

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
United States of America
(b) County of Residence of First Listed Plaintiff Philadelphia
(c) Attorneys (Firm Name, Address, and Telephone Number)
Cara Mroczek, Atty.
United States EPA
202-514-1447
cara.mroczek@usdoj.gov

DEFENDANTS
Estate of Jack H. Goodyear,
Marie F. Goodyear and Richard W. Baum, as Co-Executors
of the Estate of Jack H. Goodyear
County of Residence of First Listed Defendant Montgomery County, PA
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
[X] 1 U.S. Government Plaintiff
[] 2 U.S. Government Defendant
[] 3 Federal Question (U.S. Government Not a Party)
[] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State PTF DEF [] 1 [] 1
Citizen of Another State [] 2 [] 2
Citizen or Subject of a Foreign Country [] 3 [] 3
Incorporated or Principal Place of Business In This State PTF DEF [] 4 [] 4
Incorporated and Principal Place of Business In Another State [] 5 [] 5
Foreign Nation [] 6 [] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: [] 110 Insurance, [] 120 Marine, [] 130 Miller Act, [] 140 Negotiable Instrument, [] 150 Recovery of Overpayment & Enforcement of Judgment, [] 151 Medicare Act, [] 152 Recovery of Defaulted Student Loans (Excludes Veterans), [] 153 Recovery of Overpayment of Veteran's Benefits, [] 160 Stockholders' Suits, [] 190 Other Contract, [] 195 Contract Product Liability, [] 196 Franchise
REAL PROPERTY: [] 210 Land Condemnation, [] 220 Foreclosure, [] 230 Rent Lease & Ejectment, [] 240 Torts to Land, [] 245 Tort Product Liability, [] 290 All Other Real Property
TORTS: PERSONAL INJURY: [] 310 Airplane, [] 315 Airplane Product Liability, [] 320 Assault, Libel & Slander, [] 330 Federal Employers' Liability, [] 340 Marine, [] 345 Marine Product Liability, [] 350 Motor Vehicle, [] 355 Motor Vehicle Product Liability, [] 360 Other Personal Injury, [] 362 Personal Injury - Medical Malpractice
PERSONAL INJURY: [] 365 Personal Injury - Product Liability, [] 367 Health Care/Pharmaceutical Personal Injury Product Liability, [] 368 Asbestos Personal Injury Product Liability, [] 370 Other Fraud, [] 371 Truth in Lending, [] 380 Other Personal Property Damage, [] 385 Property Damage Product Liability
PRISONER PETITIONS: Habeas Corpus: [] 463 Alien Detainee, [] 510 Motions to Vacate Sentence, [] 530 General, [] 535 Death Penalty, Other: [] 540 Mandamus & Other, [] 550 Civil Rights, [] 555 Prison Condition, [] 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: [] 625 Drug Related Seizure of Property 21 USC 881, [] 690 Other
LABOR: [] 710 Fair Labor Standards Act, [] 720 Labor/Management Relations, [] 740 Railway Labor Act, [] 751 Family and Medical Leave Act, [] 790 Other Labor Litigation, [] 791 Employee Retirement Income Security Act
IMMIGRATION: [] 462 Naturalization Application, [] 465 Other Immigration Actions
BANKRUPTCY: [] 422 Appeal 28 USC 158, [] 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: [] 820 Copyrights, [] 830 Patent, [] 840 Trademark
SOCIAL SECURITY: [] 861 HIA (1395ff), [] 862 Black Lung (923), [] 863 DIWC/DIWW (405(g)), [] 864 SSID Title XVI, [] 865 RSI (405(g))
FEDERAL TAX SUITS: [] 870 Taxes (U.S. Plaintiff or Defendant), [] 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: [] 375 False Claims Act, [] 400 State Reapportionment, [] 410 Antitrust, [] 430 Banks and Banking, [] 450 Commerce, [] 460 Deportation, [] 470 Racketeer Influenced and Corrupt Organizations, [] 480 Consumer Credit, [] 490 Cable/Sat TV, [] 850 Securities/Commodities/Exchange, [] 890 Other Statutory Actions, [] 891 Agricultural Acts, [X] 893 Environmental Matters, [] 895 Freedom of Information Act, [] 896 Arbitration, [] 899 Administrative Procedure Act/Review or Appeal of Agency Decision, [] 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding [] 2 Removed from State Court [] 3 Remanded from Appellate Court [] 4 Reinstated or Reopened [] 5 Transferred from Another District (specify) [] 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC §§ 9607 and 9613 CERCLA 107, 113
Brief description of cause:
Recovery of costs to EPA and declaratory judgment re Defendant's liability

