

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

STATE OF OHIO, *ex rel.*
MICHAEL DEWINE
OHIO ATTORNEY GENERAL
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, OH 43215

Plaintiff,

v.

AEROJET ROCKETDYNE HOLDINGS, INC.
(fka GENCORP INC.)
c/o U-B Corporation, Statutory Agent
1660 West 2nd Street, Suite 1100
Cleveland, OH 44113

ALLIED WASTE INDUSTRIES, LLC
(fka ALLIED INDUSTRIES, INC.)
c/o CT Corporation System, Statutory Agent
3800 N. Central Avenue, Suite 460
Phoenix, AZ 85012

E. I. DU PONT DE NEMOURS
AND COMPANY
c/o CT Corporation System, Statutory Agent
1300 East 9th Street
Cleveland, OH 44114

GRAND TRUNK WESTERN
RAILROAD COMPANY
c/o CSC=Lawyers Incorporating Service
(Corporation Service Company),
Statutory Agent
50 West Broad Street, Suite 1800
Columbus, OH 43215

CASE NO.:

JUDGE:

COMPLAINT FOR
NATURAL RESOURCE
DAMAGES

HONEYWELL INTERNATIONAL, INC. :
c/o CSC=Lawyers Incorporating Service :
(Corporation Service Company), :
Statutory Agent :
50 West Broad Street, Suite 1800 :
Columbus, OH 43215 :

ILLINOIS TOOL WORKS, INC. :
c/o CT Corporation System, Statutory Agent :
1300 East 9th Street :
Cleveland, OH 44114 :

PERSTORP POLYOLS INC. :
c/o CT Corporation System, Statutory Agent :
1300 East 9th Street :
Cleveland, OH 44114 :

THE MOSAIC COMPANY :
(fka MOS HOLDINGS INC.) :
c/o The Corporation Trust Company, :
Statutory Agent :
Corporation Trust Center :
1209 Orange Street :
Wilmington, DE :

UNITED TECHNOLOGIES CORPORATION :
One Financial Plaza :
Hartford, CT 06101 :

VARTA MICROBATTERY INC. :
c/o Truman A. Greenwood, Statutory Agent :
608 Madison Avenue, #1000 :
Toledo, OH 43604 :

UNITED STATES OF AMERICA :
c/o Carole S. Rendon, United States Attorney :
for the Northern District of Ohio :
Office of the United States Attorney :
United States Court House :
801 West Superior Avenue, Suite 400 :
Cleveland, OH 44113 :

and :
: :
:

c/o Loretta E. Lynch, Attorney General of the :
United States :
U.S. Department of Justice :
950 Pennsylvania Avenue, NW :
Washington, DC 20530 :
: :
UNITED STATES NAVY :
1000 Navy Pentagon :
Washington, D.C. 20350-1200 :
: :
UNITED STATES AIR FORCE :
1690 Air Force Pentagon :
Washington, D.C. 20330-1670 :
: :
UNITED STATES ARMY :
1500 Defense Pentagon :
Washington, D.C. 20310 :
: :
and :
: :
UNITED STATES DEPARTMENT OF :
COMMERCE :
1401 Constitution Avenue, NW :
Washington, D.C. 20230 :
: :
Defendants. :

NATURE OF THE ACTION

1. This is a civil action, brought by the State of Ohio on relation of its Attorney General and at the request of the Director of the Ohio Environmental Protection Agency, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607, and Section 311 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1321, commonly known as the Clean Water Act (“CWA”), and the common law public trust doctrine, seeking damages for injury to, destruction of, or loss of natural resources belonging to, managed by, held in trust by,

controlled by, or appertaining to the State of Ohio, resulting from releases of hazardous substances into, or which have migrated into, the Ottawa River and Sibley Creek in the City of Toledo, Lucas County, Ohio, including the costs of assessing such injury, destruction, or loss.

