

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

United States of America,

Plaintiff,

v.

American Hoechst Corp., Akzo Nobel Coatings Inc., Akzo Nobel Inc., Albany International Corp., Ashland, Inc., Ausimont Industries, Inc., Avery Dennison Corporation, BASF Catalysts LLC, BASF Corporation, Benjamin Moore & Co., C.E. Bradley Laboratories, Inc., C.F. Jameson & Co., Inc., California Products Corporation, CHR Industries, Inc., Coats America, Inc., CR USA, Inc., Detrex Corporation, Dexter Corporation, The, Eastern Chem-Lac Corporation, **Eastern Holding Corp.**, GenCorp Inc., General Chemical Corporation, General Electric Company, Georgia-Pacific Consumer Products, LP, Hampden Papers, Inc., Hazen Paper Company, Hexion Specialty Chemicals, Inc., Hoyt & Worthen and Charles Hoyt, Ideal Tape Co., Inc., Illinois Tool Works Inc., Ingersoll-Rand Company, International Paper Company, Kraft Foods Global, Inc., Lorbrook Corp., Majilite Corporation, Markem Corporation, MeadeWestvaco Corporation, Northrop Grumman Systems Corporation, Norton Company, OKP, Inc., Pacific Anchor Chemical Corporation, Park Advanced Composite Materials, Inc., Pharmacia Corporation, RPM Wood Finishes Group, Inc., Royal Consumer Information Products, Inc., Safety-Kleen Systems, Inc., Shell Chemical LP, Textron Inc., The Barden Corporation, The Haartz Corporation, The Humphrey Chemical Company, Inc., The Stanley Works, The Valspar Corporation, United Oil Recovery, Inc., Westfield Coatings Corporation, Whittaker Corp., Worthen Industries, Inc., and Zeneca Inc.,

Defendants.

**AMENDED
COMPLAINT**

Civil No.
3:08CV1509 (SRU)

The United States of America, by authority of the Attorney General and acting at the request of the Administrator of the Environmental Protection Agency (EPA), alleges:

NATURE OF THE ACTION

1. This is a civil action brought under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C.

§ 9607(a), regarding the Solvents Recovery Service of New England, Inc. Superfund Site (“Site”) in the Town of Southington, Connecticut. Plaintiff the United States seeks payment from the defendants of costs incurred by the United States for response actions regarding the Site including accrued interest.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and over the parties pursuant to 42 U.S.C. § 9613(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 1395, and 42 U.S.C. § 9613(b), because the claims arose in this district and the release or threatened release of hazardous substances occurred in this district.

DEFENDANTS

4. Each of the persons listed in Appendix A is a person within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

THE STATUTORY SCHEME

5. CERCLA was enacted in 1980 to provide a comprehensive governmental mechanism for abating releases and threatened releases of hazardous substances and other pollutants and contaminants and for funding the costs of such abatement and related enforcement activities, which are known as “response actions.” 42 U.S.C. §§ 9604(a), 9601(25).

6. Under Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1):

Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its

removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment . . .

7. For CERCLA response actions and enforcement purposes, the Administrator of EPA is the President's delegate, as provided in operative Executive Orders, and, within certain limits, the Regional Administrators of EPA have been re-delegated this authority.

8. Under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3):

[A]ny 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, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances [a "generator" of hazardous substances]; . . .

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 . . .

THE SITE

9. The Site is located on the site of a former solvents recovery, blending and resale facility which was in operation from 1955 through 1991 ("SRS facility").

10. The SRS facility accepted spent solvents which it distilled and resold. The distillation process produced a solvent-laden sludge that was, depending on the time period, disposed of in lagoons or burned in an open-pit incinerator. Spent solvent handled at the facility also leaked and was spilled onto the bare ground.

11. These activities resulted in the contamination of the Site. The Site's soils and groundwater are heavily contaminated with hazardous substances, primarily volatile organic compounds and semi-volatile organic compounds.

12. EPA has conducted various response actions at the Site, including the following: (a) the removal of soils contaminated with hazardous substances; (b) the removal of drums and other containers of hazardous substances; (c) the performance of a remedial investigation at the Site; (d) oversight of response actions being implemented by a group of potentially responsible parties at the Site; and (e) various enforcement actions.

13. Each of the persons listed in Appendix A, hereto, sent waste solvents to the SRS facility for treatment and/or disposal. Their waste solvents contained hazardous substances.

14. EPA listed the Site on the National Priorities List ("NPL") in September 1983. The NPL was established pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and is found at 40 C.F.R. Part 300, Appendix B. The NPL is a list of those sites at which there are releases of hazardous substances, and which EPA has ranked as having the highest priority for remediation or other response action among all nationally identified releases, based on relative risk or danger to public health, welfare or the environment.

15. EPA has incurred costs in conducting various response actions at the Site.

CLAIM FOR RELIEF

16. Each of the persons listed in Appendix A is a person within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

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

18. There have been releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and threatened releases of hazardous substances at or from the Site.

19. The United States has incurred costs of response, within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), to respond to the releases or threatened releases of hazardous substances at the Site.

20. The United States' response actions regarding the Site are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

21. Each of the persons listed in Appendix A is liable to the United States pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. § 9797(a)(3), as 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, at a facility owned or operated by another party or entity and containing such hazardous substances.

22. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), each of the persons listed in Appendix A is jointly and severally liable to the United States for response costs incurred and to be incurred in connection with the Site.

PRAYER FOR RELIEF

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

1. Enter judgment in favor of the United States, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), holding each of the persons listed in Appendix A liable for all unreimbursed costs incurred by the United States with respect to the Site, plus interest accrued thereon;

2. Award the United States its costs of this action; and

3. Grant the United States such other and further relief as the Court deems just and proper.

Respectfully Submitted,

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APPENDIX A
LIST OF DEFENDANTS

American Hoechst Corp./CAN Holdings Inc.
Akzo Nobel Coatings Inc.
Akzo Nobel Inc.
Albany International Corp.
Ashland, Inc.
Ausimont Industries, Inc.
Avery Dennison Corporation
BASF Catalysts LLC
BASF Corporation
Benjamin Moore & Co.
C.E. Bradley Laboratories, Inc.
C.F. Jameson & Co., Inc.
California Products Corporation
CHR Industries, Inc.
Coats America, Inc.
CR USA, Inc.
Detrex Corporation
Dexter Corporation, The
Eastern Chem-Lac Corporation
Eastern Holding Corp.
GenCorp Inc.
General Chemical Corporation
General Electric Company
Georgia-Pacific Consumer Products, LP
Hampden Papers, Inc.
Hazen Paper Company
Hexion Specialty Chemicals, Inc.
Hoyt & Worthen and Charles Hoyt
Ideal Tape Co., Inc.
Illinois Tool Works Inc.
Ingersoll-Rand Company
International Paper Company
Kraft Foods Global, Inc.
Lorbrook Corp.
Majilite Corporation
Markem Corporation
MeadeWestvaco Corporation
Northrop Grumman Systems Corporation
Norton Company
OKP, Inc.
Pacific Anchor Chemical Corporation
Park Advanced Composite Materials, Inc.
Pharmacia Corporation
RPM Wood Finishes Group, Inc.
Royal Consumer Information Products, Inc.
Safety-Kleen Systems, Inc.

Shell Chemical LP
Textron Inc.
The Barden Corporation
The Haartz Corporation
The Humphrey Chemical Company, Inc.
The Stanley Works
The Valspar Corporation
United Oil Recovery, Inc.
Westfield Coatings Corporation
Whittaker Corp.
Worthen Industries, Inc.
Zeneca Inc.