

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA

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UNITED STATES OF AMERICA)	
)	
AND)	
)	
STATE OF INDIANA,)	
)	
Plaintiffs,)	
v.)	
)	Civil Action No. 2:22-cv-48
NORTHERN INDIANA PUBLIC)	
SERVICE COMPANY, LLC,)	
)	
Defendant.)	
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COMPLAINT

The United States of America (“United States”), by the authority of the Attorney General of the United States and through its undersigned attorneys, acting at the request of and on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), and the State of Indiana (the “State”), through its undersigned attorneys, acting at the request of and on behalf of the Commissioner of the Indiana Department of Environmental Management (“IDEM”), file this Complaint and allege as follows:

STATEMENT OF THE CASE

1. This is a civil action for recovery of costs and performance of work under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (“CERCLA”), 42 U.S.C. §§ 9606 and 9607, and

Ind. Code §§ 13-25-4-9, 13-25-4-10, and 13-25-4-8, against Northern Indiana Public Service Company (“Defendant”).

2. The United States and the State seek, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) and Ind. Code § 13-25-4-10, recovery of unreimbursed response costs incurred by them for activities undertaken in response to the release or threatened release of hazardous substances at the Town of Pines Superfund Site, in Porter County, Indiana (the “Site”).

3. The United States and the State also seek, pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606 and Ind. Code § 13-25-4-9, injunctive relief requiring Defendant to take action to abate a release of hazardous substances or threat of release of hazardous substances at the second operable unit (“OU 2”) at the Site that may pose an imminent and substantial endangerment to the public health or welfare or the environment.

4. In addition, the United States and the State seek a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), and Ind. Code §§ 13-25-4-8(a), declaring that Defendant is liable for any future response costs that the United States may incur in connection with any subsequent action or actions that may be performed pertaining to OU 2.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to CERCLA Sections 106(a), 107(a) and 113(b), 42 U.S.C. §§ 9606(a), 9607(a) and 9613(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 2201. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the State’s claims under Ind. Code §§ 13-25-4-9 and 13-25-4-10.

6. Venue is proper in this district pursuant to CERCLA Sections 106(a) and 113(b), 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and (c) because the events giving rise to this claim occurred in this district and because the Site is located in this district.

DEFENDANT

7. Defendant is an Indiana limited liability company, headquartered in Merriville, Indiana, that at times relevant to this complaint produced and distributed electricity in Northern Indiana. Defendant arranged for disposal or treatment of hazardous substances and/or arranged with a transporter for transport for disposal or treatment, of hazardous substances it owned or possessed, at locations within the Site that were owned or possessed by another party or entity.

8. Defendant is a “person” within the meaning of CERCLA Sections 101(21) and 107, 42 U.S.C. §§ 9601(21) and 9607, and Ind. Code §§ 13-25-4-9, 13-25-4-10, and 13-25-4-8(a).

STATUTORY BACKGROUND

9. 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 abatement and related enforcement activities, which are known as “response” actions, 42 U.S.C. §§ 9604(a), 9601(25).

10. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat,...

11. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this Section —

* * *

- (3) any 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, and

* * *

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

12. Under Ind. Code § 13-25-4-8(a), “a person that is liable under Section 107(a) of CERCLA (42 U.S.C. § 9607(a)) for: (1) the costs of removal or remedial action incurred by the commissioner consistent with the national contingency plan . . . is liable, in the same manner and to the same extent, to the state under this section.”

SITE DESCRIPTION

13. The Site is located in the Town of Pines, Indiana, or within an area known as the Area of Investigation, as depicted on the map attached as Attachment 1, where coal ash, also known as coal combustion residuals (“CCRs”), may have or have been deposited, often as fill, and areas of groundwater contaminated by such CCRs. The Site includes an unlined landfill containing primarily coal ash (“Yard 520”) and all other locations where hazardous substances from the CCRs have or may have come to be located. The Site has been identified by other names, including Town of Pines Groundwater Plume Site and Town of Pines Groundwater Contamination Site.

