

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA,	)	
and THE STATE OF MISSOURI,	)	
	)	
Plaintiffs,	)	COMPLAINT
	)	
v.	)	Case No. 26-cv-482
	)	
U.S. BORAX, INC.,	)	
	)	
Defendant.	)	
_____	)	

The United States of America, by the authority of the Attorney General of the United States, acting at the request of the Administrator of the United States Environmental Protection Agency (EPA), and the state of Missouri, by and through the Attorney General of the State of Missouri and the Missouri Department of Natural Resources (MDNR), file this complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action brought against U.S. Borax, Inc., (Defendant), pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607(a), and section 260.530 of the Mo. Rev. Stat., regarding the Armour Road Superfund Site (Site) in North Kansas City, Clay County, Missouri.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and over Defendant under 28 U.S.C. §§ 1331, 1345, and 1367, and section 113(b) of CERCLA, 42 U.S.C. § 9613(b).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and section 113(b) of CERCLA, 42 U.S.C. § 9613(b), because the Site is located in this district and the relevant releases or threatened releases of hazardous substances occurred within this district.

THE DEFENDANT

4. Defendant is a corporation organized under the laws of Delaware with a designated service address of 251 Little Falls Drive, Wilmington, Delaware 19808. Defendant was an operator of the Site from 1963 to 1968.

THE STATUTORY FRAMEWORK

CERCLA

5. Congress enacted CERCLA in 1980 to provide a comprehensive governmental mechanism to abate releases and threatened releases of hazardous substances and to fund the costs of such enforcement activities, known as response actions. 42 U.S.C. §§ 9604(a); 9601(25).

6. Under section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1):

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 ...

7. The President's functions under section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1), have been delegated to the EPA Administrator. Exec. Order No. 12,580, 52 Fed. Reg. 2,923 (Jan. 23, 1987). The EPA Administrator has re-delegated this authority to the Regional Administrators of EPA.

8. Under section 107(a) of CERCLA, 42 U.S.C. § 9607(a):

[A]ny person who at the time of disposal of any hazardous substance ... operated any facility at which such hazardous substances were disposed of ... shall be liable for ... all costs of removal or remedial action incurred by the United States Government or a State or an Indian tribe not inconsistent with the national contingency plan . . .

Under section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the Court shall enter a declaratory judgment on liability for response costs that will be binding that will be binding on any subsequent action or actions to recover further response costs.

Liability incurred under Section 260.530 (Spill Bill)

9. Section 260.510 of the Mo. Rev. Stat. (2010) provides that when there is a hazardous substance emergency, the director of the Missouri Department of Natural Resources may clean up the hazardous substance and take any actions necessary to end the hazardous substance emergency if the person having control over a hazardous substance fails to take reasonable actions required by the director to clean up such hazardous substance or end such hazardous substance emergency.

10. Section 260.500.5 of the Mo. Rev. Stat. defines “hazardous substance” as:

any substance or mixture of substances that presents a danger to the public health or safety or the environment and includes:...(b) Any element, compound, mixture, solution, or substance designated pursuant to Sections 101(14) and 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and Section 302 of the Superfund Amendments and Reauthorization Act of 1986, as amended.

11. Section 260.500(6)(a) of the Mo. Rev. Stat. defines “hazardous substance emergency” as:

any release of hazardous substances in quantities equal to or in excess of those determined pursuant to Section 101(14) or 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and Section 304 of the Superfund Amendments and Reauthorization Act of 1986, as amended.

12. Section 260.530.1 of the Mo. Rev. Stat. provides in pertinent part that:

[a]ny person having control over a hazardous substance shall be strictly liable to the state of Missouri for the reasonable cleanup costs incurred by the state as a result of the failure of such person to clean up a hazardous substance involved in a hazardous substance emergency in accordance with the requirements of sections 260.500 to 260.550 and rules promulgated by the department pursuant thereto.

GENERAL ALLEGATIONS

13. The Armour Road Superfund Site is located at 2251 Armour Road in North Kansas City, Clay County, Missouri, and comprises approximately 1.8 acres.

