

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABB, Inc.,

Defendant.

Civil Action No. 0:26-cv-1144-SAL

COMPLAINT

The Plaintiff, the United States of America (“United States”), by 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”), alleges as follows:

STATEMENT OF THE ACTION

1. This is a civil action under Sections 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9606(a) and 9607(a). The United States seeks to recover costs incurred, and to be incurred, in conducting actions in response to a

release and threatened release of hazardous substances at the Henry's Knob Superfund Site ("Site") in Clover, York County, South Carolina. The United States also seeks injunctive relief requiring the Defendant to perform certain response actions at the Site consistent with the national contingency plan, 40 C.F.R. Part 300.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, and the parties hereto, pursuant to 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district under 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b), because the release and/or threatened release of hazardous substances that give rise to this complaint occurred in this district and because the Site is located in this district.

DEFENDANT

Type text here

4. ABB, Inc. ("ABB") is a corporation organized under the laws of Delaware with its corporate office located in Cary, North Carolina. It is a subsidiary of ABB, Ltd., a Swiss-Swedish multinational corporation headquartered in Zurich, Switzerland. It is a current owner of property on the Site.

STATUTORY FRAMEWORK

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

6. Under Section 104(a)(1) of CERCLA:

Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment

42 U.S.C. § 9604(a)(1).

7. For CERCLA response actions and enforcement purposes, the Administrator of EPA is the President’s delegate, as provided in operative Executive Orders, and, within certain limits, the Regional Administrators of EPA

have been re-delegated this authority, which has been further re-delegated to the Director of the Superfund Division.

8. 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 . . . secure such relief as may be necessary to abate such danger or threat

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

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

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, . . . 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;

10. In any action for recovery of costs under 42 U.S.C. § 9607, “the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.” 42 U.S.C. § 9613(g)(2).

11. The amounts recoverable under CERCLA include interest accruing from the later of the date that payment of a specified amount is demanded in writing or the date of the expenditure. 42 U.S.C. § 9607(a).

FACTUAL BACKGROUND

12. The Site is located at the intersection of South Carolina Highway 55 and Henry's Knob Road, near the town of Clover in York County, South Carolina. It encompasses approximately 185 acres and generally consists of the remnants of an open pit mine and associated tailings impoundments and waste rock piles. The Site is surrounded by residential uses in a rural area.

13. From 1947 to 1970, an open pit mine was operated at the Site to extract the mineral kyanite for use in bricks and other high-temperature, refractory materials.

14. The primary environmental impacts at the Site are attributable to acid mine drainage (AMD), created by the weathering of naturally occurring minerals in waste rock and tailings areas, which causes the hazardous substances at the Site, primarily cobalt and manganese, to leach from soil to groundwater and later discharge to surface water.

15. ABB is the current property owner and successor in interest to former owner/operator Commercial Ores, Inc., which operated the mine from 1947 to

1970. By merger, Commercial Ores formed Combustion Engineering, Inc. in 1970. ABB purchased Combustion Engineering in 1990. ABB later sold Combustion Engineering to Alstom Power. In that transaction, Alstom Power purchased the assets of Combustion Engineering from ABB, but ABB retained all of the company's environmental liability, including liability associated with the Site.

16. The South Carolina Department of Health and Environmental Control conducted assessments at the Site from 2000 to 2002 and found elevated levels of metals in soil, sediment, surface water, and groundwater.

17. In 2011, ABB completed a Remedial Investigation (RI) to define the nature and extent of contamination at the Site under a 2004 Administrative Order on Consent (AOC) with EPA. The RI concluded that AMD accelerated the mobilization and leaching of naturally occurring metals in soil to groundwater, resulting in elevated concentrations of metals, particularly cobalt and manganese, above Regional Screening Levels and normal background levels. The RI also found that AMD affected surface water in several tributaries at the Site.

18. Cobalt compounds and manganese compounds are hazardous substances as defined by CERCLA. 42 U.S.C. § 9601(14) and Table 302.4 at 40 C.F.R § 302.4.

19. Although EPA determined the Site qualified for listing on the National Priorities List, EPA has addressed the Site using EPA's Superfund Alternative Approach.

20. In 2012, ABB conducted an Engineering Evaluation/Cost Analysis to evaluate removal action alternatives to mitigate potential human health risks associated with the potable use of groundwater in the Site vicinity and to evaluate alternative sources of drinking water.

21. In 2013, EPA issued an action memorandum requiring ABB to install wellhead treatment systems on individual residential drinking water wells. The treatment systems eliminate the consumption of contaminated, or potentially contaminated, groundwater by providing treated water. ABB offered treatment systems to 30 homes in the Site vicinity. As required in the action memorandum, ABB performs ongoing operation and maintenance on the treatment systems installed at residences where untreated groundwater exceeds protective, human health risk-based drinking water levels for cobalt and manganese. ABB also supplies bottled potable water to certain residents within the area of impacted groundwater who have chosen not to have wellhead treatment systems installed or have abandoned their wells.

22. From 2015 to 2017, ABB conducted interim removal actions at the Site, including installation of a fence around the mine pit pond to restrict access to

the pond and surrounding area; construction and maintenance of temporary check dams to mitigate erosion of tailings; and long-term stabilization of tailings.