JURISDICTION

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 (federal question), 42 U.S.C. § 9613(b) (CERCLA), and 33 U.S.C. §1321(n) (CWA). The Court has jurisdiction over the State's claims under Ohio law pursuant to 28 U.S.C. §1367 (supplemental jurisdiction).

VENUE

3. Venue is proper in this Court pursuant to 42 U.S.C. §9613(b), 28 U.S.C. §1391(b), and LR 3.8(c) because the releases of hazardous substances and the resulting injuries, which are the subject of this action, occurred in this judicial district.

PARTIES

Plaintiff

4. Plaintiff is the State of Ohio, which holds all natural resources, including the air, lands, and waters located within its political boundaries, in trust for the benefit of its citizens. The State of Ohio is responsible for the health, safety and welfare of the citizens of Ohio. As trustee of the natural resources located within its boundaries, the State of Ohio owes a fiduciary duty to its citizens to protect and preserve its natural resources. As trustee of these natural resources, the State has been injured by the releases of hazardous substances into the Ottawa River.

5. Plaintiff's relator is Michael DeWine, Attorney General of Ohio. By virtue of his office, Attorney General Michael DeWine is the chief legal officer of the State of Ohio.

Plaintiff's relator initiates this action on behalf of the State of Ohio and at the request of the Director of Environmental Protection of the State of Ohio, who is charged under Ohio law with the responsibility to protect the air, lands and waters located within the State's boundaries from pollution, degradation and contamination, and has been designated by the Governor of Ohio as the Trustee for natural resources of the State of Ohio.

Defendants

6. Each of the Defendants named in this complaint is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

7. At times relevant to this Complaint, Defendants Aerojet Rocketdyne Holdings, Inc. (fka Gencorp Inc.), Allied Waste Industries, LLC (fka Allied Waste Industries, Inc.), E. I. Du Pont De Nemours and Company, Grand Trunk Western Railroad Company, Honeywell International, Inc., Illinois Tool Works, Inc., Perstorp Polyols Inc., The Mosaic Company (fka Mos Holdings Inc.), United Technologies Corporation, and Varta Microbattery Inc. are corporations or successors to corporations, each of which has been either: (a) the owner and/or operator of a facility; (b) a person who at the time of disposal of any hazardous substance owned or operated any facility at which hazardous substances were disposed of; (c) 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 owned or possessed by such person, by any other party or entity, or otherwise generated any hazardous substance disposed of or treated, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; or (d) a person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person.

8. At times relevant to this Complaint, the United States Navy, United States Air Force, United States Army, United States Department of Commerce, and the Defense Plant Corporation are, or were, federal agencies, each of which has been either: (a) the owner and/or operator of a facility; (b) a person who at the time of disposal of any hazardous substance owned or operated any facility at which hazardous substances were disposed of; (c) 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 owned or possessed by such person, by any other party or entity, or otherwise generated any hazardous substance disposed of or treated, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; or (d) a person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person.

9. Those facilities referred to in Paragraphs 7 and 8, above, are facilities within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

10. There have been releases of hazardous substances into the Ottawa River and Sibley Creek from those facilities referred to in Paragraphs 7 and 8, above which caused injury to, destruction of, or loss of natural resources, within the meaning of Section 101(16) of CERCLA, 42 U.S.C. § 9601(16) and damaged or destroyed natural resources within the meaning of Section 311(f)(4) of the CWA, 33 U.S.C. § 1321(f)(4).

THE SITE

11. The Ottawa River flows generally in a southeasterly direction through the City of Toledo into the Maumee Bay. Lower stretches of the Ottawa River, from River Mile 8.8 to River Mile 3.2, and a tributary, Sibley Creek, became heavily contaminated with hazardous

substances from decades of seepage and runoff from landfills (facilities to which hazardous materials were transported) and from industrial facilities along the banks of the Ottawa River and Sibley Creek. This area of the Ottawa River and Sibley Creek, including all waters, sediments, shorelines, connected wetlands, and natural resources, plus the area from River Mile 8.8 to the Maumee Bay (at River Mile 0.0), including Sibley Creek, are referred to herein as the “Ottawa River Assessment Area.”

