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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF  
AMERICA,

Plaintiff,

v.

INTALCO ALUMINUM  
CORPORATION,

Defendant.

COMPLAINT

The United States of America, on behalf of the United States Environmental Protection Agency (“EPA”) and the United States Department of Agriculture, Forest Service (“USFS”) (collectively, “Plaintiff”), and by its undersigned counsel, brings this Complaint against Intalco Aluminum Corporation (“Intalco” or “Defendant”), and alleges as follows:

1 **INTRODUCTION**

2 1. Plaintiff brings this civil action under Section 107 of the Comprehensive  
3 Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607, to  
4 recover past response costs incurred by the United States in connection with  
5 releases and threatened releases of hazardous substances from the Holden Mine  
6 Site in Chelan County, Washington (the “Site”).

7 **PARTIES**

8 2. Plaintiff is the United States of America (“United States”), on behalf of the  
9 EPA and the USFS (collectively, the “Agencies”).

10 3. Defendant, Intalco Aluminum Corporation (“Intalco”), is incorporated under  
11 the laws of Delaware. Intalco is a successor to Howe Sound Company, a former  
12 operator of the Holden Mine.

13 **JURISDICTION AND VENUE**

14 4. This Court has jurisdiction over the subject matter of this action under  
15 Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and under 28 U.S.C. §§ 1331  
16 and 1345.

17 5. Venue is proper in this district under 42 U.S.C. § 9613(b) because the  
18 alleged releases occurred in the Eastern District of Washington.

**STATUTORY BACKGROUND**

1  
2 6. Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), provides that whenever  
3 any hazardous substance is released into the environment, or there is a substantial  
4 threat of such a release into the environment, the President is authorized to act,  
5 consistent with the National Oil and Hazardous Substances Pollution Contingency  
6 Plan (“NCP”), to remove or arrange for the removal of, and provide for remedial  
7 action relating to such hazardous substance or take any other response measure  
8 consistent with the NCP which the President deems necessary to protect the public  
9 health or welfare or the environment.

10 7. The President’s authority under Section 104(a) of CERCLA, 42 U.S.C. §  
11 9604(a), has been lawfully delegated to the Forest Service for releases and  
12 threatened releases on National Forest System lands. Executive Order 12580.

13 8. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), imposes liability for  
14 response costs on four categories of “[c]overed persons” – typically known as  
15 potentially responsible parties (“PRPs”).

16 9. PRPs are defined in CERCLA as (1) owners and operators of facilities at  
17 which hazardous substances are located; (2) past owners and operators of such  
18 facilities at the time that disposal of hazardous substances occurred; (3) persons  
19 who arranged for disposal or treatment of hazardous substances; and (4) certain  
20 transporters of hazardous substances. See 42 U.S.C. § 9607(a)(1) - (4).

1 10. Section 107(a) of CERCLA provides, in pertinent part:

2 Notwithstanding any other provision or rule of law, and subject  
3 only to the defenses set forth in subsection (b) of this section - -

- 4 (1) the owner and operator of a vessel or a facility,  
5 (2) any person who at the time of disposal of any hazardous substance  
6 owned or operated any facility at which such hazardous substances  
7 were disposed of

8 \* \* \*

9 shall be liable for –

10 (A) all costs of removal or remedial action incurred by the United States  
11 Government . . . not inconsistent with the national contingency plan . . . .

12 42 U.S.C. § 9607(a).

13 **FACTUAL BACKGROUND**

14 11. The Site is located in north-central Washington state, within the Okanogan-  
15 Wenatchee National Forest and consists of National Forest System land and  
16 adjoining private land. The Site is in a remote area approximately twelve miles  
17 northwest of Lake Chelan, and is accessible only by Lake Chelan ferry.

18 12. The Howe Sound Company (“Howe Sound”) operated the Holden Mine at  
19 the Site from 1938 – 1957, extracting copper, zinc, silver, and gold from  
20 approximately sixty miles of underground workings.

21 13. The Holden Mine ceased operations in 1957. In 1960, Howe Sound’s  
22 patented and unpatented mining claims and other assets at the Site were transferred  
23 to the Lutheran Bible Institute, which then transferred the property to Holden  
24 Village, Inc. Holden Village, Inc. has operated an interdenominational church  
25 retreat at the Site since 1961 under a Special Use Permit issued by the USFS. The

1 Holden Village has 5,000 to 6,000 visitors each year, and is home to approximately  
2 50 year-round residents.

3 14. During the period of mining operations, metals were recovered from the ore  
4 taken from Holden Mine in an on-Site mill. The resulting ore concentrates were  
5 shipped off-site for further refining. Left on-Site from the milling process were  
6 approximately 10 million tons of tailings, placed in three piles spread over  
7 approximately 120 acres. Additionally, approximately 250,000 – 300,000 cubic  
8 yards of rock that did not contain mineral concentrations sufficient to mill were  
9 placed in two large waste rock piles on the Site.