VII. REQUESTED IN COMPLAINT:
[] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: [] Yes [X] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE 03/25/2014
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**
CASE MANAGEMENT TRACK DESIGNATION FORM

United States of America	:	CIVIL ACTION
	:	
	:	
The Estate of Jack H. Goodyear,	:	
Marie F. Goodyear and Richard W. Baum	:	NO.
as Co-Executors of the Estate of Jack H. Goodyear	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>March 25, 2014</u>	<u>Cara M. Mroczek</u>	<u>United States of America</u>
Date	Attorney-at-law	Attorney for
<u>(215) 861-8301</u>	<u>202-514-1447</u>	<u>cara.mroczek@usdoj.gov</u>
Telephone	FAX Number	E-Mail Address
		<u>Efile:ees.enrd@usdoj.gov</u>

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1650 Arch St. Philadelphia, PA

Address of Defendant: 177 Wissahickon Ave. North Wales, PA

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes No
- 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes No
- 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes No
- 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELOA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify)
- 7. Products Liability
- 8. Products Liability — Asbestos
- 9. All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: _____ Attorney-at-Law _____ Attorney I.D.# _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: March 25, 2014 Efile_ees.enrd@usdoj.gov
Cara.mroczek@usdoj.gov
Attorney-at-Law _____ Attorney I.D.# _____

in the future that will be binding in any subsequent action by the Plaintiff against Defendants to recover such further response costs.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and 42 U.S.C. § 9613(b), because the release or threatened release of hazardous substances that gives rise to these claims occurred in this District, and because the Site is located in this District.

DEFENDANTS

4. Jack H. Goodyear was a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21). On his death in 2006, defendant Estate of Jack H. Goodyear became responsible for his debts and liabilities. At times relevant to this action, Jack H. Goodyear and his Estate were engaged in business in this judicial district.

5. Defendant Marie F. Goodyear is being sued in her capacity as an Executor of the Estate of Jack H. Goodyear. As Executor, Defendant Marie F. Goodyear is responsible for the debts and liabilities of Jack H. Goodyear up to the value of the Estate. At times relevant to this action, Defendant Marie F. Goodyear in her capacity as Executor has engaged in business in this judicial district.

6. Defendant Richard W. Baum is being sued in his capacity as an Executor of the Estate of Jack H. Goodyear. As Executor, Defendant Richard W. Baum is responsible for the debts and liabilities of Jack H. Goodyear up to the value of the Estate. At times relevant to this

action, Defendant Richard W. Baum in his capacity as Executor has engaged in business in this judicial district.

GENERAL ALLEGATIONS

7. The Site consists of approximately 650 acres located in Lansdale Borough, North Wales Borough, and Upper Gwynedd Township, Montgomery County, Pennsylvania. To date, EPA has identified five properties as sources of contamination at the Site.

8. Jack H. Goodyear owned one of the five properties identified by EPA as a source of contamination at the Site. The property owned by Mr. Goodyear, located at 177 Wissahickon Ave., North Wales, Montgomery County, Pennsylvania (the "Property"), consists of approximately one (1) acre.

9. In October 2006, Jack H. Goodyear died and title to the Property passed to his Estate to be distributed to his wife Marie F. Goodyear, who is an Executor of his Estate and his heir.

10. Jack H. Goodyear founded Spra-Fin, Inc. and leased the Property to Spra-Fin, Inc.

11. Spra-Fin, Inc. operated a paint finishing business at the Property from approximately 1963 through 2004. Spra-Fin, Inc. used a conveyor system to spray paint metal and plastic parts for other manufacturers. Spra-Fin, Inc. used trichloroethylene ("TCE") in its operations in a 100-gallon degreaser as early as 1978. The TCE was stored in a tank on the Property. In approximately 1980, the storage tank was replaced with a new tank. In about 1982, Spra-Fin, Inc. moved that tank inside the building and surrounded it with a catch basin.

12. On October 12 and 13, 1982, Spra-Fin, Inc. excavated approximately 60 to 80 cubic yards of TCE-contaminated soils from the area of the original storage tank. An EPA Site Inspection Report, dated August 18, 1986, concluded that TCE had been spilled in the area of the original storage tank and/or that the original storage tank had leaked.

13. In 1979, the North Penn Water Authority ("NPWA") began testing its production wells, and also private industrial and residential wells, in the Lansdale area. NPWA found that the groundwater tested from many of the wells in the area now known as the Site was contaminated with TCE and tetrachloroethylene ("PCE"). TCE and PCE are organic solvents that are used for a variety of purposes, including degreasing, metal cleaning, and dry cleaning of clothing. These contaminants were found in a number of wells in the area, and TCE was found in the groundwater at the Property at levels up to 262,000 parts per billion (ppb).

