

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 22-10640
v.	)	
	)	
ACEMCO INCORPORATED,	)	
EATON CORPORATION,	)	
FORD MOTOR COMPANY,	)	
LINDE INC. (ON BEHALF OF	)	
LINDE GAS, INC.),	)	
MICHIGAN AUTOMOTIVE	)	
COMPRESSOR, INC.,	)	
NACHI MACHINING TECHNOLOGY	)	
COMPANY,	)	
PERMA-FIX OF MICHIGAN, INC.	)	
(ON BEHALF OF CHEM MET	)	
SERVICES, INC.),	)	
RIMA MANUFACTURING COMPANY,	)	
SAMUEL, SON & CO. (USA) INC.,	)	
SCHULTZ, INC.,	)	
TRIMAS CORPORATION (ON BEHALF	)	
OF HI-VOL PRODUCTS AND	)	
DRAW-TITE),	)	
VALASSIS COMMUNICATIONS,	)	
INCORPORATED,	)	
WEAVERTOWN TRANSPORT	)	
LEASING, INCORPORATED,	)	
and	)	
WORTHINGTON STEEL OF	)	
MICHIGAN,	)	
	)	
Defendants.	)	

**COMPLAINT**

Plaintiff, the United States of America, by authority of the Attorney General of the United States, acting at the request and on behalf of the United States Environmental Protection Agency, files this complaint and alleges as follows:

### **NATURE OF THE ACTION**

1. This is a civil action brought against Defendants pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (“CERCLA”), 42 U.S.C. § 9607.

2. The United States seeks to recover unreimbursed costs incurred because of the release and threatened release of hazardous substances at the Dearborn Refining Superfund Site in Dearborn, Michigan (“the Site”). The United States also seeks a declaratory judgment, pursuant to 42 U.S.C. § 9613(g)(2), declaring that the Defendants are liable for any future costs that the United States may incur in connection with response actions that may be performed at the Site.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 9613(b).

4. Venue lies in this District pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) and (c), because the violations alleged in the Complaint are alleged to have occurred in this District.

## **STATUTORY BACKGROUND**

5. CERCLA authorizes the government to respond to releases or threatened releases of hazardous substances and other pollutants or contaminants. 42 U.S.C. §§ 9601, et seq.

6. Under 42 U.S.C. § 9604(a)(1), whenever “any hazardous substance is released or there is a substantial threat of such a release into the environment . . . the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time . . . or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment.”

7. CERCLA also allows the government to recover its costs of responding to releases or threatened releases from the persons liable for the contamination. 42 U.S.C. § 9607.

8. Among other categories of liable entities, persons who arranged for the disposal or treatment of hazardous substances, or who arranged with a transporter for transport of hazardous substances for disposal or treatment, are liable for all of the government’s response costs that are not inconsistent with the national contingency plan. 42 U.S.C. § 9607(a).

9. “Response” as defined by CERCLA includes removal and remedial action. 42 U.S.C. § 9601(25).

10. In any action for recovery of costs under 42 U.S.C. § 9607, “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.” 42 U.S.C. § 9613(g)(2).

11. The amounts recoverable under CERCLA include interest accruing from the later of the date that payment of a specified amount is demanded in writing or the date of the expenditure. 42 U.S.C. § 9607(a).

### **FACTUAL BACKGROUND**

12. The Dearborn Refining Superfund Site (“Site”) is located at 3901 Wyoming Avenue in Dearborn, Michigan. The Site currently comprises 6.5 acres and previously included several buildings and numerous storage tanks.

13. From 1947 until approximately 2006, Dearborn Refining Company operated the Site. Dearborn Refining was a waste oil recycling business. It received used oils and oily wastes and recycled them or treated them for reuse.

14. EPA has taken a number of investigation and enforcement steps at the Site. In 1999 and 2000, EPA conducted an inspection and sampling at the Site. The inspection showed that the surface and subsurface soils were contaminated with

lead, arsenic, and polychlorinated biphenyls (“PCBs”) that exceeded EPA Region 5’s Risk-Based Screening Levels for an industrial scenario.

15. In 2003, the Michigan Department of Environmental Quality conducted inspections that showed that the soils and groundwater at the Site were contaminated with arsenic, barium, cadmium, copper, lead, mercury, selenium, silver, zinc, volatile organic constituents, and polynuclear aromatic compounds that exceeded state standards.

16. During inspections in 2006, EPA observed tens of thousands of gallons of CERCLA hazardous substances at the Site, in addition to the contaminated soils, subsurface soils, and groundwater. EPA observed oily sheens and oil layers on standing water, stained soils, and tanks with visible over-run scars indicating that spills and releases were occurring or occurred in the past. Tanks were actively leaking. Stained soils and evidence of oil or chemical spills were pervasive throughout the Site. The Site yard contained numerous 55-gallon drums and other containers holding oil, lubricants, oil additives, acids, bases, caustics, flammables, wastewater, and RCRA hazardous waste.

