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9 Attorneys for Plaintiff  
10 THE BOEING COMPANY

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 THE BOEING COMPANY,  
14 a Delaware corporation,

15 Plaintiff,

16 v.

17 UNITED STATES OF AMERICA,

18 Defendant.

Case No. 2:20-CV- 06601

**COMPLAINT**

19 Plaintiff, The Boeing Company (“Boeing”), for its Complaint against  
20 Defendant, the United States of America, alleges and states as follows:

**INTRODUCTION**

21 1. This is a civil action under sections 107(a), 113(f), and 113(g)(2) of  
22 the Comprehensive Environmental Response, Compensation, and Liability Act  
23 (“CERCLA”), 42 U.S.C. §§ 9601-9675.

24 2. Boeing seeks to recover from the federal government the necessary  
25 costs of response that it has incurred and will incur in a manner consistent with the  
26 National Contingency Plan (“NCP”), 40 C.F.R. 300, caused by the release or  
27 threatened release of hazardous substances at the aircraft manufacturing plant  
28

1 formerly located at 19503 South Normandie Avenue, Torrance California (the  
2 “Site”), and their migration to the adjacent Montrose Chemical and Del Amo Dual  
3 Superfund Site (the “MDA Sites”).

4 3. Boeing seeks to recover from the federal government Boeing’s past  
5 and future response costs for investigating and remediating contamination at the  
6 Site, and for investigating and remediating certain hazardous substances that are  
7 alleged to have been released from the Site and migrated to the MDA Sites. Boeing  
8 is entitled to recover its response costs for addressing this contamination to the  
9 extent it is associated with the periods of time during which the federal government  
10 owned or operated the Site, or arranged for the disposal or treatment of hazardous  
11 substances at the Site.

## 12 JURISDICTION AND VENUE

13 4. This Court has exclusive jurisdiction over this action pursuant to  
14 section 113(b) of CERCLA, 42 U.S.C. § 9613(b). In addition, the Declaratory  
15 Judgment Act, 28 U.S.C. § 2201, and section 113(g)(2) of CERCLA, 42 U.S.C.  
16 § 9613(g)(2), authorize this Court to grant Boeing’s request for declaratory relief.

17 5. Venue in this Court is proper pursuant to section 113(b) of CERCLA,  
18 42 U.S.C. § 9613(b), because the federal government may be found in this District  
19 and the alleged releases of hazardous substances occurred in this District.

## 20 PARTIES

21 6. Plaintiff Boeing is a corporation duly formed under the laws of the  
22 State of Delaware, with its headquarters in the State of Illinois. Boeing is a  
23 successor in interest to McDonnell Douglas Corporation (“MDC”) which, in turn, is  
24 a successor in interest to Douglas Aircraft Company (“DAC”). Boeing, MDC, and  
25 DAC are hereinafter collectively referred to as Boeing.  
26

27 7. Defendant United States includes all relevant agencies of the federal  
28 government, including the Department of Defense, Department of the Air Force,

1 Department of the Army, Department of the Navy, Department of Commerce,  
2 Army Corps of Engineers, General Services Administration, and all other  
3 departments, agencies, and instrumentalities of the federal government.

## 4 **FACTUAL BACKGROUND**

### 5 **A. The Site**

6 8. The Site includes the plants and areas formerly designated or  
7 commonly referred to as Boeing's C-6 Plant or Plancor 226, and all associated  
8 facilities, including all associated disposal areas.

9 9. Under various government contracts dated from the 1950s through the  
10 early 1990s, Boeing manufactured and/or assembled aircraft parts and components  
11 and missile components and equipment for the United States military at the Site.

12 10. During the federal government's ownership and operation of facilities  
13 at the Site from the 1950s through 1970, when Boeing was manufacturing and/or  
14 assembling military aircraft components and other military hardware in support of  
15 the national defense, hazardous substances, including volatile organic compounds  
16 ("VOCs"), were released to the environment, resulting in contamination of soil and  
17 groundwater in and around the Site.

### 18 **B. The Federal Government's Involvement at the Site**

19 11. Soon after the start of the Korean War, in 1952, the Navy condemned  
20 the real property at the Site and acquired an already-constructed plant from a third  
21 party, after which it leased the property to Boeing and contracted with Boeing to  
22 convert and modernize the plant and install machinery and equipment to  
23 manufacture aircraft components for naval aircraft, and other military hardware.

24 12. From that time through 1970, the federal government owned all of the  
25 land and buildings and equipment and machinery (including vapor degreasers at the  
26 Site) and land improvements (including storm drains and sanitary sewers). Under  
27  
28

1 its lease, Boeing had a limited right to make alterations and improvements to the  
2 Site, but those alterations and improvements required the prior written consent of  
3 the Navy. Moreover, any major alterations and improvements to the Site  
4 automatically became the property of the government. The Site during this time  
5 was known as a Naval Weapons Industrial Reserve Plant.

6 13. In 1970, the United States sold the land, buildings, equipment, and  
7 machinery making up the Site to Boeing. Boeing was still manufacturing military  
8 aircraft components and equipment at the time, and continued to do so (along with  
9 commercial aircraft components) through the early 1990s.

10 14. From at least 1952, the federal government exercised pervasive  
11 supervision over operations at the Site and was actively involved in manufacturing  
12 activities, including the exercise of engineering coordination and control through  
13 stages of production and service use, and requirements on the chemical materials to  
14 be used for aircraft component manufacturing, including the chemicals to be used  
15 for cleaning.

16 15. The federal government specified how military aircraft parts and  
17 components would be manufactured and maintained and what hazardous substances  
18 would be used during such manufacturing processes.

19 16. The federal government knew waste generation was inherent in the  
20 military aircraft manufacturing processes conducted at the Site.

21 17. The federal government owned the waste products generated during  
22 the Site's manufacturing processes.

23 18. The federal government owned, reviewed, and approved of the means  
24 of waste disposal at and from the Site.

25 19. The federal government controlled both the production and waste-  
26 handling processes at the Site through regulations, contractual requirements,  
27 military specifications, and on-site inspections by Bureau of Aeronautics  
28 representatives who actively supervised operations at the Site.

1           20. Military aircraft parts and components were manufactured at the Site  
2 for the federal government pursuant to supply contracts entered into by Boeing and  
3 the federal government.

4           21. Pursuant to these supply contracts, the federal government owned all  
5 of the hazardous substances that were purchased for and used to fulfill the  
6 contracts.

7           22. The federal government continued to own these hazardous substances  
8 throughout the military aircraft parts and components manufacturing processes.

9           23. Waste was created when hazardous substances were used to  
10 manufacture military aircraft parts and components at the Site.

11           24. Pursuant to the supply contracts, the federal government owned the  
12 waste that was created when these hazardous substances were used for the  
13 manufacture of military aircraft parts and components at the Site.

14           25. By entering into these supply contracts, the federal government  
15 intended for Boeing to dispose of the waste that was created when hazardous  
16 substances were used for the manufacture of military aircraft parts and components  
17 at the Site.

18           26. Through its ownership, review, and approval of all of these means of  
19 waste management, the federal government intended to dispose of waste from the  
20 Site, and it intended for Boeing to dispose of waste on behalf of the federal  
21 government.

22 **C. The MDA Sites**

23           27. Releases of hazardous substances occurred at the MDA Sites from the  
24 former Montrose pesticide manufacturing plant and the former synthetic rubber  
25 manufacturing plant. In addition, releases of hazardous substances potentially  
26 migrated to the MDA Sites as a result of operations of additional facilities in the  
27 area surrounding the MDA Sites.  
28

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