10 15. On April 11, 1998, the Agencies and Alumet Corporation (“Alumet”), a  
11 successor to Howe Sound, entered into an Administrative Order on Consent  
12 (“AOC”). By entering the AOC, Alumet agreed to perform a CERCLA Remedial  
13 Investigation and Feasibility Study (“RI/FS”) in order to characterize the nature  
14 and extent of contamination from historic mining activities at the Site (the “RI”)  
15 and to identify and evaluate potential remedial alternatives to address the  
16 contamination (the “FS”).

17 16. Under Paragraph 73 of the AOC, Alumet agreed to pay “all direct or indirect  
18 costs incurred in overseeing Alumet’s performance of the work required under this  
19 Consent Order....”

20 17. In December 1998, Alumet merged with and into Intalco.

1 18. The Agencies worked with the State of Washington overseeing and  
2 commenting on the RI and the FS being performed by Intalco. Ultimately, in  
3 January 2012, the Agencies issued a Record of Decision (“ROD”) for the remedial  
4 action at the Site. These activities caused the Agencies to incur CERCLA response  
5 costs.

6 19. During the RI/FS process, the Agencies raised with Intalco the prospect of  
7 negotiating a Consent Decree providing for Intalco’s performance of the remedial  
8 design and remedial action (“RD/RA”) that would be called for by the ROD (an  
9 “RD/RA Consent Decree”).

10 20. Intalco’s indication that it did not want to negotiate an RD/RA Consent  
11 Decree, and the limited negotiation time available in light of the Parties’ desire to  
12 commence on-Site work during the 2012 field season, resulted in the Agencies  
13 issuing, under CERCLA Section 106, 42 U.S.C. § 9606, a joint Unilateral  
14 Administrative Order (“UAO”) to Intalco to perform the RD/RA. The UAO was  
15 issued in June 2012.

16 21. Intalco currently is performing the RD/RA under the UAO.

17 **GENERAL ALLEGATIONS**

18 22. Defendant Intalco is a "person" within the meaning of CERCLA Section  
19 101(21), 42 U.S.C. § 9601(21). Intalco is a corporate successor to Alumet, which  
20 was a successor to Howe Sound.

1 23. The Site is a “facility” within the meaning of Section 101(9) of CERCLA,  
2 42 U.S.C. § 9601(9).

3 24. Three tailings piles, two waste rock piles, and acid mine drainage from mine  
4 adits at the Site have caused or contributed to ongoing actual and threatened  
5 “releases” of hazardous substances, as defined in Section 101(14) of CERCLA, 42  
6 U.S.C. § 9601(14), to soils, sediments, surface and groundwaters, from the time of  
7 Howe Sound’s operations to the present. These hazardous substances include,  
8 without limitation, copper, zinc, lead, iron, cadmium, and aluminum.

9 25. The majority of the mine adits, tailings piles, and waste rock piles are  
10 located on National Forest System land under the jurisdiction, custody, and control  
11 of the USFS. Hazardous substances from the Site have been and are being released  
12 onto National Forest System land and private lands. EPA has jurisdiction to  
13 address hazardous substance releases to private land.

14 **CLAIM FOR RELIEF – COST RECOVERY**

15 26. The United States incorporates by reference, as if fully set forth herein,  
16 paragraphs 1 through 25 of this Complaint.

17 27. Howe Sound, predecessor-in-interest to Defendant Intalco, “operated” the  
18 Holden Mine Site at times that “hazardous substances” were “disposed” of at the  
19 “facility,” within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. §  
20 9607(a)(2).

1 28. Releases and threatened releases at the Site have caused the United States to  
2 incur “response” costs within the meaning of CERCLA Sections 101(25) and  
3 107(a)(4), 42 U.S.C. §§ 9601(25) and 9607(a)(4). The response costs were  
4 incurred by the United States in a manner not inconsistent with the NCP.

5 29. Defendant Intalco, as the successor-in-interest to Howe Sound, is jointly and  
6 severally liable to the United States for all response costs incurred in connection  
7 with the Site, including enforcement costs and prejudgment interest on all costs.

1 **REQUEST FOR RELIEF**

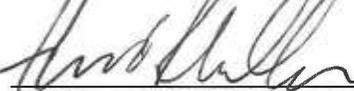
2 WHEREFORE, Plaintiff United States respectfully requests that this Court:

3 A. Enter a judgment in favor of the United States and against Intalco holding it  
4 jointly and severally liable under CERCLA for all unreimbursed costs incurred in  
5 response to releases of hazardous substances at the Holden Mine Site; and

6 B. Any additional relief the Court deems just and proper under the  
7 circumstances.

8 Respectfully submitted,  
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10  
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