17. Arsenic, barium, cadmium, copper, lead, mercury, selenium, silver, zinc, volatile organic constituents, polynuclear aromatic compounds, PCBs, lead, benzene, and/or RCRA hazardous wastes are hazardous substances as defined by CERCLA. 42 U.S.C. § 9601(14).

18. The United States has previously taken action against Dearborn Refining and its operator, Aram Moloian, and obtained a judgment in favor of the United States. (*United States v. Chemserve Corp., et al.*, E.D. Mich. 2:11-cv-12057-GCS-MKM.) However, the United States has not recovered the costs at issue in this Complaint.

### **SPECIFIC ALLEGATIONS**

19. The Site is a “facility” within the meaning of 42 U.S.C. §§ 9601(9) and 9607(a).

20. At the Site, there have been releases and threatened releases of hazardous substances within the meaning of 42 U.S.C. § 9601(22).

21. Defendants Acemco Incorporated, Eaton Corporation, Ford Motor Company, Linde Inc. (on behalf of Linde Gas, Inc.), Michigan Automotive Compressor, Inc., Nachi Machining Technology Company, Perma-Fix of Michigan, Inc. (on behalf of Chem Met Services, Inc.), Rima Manufacturing Company, Samuel, Son & Co. (USA) Inc., Schultz, Inc., Trimas Corporation (on behalf of Hi-Vol Products and Draw-Tite), Valassis Communications, Incorporated, Weavertown Transport Leasing, Incorporated, and Worthington Steel of Michigan are each a “person” within the meaning of 42 U.S.C. §§ 9601(21) and 9607(a).

22. Subject to a reasonable opportunity for further investigation or discovery, each Defendant arranged for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances at the Site.

23. The United States took response actions in response to the release and threatened release of hazardous substances at the Site.

24. The United States has incurred response costs within the meaning of 42 U.S.C. § 9601(25) in responding to the releases and threatened releases of hazardous substances into the environment at the Site.

25. As of March 31, 2020, the United States had incurred at least \$1,975,790 in response costs at the Site.

26. The United States continues to incur response costs at the Site.

27. The response actions taken and the response costs incurred by the United States at the Site were not inconsistent with the National Contingency Plan.

28. Defendants are jointly and severally liable for all of the United States' response costs incurred and to be incurred at the Site, pursuant to 42 U.S.C. § 9607(a).

### **FIRST CLAIM FOR RELIEF**

#### **(Cost Recovery by the United States Under 42 U.S.C. § 9607)**

29. Paragraphs 1- 28 are realleged and incorporated herein by reference.

30. Under 42 U.S.C. § 9607(a), each of the Defendants is liable to the United States for all of the United States' unreimbursed response costs in connection with the Site, including enforcement costs and prejudgment interest on such costs.

### **SECOND CLAIM FOR RELIEF**

#### **(Declaratory Judgment for Recovery of Further Response Costs by the United States under 42 U.S.C. § 9613(g)(2))**

31. Paragraphs 1-28 are realleged and incorporated herein by reference.

32. Under 42 U.S.C. § 9613(g)(2), each of the Defendants is liable to the United States for any unreimbursed further response costs that the United States incurs in connection with the Site that are not inconsistent with the National Contingency Plan.

### **PRAYER FOR RELIEF**

WHEREFORE, the United States respectfully requests that this Court:

1. Enter judgment in favor of the United States and against Defendants under 42 U.S.C. § 9607(a), holding Defendants jointly and severally liable for the United States' unreimbursed response costs in connection with the Site, including prejudgment interest;

2. Enter a declaratory judgment in favor of the United States and against Defendants under 42 U.S.C. § 9613(g)(2), holding Defendants jointly and severally



liable for all future response costs incurred by the United States in connection with the Site;

3. Award the United States its costs of this action; and,
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

TODD KIM  
Assistant Attorney General  
U.S. Department of Justice  
Environmental and Natural Resources Division

By: /s/ Lauren D. Grady  
LAUREN D. GRADY  
Trial Attorney  
U.S. Department of Justice  
Environmental Enforcement Section  
P.O. Box 7611  
Washington, D.C. 20044  
(202) 514-5484  
Lauren.grady@usdoj.gov  
IL# 6315393

DAWN N. ISON  
United States Attorney  
Eastern District of Michigan

PETER A. CAPLAN  
Assistant United States Attorney  
211 W. Fort Street, Ste. 2001  
Detroit, MI 48226  
(313) 226-9784  
Peter.caplan@usdoj.gov

OF COUNSEL:

RICHARD CLARIZIO

Assistant Regional Counsel

United States Environmental Protection Agency

77 West Jackson Blvd

Chicago, IL 60604