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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

UNITED STATES OF AMERICA and)
STATE OF WASHINGTON,)
Plaintiffs,)

v.)

Civil Action No. 2:26-cv-738

THE BOEING COMPANY; THE CITY OF)
SEATTLE; KING COUNTY;)
CONTINENTAL HOLDINGS, INC.;)
ALASKA PROVIDER, LLC; ALASKA TRADER,)
LLC; ALASKA MARINE LINES, INC.;)
ALEUTIAN TRADER, LLC; ANCHORAGE)
PROVIDER, LLC; ANCHORAGE TRADER,)
LLC; ARCTIC BEAR, LLC; ARCTIC GULL,)
LLC; ARCTIC PROVIDER, LLC; ARDAGH)
GLASS INC. (f/k/a SAINT-GOBAIN)
CONTAINERS INC.); ASH GROVE CEMENT)
COMPANY; BALL CORPORATION; BAYER)
CROPSCIENCE INC.; BARANOF PROVIDER,)
LLC; BERING TRADER, LLC; BERING)
MARINE CORPORATION; BOYER TOWING,)
INC.; BOYER LOGISTICS, INC.; BNSF)
RAILWAY COMPANY; CENTERPOINT 8801)
MARGINAL LLC; CHATHAM PROVIDER, LLC;))
CHICHAGOF PROVIDER, LLC; CHIYODA)
CORPORATION; CHIYODA INTERNATIONAL)
CORPORATION; CONGLOBAL INDUSTRIES,)
LLC; CORDOVA PROVIDER, LLC; CROWLEY)

COMPLAINT

1 MARINE SERVICES, INC.; DAVID J. JOSEPH)
 2 COMPANY; DELTA MARINE INDUSTRIES,)
 3 INC.; DOUGLAS MANAGEMENT COMPANY;)
 4 DUWAMISH SHIPYARD, INC.; EARLE M.)
 5 JORGENSEN COMPANY; FAIRBANKS)
 6 PROVIDER, LLC; FRANK H. HOPKINS)
 7 FAMILY L.L.C.; FREDERICK J. HOPKINS)
 8 FAMILLY L.L.C.; FORD MOTOR COMPANY;)
 9 FOX AVENUE BUILDING LLC; MR. BOYER)
 10 HALVORSEN; MS. MAIA HALVORSEN;)
 11 GENERAL RECYCLING OF WASHINGTON,)
 12 LLC; GLACIER NORTHWEST, INC.; GRETA,)
 13 LLC; HAWAII TRADER, LLC; HOLCIM (US)
 14 INC.; MR. HARALD HURLEN; HURLEN)
 15 CONSTRUCTION COMPANY; HURLEN)
 16 LOGISTICS, LLC, a dissolved company; HOLCIM)
 17 CANADA HOLDINGS LLC (f/k/a LAFARGE)
 18 NORTH AMERICA, INC.); INTERNATIONAL)
 19 PAPER COMPANY; IVAN, LLC; JORE)
 20 MARINE SERVICES, INC., a dissolved)
 21 corporation; KAMAKANI, LLC; KENAI)
 22 TRADER, LLC; KNIK CONSTRUCTION CO.,)
 23 INC.; KOYUKUK, LLC; KRYSTAL SEA, LLC;)
 24 KUSKOKWIM TRADER, LLC; LAFARGE PNW)
 25 INC.; LINDE INC. (f/k/a PRAXAIR, INC.); LTI,)
 26 INC.; LYNDEN INCORPORATED; LYNDEN)
 27 MARINE LEASING, LLC; LYNDEN)
 28 TRANSPORT, INC.; MANSON)
 CONSTRUCTION CO.; MANSON)
 INTERNATIONAL, INC.; MARINE)
 BONEYARD, LLC; NAKNEK BARGE LINES,)
 LLC, a dissolved company; NAKNEK TRADER,)
 LLC; NORTHLAND SERVICES, INC.;)
 NORTHWEST AGGREGATES CO.;)
 NORTHWEST CONTAINER SERVICES, INC.;)
 NUCOR STEEL SEATTLE, INC.; NUNANIQ,)
 LLC; PACCAR INC.; PACIFIC TRADER, LLC;)
 PHARMACIA LLC; POLAR CLOUD, LLC;)
 POLAR ENDURANCE, LLC; POLAR KING,)
 LLC; POLAR TRADER, LLC; POLAR VIKING,)
 LLC; POLAR WIND, LLC; PUGET SOUND)
 ENERGY, INC.; PSFLLEASING, INC. (f/k/a)
 PUGET SOUND TRUCK LINES, INC.), a)
 dissolved corporation; RAMPART, LLC; SAM M.)
 TAALAK, LLC; SEATAC MARINE)

