

5/3/2018

JULIA C. DUDLEY, CLERK  
BY: s/ CARMEN AMOS  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 6:18CV00057

BUCKINGHAM COUNTY  
BOARD OF SUPERVISORS ON  
BEHALF OF BUCKINGHAM COUNTY,  
A POLITICAL SUB-DIVISION OF THE  
COMMONWEALTH OF VIRGINIA,

Defendant.

**COMPLAINT**

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:

**PRELIMINARY STATEMENT OF THE CASE**

1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9607, for recovery of costs incurred in response to releases and threatened releases of hazardous substances at the Buckingham County Landfill Superfund Site ("the Site") in Dillwyn, Virginia located in the County of Buckingham. This action also seeks a declaratory judgment finding that Defendant is liable for future response costs relating to the Site pursuant to Section 113(g)(2), 42 U.S.C. § 9613(g)(2).

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

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

### **DEFENDANT**

4. Defendant Buckingham County is a political subdivision of the Commonwealth of Virginia. Buckingham County currently owns the Site, or a portion of the Site.

5. The above-referenced Defendant is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

### **GENERAL ALLEGATIONS**

6. The Buckingham County Landfill Superfund Site consists of approximately 125 acres of woodlands with an estimated eight acres cleared for landfill operations. The Site is located in Dillwyn, Virginia in the County of Buckingham about 1.5 miles southwest of the intersection of U.S. 60 and U.S. 15 on County Road 640.

7. The Site was operated as a landfill from approximately 1962 to 1982.

8. From approximately 1976 to 1981, Thomasville Furniture Industries arranged for disposal of waste at the Site.

9. The waste from Thomasville disposed at the Site included materials such as polyester filler containing 5% vinyl toluene diluent, reclaimed lacquer thinner, steel wool containing dried glazes, stains, finishes, or lacquers, peel coating residue, and air filters from paint spray booths, which contained hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including, but not limited, to toluene.

10. From approximately 1981 through 1982, the Prillaman Company arranged for the disposal of drums of solid still bottoms at the Site.

11. The drums of still bottoms from the Prillaman Company contained hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including, but not limited to, acetone, arsenic, barium, chromium and toluene.

12. On or about October 31, 1985, the Prillaman Company was merged into the Prillaman Chemical Corporation. In approximately January 2001, the Prillaman Chemical Corporation was merged into Van Waters and Rogers, Inc. In approximately April 2001, Van Waters and Rogers, Inc. was renamed Vopak U.S.A. On or about July 1, 2002, Vopak U.S.A. changed its name to Univar U.S.A. Inc.

13. Univar U.S.A. Inc. is the corporate successor to the Prillaman Company.

14. Buckingham County purchased the Site, or a portion of the Site, in 1982, and is the current owner of the Site, or a portion of the Site.

15. The Site was listed on the National Priorities List ("NPL") on October 4, 1989. 54 Fed. Reg. 41015.

16. A Remedial Investigation ("RI") for the Site was performed between 1991-1992. Samples collected during the RI indicated the presence at the Site of "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). The RI demonstrated that soils, leachate seeps and groundwater at the Site were contaminated with volatile organic compounds ("VOCs") and metals. Specifically, the VOCs included methylene chloride, 1,1-dichloroethene, 1,1,1-trichloroethane, trichloroethene, tetrachloroethene, and toluene. The metals included aluminum, barium, beryllium, chromium, cobalt, magnesium, nickel, and vanadium.

17. There has been a "release" and/or "threatened release" of a "hazardous substance" into the environment at and from the Site, as defined by Sections 101(14), 101(22), and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22), 9607(a).

18. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), because it is a landfill and site or area where hazardous substances have been disposed of or otherwise come to be located.

19. As a result of the release and threatened release of hazardous substances from the Site, the United States has incurred and expects to incur "response" costs, as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

20. The response actions taken by Plaintiff in connection with the Site are not inconsistent with the NCP, 40 C.F.R. Part 300.

### **CLAIM FOR RELIEF**

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

22. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that:

(1.) [T]he owner and operator of a . . . facility . . .

from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for –

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

23. Buckingham County owns and operates a portion of the Site within the

meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

24. Pursuant to Section 107(a), 42 U.S.C. § 9607(a), Buckingham County is liable to the United States for all past response costs incurred by the United States in connection with the Site.

25. The United States also is entitled to a declaratory judgment pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that Buckingham County is liable to the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all future response costs incurred by the United States relating to the Site.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court enter:

1. Against the Defendant, jointly and severally, a judgment for all costs incurred by the United States through the date of judgment, plus interest, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607;
2. Against the Defendant, jointly and severally, a declaratory judgment as to its liability for further response costs that will be binding on a subsequent action or actions to recover further response costs, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2); and
3. Grant such other relief as the Court deems appropriate.

Respectfully submitted,

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Environmental Enforcement Section  
Environment and Natural Resources Division

/s/ Robert D. Brook  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 3, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and served a true and accurate copy to the authorized agent to accept service by prepaid first class mail:

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