substances at or from the Site, DOI and EPA undertook response actions at the Site pursuant to CERCLA Section 104, 42 U.S.C. § 9604, and will undertake additional response actions in the future. Response actions taken and to be taken at the Site include excavation of contaminated soils, demolition of Warehouses, and removal and off-Site disposal of contaminated materials.

13. In accordance with the NCP, a Preliminary Site Assessment/Site Investigation (PA/SI) was conducted in 1999-2000. The PA/SI confirmed the release and substantial threat of continued release of pesticides in soils surrounding the Warehouses, as well as on floors, walls, and materials within the Warehouses. These pesticides included the pesticides aldrin and dieldrin, among others. Each of these pesticides is a “hazardous substance” as defined by CERCLA.

14. In accordance with the NCP, supplemental PA/SI sampling was conducted at the Site in 2001, including soil sampling in a drainageway leading away from the Warehouses and wipe and dust samples from the interior wall and floor surfaces inside the Warehouses. Aldrin

and dieldrin were the primary contaminants in the interior dust and wipe samples and the exterior soil samples.

15. Following review of the dust and wipe samples from inside the Warehouses, the U.S. Department of Health and Human Services recommended further testing in Buildings IN-1-3 and IN-1-6, where tenants were storing goods, as well as quarantine of the products stored in Building IN-1-6. FWS implemented those recommendations.

16. In accordance with the NCP, FWS conducted a removal action in 2003 at Building IN-1-6. FWS cleaned the exterior surfaces of sealed packages and returned them to their owner. Open inventory could not be decontaminated and returned.

17. On July 26, 2012, FWS entered into an Administrative Settlement Agreement and Order on Consent (AOC) with Defendant for the performance of an Engineering Evaluation and Cost Analysis (EE/CA). In January 2018, FWS approved a final EE/CA Report, which characterized the nature and extent of contamination at the Site and evaluated a number of removal action alternatives. In April 2018, FWS issued an Action Memorandum in which it selected Final EE/CA Report Alternative 1 as the removal action for the Site.

18. The selected removal action for the Site includes excavation of contaminated soils, demolition of the Warehouses, and off-Site disposal of materials in a permitted nonhazardous waste landfill. These actions will remove pesticide-impacted structures, including stored materials, from the Site, and reduce the contaminant concentration in soil until the Site no longer exceeds unacceptable risk levels from any of these sources.

19. In performing response actions at the Site, DOI, EPA, and the State have incurred and will continue to incur response costs in connection with response actions at the Site. DOI, EPA, and the State incurred these costs in a manner not inconsistent with the NCP.

GENERAL ALLEGATIONS AND ALLEGATIONS RELATING TO DEFENDANT

General Allegations

20. Great Lakes is a “person,” within the meaning of CERCLA Section 101(21), 42 U.S.C. § 9601(21).

21. The Site is a “facility,” within the meaning of CERCLA Sections 101(9) and 107(a), 42 U.S.C. §§ 9601(9) and 9607(a).

22. Aldrin and dieldrin are “hazardous substances,” within the meaning of CERCLA Sections 101(14) and 107(a), 42 U.S.C. §§ 9601(14) and 9607(a).

23. There have been “releases” and “threatened releases” of hazardous substances at the Site, within the meaning of CERCLA Sections 101(22) and 107(a), 42 U.S.C. §§ 9601(22) and 9607(a).

The Defendant

24. Great Lakes is a corporation duly formed and existing under the laws of the State of Illinois, with its principal place of business in Arlington Heights, Illinois.

25. From 1951 to 1971, Great Lakes leased the Warehouses at the Site, where it received, stored, and shipped commercial quantities of pesticides. Pesticides, including aldrin and dieldrin, were identified in sampling collected from interior wall and floor surfaces within the Warehouses and in soil samples outside the Warehouses.

26. In light of the foregoing, Great Lakes is liable to Plaintiffs as a person that operated portions of the Site property and other facilities at the Site at the time of disposal of hazardous substances at the Site, pursuant to CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2).

FIRST CLAIM FOR RELIEF

(Cost Recovery by the United States under CERCLA Section 107, 42 U.S.C. § 9607)

27. Paragraphs 1-26 are realleged and incorporated herein by reference.

28. Defendant 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 CERCLA Section 107(a), 42 U.S.C. § 9607(a).

29. Defendant also is jointly and severally liable to the United States for any further response costs that the United States incurs in connection with the Site pursuant to CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2).

SECOND CLAIM FOR RELIEF

(Claim by the United States under CERCLA Section 106, 42 U.S.C. § 9606)

30. Paragraphs 1-26 are realleged and incorporated herein by reference.

31. DOI 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 and threatened releases of hazardous substances into the environment at and from the Site.

32. Pursuant to CERCLA Section 106(a), 42 U.S.C. § 9606(a), Defendant is subject to injunctive relief to abate the danger or threat presented by releases or threatened releases of hazardous substances into the environment at and from the Site.

THIRD CLAIM FOR RELIEF

(Cost Recovery by the State under CERCLA Section 107, 42 U.S.C. § 9607)

33. Paragraphs 1-26 are realleged and incorporated herein by reference.

34. Defendant is jointly and severally liable to the State for all unreimbursed response costs incurred by the State in connection with the Site pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a).

35. Defendant is also jointly and severally liable to the State for any further response costs that the State incurs in connection with the Site pursuant to CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America and the State of Illinois, respectfully request that this Court:

1. Enter judgment in favor of the United States and against Defendant, jointly and severally, for all unreimbursed response costs incurred by the United States in connection with the Site;
2. Enter a declaratory judgment in favor of the United States and against Defendant for any further response costs that the United States may incur in connection with the Site;
3. Order the above-named Defendants to abate the conditions at the Site that may present an imminent and substantial endangerment to the public health or welfare or the environment;
4. Enter a judgment in favor of the State and against Defendant, jointly and severally, for all unreimbursed response costs incurred by the State in connection with the Site;
5. Enter a declaratory judgment in favor of the State and against the Defendant for any further response costs that the State may incur in connection with the Site;
6. Award the United States and the State their costs of this action; and
7. Grant such other and further relief as the Court deems just and proper.

Signature Page for Complaint in *United States and State of Illinois v. Great Lakes Synergy Corp.*
(S.D. Ill.)

FOR THE UNITED STATES OF AMERICA:

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