

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
INMONT CORPORATION,)	
TOWN OF WINTHROP, MAINE,)	
EVERETT SAVAGE and)	
GLEND A H. SAVAGE)	
)	
Defendants.)	

COMPLAINT

The United States of America, at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil action brought pursuant to Sections 104(a) and (b), 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9604(a) and (b), 9606(a), and 9607(a) and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6973. The United States seeks reimbursement of costs incurred and to be incurred in response to the release or threat of release of hazardous substances into the environment from the property in Winthrop, Maine used as a landfill and/or

dump by various owners and operators ("Site") as well as an order directing the defendants to take actions which will remedy the conditions at the Site.

JURISDICTION AND VENUE

2. Jurisdiction over this matter is conferred by 28 U.S.C. §§ 1331 and 1345, 42 U.S.C. §§ 9607(a), 9613(b) and 6973, and the court's general equity jurisdiction.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 42 U.S.C. § 9613(b). Defendants reside and/or do business in this judicial district, and the cause of action arose in this judicial district.

DEFENDANTS

4. Defendant Inmont Corporation ("Inmont") is a corporation organized under the laws of Delaware, with its principal place of business located in Clifton, New Jersey.

5. Defendant Town of Winthrop, Maine is a municipality located in Kennebec County, Maine.

6. Defendant Everett Savage is an individual and resides in Winthrop, Maine.

7. Defendant Glenda H. Savage is an individual and resides in Winthrop, Maine.

GENERAL ALLEGATIONS

8. The Site has served as a commercial and municipal waste dump and as a landfill. It is located on approximately twenty contiguous acres in the Town of Winthrop,

Maine. The Town of Winthrop, which is rural in character, is located just outside of Augusta. There are homes and residential property bordering on the Site. The Site is in close proximity to the western shore of Annabessacook Lake.

9. The Site lies generally 190-210 feet above sea level, 20-40 feet higher than the level of Annabessacook Lake. The Site has a large sphagnum bog lying to the east, and a small marsh to the northeast. Surface drainage runs initially from the Site to the bog and marsh, and then to Annabessacook Lake. Groundwater generally flows from the Site toward Annabessacook Lake.

10. Chemical wastes, including hazardous substances, from commercial and industrial operations were disposed of at the Site from the early 1950's to the mid-1970's. Waste was buried at the Site until 1972, when landfilling began. An estimated 60,000 drums of chemicals (containing approximately 3,300,000 gallons) were dumped and burned on the Site during this period. Another 2,000 - 6,000 drums (containing approximately 110,000 - 330,000 gallons) were buried on the Site between 1972 and 1975.

11. At least until April 1, 1984, a portion of the Site, approximately 5 acres in size, was owned by Everett Savage and Glenda H. Savage ("Savages") and operated as a landfill by Everett Savage ("Savage"). At the present time this property is owned by the Savages.

12. Since at least the early 1950's the Town of Winthrop owned all of the Site not owned by the Savages, and during some or all of this period operated a landfill and dump on the Site.

13. Over the course of time, chemical compounds disposed of on the Site have leaked toward and into the soil and the groundwater beneath the Site. Chemical compounds attributable to the Site have been found in groundwaters east, northeast, and south of the Site.

14. Chemical compounds from the Site have been detected in drinking water from private wells, in wetlands waters, in wetlands sediments, and in the water and sediment of Annabessacock Lake.

15. Because of the discovery of contamination by volatile organic compounds in one private drinking well which served as the water supply for two homes, the residents of those homes ceased drinking from this well. Hazardous substances migrating from the Site contaminated this well.

16. Annabessacook Lake is in the upper reaches of the Cobbossee Watershed. The lower reaches of that watershed provide a back-up municipal water supply for Augusta, Maine.

17. Organic compounds including resins, plasticizers, and solvents were disposed of at the Site. The following volatile organic compounds are among those that

have emanated, and continue to emanate, from the Site via groundwater migration or surface water drainage: tetrahydrofuran, dimethyl formamide, toluene and methyl isobutyl ketone. These substances are hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14). Benzene, ethyl benzene and vinyl chloride, which have also been found at the Site, are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §9601(14). These compounds are also known carcinogens.

18. The migration of hazardous substances from the Site into soil, groundwater and surface waters constitutes a "release" of hazardous substances under Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

19. Pursuant to Section 105(8)(B) of CERCLA, 42 U.S.C. §9605(8)(B), the Site has been identified as one of the most dangerous hazardous substances sites in the United States. The Site is currently on the National Priorities List ("NPL") of 538 sites and has been listed by EPA since 1981. Sites are considered for placement on the NPL by EPA on the basis of a quantitative analysis of information concerning, and problems posed by a site. The list comprises those sites which EPA has determined present the greatest danger.

20. To date, the United States and the State of Maine have spent in excess of \$600,000 to complete a Remedial Investigation and Feasibility Study for determining the most appropriate longterm remedy for the Site. The United States is incurring and will continue to incur response costs which it is entitled to recover under Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

FIRST CLAIM FOR RELIEF

21. The United States realleges paragraphs 1 through 20.

22. Section 106 of CERCLA, 42 U.S.C. § 9606, provides that the President may direct the Attorney General of the United States to secure such relief as may be necessary to abate a condition which the President has determined 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. The President's functions under Section 106 of CERCLA, 42 U.S.C. § 9606, have been delegated to the Administrator of the Environmental Protection Agency by Executive Order No. 12316, 46 Fed. Reg. 42237 (August 20, 1981). These functions have been redelegated to the Regional Administrator for Region I, which includes the State of Maine, by CERCLA Revised Delegation 14-14 (March 31, 1983).