14. On September 28, 2021, EPA divided the Site into two portions, or operable units, for purposes of cleanup.

15. The first portion, Operable Unit 1 (“OU 1”) consists of those portions of the Site where contamination of groundwater from the disposal of CCRs at Yard 520 have or may have come to be located, as generally depicted within the orange or green-colored boundary lines set forth in Attachment 1. Work associated with CCR contamination at OU 1 includes, but is not limited to groundwater and residential drinking water well monitoring north and east of the north area of Yard 520 and west of the main branch of Brown Ditch.

16. The second portion, Operable Unit 2 (“OU 2”), addresses contamination of soil, groundwater, and drinking water wells from the disposal of CCRs at portions of the Site. OU 2 consists of the following three parts as set forth below.

a. First, OU 2 addresses water, specifically: (a) groundwater monitoring in the areas north of the East Branch of Brown Ditch and east of the Main Branch of Brown Ditch; (b) surface water and sediments of the East Branch of Brown Ditch, and (c) residential drinking water wells in the area north of the East Branch of Brown Ditch and east of the Main Branch of Brown Ditch. These areas are generally depicted inside the purple-colored boundaries set forth in Attachment 1.

b. Second, OU 2 addresses soil sampling and excavation in the areas generally depicted to be within the brown-colored boundaries set forth in Attachment 1.

c. Third, OU 2 addresses land use restrictions, specifically the use of best efforts to work with local officials to implement a local ordinance or equivalent restriction that prohibits the use or installation of private drinking water wells in the area of the Municipal Water Service Extension, as constructed under two administrative orders on consent, executed in 2003 and 2004, and described in Paragraphs 23 and 24, below.

17. The Site is a Superfund Alternative Approach (“SAA”) agreement site (see <https://www.epa.gov/enforcement/superfund-alternative-approach>). A Site with an SAA agreement is eligible for, but is not listed on, the National Priorities List (“NPL”).

18. The Site is a “facility” within the meaning and scope of Sections 101(9) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(9) and 9607(a) and Ind. Code § 13-11-2-77(f).

EPA RESPONSE ACTIONS AT THE SITE

19. In 2003, in response to sampling of drinking water wells showing elevated levels of boron and molybdenum exceeding Removal Action Levels (RALs), EPA entered into an Administrative Order on Consent (“AOC I”) with Defendant and three other potentially responsible parties to extend municipal water service from nearby Michigan City, Indiana, to businesses and residences in areas within and near the Town of Pines. The parties to AOC I amended the agreement in 2004 to include additional properties. RALs are chemical-specific concentrations for individual contaminants in tap water, air, and soil developed by EPA that may be used to support the decision for EPA to undertake a removal action.

20. On April 5, 2004, EPA, Defendant, and the three additional potentially responsible parties also entered into a second Administrative Order on Consent (“AOC II”). AOC II required the PRPs to conduct a Remedial Investigation and Feasibility Study to determine the nature and extent of the contamination at the Site and whether additional cleanup measures were needed to protect human health and the environment from exposures to coal ash-derived contamination.

21. Defendant and the other three potentially responsible parties completed a Remedial Investigation Report, which EPA approved subject to conditions on May 28, 2010.

22. Beginning in 2014, Defendant conducted additional sampling at OU 2, finding elevated levels of thallium, arsenic, and lead at the Site, not previously detected. On October 15, 2015, EPA determined that the presence of elevated levels of these metals in the soils at residential yards and a city park at the Site, and potential exposure pathways of those metals, constituted an imminent and substantial endangerment to human health, welfare, or the environment. EPA issued an Action Memorandum selecting a time-critical removal action at the Site to be conducted to address the contamination.

23. On March 17, 2016, EPA and the Defendant entered into an Administrative Settlement Agreement and Order on Consent (the “ASAOC”), requiring the Defendant to conduct the work required in the October 15, 2015, Action Memorandum. Under this ASAOC, the Defendant agreed to, among other tasks, sample properties within the Site to determine if coal ash was present and whether coal-ash derived contaminants presents unacceptable exposure risks and, if so, to remove the contaminated soil, dispose of it properly off-site, and restore the property using clean fill materials.

