

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIDGESTONE AMERICAS TIRE
OPERATIONS, LLC,

LEAR SIEGLER DIVERSIFIED
HOLDINGS CORP., and

FERODO AMERICA, LLC,

Defendants.

Civil Action No. 1:22-cv-1647

COMPLAINT

Plaintiff, the United States of America, by the authority of the Attorney General of the United States of America, on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and by and through its undersigned attorneys, alleges that:

NATURE OF THE ACTION

1. This is a civil action brought against Defendants Bridgestone Americas Tire Operations LLC, Lear Siegler Diversified Holdings Corp., and Ferodo America, LLC, (collectively, the “Defendants”) pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9607. The United States seeks to recover unreimbursed costs incurred for response activities undertaken in response to the release and threatened release of a hazardous substance, asbestos, at and from the New Castle Asbestos Site (the “Site”), located at 1112 South 25th Street in New Castle, Indiana. The United States also seeks a declaratory judgment that the Defendants are

liable for future response costs that the United States may incur in connection with response actions that may be performed at the Site.

2. The United States also seeks interest from the Defendants, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action and the Defendants pursuant to 28 U.S.C. §§ 1331 and 1345 because this is a civil action commenced by the United States that arises under the laws of the United States. This Court has exclusive original jurisdiction over this action pursuant to Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b), because it concerns controversies arising under CERCLA.

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

BACKGROUND ON THE SITE AND THE STATUTE

5. The Site is located in a mixed residential, commercial, and light industrial area. It includes approximately 9.34 acres of land that was once occupied by a car parts manufacturing facility owned and operated successively by legal predecessors of the Defendants.

6. Asbestos was used in the manufacture of automotive products at the facility until approximately 1988.

7. Brake shoe manufacturing at the facility resulted in the generation of waste brake shoe dust, which contained asbestos. This dust spread throughout the main manufacturing building and to grounds outside the building.

8. As confirmed by a promotional video produced in the 1950's by World Bestos Company, a division of the Firestone Tire and Rubber Company that operated at the Site, asbestos comprised about half of a typical brake lining compound made by the company. *See* <https://youtu.be/eugWRMfyccs>.

9. Building materials used in structures at the Site also contained asbestos.

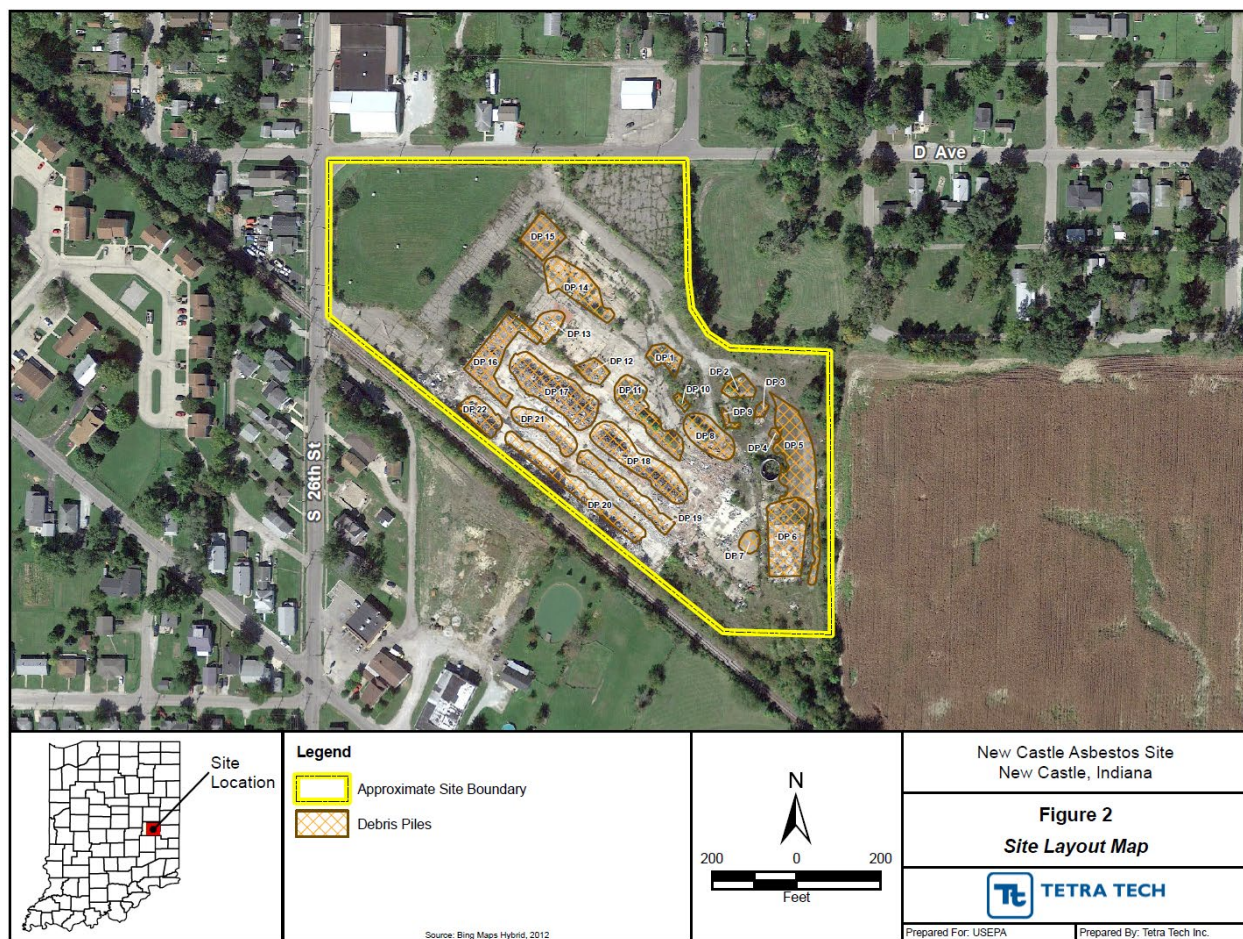
10. In April 2012, there was a large fire inside a vacant building on the property. As a result of the fire, the building was demolished, and demolition debris was left in piles on the property.