Complaint (2:26-cv-738) - 2

U. S. DEPARTMENT OF JUSTICE
 Environment and Natural Resources Division
 7600 Sand Point Way NE
 Seattle, WA 98115

1 PROPERTIES, LLC; SEATAC MARINE
 2 SERVICES, LLC; SEATTLE BOILER WORKS,)
 3 INC.; SEATTLE IRON & METALS
 4 CORPORATION; SHALMAR 08, LLC; SILVER
 5 BAY LOGGING, INC.; SIMCO PROPERTIES,)
 6 LLC; SIX TWENTY SOUTH LOGISTICS, LLC,
 7 a dissolved company; SKAGWAY PROVIDER,)
 8 LLC; SOUTHEAST PROVIDER, LLC; SOUTH
 9 PARK MARINA, LIMITED PARTNERSHIP;)
 10 SPENCER BREWER, LLC; MS. KIRSTEN
 11 HALVORSEN STAHL; STICKEEN, LLC;)
 12 STIKINE PROVIDER, LLC; SURPLUS ITEMS
 13 INC.; SWAN BAY HOLDINGS, INC.; S & JA)
 14 HALE FAMILY LIMITED PARTNERSHIP;
 15 THE SHALMAR GROUP, LLC; TAKU)
 16 PROVIDER, LLC; TOGIAC TRADER, LLC;
 17 TONGASS PROVIDER, LLC; WASHINGTON)
 18 STATE DEPARTMENT OF
 19 TRANSPORTATION; WELLS FARGO BANK,)
 20 NATIONAL ASSOCIATION.; WESTROCK
 21 LONGVIEW, LLC (f/k/a LONGVIEW FIBRE)
 22 PAPER AND PACKAGING, INC.); WESTWARD
 23 TRADER, LLC; WEYERHAEUSER COMPANY;)
 24 WHITTIER PROVIDER, LLC; YUKON
 25 TRADER, LLC; 8TH AVENUE TERMINALS,)
 26 INC.; 5055 PROPERTIES, LLC; 5600 W.
 27 MARGINAL WAY, SW, SEATTLE, LLC; 5615)
 28 W. MARGINAL WAY SW, SEATTLE, LLC; and
 7100 1ST AVE. S, SEATTLE, LLC,)
 Defendants.)

COMPLAINT

The United States of America, by authority of the Attorney General of the United States, acting at the request of the Administrator of the U.S. Environmental Protection Agency (“EPA”), and the State of Washington (“State”), acting through the Washington State Department of Ecology (“Ecology”) (together “Plaintiffs”) file this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action under Sections 106 and 107 of the Comprehensive
Complaint (2:26-cv-738) - 3

U. S. DEPARTMENT OF JUSTICE
Environment and Natural Resources Division
7600 Sand Point Way NE
Seattle, WA 98115

1 Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9606
2 and 9607, and the Washington State Model Toxics Control Act (“MTCA”), RCW 70A.305.030–
3 70A.305.050.