24. Since March 17, 2016, Defendant has been conducting work at the Site in accordance with the ASAOC under EPA oversight.

25. Following Defendant’s completion of a feasibility study, and a public participation process, on September 30, 2016, EPA executed a Record of Decision (“ROD”), selecting a remedial action for the Site. The ROD requires, among other things, that the removal work agreed to in the ASAOC be incorporated into the Site cleanup plan.

26. The soil component of the OU 2 portion of the remedial action at the Site is a continuation of the process established under the ASAOC and consists of: (1) identifying contamination above cleanup levels from deposits of coal ash; (2) excavating and disposing of

contaminated soil off-site; (3) restoring excavated properties using clean backfill; and (4) implementing institutional controls to prevent exposure to soil contamination left at depth. The groundwater, surface water, and sediment monitoring component of OU 2 consists of monitoring residential drinking water wells, groundwater monitoring wells, surface water, and sediments to ensure that ecological habitats continue to not be adversely affected by Site contamination.

GENERAL ALLEGATIONS

27. Prior to 1998, Defendant arranged for disposal of hazardous substances and/or arranged with a transporter for transport for disposal of coal ash from its Michigan City, Indiana, power generation plant at the Site, including Yard 520, which is in OU 1. Defendant also arranged for disposal of hazardous substances and/or arranged with a transporter for transport for disposal of coal ash at numerous properties as landscaping fill in the Town of Pines and its vicinity, within OU 2.

28. The coal ash disposed of at OU 2 includes “hazardous substances,” within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and Ind. Code §13-11-2-98, including boron, molybdenum, arsenic, thallium, and lead.

29. At times relevant to this action, there have been “releases” or threats of “releases,” within the meaning of Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9607(a), and Ind. Code § 13-11-2-184, of hazardous substances into the environment at and from OU 2 at the Site.

30. The United States and the State have taken “response actions,” within the meaning of Section 101(25), 42 U.S.C. § 9601(25), at OU 2, including but not limited to providing oversight in the field and managing contractor personnel. The United States and the State continue to take response actions in connection with OU 2 and have incurred costs that are

not inconsistent with the National Contingency Plan, 40 C.F.R Part 300, as promulgated under Section 105(a) of CERCLA, 42 U.S.C § 9605(a).

FIRST CLAIM FOR RELIEF

(Reimbursement of Response Costs under Section 107(a) of CERCLA and
Ind. Code § 13-25-4-8(a))

31. The allegations set forth in paragraphs 1-30 are realleged and incorporated herein by reference.

32. At times relevant to this action, there have been “releases” or threats of “releases,” within the meaning of Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9607(a), and Ind. Code § 13-11-2-184, of hazardous substances into the environment at and from OU 2 at the Site.

33. By generating CCRs containing hazardous substances at its Michigan City power plant and arranging for the transport of the CCRs for disposal at OU 2, Defendant is 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” at OU2 of the Site within the meaning of Section 107(a)(3) and (4) of CERCLA, 42 U.S.C. § 9607(a)(3).

34. The United States and the State have undertaken removal and/or remedial actions at the Site and have incurred costs that are not inconsistent with the National Contingency Plan, 40 C.F.R Part 300, as promulgated under Section 105(a) of CERCLA, 42 U.S.C § 9605(a).

35. Pursuant to Section 107(a) of CERCLA, 42 U.S.C § 9607(a), and Ind. Code § 13-25-4-8(a), the Defendant is liable to the United States and the State for all response costs that the United States and the State have incurred with respect to the Site and will incur with respect to OU 2, including interest at the rate that is specified for interest on investments of the Hazardous

Substances Superfund established under subchapter of Chapter 98 of Title 26 of the United States Code.

SECOND CLAIM FOR RELIEF

(Injunctive Relief under Section 106(a) of CERCLA and Ind. Code § 13-25-4-9)

36. The allegations set forth in paragraphs 1-30 are realleged and incorporated herein by reference.

37. The Director of the Superfund Division of EPA Region 5 has determined that there is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of a release or threatened release of hazardous substances, including boron, molybdenum arsenic, thallium, and lead, at and from the Site, including the geographical areas of OU 2.

38. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), authorizes the United States to bring an action to secure such relief as may be necessary to abate a danger or threat at OU 2.

39. Indiana Code § 13-25-4-9 authorizes the State to bring an action to compel a responsible person to undertake a removal or remedial action with respect to a release or threatened release of a hazardous substance from a facility or site in Indiana.

40. EPA selected a remedy in the ROD to abate the dangers and/or threats caused by the hazardous substances at the Site, including the geographical areas of OU 2.

41. Under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and Ind. Code § 13-25-4-9, the Defendant is liable to perform the remedies identified in the ROD for OU 2 which are necessary to abate the endangerment to the public health or welfare or the environment at the Site, including the geographical areas of OU 2.

THIRD CLAIM FOR RELIEF

(Declaratory Judgment under Section 113(g) of CERCLA and Ind. Code § 13-25-4-8(a))

42. The allegations set forth in paragraphs 1-30 are realleged and incorporated herein by reference.

43. CERCLA Section 113(g)(2), 42 U.S.C. § 9613(g)(2), specifies that in any action for recovery of costs under CERCLA Section 107, 42 U.S.C. § 9607, “the court shall enter a declaratory judgment on liability for response costs . . . that will be binding on any subsequent action or actions to recovery further response costs”

44. The United States and the State will continue to incur response costs associated with OU 2 at the Site, including oversight and enforcement costs that are recoverable as response costs under CERCLA.

45. The United States and the State are entitled to entry of a declaratory judgment that the Defendant is jointly and severally liable to the United States and the State for future response costs incurred by the United States and the State in connection with OU 2 at the Site, to the extent that such costs are incurred in a manner not inconsistent with the National Contingency Plan.

PRAYER FOR RELIEF

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

A. Order the Defendant to perform the remedial actions for the remedies selected in the OU 2 portion of the ROD for the Site pursuant to Section 106 of CERCLA, 42 U.S.C.

§ 9606.

B. Enter judgment in favor of the United States and the State, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and Ind. Code §§ 13-25-4-10 and § 13-25-4-8(a), holding the Defendant jointly and severally liable for all unreimbursed response costs incurred by the United States and the State in connection with the Site, including enforcement costs and prejudgment interest;

C. Pursuant to Section 113(g)(2) of CERCLA, and Ind. Code § 13-25-4-8(a), enter a declaratory judgment of joint and several liability in favor of the United States and the State and against the Defendant that will be binding on any subsequent action or actions to recover further response costs or damages in connection with OU 2 at the Site;

D. Award the United States and the State for their costs and fees in this action; and

E. Award such other relief as this Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

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Assistant Attorney General
Environment and Natural Resources Division

