

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	
v.	)	
	)	
ALCOA, INC.,	)	CIVIL COMPLAINT FOR RELIEF
	)	UNDER SECTIONS 106 AND 107
	)	OF CERCLA
Defendants.	)	
_____	)	

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the United States Environmental Protection Agency (EPA) hereby files this Civil Complaint for Relief Under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 & 9607, and alleges as follows:

INTRODUCTION

1. This is a civil action brought pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9606 & 9607. By this action the United States seeks an order compelling defendant Alcoa, Inc. (“Alcoa”) to implement the permanent environmental remedy selected for the Alcoa-Davenport Works Site (“the Alcoa Site”) and the Mississippi River Pool 15 Superfund Site (“The Pool 15 Site”) in Riverdale, Iowa, by EPA in its Record of Decision (ROD) for the Sites dated September 28, 2004, as amended by EPA’s Explanation of Significant Difference for the Sites; recovery of all costs incurred by the United States in response to

releases or threatened releases of hazardous substances at or from the Sites; a judgment of liability, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(3), for response costs that will be binding on any subsequent action or actions to recover further response costs, and recovery of natural resource damages.

#### 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 28 U.S.C. §§ 1331 and 1345.

3. Pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b), venue is proper in this district because the releases or threatened releases of hazardous substances that give rise to the claims occurred in this judicial district and the defendant does business in this judicial district.

#### DEFENDANT

4. Defendant Alcoa is incorporated in the State of Pennsylvania and does business in the State of Iowa. Alcoa is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

#### RELEVANT FACTS

5. The Alcoa Site is located on an Alcoa aluminum sheet and plate rolling mill in Riverdale, Iowa. Alcoa’s property is on 460 acres of land that slopes gently toward the west bank of the Mississippi River.

6. During its ownership and operation of the Alcoa Site and the Pool 15 Site, Alcoa has disposed and stored of numerous hazardous substances on the Sites, thereby releasing hazardous substances into the soil, groundwater, and sediments at the Sites.

7. In September of 2004, EPA issued a Record of Decision (ROD) for the Sites. The ROD set forth the permanent environmental remedy selected by EPA for the Site. EPA subsequently modified the selected in an Explanation of Significant Difference.

8. To date, EPA has incurred \$752,345.99 in unreimbursed costs in response to releases and threats of releases of hazardous substances at the Sites.

#### LAW GOVERNING CLAIMS FOR RELIEF UNDER SECTION 107 OF CERCLA

9. Sections 104(a) and (b) of CERCLA, 42 U.S.C. §§ 9604(a) & (b), provide that whenever any hazardous substance is released into the environment, or there is a substantial threat of such a release, the President is authorized to act, consistent with the National Contingency Plan, to remove or arrange for the removal of such hazardous substance, and to undertake such investigations, monitoring, surveys, testing or other information gathering as necessary to identify the existence and extent of the releases and the extent of the danger to public health or welfare or to the environment.

10. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides:

In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The President may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and welfare and the environment.

11. 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 --

(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,

\* \* \*

shall be liable for --

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

12. Section 107(a)(4)(C) of CERCLA, 42 U.S.C. § 9607(a)(4)(C), imposes liability on the persons identified in Section 107(a) of CERCLA for: “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 . . .”

#### GENERAL ALLEGATIONS

13. The Sites are a “facility” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

14. Hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been generated and disposed of at the Sites, and have come to be located in the soil and groundwater at the Sites.

15. There are and were, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), releases and threatened releases of hazardous substances into the environment at and from the Sites.

16. As a result of the releases or threatened releases of hazardous substances at or from the Sites, the United States has, through EPA, incurred “response” costs as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), for actions taken in response to the releases

or threatened releases at or from the Sites. The United States will continue to incur response costs in connection with the Sites.

17. As a result of such response actions, the United States has incurred costs for response actions. Such costs have not been fully reimbursed.

18. The response costs incurred by the United States are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

19. As a result of such releases, there have been injuries to, destruction of, and losses of natural resources within the trusteeship of the United States at the Sites.

FIRST CLAIM FOR RELIEF:  
OWNER/OPERATOR CLAIM AGAINST ALCOA  
UNDER SECTION 107(a)(1) OF CERCLA

20. Paragraphs 1 through 19 are realleged and incorporated herein by reference.

21. Hazardous substances have been released at or from the Sites into the environment within the meaning of CERCLA, 42 U.S.C. §§ 9601, 9607.

22. Defendant Alcoa owns and operates a facility at the Sites at which hazardous substances have been releases or otherwise come to be located in the environment.

23. Defendant Alcoa is therefore liable under Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1), for all costs incurred by the United States in response to releases or threats of releases of hazardous substances at the Sites.

24. Defendant Alcoa has not fully reimbursed the United States for the costs incurred in responding to the release of hazardous substances at the Sites.

SECOND CLAIM FOR RELIEF:  
OWNER/OPERATOR CLAIM AGAINST ALOCA  
UNDER SECTION 107(a)(2) OF CERCLA

25. Paragraphs 1 through 24 are realleged and incorporated herein by reference.

26. Defendant Alcoa owned and operated a facility at the Sites at the time of the disposal of hazardous substances into the environment at the Sites.

27. Defendant Alcoa is therefore liable under Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), for all costs incurred by the United States in response to releases or threats of releases of hazardous substances at the Sites.

28. Defendant Alcoa has not fully reimbursed the United States for the costs incurred in responding to the release of hazardous substances at the Sites.

THIRD CLAIM FOR RELIEF:  
LIABILITY FOR REMEDY IMPLEMENTATION  
UNDER SECTION 106 OF CERCLA

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

30. Defendant Alcoa is liable under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), to take such as EPA determines are necessary to protect the public health and welfare and the environment at the Sites.

31. The United States is authorized by Section 106 of CERCLA to seek an order from this Court requiring defendant Alcoa to implement EPA's selected remedy for the Sites.

32. This Court may order defendant Alcoa, as a liable party under Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) & (2), to implement EPA's selected remedy at the Sites.

FOURTH CLAIM FOR RELIEF:  
LIABILITY FOR NATURAL RESOURCE DAMAGES  
UNDER SECTION 107(a) OF CERCLA

33. Paragraphs 1 through 32 are realleged and incorporated herein by reference.

34. As alleged above, defendant Alcoa is liable at the Sites under Sections 107(a)(1) and (2) of CERCLA, 42 U.S.C. §§ 9606(a)(1) & (2).

35. There have been injuries to, destruction of, and losses of natural resources at the Sites in the trusteeship of the United States, as a result of releases of hazardous substances at the Site. As a liable party under CERCLA at the Site, Alcoa is liable to the United States for damages for the injuries to, destruction and losses of natural resources at the Sites resulting from releases of hazardous substances at the Sites.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that the Court:

1. Issue an Order to Defendant Alcoa requiring it to implement the permanent environmental remedy selected by EPA for the Sites in EPA's ROD for the Sites;
2. Enter judgment against defendant Alcoa for all costs incurred by the United States in response to releases or threats of releases of hazardous substances at the Sites;
3. Award the United States prejudgment interest on its response costs;
4. Enter a declaratory judgment of liability against defendant Alcoa pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that will be binding on any subsequent action or actions to recover further response costs;
5. Award the United States natural resource damages; and
6. Grant such other relief as the Court deems appropriate.

Respectfully submitted,

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