4 2. Plaintiffs seek to recover costs incurred in response to releases and threatened
5 releases of hazardous substances into the Lower Duwamish Waterway Superfund Site in Seattle,
6 WA (“Site”) and to require performance of a response action at the Site consistent with the
7 National Contingency Plan, 40 C.F.R. Part 300 (“NCP”), and the Washington Administrative
8 Code (“WAC”) sections 173-340 and 173-204.

9
10 **JURISDICTION AND VENUE**

11 3. This Court has jurisdiction over the subject matter of this action and over the
12 parties under 28 U.S.C. §§ 1331, 1345, and 1367, and Sections 106, 107, and 113(b) of
13 CERCLA, 42 U.S.C. §§ 9606(a), 9607(a), and united (b).

14 4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1395(a),
15 and Section 113(b) of CERCLA, 42 U.S.C. §9613(b), because the releases or threatened releases
16 of hazardous substances that gave rise to these claims occurred in this district, and because the
17 Site is located in this district.
18

19
20 **DEFENDANTS**

21 5. Each Defendant is a “person” within the meaning of Section 101(21) of
22 CERCLA, 42 U.S.C. § 9601(21) and RCW 70A.305.020(24).

23 6. Each Defendant falls within one or more of the classes of liable persons described
24 in Section 107(a)(1)–(4) of CERCLA, 42 U.S.C. § 9607(a)(1)–(4), and RCW 70A.305.040(1).
25

26 **STATUTORY AND REGULATORY BACKGROUND**

27 7. Congress enacted CERCLA in 1980 to provide a comprehensive governmental
28

1 mechanism to abate releases and threatened releases of hazardous substances and to fund the
2 costs of such enforcement activities, known as response actions. 42 U.S.C. §§ 9604(a),
3 9601(25).

4 8. Under Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1):

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

16 9. Under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a):

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

22 10. The President's functions under Section 104(a)(1) and 106(a) of CERCLA, 42
23 U.S.C. § 9604(a)(1) and § 9606(a), have been delegated to the EPA Administrator. Exec. Order
24 No. 12,580, 52 Fed. Reg. 2,923 (Jan. 23, 1987). The EPA Administrator has re-delegated this
25 authority to the Regional Administrators of EPA.

26 11. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a):

27 Notwithstanding any other provision or rule of law, and subject only to the
28 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,

1 (3) any person who by contract, agreement, or otherwise arranged for disposal or
2 treatment, or arranged with a transporter for transport for disposal or treatment,
3 of hazardous substances owned or operated by such person, by any other party
4 or entity, at any facility or incineration vessel owned or operated by another
party or entity and containing such hazardous substances, and

5 (4) any person who accepts or accepted any hazardous substances for transport to
6 disposal or treatment facilities, incineration vessels or sites selected by such
7 person, 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 –

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

10 12. Under Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States
11 may seek a declaratory judgment that each Defendant is liable for, *inter alia*, response costs that
12 will be binding on any subsequent action or actions against such Defendant to recover further
13 response costs.
14

15 13. MTCA evolved from a Washington State citizens’ initiative and became law in
16 1989. It is based on the understanding that each person has a fundamental, inalienable right to a
17 healthy environment, and that the present generation has an obligation to preserve the State’s
18 land, air, and waters for the benefit of future generations. *See* RCW 70A.305.010.
19

20 14. MTCA, RCW 70A.305.040, provides in pertinent part as follows:

21 (1) Except as provided in subsection (3) of this section, the following persons are liable
22 with respect to a facility:

23 (a) The owner or operator of the facility;

24 (b) Any person who owned or operated the facility at the time of disposal or release
25 of the hazardous substances;

26 (c) Any person who owned or possessed a hazardous substance and who by
27 contract, agreement, or otherwise arranged for disposal or treatment of the
hazardous substance at the facility, or arranged with a transporter for transport

1 for disposal or treatment of the hazardous substances at the facility, or otherwise
2 generated hazardous wastes disposed of or treated at the facility;

3 (d) Any person (i) who accepts or accepted any hazardous substance for transport
4 to a disposal, treatment, or other facility selected by such person from which
5 there is a release or a threatened release for which remedial action is required,
6 unless such facility, at the time of disposal or treatment, could legally receive
7 such substance; or (ii) who accepts a hazardous substance for transport to such
8 a facility and has reasonable grounds to believe that such facility is not operated
9 in accordance with chapter 70A.300 RCW; and

10 (e) Any person who both sells a hazardous substance and is responsible for written
11 instructions for its use if (i) the substance is used according to the instructions
12 and (ii) the use constitutes a release for which remedial action is required at the
13 facility.