s/Steven D. Ellis
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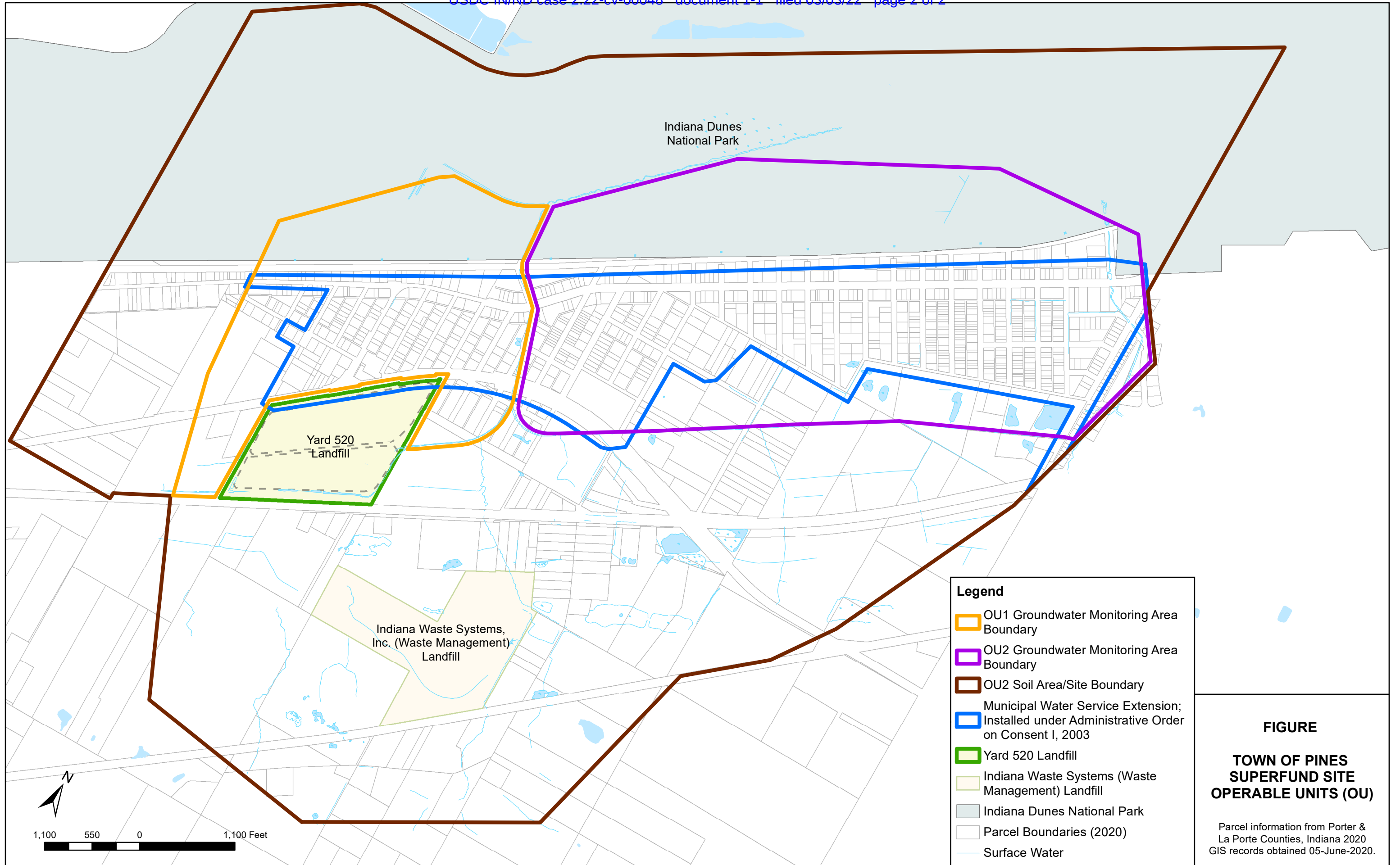
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)
)
and)
) Civil Action No. 2:22-cv-48
STATE OF INDIANA,)
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) Plaintiffs,)
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) v.)
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)
) NORTHERN INDIANA PUBLIC)
) SERVICE COMPANY LLC,)
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)
) Defendant.

**ATTACHMENT 1 TO COMPLAINT
MAP OF SITE**



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
United States of America
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Steven D. Ellis, United States Department of Justice, P.O. Box 7611, Washington, D.C. 20044. Phone: (202) 514-3163

DEFENDANTS
Northern Indiana Public Service Company, LLC
County of Residence of First Listed Defendant Lake
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Gabriel M. Rodriguez, Schiff Hardin LLP, 233 South Wacker Drive | Suite 7100 | Chicago, IL 60606. Phone: (312) 258-5516

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
X 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1 Incorporated or Principal Place of Business In This State 4 4
Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5
Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise.
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property.
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice.
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty. Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement.
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other.
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act.
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions.
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157.
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark.
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g)).
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609.
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes.

V. ORIGIN (Place an "X" in One Box Only)
X 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 9606, 9607(a)
Brief description of cause:
Seeking injunctive relief and response costs pursuant to statute

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 03/03/2022 SIGNATURE OF ATTORNEY OF RECORD s/Steven D. Ellis

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

USDC IN/ND case 2:22-cv-00048 document 1-2 filed 03/03/22 page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.