14. Defendant leased the Site between about 1963 and 1968, during which time it conducted herbicide blending operations. These operations included receiving bulk shipments of arsenic compounds, mixing and packaging the compounds, and loading rail cars with the mixed arsenic-based herbicides for distribution.

15. As a result of Defendant's operations, the soils and groundwater at the Site became contaminated with arsenic, 2,4-dichlorophenoxyacetic acid ("2,4-D"), 2,4,5-trichlorophenoxyacetic acid ("2,4,5-T"), and pentachlorophenol ("PCP").

16. Each of these substances is a "hazardous substance" as defined in section 101(14) of CERCLA and designated a hazardous substance in 40 C.F.R. § 302.4.

17. In 1999, EPA placed the Site on the National Priorities List. The National Priorities List was established pursuant to section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

18. In 1997, MDNR listed the Site on the state's registry of abandoned or uncontrolled hazardous waste sites, pursuant to Section 260.440 of the Mo. Rev. Stat.

19. EPA has conducted response actions and incurred costs regarding the Site. In September 2022, EPA issued a "Record of Decision" ("ROD") in which it selected an interim remedy to be conducted regarding the soils and groundwater at the Site.

First Claim for Relief – Recovery of EPA’s Past Costs

20. The Site is a facility within the meaning of section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

21. There have been releases, within the meaning of section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and threatened releases, of hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), at or from the Site.

22. The United States has incurred costs of response, within the meaning of section 101(25) of CERCLA, 42 U.S.C. § 9601(25), to respond to the releases or threatened releases of hazardous substances at the Site.

23. The United States’ response actions at the Site are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

24. Defendant was an operator at the time of disposal of hazardous substances at the Site and is a person who is liable under section 107(a)(2) of CERCLA, 42 U.S.C. § 9607 (a)(2), for the United States’ response costs at the Site.

Second Claim for Relief – Recovery of Missouri’s Response Costs

25. Arsenic is defined as a hazardous substance pursuant to Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and by incorporation and reference, Section 260.500(5)(b) of the Mo. Rev. Stat. The release of this hazardous substance into the environment at or from the Site during the time that Defendant owned and/or operated the Site constitutes a “hazardous substance emergency” within the meaning of Section 260.500(6)(a) of the Mo. Rev. Stat.

26. Pursuant to Section 260.530.1 of the Mo. Rev. Stat. Defendant is liable to the State for the cleanup costs incurred or to be incurred by the State in connection with the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

1. Enter a judgment in favor of Plaintiffs, under section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and Section 260.530.1 of the Mo. Rev. Stat., holding Defendant liable for response costs incurred or to be incurred by Plaintiffs in connection with the Site, plus interest thereon;

2. Enter a declaratory judgment, under section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that Defendant is liable for response costs incurred and to be incurred in connection with the Site that will be binding in any subsequent action or actions for further response costs concerning the Site;

3. Award Plaintiffs their costs of this action; and

4. Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA:

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

6/5/2026
Dated

By: /s/ Erika M. Wells
ERIKA M. WELLS
Senior Counsel
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

R. MATTHEW PRICE
United States Attorney

6/5/2026
Dated

By: /s/ Jeffrey P. Ray
Jeffrey P. Ray
First Asst. U.S. Attorney/Civil Chief
Missouri Bar No. 35632

Charles Evans Whittaker Courthouse
400 East 9th Street, Room 5510
Kansas City, Missouri 64106
(816) 426-3130

OF COUNSEL:

SHANNON MARCANO
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas

FOR THE STATE OF MISSOURI:

CATHERINE L. HANAWAY
Attorney General
State of Missouri

6/5/2026
Dated

By: /s/ Richard N. Groeneman
Richard N. Groeneman
Assistant Attorney General
Missouri Bar No. 57157

P. O. Box 861
St. Louis, MO 63188
Telephone: (314) 340-7834
Facsimile: (573) 751-5660