

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:16-cv-_____

STATE OF COLORADO,

Plaintiff,

v.

ALUMET PARTNERSHIP;
BASIC INCORPORATED;
CBS CORPORATION;
CCX, INC.;
CLEVELAND-CLIFFS IRON CO.;
DRAVO CORPORATION;
ECOLAB, INC.;
FLUOR ENTERPRISES, INC.;
HECLA LIMITED;
HONEYWELL INTERNATIONAL INC.;
HORSENECK HOLDINGS LIMITED;
HUNTINGTON INGALLS INCORPORATED;
LOCKHEED MARTIN CORPORATION;
MESA OPERATING LIMITED PARTNERSHIP;
TABLE MOUNTAIN RESEARCH CENTER; AND
UNITED NUCLEAR CORPORATION,

Defendants.

COMPLAINT

The State of Colorado (“**Colorado**” or “**Plaintiff**”), through its undersigned attorney, states as follows for its Complaint:

I. INTRODUCTION

1. Colorado seeks to recover costs (the “**Costs**”) it incurred investigating and cleaning up environmental contamination caused by the Defendants

(collectively, the “**Defendants**” and individually a “**Defendant**”) at a former mining and metallurgical research center located in Golden, Colorado (the “**Site**”) that operated between 1912 and 1987.

2. Colorado is and was the owner of a portion of the land at the Site at all times relevant to this Complaint.

3. Entities utilizing the Site were commonly referred to as “**Research Sponsors**” and included each of the Defendants (except for the Table Mountain Research Center (“**TMRC**”) as defined in paragraph 21 below) or one or more of their predecessors. Many of the Research Sponsors have merged into or have been acquired by other entities, some of whom were also Research Sponsors.

4. Each Defendant (except TMRC) was a Research Sponsor at the Site or, on information and belief, is a successor to, or legally responsible for the actions of, one or more Research Sponsors. Accordingly, for purposes of this Complaint, all predecessors of a Defendant, including the Research Sponsor, will be referred to as the Defendant and not by the name of the predecessor, and all allegations against a specific Defendant shall apply to the Defendant or its predecessors as appropriate depending on which entity was acting as the Research Sponsor and as if specifically pled against the Research Sponsor.

5. The contamination was caused by disposal of wastes from, and research activities performed or caused to be performed on, Defendant’s research materials.

6. This is a civil action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (“**CERCLA**”), 42 U.S.C. § 9607 (2016) in response to a release or threatened release of hazardous substances from a facility or facilities located at the Site.

7. Each Defendant (except TMRC) is liable under CERCLA because it (or its predecessors) arranged for disposal or treatment of hazardous substances at the Site. In addition, some Defendants (including TMRC) are liable under CERCLA because they (or their predecessors) were owners and/or operators of a facility or facilities located at the Site at the time of disposal of hazardous substances at the Site.

8. Colorado seeks a judgment of joint and several liability against each Defendant for Colorado’s past and future costs, prejudgment interest, and litigation expenses (including attorney fees and costs).

II. THE PARTIES

9. Colorado is one of the several states comprising the United States of America. The Colorado Attorney General is the attorney for the State of Colorado.

10. The Defendants are each corporate entities, as more particularly identified below. Defendant TMRC is a corporation with its principal place of business in Golden, Colorado.

III. JURISDICTION AND VENUE

11. Jurisdiction is based on 42 U.S.C. § 9613(b) and (g) and 28 U.S.C. §§ 1331 and 1346. 42 U.S.C. § 9613(g) provides jurisdiction for a declaratory judgment under CERCLA.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and 42 U.S.C. § 9613(b) because the Site is located within this district in Jefferson County, Colorado, and the releases and acts that gave rise to these claims occurred in this district.

IV. ALLEGATIONS

13. This case involves hundreds and likely thousands of research projects conducted by or on behalf of hundreds of Research Sponsors over a 75-year period. There are millions of pages of documents associated with these projects, many of which are ancient documents.

14. Many of these projects were confidential because they involved either proprietary business information and/or trade secrets of some of the largest and most influential mining companies in the world or classified military or governmental research. Consequently, knowledge regarding certain acts, research projects, Research Sponsors, documents, and agreements giving rise to the claims for relief set forth below are within the exclusive knowledge of the individual Defendants and/or found in the voluminous business records.

A. General allegations applicable to all Defendants

i. The Research Center (1912–1948)

15. In approximately 1912, a metallurgical research center (the “Research Center”) was established at the Site. Between approximately 1912 and 1948, some of the Defendants did research on their materials to develop new “ore treatment” methods at the Research Center. Ore treatment is the process of preparing ores so that valuable minerals may be separated from the ore (such as crushing, grinding, sizing and flotation).

16. The objective of Defendants’ research was to increase the amount of valuable minerals that could be economically extracted from low grade ores and enabled the Defendants to construct more efficient mills at their mines and increase profits. In addition, some of the Defendants performed metallurgical research at the Site.

17. Each Defendant that used the Research Center sent or brought minerals and ores to the Site for research and experimentation.

18. For the time period from 1912 to 1948, each Defendant that used the Site owned or possessed the raw materials tested at the Site, controlled the materials used in its research or research conducted on its behalf, and made decisions arranging for the treatment or final disposition of the materials. In most instances, Defendants’ wastes were disposed of at the Site. In some instances, a Defendant removed its own waste from the Site.

19. The operation of the Research Center allowed each Defendant to, among other things, design a mill and an ore treatment method in a low-cost research setting, before investing substantial funds into the capital construction of new technology at a mill or mine.