14. Analysis of samples from the Site confirmed the presence of hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including, but not limited to TCE and PCE.

15. On or about March 31, 1989, the Site was listed on the National Priorities List ("NPL") pursuant to 42 U.S.C. § 9605. *See* 54 Fed. Reg. 13296, 13301 (March 31, 1989).

16. In August 2000, the owners and/or operators of the four Site properties identified as sources of contamination other than the Property entered into an Administrative Order on Consent ("AOC") pursuant to which they are conducting the soil Remedial Investigation/ Feasibility Study ("RI/FS") on those four properties known as Operable Unit 1 ("OU1").

17. Jack Goodyear declined when offered the opportunity to conduct the RI/FS on the Property. EPA conducted the soil RI/FS for the Property. The Fund-lead work conducted by EPA on the Property is known as Operable Unit 2 ("OU2").

18. EPA issued the OU2 Record of Decision (“ROD”) for the contaminated soil on the Property on June 2, 2004. The selected remedy set forth in the OU2 ROD addresses the soil contamination on the Property through excavation, off-site treatment, and disposal. EPA completed the OU2 soil Remedial Action (“RA”) at the Property on December 6, 2010.

19. EPA is also conducting the groundwater RI/FS for the entire Site, including the Property. The groundwater RI/FS for the entire Site is known as Operable Unit 3 (“OU3”).

20. The United States has incurred and is continuing to incur response costs in connection with the release and threatened release of hazardous substances at the Site.

FIRST CLAIM FOR RELIEF
(Section 107 of CERCLA, 42 U.S.C. § 9607)

21. The foregoing paragraphs are re-alleged and incorporated herein by reference.

22. The Defendants are “persons” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

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

24. The substances referenced in paragraphs 11, 12, 13 and 14 above, and other substances contained in the waste materials from operations at the Site, are “hazardous substances” within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

25. Hazardous substances were “released” from the facility into the “environment” within the meaning of Sections 101(22) and 101(8) of CERCLA, 42 U.S.C. § 9601(22) and (8).

26. The Defendants are within the classes of persons described in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

27. At the time of his death, Jack H. Goodyear was liable as the owner of the Property portion of the Site under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

28. Under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), Jack H. Goodyear was liable as the owner of the Property at the time of disposal of hazardous substances on the Property.

29. The ownership interest of Jack H. Goodyear is now part of his Estate; therefore Defendant Estate of Jack H. Goodyear is liable as a current owner under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

30. The ownership interest of Jack H. Goodyear is now part of his Estate; therefore, Defendant Estate of Jack H. Goodyear is liable under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), as a person who owned the facility at the time of disposal of hazardous substances.

31. The ownership interest of Jack H. Goodyear in the Property portion of the Site is now part of the Estate; therefore, Defendant Marie F. Goodyear and Defendant Richard W. Baum, in their capacity as Executors of the Estate of Jack H. Goodyear, are liable under Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) and (2) as the owners of the facility and as persons who owned the facility at the time of disposal of hazardous substances.

32. The United States has incurred response costs authorized by Section 104 of CERCLA, 42 U.S.C. § 9604, conducting response actions as a result of the release or threatened release of hazardous substances from the Site. The United States has not been reimbursed for all of the costs it has expended.

33. The response costs for which the United States now seeks reimbursement were incurred in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605.

34. The United States is continuing to incur additional response costs in connection with the Site.

35. The Defendants are jointly and severally liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all unreimbursed response costs, including interest, incurred and to be incurred by the United States in connection with the response actions taken at the Site.

SECOND CLAIM FOR RELIEF
(Section 113 of CERCLA, 42 U.S.C. § 9613)

36. The allegations of Paragraphs 1-35 are realleged and incorporated herein by reference.

37. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides, in part:

In any such action . . . [for recovery of the costs referred to in section 9607 of this title], 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.

38. Because response work at the Site is ongoing, the United States may incur additional response costs at or in connection with the Site in the future.

39. 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 Defendants are liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all future response costs incurred by the United States in connection with the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Enter a judgment holding Defendants jointly and severally liable for all unreimbursed costs incurred by the United States in response to the release and threat of release of hazardous substances at the Site, including pre-judgment interest;

- B. Enter a declaratory judgment under Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), establishing Defendants' liability for any response costs that may be incurred by the United States in the future, that will be binding in any subsequent action by the United States against Defendants to recover such further response costs;
- C. Award the United States its costs and disbursements in this action; and
- D. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

ROBERT G. DREHER
Acting Assistant Attorney General
Environment and Natural Resources Division



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