

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS

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UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No. 4:25-cv-1400
	)	
ENTERGY LOUISIANA, LLC AND	)	
ENTERGY TEXAS, INC.;	)	
THE CITY OF GARLAND;	)	
LIGHTHOUSE ELECTRIC	)	
COOPERATIVE, INC.;	)	
ONCOR ELECTRIC DELIVERY	)	
COMPANY LLC; and	)	
SOUTHWESTERN ELECTRIC POWER	)	
COMPANY,	)	
	)	
<i>Defendants.</i>	)	
_____	)	

COMPLAINT

The United States of America (“United States”), 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:

STATEMENT OF THE CASE

1. This is a civil action brought by the United States for recovery of costs pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (“CERCLA”), 42 U.S.C. § 9607. The United States seeks recovery of response costs that the United States has incurred in responding to the release or

threatened release of hazardous substances at and from the F.J. Doyle Salvage Superfund Site (the “Site”) in Fannin County, Texas into the environment.

JURISDICTION AND VENUE

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

3. This Court has jurisdiction over the Defendants because each Defendant has the requisite minimum contacts with the state of Texas and because the cause of action in this Complaint grows out of or relates to contact between each Defendant and the state of Texas.

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 events giving rise to the claims in this Complaint occurred in this district and because the Site is located in this district.

SITE DESCRIPTION

5. The Site is located at 905 Poplar Street in the City of Leonard, Fannin County, Texas. The Site is 0.3 acre and is directly bordered by residential properties and a daycare facility. The Site is also located near elementary, junior high, and high schools. From approximately 1974 to 1999, Frank Doyle operated an electrical transformer salvage business at the Site, as part of which he acquired out-of-service transformers from electric utility companies and stripped the transformers to recover metals. Operations at the Site resulted in the contamination of onsite and offsite soils with polychlorinated biphenyls (“PCBs”) and other hazardous substances.

DEFENDANTS

6. Entergy Louisiana, LLC (“Entergy Louisiana”) is registered to do business in Texas and transacts business in Texas. Entergy Louisiana is a successor in interest to Louisiana Power and Light Company, LLC (“LP&L”) and Gulf States Utility Company.

7. Entergy Texas, Inc. (“Entergy Texas”) is an electric utility company servicing Texas. Entergy Texas is a successor in interest to Gulf States Utility Company.

8. The City of Garland (“Garland”) is a Texas municipality. Garland Power and Light is a municipal utility that is a department within Garland.

9. Lighthouse Electric Cooperative, Inc. (“Lighthouse”) is an electric cooperative based in Floydada, Texas.

10. Oncor Electric Delivery Company LLC (“Oncor”) is an electric utility company servicing Texas. Oncor is a successor to Texas Power & Light (“TP&L”).

11. Southwestern Electric Power Company (“SWEPCO”) is an electric utility company that is registered to do business in Texas and transacts business in Texas.

STATUTORY BACKGROUND

12. CERCLA was enacted in 1980 to provide a comprehensive governmental mechanism for abating releases and threatened releases of hazardous substances and other pollutants and contaminants, and for funding the costs of abatement and related enforcement activities, which are known as “response” actions, 42 U.S.C. §§ 9604(a), 9601(25).

13. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that “[A]ny person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances . . . shall be liable

for . . . all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the National Contingency Plan”

14. The National Contingency Plan (“NCP”) provides the “procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants” 42 U.S.C. § 9605(a). The NCP is codified at 40 C.F.R. Part 300.

15. Liability to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607, for all costs of response actions incurred and to be incurred by the United States related to the Site, is strict and joint and several.

HISTORY OF SITE OPERATIONS

16. From approximately 1974 to 1999, Frank Doyle operated an electrical transformer salvage business at the Site, as part of which Mr. Doyle acquired out-of-service transformers from electric utility companies and stripped the transformers to recover metals.

17. These transformers contained dielectric fluid, or “oil,” that was used as an insulating and cooling medium. The oil and components in many of these transformers contained PCBs, which are listed hazardous substances under CERCLA. See 40 C.F.R. § 302.4, Table 302.4.

18. As part of his operations at the Site, Mr. Doyle acquired out-of-service electrical transformers from electric utility companies in Texas, Oklahoma, Louisiana, and Arkansas. Frank Doyle would drain the oil from the transformers and bake the transformer cores in an oven to burn off remaining oil, paper, and varnish. The baked cores were then stripped for recoverable metals, such as copper and aluminum. Transformer oil was stored in tanks and then shipped offsite to a disposal facility. In addition, Mr. Doyle reportedly used the oil for weed control at the Site and distributed the oil to various individuals for the same purpose.

19. Releases of oil contaminated with PCBs occurred during Mr. Doyle's operations at the Site.

EPA INVESTIGATION AND RESPONSE

20. In 2018, EPA performed a site inspection/removal assessment and collected soil samples, wipe samples, and paint chips for analysis. In the onsite and offsite soils, EPA found hazardous substances, including PCBs, which are listed hazardous substances under CERCLA, 40 C.F.R. § 302.4, Table 302.4.