23. In May 2019, ABB submitted a Feasibility Study (FS), which developed and evaluated alternatives for remedies to mitigate potential ecological and human health risks associated with the Site.

24. EPA developed a Proposed Interim Action Plan and sought public comments on the Plan from August 23 through September 21, 2019. EPA made the RI report, FS document, Proposed Interim Action Plan, and all other pertinent documents for the Site available to the public throughout the comment period.

25. EPA selected an Interim Remedial Action for the Site, embodied in an Interim Record of Decision (IROD), executed on September 30, 2019. The State of South Carolina has given its concurrence on the IROD. The IROD includes EPA's responsiveness summary to the public comments.

26. The Interim Remedial Action requires ABB to implement institutional controls, groundwater monitoring, and maintenance and monitoring of the Site's contamination source areas.

27. EPA modified the Interim Remedial Action selected in the IROD with an Explanation of Significant Differences (ESD), executed on March 30, 2021. The ESD calls for construction of additional groundwater monitoring wells to provide the data necessary for implementation of the remedial action selected in

the IROD. EPA satisfied public participation requirements for the ESD by making the ESD and supporting information available to the public in the administrative record and by publishing a notice summarizing the ESD in a major local newspaper of general circulation.

28. EPA has deferred selection of a final remedy until the natural attenuation of contaminants can be evaluated following the implementation of the Interim Remedial Action. Deferral also allows for the development of necessary background level data. EPA anticipates selecting additional response actions for the Site, which would be embodied in a final Record of Decision.

GENERAL ALLEGATIONS

29. The Site is a “facility” within the meaning of 42 U.S.C. §§ 9601(9), 9606(a) and 9607(a).

30. Hazardous substances, as defined in 42 U.S.C. § 9601(14), have been released at the Site, and/or there is a threat of such release at the Site, as defined by 42 U.S.C. § 9601(22).

31. ABB is a “person” within the meaning of 42 U.S.C. §§ 9601(21) and 9607(a).

32. Through the date of filing of this complaint, the United States has incurred at least \$471,405 in unreimbursed response costs within the meaning of

42 U.S.C. § 9601(25) for actions taken in response to the release or threat of release of hazardous substances at the Site.

33. The United States has and will continue to incur response costs in connection with the Site.

34. The United States' response actions taken with respect to the Site and the costs incurred related to those actions are not inconsistent with the National Contingency Plan, which was promulgated under 42 U.S.C. § 9605, and is codified at 40 C.F.R. Part 300 *et seq.*

35. ABB is liable for all of the United States' response costs incurred and to be incurred at the Site, as the current owner and operator of the Site as defined by 42 U.S.C. § 9601(20) and within the meaning of 42 U.S.C. § 9607(a)(1), and as the successor to the owner and operator of the Site at the time of the disposal of hazardous substances under 42 U.S.C. § 9607(a)(2).

36. In the IROD, EPA determined that the response actions are necessary to abate a danger or threat with respect to groundwater and surface water contamination at the Site.

FIRST CLAIM FOR RELIEF

(Injunctive Relief under 42 U.S.C. § 9606)

37. Paragraphs 1–36 are realleged and incorporated herein by reference.

38. Under 42 U.S.C. § 9606(a), ABB is liable to perform the remedial actions identified in the IROD, including amendments thereto, which EPA has determined are necessary to abate a danger or threat with respect to groundwater, surface water, and sediment contamination at the Site.

SECOND CLAIM FOR RELIEF

(Cost Recovery by the United States under 42 U.S.C. § 9607)

39. Paragraphs 1–36 are realleged and incorporated herein by reference.

40. Under 42 U.S.C. §§ 9607(a) and (b), ABB is liable to the United States for all of the United States' unreimbursed response costs incurred in connection with the Site, including enforcement costs and prejudgment interest on such costs.

THIRD CLAIM FOR RELIEF

(Declaratory Judgment for Recovery of Further Response Costs by the United States under 42 U.S.C. § 9613(g)(2))

41. Paragraphs 1–36 are realleged and incorporated herein by reference.

42. Under 42 U.S.C. § 9613(g)(2), ABB is liable to the United States for any unreimbursed further response costs that the United States incurs in the future in connection with the Site that are not inconsistent with the National Contingency Plan.

REQUEST FOR RELIEF

WHEREFORE, the United States respectfully requests that the Court:

- a. On the First Claim for Relief, enter judgment against ABB and in favor of the United States, ordering ABB to perform the response actions selected in the IROD to abate the conditions at the Site;
- b. On the Second Claim for Relief, enter judgment against ABB and in favor of the United States for all unreimbursed response costs incurred by the United States in connection with the Site;
- c. On the Third Claim for Relief, enter a declaratory judgment against ABB and in favor of the United States, holding ABB liable for all future response costs incurred by the United States in connection with the Site;
- d. Award the United States its costs of this action; and
- e. Grant such other and further relief as the Court deems appropriate.

FOR THE UNITED STATES OF AMERICA

Respectfully submitted,

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: March 19, 2026

/s/ Brian Schaap

BRIAN SCHAAP
D.C. Bar No. 1780655
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
202-598-0116
Brian.Schaap@usdoj.gov

OF COUNSEL:

JOHN SHEESLEY
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, GA 30303