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14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA  
16 WESTERN DIVISION

17 UNITED STATES OF AMERICA,  
18 Plaintiff,

Civil Action No. 2:15-cv-7619

19 v.

20 SHELL OIL COMPANY,  
21 Defendant.

**COMPLAINT**

22  
23 The United States of America, by authority of the Attorney General of the  
24 United States and through the undersigned attorneys, acting at the request of the  
25 Administrator of the United States Environmental Protection Agency (“EPA”),  
26 files this Complaint and alleges as follows:  
27  
28

1 **NATURE OF THE ACTION**

2 1. This is a civil action for injunctive relief and recovery of costs brought  
3 against Shell Oil Company (“Defendant”) pursuant to Sections 106(a) and 107(a)  
4 of the Comprehensive Environmental Response, Compensation, and Liability Act  
5 (“CERCLA”), 42 U.S.C. §§ 9606(a) and 9607(a).

6 2. The United States seeks (a) performance of response actions by  
7 Defendant at the Soil and Non-Aqueous Phase Liquid (“NAPL”) Operable Unit  
8 (“OU1”) at the Del Amo Superfund Site, in Los Angeles, California (the “Site”),  
9 consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended)  
10 (“NCP”), and (b) reimbursement of response costs incurred by EPA and the  
11 Department of Justice related to the Site (but not specifically attributed to Operable  
12 Unit 3, as described herein) together with any accrued interest, and a declaratory  
13 judgment of liability for response costs that will be incurred related to OU1.

14 **JURISDICTION AND VENUE**

15 3. This Court has jurisdiction over the subject matter of this action and  
16 over Shell pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606(a),  
17 9607(a) and 9613(b).

18 4. Venue is proper in this District pursuant to 42 U.S.C. §§ 9606(a) and  
19 9613(b), and 28 U.S.C. § 1391(b) and (c), because the Site is located, and the  
20 claims arose and the threatened and actual releases of hazardous substances  
21 occurred, within this judicial district.

22 **DEFENDANT**

23 5. Shell Oil Company is a Delaware corporation and is a “person” within  
24 the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25 6. Shell Chemical Company, which was formed in 1929, merged with  
26 Shell Union Oil Corporation effective October 1, 1943, with Shell Union Oil  
27 Corporation the surviving entity.



1 17. Initially the synthetic rubber manufacturing plant was owned by an  
2 RFC subsidiary, the Defense Plant Corporation, and operated by private companies  
3 under agreements, until the plant was purchased by Shell in 1955.

4 18. In 1942, the Defense Plant Corporation leased the butadiene plancor,  
5 which was in the southeastern portion of the plant, to Shell Chemical Company.

6 19. In 1942, the Rubber Reserve Company, an RFC subsidiary, entered  
7 into an agreement with Shell Chemical Company for Shell to operate the butadiene  
8 plancor.

9 20. From approximately 1942 to 1955, Shell operated the butadiene  
10 plancor under agreements between Shell and the Rubber Reserve Company.

11 21. In 1955, Shell Chemical Corporation purchased the plant, including  
12 all three plancors.

13 22. Shell owned and operated the synthetic rubber manufacturing plant  
14 from 1955 until 1972, at which time operations ceased.

15 23. As part of the manufacturing processes, the plant used many  
16 chemicals, including benzene, ethylbenzene, toluene, propane, butylene, butane,  
17 styrene, and 1,3-butadiene, to create synthetic rubber.

18 24. In 1972, Shell sold the property which had included the synthetic  
19 rubber manufacturing plant, except for the waste pits, OU2.

20 25. On May 7, 1992, Shell Oil Company and Dow Chemical Company  
21 entered into an Administrative Order on Consent with EPA and the California  
22 Department of Health Services (U.S. EPA Docket No. 92-13) to conduct a  
23 Remedial Investigation and Feasibility Study for the Site pursuant to 40 C.F.R.  
24 § 300.430.

25 26. EPA divided the Site into three operable units: OU1, the Soil and  
26 NAPL Operable Unit; OU2, known as the Waste Pits; and OU3, known as the  
27 Dual Site Groundwater Operable Unit, which includes contaminated groundwater  
28 from both the Site and the adjacent Montrose Chemical Superfund Site.

1 27. The Site and OU1 are each a “facility” within the meaning of Section  
2 101(9) of CERCLA, 42 U.S.C. § 9601(9).

3 28. The Remedial Investigation Report for OU1 was completed in July  
4 2007, and the Feasibility Study Report for OU1 was completed in January 2010.

