IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, United States Department of Justice 601 D Street, N.W. Washington, D.C. 20004 and DISTRICT OF COLUMBIA 1200 First Street, N.E., 5th Floor Washington, D.C. 20002 Plaintiffs, v. WASHINGTON GAS LIGHT COMPANY 101 Constitution Avenue, N.W. Washington, D.C. 20080 Defendant.	Civil Action No.

COMPLAINT

The United States of America, by authority of the Attorney General, and at the request of the Secretary of the United States Department of the Interior ("DOI"), the Director of the National Park Service ("NPS"), and the Administrator of the United States Environmental Protection Agency ("EPA"), and the District of Columbia, for their complaint against the Defendant Washington Gas Light Company, state as follows:

PRELIMINARY STATEMENT

1. This is a civil action under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9607 and 9613, and under Section 201(b) of the District of Columbia Brownfield Revitalization Amendment Act of 2010 ("DCBRA"), D.C. Official Code § 8-632.01(b). The United States and the District of Columbia seek to recover response costs incurred and to be incurred in response to the release or threatened release of hazardous substances into the environment at or from the Washington Gas East Station facility located in Washington, D.C. ("Site"), as well as a

declaratory judgment that the Defendant is jointly and severally liable for any future response costs incurred by the United States or the District of Columbia in connection with the Site.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to Sections 107(a), and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), and pursuant to 28 U.S.C. §§ 1331 and 1345 and supplemental jurisdiction over claims under D.C. Official Code § 8-632.01(b) pursuant to 28 U.S.C. § 1367(a).

3. Venue is proper in this judicial district under Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c), because the releases or threatened releases that give rise to the claims occurred in this district and because the Site is located in this district.

DEFENDANT

4. Washington Gas Light Company is a corporation organized under the laws of the District of Columbia and the Commonwealth of Virginia.

5. At all times material hereto, Washington Gas Light Company did and is doing business in this judicial district.

GENERAL ALLEGATIONS

6. The Site is located in southeast Washington, D.C. and includes approximately 15.6 acres of land adjacent to the Anacostia River. The Site also includes the portion of the Anacostia River and riverbed that have been contaminated by the Defendant's operations at the East Station facility.

7. The Site includes, among other things, an approximately 4.2-acre parcel of land owned and managed by Plaintiff the District of Columbia ("District Property"). The United

States owns, under the management of the United States Army Corps of Engineers ("USACE"), approximately 0.35 acres of the District Property.

8. The District Property is located on the northwest bank of the Anacostia River and south of Water Street, S.E.

9. Prior to 2008, the District Property was owned by the United States and managed by the NPS (or in the case of the 0.35 acres referenced in Paragraph 7 above, the USACE).

10. The Site includes, among other things, an approximately 11.4-acre parcel of land owned by the Defendant ("Washington Gas Property").

11. The Washington Gas Property is located north of Water Street, S.E. and includes buildings located at 1201 M Street, S.E. and 1220 12th Street, S.E.

12. Between 1888 and 1983, the Defendant operated a manufactured gas plant on the Washington Gas Property.

13. The Defendant used coal and oil as its principal feedstocks for manufacturing gas.

14. The primary contaminant of concern generated by the Defendant's manufacturing operations is coal tar, which contains hazardous substances, including but not limited to: polynuclear aromatic hydrocarbons ("PAHs"); various volatile organic compounds ("VOCs"), especially benzene; and toxic metals, including arsenic, lead, and beryllium.

15. As a result of the Defendant's operations and disposal practices, the soil, groundwater, and sediments at the Site are contaminated with the hazardous substances referenced in paragraph 14 above, including but not limited to, PAHs, VOCs, and toxic metals.

16. In 1976, the Defendant installed recovery wells to collect groundwater containing coal tar and oil, which was extracted from the wells and treated before being discharged to the Anacostia River.

17. 1983, the Defendant performed a preliminary contamination investigation of portions of the Site.

18. In 1993, the Defendant constructed a groundwater treatment facility on the Site.

19. In 1994 and 1997, the Defendant installed additional groundwater extraction wells.

20. In March 1999, the Defendant completed a report entitled "Additional Remedial Investigation and Feasibility study (Phase IV), East Station" for the Washington Gas Property.

21. On September 3, 1999, the Defendant completed a Decision Document for the Washington Gas Property that, among other things, described response actions to address soil and groundwater contamination at the Washington Gas Property.

22. In January 2000, the Defendant and Plaintiff the District of Columbia entered into an agreement to, among other things, minimize the migration of contaminants from the Site to the Anacostia River.

23. In May 2000, the Defendant recorded a land covenant that, among other things, restricted the Defendant, its successors and assigns, from constructing drinking water wells on the Washington Gas Property. The covenant also required the Defendant to maintain at least 12 inches of a clean fill soil cover on the Washington Gas Property and to institute certain building restrictions at the Washington Gas Property.

24. In March 2002, the Defendant performed a supplemental human health risk assessment of the District Property.

25. In March 2006, the NPS issued the "NPS Supplement to the Washington Gas Feasibility Study and All Other Existing Site Information/Basis for Proposed Plan" and the Proposed Plan identifying and describing the NPS's preferred remedial alternative for the District Property.

