

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

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UNITED STATES OF AMERICA and)	
THE STATE OF ILLINOIS,)	
)	
	Plaintiffs,)	
)	Civil Action No. 16-10672
	v.)	
)	
NORTH SHORE GAS COMPANY,)	
)	
	Defendant.)	
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COMPLAINT

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 (“EPA”), and the State of Illinois (the “State”), and the People of the State of Illinois, and on behalf of the Illinois Environmental Protection Agency (“Illinois EPA”) (collectively, the “Plaintiffs”) file this complaint and allege as follows:

STATEMENT OF THE CASE

1. This is a civil action brought against Defendant North Shore Gas Company (“NSG” or “Defendant”), pursuant to Sections 106, 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9606, 9607, and 9613 as amended by the Superfund Amendments and Reauthorization Act of 1986 (“CERCLA”).

2. The United States and the State seek a declaratory judgment, pursuant to CERCLA Sections 113(g)(2), 42 U.S.C. § 9613(g)(2), declaring that the Defendant is liable for any future costs that the United States or the State may incur in connection with response actions that may be performed at the NSG South Manufactured Gas Plant (“MGP”) Superfund Alternative Site located in Waukegan Illinois (hereinafter the “Site”).

3. The United States seeks injunctive relief requiring the Defendant to abate conditions at the Site that may present an imminent and substantial endangerment to the public health or welfare or the environment, because of actual or threatened releases of hazardous substances into the environment at and from the Site.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action, and the parties hereto, pursuant to Section 113(b) and (e) of CERCLA, 42 U.S.C. §§ 9613(b) and (e), and 28 U.S.C. §§ 1331 and 1345.

5. Venue is proper pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1391(b) and (c), because the claims arose and the threatened and actual releases of hazardous substances occurred in Waukegan Illinois, a city in this district.

GENERAL ALLEGATIONS

6. The Defendant is a corporation and is thus a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

7. The Defendant owns a portion of the Site, a former MGP located at 2 North Pershing Road and 1 South Pershing Road in Waukegan, Illinois, and thus is a current and/or past “owner” and/or “operator” within the meaning of CERCLA Sections 101(20) and 107(a), 42 U.S.C. §§ 9601(20) and 9607(a), of the Site and at the former MGP located thereon.

8. MGP operations at the Site created chemical by-products such as coal tar, ammonia, cyanide, ammonium sulfate, sulfur, wastewater sludges, ash, and tar/oil emulsions. The by-product materials contain several hazardous compounds such as naphthalene and benzo(a) pyrene, both considered polynuclear aromatic hydrocarbons (“PAHs”); petroleum hydrocarbons such as benzene, toluene, ethylbenzene, and xylene; metals such as arsenic and lead; cyanide; and phenolic compounds and a Dense Nonaqueous Phase Liquid (“DNAPL”). These hazardous substances have been deposited or stored at the Site and thus the Site is a “facility” within the meaning of CERCLA Sections 101(9) and 107(a), 42 U.S.C. §§ 9601(9) and 9607(a).

9. At times relevant to this action, there have been “releases” and “threatened releases” of “hazardous substances” from the facility owned and/or operated by the Defendant, into the environment at the Site, within the meaning of CERCLA Sections 101(14), 101(22), and 107(a), 42 U.S.C. §§ 9601(14), 9601(22), and 9607(a). Specifically, there have been “releases” of PAHs which are “hazardous substances” within the meaning of CERCLA Sections 101(14) and 107(a), 42 U.S.C. §§ 9601(14) and 9607(a).

10. The Defendant is: (i) an owner and/or operator of a facility from which there were releases of hazardous substances, or threatened releases of hazardous substances, which caused the incurrence of response costs, within the meaning of CERCLA Section 107(a)(1); and/or (ii) a person who, at the time of disposal of a hazardous substance, owned and/or operated a facility at which such hazardous substances were disposed and from which there were releases of hazardous substances, which caused the incurrence of response costs, within the meaning of CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2).

FIRST CLAIM FOR RELIEF

(Cost Recovery by the United States Under CERCLA Section 107, 42 U.S.C. § 9607)

1. Paragraphs 1-10 are realleged and incorporated herein by reference.
2. Pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), the Defendant is liable to the United States for response costs incurred and to be incurred by the United States in connection with the Site, including enforcement costs, prejudgment interest on such costs, and all future costs of any response actions that may be performed at the Site.

SECOND CLAIM FOR RELIEF

(Cost Recovery by the State Under CERCLA Section 107, 42 U.S.C. § 9607)

3. Paragraphs 1-10 are realleged and incorporated herein by reference.
4. Pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), the Defendant is liable to the State for response costs incurred and to be incurred by the State in connection with the Site, including enforcement costs, prejudgment interest on such costs, and all future costs of any response actions that may be performed at the Site.

THIRD CLAIM FOR RELIEF

(United States' Claim for Injunctive Relief Under CERCLA Section 106, 42 U.S.C. § 9606)

5. Paragraphs 1-10 are realleged and incorporated herein by reference.
6. There is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of actual and threatened releases of hazardous substances into the environment and from the Site.
7. Pursuant to CERCLA Section 106(a), 42 U.S.C. § 9606(a), the Defendant is subject to injunctive relief to abate the danger or threat presented by releases or threatened releases of hazardous substances into the environment at and from the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States and the State, respectfully request that this Court:

1. Enter judgment in favor of the United States and against the Defendant;
2. Order the Defendant to abate the conditions at the Site that may present an imminent and substantial endangerment to the public health or welfare or the environment;
3. Enter a declaratory judgment in favor of the United States and the State and against the Defendant pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that the Defendant is liable for future costs of any response actions that may be performed at the Site; and
4. Grant such other and further relief as the Court deems just and proper.

For the United States of America

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Date: November 16, 2016

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