14 (2) Each person who is liable under this section is strictly liable, jointly and severally, for
15 all remedial action costs . . . resulting from the releases or threatened releases of
16 hazardous substances.

17 **GENERAL ALLEGATIONS**

18 15. The Lower Duwamish Waterway Superfund Site is located in Seattle and
19 Tukwila, Washington. For purposes of this action, the Site includes the portion of the Lower
20 Duwamish Waterway (the “Waterway”) that is below mean higher high water (“MHHW”) and
21 extends south five miles from the southern tip of Harbor Island in Seattle, Washington. The
22 southernmost portion of the Site is located in Tukwila, Washington. The Site includes slips,
23 inlets, and bays connected to the Waterway, and banks and other areas (including areas
24 considered or selected for early action) below MHHW. It does not include downstream or
25 upstream areas (such as the Harbor Island Superfund Site), groundwater, or locations above
26 MHHW.

27 16. The Site has served as Seattle’s major industrial corridor since the early 1900s.
28 Ongoing and past industrial, urban, and transportation activity has resulted in significant
contamination of the Waterway and many nearby properties. Industrial and commercial

1 activities within the Site have included airplane manufacturing; timber related operations;
2 cement and brick manufacturing; steel mills and foundries; marine construction and repair; drum
3 recycling; and chemical production. In addition, combined sewage and stormwater systems and
4 stormwater management systems within the Site have discharged and continue to discharge
5 untreated collected wastewaters and stormwaters into the Waterway.
6

7 17. EPA placed the Site on the National Priorities List on September 13, 2001.

8 18. On December 20, 2000, EPA entered an administrative order on consent for a
9 remedial investigation/feasibility study (“RI/FS”) with The Boeing Company, the City of Seattle,
10 King County, and the Port of Seattle. The RI was completed in 2010, and the FS was completed
11 in 2012.
12

13 19. EPA has documented the presence of 41 hazardous substances within the Site that
14 pose significant risks to human health and/or the environment. The most significant human
15 health risk drivers include polychlorinated biphenyls (PCBs), arsenic, carcinogenic polycyclic
16 aromatic hydrocarbons (cPAHs), dioxins, and furans.
17

18 20. As a result of the RI/FS, EPA selected a response action to address contamination
19 at the Site in an EPA decision document, dated November 21, 2014, referred to as the Record of
20 Decision (“ROD”).
21

22 21. On July 18, 2024, EPA issued a Unilateral Administrative Order to The Boeing
23 Company, the City of Seattle, and King County to require implementation of response action
24 selected in the ROD.

25 22. The Site is a location where hazardous substances have been deposited, stored,
26 disposed of, placed, or otherwise come to be located, and therefore is a “facility” as defined in
27 Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and RCW 70A.305.020(8).
28

1 23. The PCBs, arsenic, cPAHS, dioxins, furans, and other contaminants, which have
2 come to be located at the Site, are “hazardous substances” within the meaning of Section 101(14)
3 of CERCLA, 42 U.S.C. § 9601(14), and RCW 70A.305.020(13).

4 24. Each of the Defendants own or operate, owned or operated, or arranged for
5 disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of
6 hazardous substances for, at least one “facility” and/or “vessel” at the Site as defined in Section
7 101(9) & (28) of CERCLA, 42 U.S.C. § 9601(9) & (28).