12. The Ottawa River and Sibley Creek are navigable waters within the meaning of Section 502(7) of the CWA, 33 U.S.C. 1362(7).

13. At relevant times, numerous hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and in Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14), including polychlorinated biphenyls (“PCBs”), polycyclic aromatic hydrocarbons (“PAHs”), and lead, have been detected in the sediments, water, and/or fish of the Ottawa River Assessment Area.

14. From 1983 through 1993, the Ohio Department of Health (“ODH”) issued fish consumption advisories based on comparisons of data of PCBs in fish tissue for the whole area of Ottawa River Assessment Area. In 1991, the ODH issued a “Do Not Eat” fish advisory, which is the most stringent kind of fish advisory issued by ODH. The “Do Not Eat” fish advisory has remained in place through the present time, for all species of fish from in the Ottawa River Assessment Area due to PCB contamination. Since 1994, these fish advisories have been based upon the “Protocol for a Uniform Great Lakes Sport Fish Consumption Advisory,” adopted by the State of Ohio on January 10, 1994. In addition, in 2003, Ohio EPA issued a “Do Not Eat” consumption advisory for snapping turtles for all waters of the Ottawa River due to PCB contamination found in fatty tissue and turtle eggs.

15. As a result of releases of hazardous substances to the Ottawa River Assessment Area, natural resources of the State of Ohio, including but not limited to fish, invertebrates, birds, surface water, and sediments, have been injured, and the public has suffered the loss of natural resource services, including lost recreational fishing, reduced opportunities for recreation, and passive human use losses, as a result of releases of hazardous substances to the Ottawa River Assessment Area from various facilities in Toledo, Ohio. Pursuant to 43 C.F.R. Part 11, the FWS together with Ohio EPA (collectively, the “Trustees”) initiated an assessment of injuries to natural resources resulting from the releases of hazardous substances into or within the Ottawa River Assessment Area and concluded that natural resources had been injured as a result of releases of hazardous substances into the Ottawa River Assessment Area.

16. Plaintiff, the State of Ohio, has incurred costs in connection with the assessment of such injuries, destruction, or losses.

COUNT ONE

NATURAL RESOURCE DAMAGES UNDER CERCLA

17. Paragraphs 1 through 16 are incorporated by reference herein.

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

Notwithstanding 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 a vessel or a facility,

(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,

and

(4) . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for

* * *

(C) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release;

* * *

19. “Hazardous substances” within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14) and 9607(a), have been disposed of at facilities at or near to the Ottawa River Assessment Area, and released into the environment at and from each of those facilities.

20. The Ottawa River Assessment Area is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. The releases of hazardous substances referred to in Paragraph 11, 13, and 15 resulted in injury to, destruction of, or loss of natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State of Ohio within the meaning of Sections 101(16) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(16) and 9607(a). As a result of the releases of hazardous substances referred to in the preceding paragraph, the State of Ohio has incurred reasonable costs in assessing such injuries, destruction, or losses.

22. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), each of the Defendants is liable for damages to natural resources, including costs of restoration, for injuries, destruction, or loss of natural resources resulting from releases of hazardous substances into the Ottawa River Assessment Area, including injuries to floodplain soils, sediments, surface and ground waters and biota such as fish, invertebrates, migratory birds, and their supporting ecosystems, belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State of Ohio as well as for the reasonable costs of assessing such injuries, destruction or loss.

COUNT TWO

NATURAL RESOURCE DAMAGES UNDER CWA

23. Paragraphs 1 through 16 are incorporated by reference herein.

24. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), provides in pertinent part,

as follows:

The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone . . . or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States . . . in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited . . .

25. Section 311(f)(2) of the CWA, 33 U.S.C. § 1321(f)(2), provides, in pertinent part:

Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United State Government, or (D) an act or omission of a third party without regard to whether an such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil or substance by the United States Government...

26. Section 311(f)(4) of the CWA, 33 U.S.C. § 1321(f)(4), provides, in pertinent part:

The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

27. The Ottawa River and Sibley Creek are navigable waters of the United States.

28. Those facilities referenced in Paragraphs 7 and 8 above, are “onshore facilities”

within the meaning of Section 311(a)(11) of the CWA, 33 U.S.C. § 1321(a)(11).

29. There have been discharges of hazardous substances in harmful quantities into the Ottawa River Assessment Area within the meaning of Section 311 of the CWA, 33 U.S.C. § 1321, from such onshore facilities referred to in Paragraphs 7 and 8.

30. As a result of discharges of hazardous substances from the onshore facilities referred to in Paragraphs 7 and 8, the State of Ohio has incurred and will continue to incur costs related to the restoration or replacement of damaged or destroyed natural resources for which the United States is a co-trustee. Such resources may include migratory birds, soils, sediments, plants, and other elements of wetlands and other habitats, and aquatic biota including fish, as well as various other animals including insects and small mammals which may be in the food chain for endangered, threatened, or other protected species, and other such “natural resources” as that term is used in Section 311 of CWA, 33 U.S.C. § 1321.

31. One or more of the Defendants owned or operated one or more of the onshore facilities referred to in Paragraphs 7 and 8, when hazardous substances were discharged from such facilities into navigable waters of the United States or adjoining shorelines, or succeeded to the liabilities of a person who owned or operated one or more such onshore facilities when hazardous substances were discharged from such facilities into navigable waters of the United States or adjoining shorelines.

32. Pursuant to Section 311 of the CWA, 33 U.S.C. § 1321, each of the Defendants is jointly and severally liable to the State of Ohio for the costs incurred by the State of Ohio in the restoration or replacement of natural resources at the Ottawa River Assessment Area damaged or destroyed as a result of the discharge of hazardous substances from the on-shore facilities referred to in Paragraphs 7 and 8, in violation of Section 311(b) of the CWA, 33 U.S.C. § 1321(b).

COUNT THREE

VIOLATION OF THE PUBLIC TRUST

33. Paragraphs 1 through 16 are incorporated by reference herein.

34. Hazardous substances have been disposed at each of the facilities referred to above, and released into the environment at and from each of those facilities.

35. The releases of hazardous substances referred to in the preceding paragraph resulted in injury to, destruction of, or loss of natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State of Ohio, within the meaning of the public trust doctrine, and as a result of such releases of hazardous substances, the State has incurred reasonable costs in assessing such injuries, destruction or losses.

36. Defendants are all parties who either owned or operated one or more of the facilities described above, at the time that hazardous substances were disposed at such facilities, or arranged with another party, by contract, agreement or otherwise, for disposal of hazardous substances at such facilities, or arranged with a transporter to transport hazardous substances for disposal at such facilities, or are parties who succeeded to the liabilities of such persons at the time that hazardous substances were disposed at such facilities.

37. Each of the parties identified in the preceding paragraph is jointly and severally liable to the State of Ohio for damages for injuries, destruction, or loss of natural resources resulting from releases of hazardous substances into the Ottawa River, including injuries to any migratory birds, soils, sediments, plants, and other elements of wetlands and other habitats, and aquatic biota including fish, as well as various other animals including insects and small mammals which may be in the food chain for endangered, threatened, or other protected species,

belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State of Ohio, as well as for the reasonable costs of assessing such injuries, destruction or loss.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Enter a judgment in favor of Plaintiff against the Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for the full value of all damages for injury to, destruction of, or loss of natural resources in the Ottawa River Assessment Area, including all reasonable costs of assessing such injury, destruction, or loss, all costs of restoring, replacing, and/or acquiring the equivalent of those injured, destroyed, or lost natural resources and the services they provide, and all past, present, and future diminution in value of those resources pending restoration or replacement, resulting from releases of hazardous substances into, or which have migrated into, the Ottawa River Assessment Area;