A. Response Activities by the United States

11. On May 7-8, 2013, EPA performed a site assessment to determine if asbestos was present at the Site. EPA collected samples from 22 large piles of debris for laboratory analysis. EPA's sampling results indicate the presence of asbestos within 12 of the 22 debris piles at the Site.

12. An EPA On-Scene Coordinator observed fragments of brake parts in one of the debris piles during the site assessment.

13. A diagram of the Site, with the location of debris piles, outlined in orange and identified by their number, is included below.



14. Between November 2016 and May 2017, an EPA contractor completed additional assessment work at the Site, which included sampling and analysis of multiple whole and crumbled brake pads scattered across a gravel path and an overgrown area on about two acres of the southeastern side of the Site.

- a. In addition to observing brake pad debris on the surface of the ground, EPA uncovered additional, buried brake pad debris after performing a 6-inch soil scrape of the area.
- b. The EPA contractor's analysis found that the brake pad samples contained from 10%-50% chrysotile asbestos.

c. The EPA contractor's analysis also found that the asbestos in many of the brake pad samples had become friable with age because the material had started to degrade with exposure to the elements.

15. Asbestos is classified as a "hazardous substance" under CERCLA. *See* 42 U.S.C. §§ 9601(14), 9602(a); 40 C.F.R. § 302.4.

16. EPA determined that the presence of uncontrolled asbestos-containing material at the Site necessitated a time critical removal action.

17. During the removal action, which occurred between May and July 2017, EPA excavated and disposed of debris piles, whole and crumbled brake pads, contaminated soils, and pits containing asbestos-containing material. In total, EPA removed approximately 6,928 tons of asbestos-contaminated material and transported it off-Site for disposal.

18. The City of New Castle took title to the Site in 2015 and currently controls the property. EPA is considering whether any further federal action is necessary.

B. Response Costs

19. CERCLA Section 107(a)(4)(A), 42 U.S.C. § 9607(a)(4)(A), authorizes the United States to recover costs that it incurs in response to the release and threatened release of hazardous substances, to the extent such costs are not inconsistent with the National Contingency Plan ("NCP").

20. CERCLA Section 107(a), 42 U.S.C. § 9607(a), imposes liability for response costs on certain classes of potentially responsible parties ("PRPs"), including parties that owned or operated a facility at the time of disposal of a hazardous substance.

21. CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2), provides, in pertinent part: "In any such action [for recovery of costs] . . . , the court shall enter a declaratory judgment on

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