23. "Release" is defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22), as "... any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment...." Hazardous substances have been, and/or are being released into the soil at the Site and surrounding surface waters, and future releases are threatened within the meaning of 42 U.S.C. § 9601(22).

24. Hazardous substances have been and/or are being released into groundwater beneath the Site within the meaning of 42 U.S.C. § 9601(22).

25. The Site is an area where hazardous substances have been disposed of or placed, and is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

26. The Regional Administrator for Region I has made the determination that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual or threatened releases of hazardous substances from the Site.

27. Defendant Winthrop is a person who at times of disposal of hazardous substances owned or operated a land-fill and/or a dump on the Site, and is a person who is current owner or operator of the Site.

28. Defendants Savages are persons who at times of disposal of hazardous substances owned or operated a land-fill and/or a dump on the Site. Defendants Savages are current owners or operators of the Site.

29. Defendant Inmont is a 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 released at the Site.

30. Defendants may and should be required to take such action as is necessary to abate the danger or threat presented by the conditions at the Site, as pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Defendants are jointly and severally liable for remedying the releases or threatened releases at the Site.

SECOND CLAIM FOR RELIEF

31. Paragraphs 1 through 30 are realleged.

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

[n]otwithstanding 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 afacility,
- (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,

- (3) any 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 owned or operated by another party or entity and containing such hazardous substances, and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal for treatment facilities or sites selected by such person, from which there is a release, or a threatened release which causes the occurrence of response costs, of a hazardous substance, 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;...

33. At relevant times a release or substantial threat of a release of hazardous substances occurred at the Site.

34. The United States has incurred and will continue to incur costs for actions taken in response to the release and threatened release of hazardous substances from the Site. The United States has incurred costs pursuant to § 104(a) of CERCLA 42 U.S.C. §9604(a).

35. The United States' response actions concerning the Site are, and have been, not inconsistent with the National Contingency Plan.

36. Between at least the early 1950's and 1975, Defendant Town of Winthrop disposed of hazardous substances at the Site, operated the Site, and/or owned portions of the Site.

37. Between at least 1969 and the present, the Savages owned portions of the Site, operated a landfill at the Site, and disposed of hazardous substances in the landfill they operated on the Site.

38. An individual, a corporation, and a municipality are persons within the meaning of Section 101(21) of CERCLA, 42 U.S.C. §9601(22).

39. Winthrop and the Savages are persons who owned or operated the Site during the period in which hazardous substances were disposed of at the Site. Winthrop and Savages are liable persons within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. §9607(a)(2). Pursuant to Sections 104(b) and 107(a) of CERCLA, 42 U.S.C. §§ 9604(b), 9607(a), they are liable for all response costs incurred and to be incurred by the United States.

40. Inmont is a person who by contract or agreement or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal, or treatment of hazardous substances at the Site. Inmont is a liable person within the meaning of Section 107(a)(3) of

CERCLA, 42 U.S.C. §9607(a)(3). Inmont is liable for all response costs incurred and to be incurred by the United States pursuant to Sections 104(b) and 107(a) of CERCLA, 42 U.S.C. §§ 9604(b), 9607(a).

41. Inmont, Winthrop, and Savages are liable, jointly and severally, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to the United States for the costs of the response actions, including enforcement costs, incurred and to be incurred, by the United States.

THIRD CLAIM FOR RELIEF

42. The allegations of paragraphs 1 through 41 are realleged.

43. Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6973, provides that the Administrator of EPA may bring suit for appropriate relief upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any solid or hazardous wastes may present an imminent and substantial endangerment to health or the environment, against "any person contributing to such handling, storage, treatment, transportation or disposal"

44. "Hazardous waste" is defined in Section 1004(5) of RCRA, 42 U.S.C. §6903(5), as:

... a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may --

(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated or stored, transported, or disposed of, or otherwise managed.

45. The chemicals brought into, kept at, mixed and handled at, spilled, leaked or dumped on the ground at the Site, and migrating into and in the groundwater and surface waters are hazardous wastes as defined in Section 1004(5) of RCRA, 42 U.S.C. §6903(5), and are also solid waste as defined in Section 1004(27) of RCRA, 42 U.S.C. §6903(27).

46. The discharge, deposit, dumping, spilling, leaking or placing of wastes at the Site in such manner that they entered the soil and/or were discharged into surrounding waters, including groundwater, constitutes disposal of hazardous and solid waste as those terms are defined in Section 1004(3), (5) and (27) of RCRA, 42 U.S.C. §6903(3), (5), and (27).

47. The movement and transfer of chemicals at the Site constitute handling of solid or hazardous wastes under RCRA.

48. Defendants have contributed to the handling, storage, or disposal of hazardous wastes and/or solid wastes at the Site, or have done so at times relevant to this complaint within the meaning of 42 U.S.C. §6973.

49. The handling, storage, and disposal of solid and hazardous wastes at the Site presented, and may present an imminent and substantial endangerment to health and the environment under Section 7003 of RCRA, 42 U.S.C. §6973. Defendants are jointly and severally liable for remedying the endangerment and for reimbursement of costs incurred by the United States in connection with responding to the endangerment.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court:

1. Enter judgment against the Defendants Inmont Corporation, the Town of Winthrop, Maine, Everett Savage and Glenda Savage, jointly and severally, in favor of the United States for all costs incurred and to be incurred in response to the release or threat of release of hazardous substances at the Site, plus prejudgment and post-judgment interest.

2. Enter an order directing Defendants Inmont, the Town of Winthrop, Everett Savage, and Glenda Everett to take such action as determined by EPA to be necessary to remedy the conditions at the Site which may be an imminent and substantial endangerment to the public health, welfare or environment.

3. Grant such other relief as the Court deems proper.

Dated this 23rd day of January, 1986.

Respectfully submitted,



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