B. Enter a judgment in favor of Plaintiff against the Defendants pursuant to Section 311(f) of the CWA, 33 U.S.C. § 1321(f), for the full value of all costs incurred by the Plaintiff in the restoration or replacement of natural resources damaged or destroyed as a result of discharges of hazardous substances into, or which have migrated into, the Ottawa River Assessment Area, in violation of Section 311(b) of the CWA, 33 U.S.C. § 1321(b);

C. Enter a judgment in favor of Plaintiff against the Defendants pursuant to the public trust doctrine for the full value of all damages for injury to, destruction of, or loss of natural resources at the Ottawa River Assessment Area, including all reasonable costs of assessing such injury, destruction, or loss, all costs of restoring, replacing, and/or acquiring the equivalent of those injured, destroyed, or lost natural resources and the services they provide, and all past, present, and future diminution in value of those resources pending restoration or

replacement, resulting from releases of hazardous substances into, or which have migrated into, the Ottawa River Assessment Area;

D. Enter a judgment in favor of Plaintiff against the Defendants for all costs of this action; and

E. Award the Plaintiff such other and further relief as this Court may deem appropriate.

Respectfully submitted,

MICHAEL DEWINE
OHIO ATTORNEY GENERAL

/s/ Timothy J. Kern
TIMOTHY J. KERN (0034629)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
(614) 466-5261
Timothy.Kern@OhioAttorneyGeneral.gov

Trial Attorney for Plaintiff State of Ohio

JS 44 (Rev. 07/16)

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

State of Ohio, ex rel. Michael DeWine
Ohio Attorney General

(b) County of Residence of First Listed Plaintiff State of Ohio
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Timothy J. Kern, Assistant Attorney General, 30 E. Broad St., 25th Floor
Columbus, OH 614-466-5261

DEFENDANTS

Aerojet Rocketdyne Holdings, Inc. (see attached list for the names of all Defendants)

County of Residence of First Listed Defendant Arlington, VA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

See attached List

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Recapture <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 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 - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 9607 (CERCLA) and 33 U.S.C. 1321 (Clean Water Act)

Brief description of cause:
Federal claims and a Supplemental State claim for recovery of natural resource damages (NRD)

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 No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Jeffrey J. Helmick DOCKET NUMBER 3:16-cv-02022

DATE 08/12/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Timothy J. Kern

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE:

CASE NUMBER:

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is **RELATED** to another **PENDING** civil case. This action is **REFILED** pursuant to **LR 3.1**.

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- AKRON** (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
- CLEVELAND** (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
- YOUNGSTOWN** (Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- TOLEDO** (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

State of Ohio, *ex rel.* Michael DeWine, Ohio Attorney General v. Aerojet Rocketdyne Holdings, Inc. (fka Gencorp Inc.), *et al.*

List of Defendants and Defendants' counsel

1. Aerojet Rocketdyne Holdings, Inc. (fka Gencorp Inc.), Allied Waste Industries, LLC (fka Allied Waste Industries, Inc.), E. I. Du Pont De Nemours and Company, Grand Trunk Western Railroad Company, Honeywell International, Inc., Illinois Tool Works, Inc., Perstorp Polyols Inc., The Mosaic Company (fka Mos Holdings Inc.), United Technologies Corporation, and Varta Microbattery Inc.

Defendants listed in this paragraph are represented by Ralph E. Cascarilla, Walter & Haverfield, LLP, 1301 East Ninth Street, Cleveland, Ohio, 44114

2. United States of America, United States Navy, United States Air Force, United States Army, and United States Department of Commerce

Defendants in this paragraph are represented by Perry Rosen, Environmental Defense Section, Environmental and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044-7611