21. Concentrations of PCBs, the primary contaminant of concern at the Site, exceeded regional screening levels for soil, and EPA determined that these levels presented a threat to public health and the environment because of the potential for inadvertent ingestion, direct contact or inhalation, especially by young children and utility workers working in the area.

22. From November 2018 to February 2019, EPA performed a time-critical removal action at the Site. As part of its response action, EPA excavated over 9,400 tons of PCB contaminated soil and debris from the Site, between 6 and 48 inches below ground surface, and took samples to confirm contaminated soil had been adequately removed. EPA backfilled excavated areas to grade with clean backfill soil and placed an orange, high-visibility liner below ground surface at 16 grids where obstructions such as bedrock or utilities prevented excavation, or where there was contamination below 48 inches.

GENERAL ALLEGATIONS

23. From approximately 1990 to 1999, LP&L sent out-of-service transformers containing PCBs to the Site for disposal.

24. LP&L became Entergy Louisiana, Inc. in 1996 and is now Entergy Louisiana, LLC.

25. As the corporate successor to LP&L, Entergy Louisiana is the successor in interest to LP&L's liability under CERCLA and with respect to the Site.

26. During the 1970s, Gulf States Utility Company sent out-of-service transformers containing PCBs to the Site for disposal.

27. Gulf States Utility became Entergy Gulf States, Inc. in 1996. In 2007, the assets and liabilities of Entergy Gulf States, Inc. were split into Entergy Texas and Entergy Gulf States Louisiana, LLC. Entergy Gulf States Louisiana is now Entergy Louisiana. From approximately 1983 to 1987, Garland Power and Light sent out-of-service transformers containing PCBs to the Site for disposal. Garland Power and Light's liability under CERCLA is born by Garland.

28. In 1983, Lighthouse sent out-of-service transformers containing PCBs to the Site for disposal.

29. TP&L sent out-of-service transformers containing PCBs to the Site for disposal.

30. Oncor is the successor in interest to TP&L's liability under CERCLA and with respect to the Site.

31. From approximately 1983 to 1999, SWEPCO sent out-of-service transformers containing PCBs to the Site for disposal.

CLAIM FOR RELIEF

Liability for Response Costs under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a)

32. The allegations set forth in Paragraphs 1–31 are realleged and incorporated herein.

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

34. There have been “releases” or threats of “releases,” within the meaning of Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. § 9601(22) and § 9607(a), of hazardous substances into the environment at and from the Site, including PCBs.

35. “Hazardous substances,” within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been released at the Site.

36. The United States has incurred “response costs” within the meaning of Sections 101(25) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(25) and 9607(a), in connection with actions taken in response to the releases or threatened releases of hazardous substances to the Site. To date the United States has incurred unreimbursed response costs in excess of \$4 million in connection with the Site.

37. The response costs incurred and to be incurred by the United States in connection with the Site are not inconsistent with the NCP, 40 C.F.R Part 300, as promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

38. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), the United States is entitled to recover interest on the response costs that it has incurred at the Site, at the rate that is specified for interest on investments of the Hazardous Substances Superfund established under subchapter A of chapter 98 of title 26 of the United States Code (26 U.S.C. § 9507).

39. Entergy Louisiana, Entergy Texas, Garland, Lighthouse, Oncor, and SWEPCO are “persons” within the meaning of CERCLA Sections 101(21) and 107, 42 U.S.C. §§ 9601(21) and 9607.

40. Entergy Louisiana is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

41. Entergy Texas is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

42. Garland is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

43. Lighthouse is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

44. Oncor is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

45. SWEPCO is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as a person who by contract, agreement or otherwise arranged for disposal or treatment of hazardous substances at the Site.

46. Each 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, including prejudgment interest pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

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

PRAYER FOR RELIEF

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

- A. Enter judgment in favor of the United States, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), holding the Defendants jointly and severally liable for all unreimbursed response costs incurred by the United States in connection with the Site, including enforcement costs and prejudgment interest;
- B. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), enter a declaratory judgment of joint and several liability in favor of the United States and against the Defendants that will be binding on any subsequent action or actions to recover further response costs or damages in connection with the Site;
- C. Award the United States its costs and fees in this action; and
- D. Award such other relief as this Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General



R. SHEA DIAZ (D.C. Bar No. 150078)
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 532-3351
Fax: (202) 616-2427
rebecca.diaz@usdoj.gov

JAY R. COMBS
UNITED STATES ATTORNEY
Eastern District of Texas

/s/ L. Frank Coan Jr.

L. Frank Coan, Jr.
Assistant United States Attorney
Bar No. 170966 (Georgia)
110 N. College, Suite 700
Tyler, Texas 75702
(903) 590-1400
(903) 590-1439 Fax
frank.coan@usdoj.gov

OF COUNSEL:

GEOFFREY ALLEN
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 6
1201 Elm Street
Dallas, Texas 75270