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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

PADDOCK ENTERPRISES, LLC,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civ. Action No. 5:22-cv- 1558

Civil Action

COMPLAINT

Plaintiff Paddock Enterprises, LLC, successor by merger to Owens-Illinois, Inc. (“Paddock”), by and through its attorneys, hereby brings this Complaint against Defendant United States of America (“United States”) and states as follows:

NATURE OF THE ACTION

1. This action seeks to hold the United States responsible for environmental contamination on its property that the United States has known about, but failed to remediate, for decades. As a consequence of the United States’ failure to address the contamination on its property years earlier, Paddock has incurred response costs under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C § 9601 *et*

seq. Paddock now seeks to recover those past response costs and any future response costs incurred from the United States.

2. In 1984 and 1985, the United States knowingly purchased approximately 30 acres of contaminated property known as the Jaite Paper Mill (“Jaite Mill”). Jaite Mill is a former paper mill and corrugated box plant, adjacent to the Cuyahoga River and Brandywine Creek, and located within the Cuyahoga Valley National Park (“CVNP”) in northeastern Ohio.

3. By acquiring Jaite Mill in its environmentally contaminated condition, the United States reaped a significant financial benefit because the contamination reduced the value of Jaite Mill at a time when the United States was trying to acquire land for the CVNP with limited appropriations funding from Congress.

4. With the intent of acquiring Jaite Mill as inexpensively as possible, the United States took the unusual step of **urging** the Ohio Environmental Protection Agency (“Ohio EPA”) to forbear from requiring a previous Jaite Mill owner and operator, Tecumseh Corrugated Box Company (now known as TCBC II, Inc.) (“TCBC”), to address known, longstanding environmental contamination caused by TCBC’s operations.

5. Upon information and belief, the United States did not want TCBC to address the contamination at Jaite Mill because if TCBC actually did so, Jaite Mill likely would have increased in value and cost the United States more to purchase it for the CVNP.

6. Despite having urged Ohio EPA not to require TCBC to address the known contamination at Jaite Mill, and despite the passage of CERCLA in 1980 that imposes liability on current owners and operators for contamination on their property, the United States did not immediately begin investigating and remediating the contamination when it purchased Jaite Mill

in 1984 and 1985. Nor did the United States take any action to require TCBC to investigate and remediate the contamination.

7. Instead, the United States made Jaite Mill – a known contaminated property – accessible and open to the public as part of the CVNP.

8. It was not until 2004 – *nineteen (19) years* after acquiring Jaite Mill – that the United States even started to investigate contamination at Jaite Mill in earnest. It then took the United States another *sixteen (16) years* (*i.e.*, until 2020) to complete its investigation of that contamination. Ultimately, the United States took *thirty-five (35) years* after purchasing Jaite Mill to delineate contamination that the United States knew existed prior to acquiring the property.

9. Not surprisingly, given the United States’ multi-decade delay, the state of contamination in soils, groundwater, surface water, and sediments at and adjacent to Jaite Mill had worsened. As a consequence, the cost to address the contamination today is likely greater than what it would have been in 1985 (or even before 1985, if the United States had let Ohio EPA require TCBC to investigate and remediate the contamination).

10. The United States currently estimates that it will cost approximately \$45 million to remediate Jaite Mill to a pristine, unimpaired condition that the United States incorrectly asserts CERCLA requires.

11. In 2018, the United States requested that Paddock, which formerly owned and operated Jaite Mill through a predecessor from 1951 until 1967, perform a time-critical removal action under CERCLA to stabilize a portion of the Jaite Mill property that abuts the Cuyahoga River. In connection with the United States’ request, Paddock incurred necessary CERCLA

response costs at Jaite Mill consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”).

12. As the current owner and operator of Jaite Mill, the United States is liable for Paddock’s past response costs incurred at Jaite Mill, and any future response costs Paddock may incur at Jaite Mill, including with respect to the United States’ selected \$45 million remedy to address the contamination.

13. Through this action, Paddock seeks (i) a declaration of the United States’ liability for Jaite Mill contamination under both CERCLA and the Declaratory Judgments Act, 28 U.S.C. § 2201 *et seq.*, (ii) to recover Paddock’s past necessary response costs incurred at Jaite Mill under CERCLA, and (iii) to obtain a declaratory judgment that the United States is liable for Paddock’s future necessary response costs, if any, incurred at Jaite Mill under both CERCLA and the Declaratory Judgments Act.

PARTIES

14. Paddock is a Delaware limited liability company with its headquarters in Perrysburg, Ohio.

15. Paddock is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

16. The United States is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

JURISDICTION AND VENUE

17. This action arises under Section 107 of CERCLA, 42 U.S.C. § 9607, and the Declaratory Judgments Act, 28 U.S.C. § 2201.

18. This Court has subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. § 1331 because Paddock's claims arise under federal law and district courts have exclusive original jurisdiction over CERCLA claims, 42 U.S.C. § 9613(b).

19. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1) and 42 U.S.C. § 9613(b) because the events giving rise to Paddock's claims occurred in this District. In addition, the Jaite Mill at which Paddock incurred necessary response costs is located entirely within this District.

20. In accordance with 42 U.S.C. 9613(I), Paddock has provided a copy of this Complaint to the Attorney General of the United States and the Administrator of the United States Environmental Protection Agency ("USEPA").

STATEMENT OF FACTS

Congress Created the Cuyahoga Valley National Park for Recreational Space Knowing the Cuyahoga River and Nearby Valley Lands Already Were Contaminated

21. Jaite Mill is located within the CVNP, an area Congress envisioned would provide recreational space to citizens living in and visiting the Cuyahoga Valley region of the country.

22. The United States understood that Cuyahoga Valley lands acquired for the CVNP might have environmental contamination, in no small part due to the enduring contamination of the Cuyahoga River and the Cuyahoga Valley's location between the cities of Cleveland and Akron.

23. On December 27, 1974, Congress passed legislation that established the Cuyahoga Valley National Recreation Area, which was later renamed the Cuyahoga Valley National Park on October 11, 2000. *See* 16 U.S.C. § 460ff (the "CVNP Act").

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