5 29. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed  
6 the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B,  
7 by publication in the Federal Register on September 7, 2002, 67 Fed. Reg. 56,760.

8 30. The decision by EPA on the remedial action to be implemented at  
9 OU1 is embodied in a final Record of Decision (“ROD”), executed on September  
10 30, 2011, on which the State of California has given its concurrence. EPA  
11 supplemented the ROD with a memorandum to file dated July 26, 2013.

12 31. The selected remedy in the ROD includes capping, implementation of  
13 soil vapor extraction (“SVE”) in shallow soil, implementation of SVE in the deep  
14 soil, implementation of building engineering controls, implementation of in-situ  
15 chemical oxidation, and implementation of institutional controls. The ROD also  
16 addresses additional site-related contamination that may be encountered in the  
17 future during redevelopment or construction activities.

18 32. The selected remedy in the ROD for OU1 is consistent with  
19 CERCLA and the NCP.

20 33. Benzene, ethylbenzene, toluene, xylene, styrene, trichloroethene  
21 (“TCE”), tetrachloroethene (“PCE”), 1,2,4-trimethylbenzene, cyclohexane,  
22 isopropylbenzene, benzo[a]pyrene, benzo[a]anthracene, benzo[b]fluoranthene,  
23 benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, arsenic, copper, 4,4’-DDT,  
24 N-nitrosodiphenylamine, naphthalene, and phenanthrene are “hazardous  
25 substances” as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and  
26 40 C.F.R. § 302.4, App. A.

27 34. Each hazardous substance listed in Paragraph 33 has come to be  
28 located at OU1.

1 35. There has been a “release” or threatened “release” within the  
2 meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous  
3 substances into the environment, including the soils, at OU1.

4 36. At times that Shell owned or operated at the Site, including between  
5 1955 and 1972, hazardous substances within the meaning of Section 101(14) of  
6 CERCLA, 42 U.S.C. § 9601(14), including but not limited to benzene and  
7 ethylbenzene, were disposed of at OU1.

8 37. As stated in the ROD, EPA estimates that the remedial action for  
9 OU1 will cost in excess of \$52 million.

10 38. EPA has incurred at least \$1,547,629 in unreimbursed response costs  
11 not inconsistent with the NCP by responding to the releases or threatened releases  
12 of hazardous substances at the Site in connection with OU1 and in connection with  
13 the Site (but not including costs that are specifically attributed to OU3).

14 39. The United States will continue to incur response costs in connection  
15 with OU1.

16 **FIRST CLAIM FOR RELIEF**

17 40. Paragraphs 1-39 are realleged and incorporated herein by reference.

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

20 [W]hen the President determines that there may be an imminent  
21 and substantial endangerment to the public health or welfare or the  
22 environment because of an actual or threatened release of a  
23 hazardous substance from a facility, he may require the Attorney  
24 General of the United States to secure such relief as may be  
25 necessary to abate such danger or threat, and the district court of  
26 the United States in the district in which the threat occurs shall  
27 have jurisdiction to grant such relief as the public interest and the  
28 equities of the case may require.



1 The amounts recoverable in an action under this section shall  
2 include interest on the amounts recoverable under  
3 subparagraphs (A) through (D)....

4 48. Pursuant to Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2),  
5 Shell is liable as the owner and/or operator of a facility at OU1 when disposal of  
6 hazardous substances occurred at OU1.

7 49. Shell is liable to the United States pursuant to CERCLA Section  
8 107(a), 42 U.S.C. § 9607(a), for unrecovered response costs not inconsistent with  
9 the NCP incurred by the United States in connection with the Site.

10 50. Shell is also liable for any applicable interest on the response costs  
11 incurred, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

12 51. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in  
13 pertinent part that in any action for recovery of costs, “the court shall enter a  
14 declaratory judgment on liability for response costs or damages that will be  
15 binding on any subsequent action or actions to recover further response costs or  
16 damages.”

17 52. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2),  
18 the United States is entitled to a declaratory judgment that Defendant is liable to  
19 the United States under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all  
20 further response costs not inconsistent with the NCP incurred by the United States  
21 in connection with OU1.

22 **PRAYER FOR RELIEF**

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

25 1. Order Defendant to abate the conditions at OU1 that may present an  
26 imminent and substantial endangerment to the public health or welfare or the  
27 environment by performing the remedy selected by EPA in the ROD;  
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