8 25. Each vessel or facility owned and/or operated by Defendants, or for which
9 Defendants arranged for disposal or treatment, or arranged with a transporter for transport for
10 disposal or treatment, of hazardous substances, is or was a “vessel” or “facility” from which
11 there have been “releases” or threatened releases of one or more “hazardous substances” to the
12 Site as those terms are defined in Section 101 of CERCLA, 42 U.S.C. § 9601, and RCW
13 70A.305.020 and 70A.305.040.

14 26. The United States has undertaken response actions to address the release or
15 threatened release of hazardous substances at or from the Site. In undertaking the response
16 actions, the United States has incurred and will continue to incur “response” costs as defined in
17 Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

18 27. The United States’ response actions taken with respect to the Site and the costs
19 incurred related to those actions are not inconsistent with the National Contingency Plan,
20 promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part
21 300 *et seq.*

22 28. EPA has determined that the hazardous substances at the Site present significant
23 risks to human health and the environment, and that response actions are necessary to abate a

1 danger or threat.

2 29. Ecology has undertaken remedial actions to address the release or threatened
3 release of hazardous substances at or from the Site. In undertaking remedial actions, Ecology
4 has incurred and will continue to incur “remedial action” costs as defined in RCW
5 70A.305.020(33).

6
7 30. Ecology has determined that a release or threatened release of hazardous
8 substances has occurred at the Site, and that remedial actions are necessary to protect human
9 health and the environment.

10 **FIRST CLAIM FOR RELIEF**

11 *Recovery of Costs Under CERCLA Section 107(a) and RCW 70A.305.040*

12
13 31. Paragraphs 1 through 30 are realleged and incorporated herein.

14 32. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), each Defendant is jointly
15 and severally liable for all unreimbursed response costs incurred by the United States in
16 connection with the Site.

17
18 33. Under RCW 70A.305.040(1)–(2), each Defendant is strictly liable, jointly and
19 severally, for all remedial action costs incurred by the State in connection with the Site. The
20 Washington Attorney General, acting at the request of Ecology, is empowered to recover all
21 costs and damages from persons liable therefor.

22
23 34. Under Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States
24 is further entitled to a declaratory judgment that each Defendant is jointly and severally liable to
25 the United States, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs that
26 will be binding on any subsequent action or actions to recover further response costs in
27 connection with the Site.

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Seattle, WA 98115

SECOND CLAIM FOR RELIEF

Performance of Response Action under CERCLA Section 106(a) and RCW 70A.305.030(1)

35. Paragraphs 1 through 30 are realleged and incorporated herein.

36. The President, through his delegate, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of a release of hazardous substances or a threatened release of hazardous substances at or from the Site.

37. Under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), Defendants are jointly and severally liable to perform the response action selected in the ROD, including amendments thereto, which EPA determines are necessary to protect the public health or welfare or the environment.

38. Under RCW 70A.305.030(1), Ecology may require a potentially liable person to conduct remedial actions (including investigations) to remedy releases or threatened releases of hazardous substances.

RELIEF SOUGHT

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

1. Enter judgment in favor of Plaintiffs, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and RCW 70A.305.040, holding each Defendant jointly and severally liable for response costs 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 each Defendant is jointly and severally liable for response costs incurred and to be incurred in connection with the Site. This declaratory judgment will be binding in any subsequent action or actions for further response costs concerning the Site.

1 3. Enter judgment in favor of Plaintiffs, under Section 106(a) of CERCLA, 42
2 U.S.C. § 9606(a), and RCW 70A.305.050(4), ordering Defendants to perform the response
3 action selected in the ROD;

4 4. Award Plaintiffs their costs in this action; and

5 5. Grant such other relief as this Court may deem just and proper.
6

7
8 Date: March 4, 2026

9 Respectfully submitted,

10 FOR THE UNITED STATES

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12 Acting Deputy Assistant Attorney General
13 U.S. Department of Justice
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Washington, D.C. 20530-7611

15 s/ Erika Wells
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