26. In August 2006, the NPS issued a CERCLA Record of Decision ("ROD") selecting a preferred remedy for the District Property, which included, among other things, removal of contaminated surface and subsurface soil from the District Property; continuation of the groundwater collection and treatment system for the Site; continuation of coal tar capture, treatment, and disposal; and required a study of the sediments in the Anacostia River.

LAW GOVERNING CLAIMS FOR RELIEF UNDER SECTION 107 OF CERCLA AND D.C. OFFICIAL CODE § 8-632.01(b)

27. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), as amended, 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 –

(1) the owner and operator of a vessel or 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 . . . from which there is a release, or a threat threatened release which causes the incurrence of response costs, of a hazardous substance, 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[.]"

28. To protect the health, welfare, and environment from the actual or threatened release of hazardous substances at or from the Site, the NPS, pursuant to Section 104(a) and (b) of CERCLA, 42 U.S.C. § 9604(a) and (b), has undertaken response activities with respect to the Site, including investigations, monitoring, assessing, testing, enforcement activities, and removal activities.

29. To protect the health, welfare, and environment from the actual or threatened release of hazardous substances at or from the Site, the Administrator of the EPA, pursuant to Section 104(a) and (b) of CERCLA, 42 U.S.C. § 9604(a) and (b), has undertaken response activities with respect to the Site, including investigations, monitoring, assessing, testing, enforcement activities, and removal activities.

30. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides, in part:

> In any such action . . . [for recovery of the costs referred to in section 9607 of this title], 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.

31. The DCBRA makes any responsible party who causes or contributes to the contamination of a property strictly, jointly and severally liable for the costs of abatement actions, or remedial cleanup taken by the District. D.C. Official Code § 8-632.01(b)(1) and (2).

32. The Mayor of the District of Columbia ("Mayor") is charged with enforcing the District's environmental laws, including by bringing civil actions to enforce these laws (D.C. Official Code §§ 8-631.01, *et seq.*). Pursuant to D.C. Code § 8-151.03(a), DDOE was established by the D.C. Council to implement and oversee District and federal environmental laws.

CLAIM FOR RELIEF

33. The allegations of Paragraphs 1 through 32 are realleged and incorporated herein by reference.

34. The Defendant is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

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

36. Substances found in the soils and groundwater at the Site, such as those substances identified in Paragraph 14 above, are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

37. The "hazardous substances" found at the Site were "released" or threatened to be "released" into the "environment" within the meaning of Sections 101(14), 101(22), and 101(8)

of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22), and 9601(8), respectively, and these hazardous substances were disposed of at the Site within the meaning of Section 101(29) of CERCLA, 42 U.S.C. § 9601(29).

38. The Defendant is the current owner and operator of a facility from which hazardous substances have been released and are threatened to be released within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

39. The Defendant owned and operated the Site at the time of disposal within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

40. As a result of releases or threatened releases of hazardous substances at the Site, the United States and the District have incurred unreimbursed response costs, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25). These response costs were incurred in a manner not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300.

41. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) and D.C. Official Code § 8-632.01(b), the Defendant is jointly and severally liable for all unreimbursed response costs, plus accrued interest, incurred and to be incurred by the United States or the District of Columbia in connection with the Site.

42. Because the United States and the District of Columbia have determined that additional response activities are necessary at the Site and because response activities are currently being undertaken at the Site, the United States and the District will incur additional response costs at or in connection with the Site in the future.

43. The response costs the United States and the District of Columbia will incur at the Site in the future will not be inconsistent with the NCP.

44. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States and the District of Columbia are entitled to a declaratory judgment that the Defendant is liable to the United States and the District of Columbia under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all future response costs incurred by the United States or the District of Columbia in connection with the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs the United States and the District of Columbia prays that this Court:

1. Order the Defendant jointly and severally to reimburse Plaintiffs for all response costs incurred and to be incurred in connection with the Site, including interest thereon;

2. Enter a declaratory judgment that the Defendant is liable for all future response costs, including interest, to be incurred by the United States or the District of Columbia for response actions in connection with the Site;

3. Award Plaintiffs their costs in this action; and

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

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

PETER J. PUTIGNANO
Trial Attorney
Environmental Enforcement Section

Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20044-7611
Tel.: (202) 305-0354
Fax: (202) 616-6584
peter.putignano@usdoj.gov

RONALD C. MACHEN, JR.
United States Attorney
District of the District of Columbia

OF COUNSEL:

MELISSA DERWART
Attorney/Advisor
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

CHARLES HOWLAND
Senior Assistant Regional Counsel
Office of Regional Counsel, 3RC42
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

SHAWN P. MULLIGAN
Senior Environmental Program Advisor
National Park Service
1050 Walnut Street, Suite 220
Boulder, CO 80302

CASEY PADGETT
Assistant Solicitor
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

FOR THE DISTRICT OF COLUMBIA

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN EFROS
Deputy Attorney General
Public Interest Division

KIMBERLY KATZENBARGER (DC Bar # 476049)
General Counsel
District Department of the Environment
1200 First Street, N.E., 5th Floor
Washington, D.C. 20002

JARED PIAGGIONE (DC Bar # 991558)
Assistant Attorney General
Office of the General Counsel
District Department of the Environment
1200 First Street, N.E., 5th Floor
Washington, D.C. 20002
Tel.: (202)-299-3346
jared.piaggione@dc.gov