20. In order to protect their confidential business information and attract the best metallurgists to work on their own proprietary technical issues, most of the Defendants hired the Research Center's managers and directors in their private capacities to act as employees and consultants of the Defendant to perform the testing and experimentation. In addition, many of the Defendants performed research with their own employees operating the equipment and pilot plants at the Site.

ii. TMRC

21. In 1948, the Colorado School of Mines Research Foundation, Inc., later by name change known as Colorado School of Mines Research Institute, and now by name change known as TMRC, was founded as a private, non-profit corporation separate and distinct from Colorado School of Mines (the "School").

22. TMRC conducted mining research at the Site on behalf of private industry and governments on a contractual basis between 1949 and 1987.

23. The general research procedure described above for the 1912–1948 time period continued during the years of 1949 through 1987, except that TMRC leased the Research Center, used the Site, and performed contract research for the Defendants,

with some notable exceptions discussed below. Prior to the founding of TMRC, the operations consisted of three buildings, with five or six laboratories and four School part-time employees. Between 1949 and 1987, the operations grew to 17 buildings with approximately 300 persons employed by TMRC, and no School employees.

iii. The Research

24. Each Defendant brought minerals and ores to the Site for experimentation. Each Defendant used or caused the facilities at the Site to be used to conduct either laboratory-scale or pilot-scale experiments or both.

25. For all relevant time periods, each Defendant owned or possessed the raw materials tested at the Site. In most instances, Defendants' wastes were disposed of at the Site.

iv. The Research Contract and Disposal

26. The Defendants entered into various forms of research contracts that contained the same general provisions. In order to conduct research at the Site, each Defendant signed a contract or orally agreed to terms, as modified by course of conduct and/or other oral modifications.

27. Under a typical research agreement, each Defendant knew, actually or constructively, that disposal and/or treatment of its project waste materials would occur.

28. Thus, each Defendant disposed of or arranged for the disposal or treatment of its waste materials at the Site.

29. The Defendants' hazardous substances (discussed above and below) contaminated the soil and ground water at the Site. Furthermore, the specific hazardous substances left at the Site were common to all of the Defendants' wastes. Therefore, it cannot be determined that one area of contamination, or a particular hazardous substance, came from one specific research project's wastes as opposed to another research project's wastes. The contaminants were commingled and indistinguishable from each other throughout the Site.

30. Each Defendant knew or should have known that its activities would result in the generation of waste material from ores.

31. Generation of waste rock and other materials was an inherent and necessary part of the research projects conducted by or at the request of Defendants. Thus, by conducting research, each Defendant (except TMRC) arranged for and intended to dispose of its wastes at the Site.

v. **Hazardous Substances**

32. Some Defendants' research materials contained radionuclides (including radium-226, thorium, and uranium) that are common to all minerals and ores brought to the Site by Defendants.

33. Radionuclides are hazardous substances under CERCLA.

34. Radium-226, thorium, and uranium are each a hazardous substance under CERCLA.

35. Some Defendants' materials also contained lead, arsenic, molybdenum, vanadium, and mercury.

36. Under CERCLA, lead, arsenic, molybdenum, vanadium, and mercury are defined as hazardous substances.

37. Defendants' research activities concentrated the hazardous substances in the project materials and resulted in the disposal of waste materials containing hazardous substances significantly in excess of levels of regulatory (cleanup) standards thereby posing a threat to human health and/or the environment.

vi. Releases

38. As stated above, each Defendant's research wastes contaminated soil throughout the Site. Concentrations in soil throughout the Site of metals (arsenic, lead, mercury, molybdenum, and vanadium) and radionuclides (radium-226, thorium, uranium) exceeded human health risk-based levels and/or environmental protection standards.

39. Colorado performed investigation and cleanup to address the risks of harm posed by the contaminated soils.

40. Each Defendant's research wastes also contaminated ground water at the Site.

41. Colorado performed investigation and cleanup to address the risks of harm posed by the contaminated ground water.

42. Disposal and/or treatment of each Defendant's project waste materials in the soil, ground water, and surface water at the Site constituted, and resulted in, a release, and/or a threatened release of hazardous substances for which Colorado incurred response costs.

vii. Facilities

43. For research projects performed between 1912 and 1987, each Defendant used various facilities at the Site, including, without limitation, the following: laboratories, and the equipment and tools within those laboratories; crushing plants; grinding equipment; flotation equipment; the Settling Pond; pilot plants; bucking room facilities; tanks; hoppers; furnaces; fire assays and analytical equipment; spectrographic equipment; and/or research buildings.

viii. Operators

44. In some instances, a Defendant directly operated facilities at the Site. Each Defendant either brought its own employees or agents to the Site who then used the land, equipment, buildings, and other facilities at the Site to perform their own research projects or directed or supervised others to do so on the Defendant's behalf. In fact, some of the Defendants housed their own research staff in laboratories, buildings, and other facilities at the Site for years. When doing so, the Defendant made its own decisions regarding the management of its wastes.

ix. Owners

45. In some instances, Defendants constructed and/or purchased buildings, structures, pilot plants, and equipment for their exclusive control and use at the Site. Title of ownership to such facilities was with the Defendants during the time of disposal.

x. Ownership of Research Materials

46. In every instance of a research project, each Defendant owned, possessed and/or controlled the research materials (minerals and ores) it sent or brought to the Site.

xi. Costs Incurred

47. Research operations at the Site ceased in 1987. Only site assessments and cleanup activities have taken place at the Site since then.

48. To date, Colorado has incurred more than \$21 million in investigation, planning, cleanup and associated costs (including enforcement) for these activities (previously defined as the “**Costs**”). More than \$17 million of these costs have been recovered, leaving in excess of \$4 million in unreimbursed investigation, planning, cleanup and associated costs.

49. Investigation and cleanup at the Site has concluded. On June 30, 2015, the Colorado Department of Public Health and Environment declared that the cleanup goals at the Site had been achieved. Consequently, Colorado does not

anticipate incurring any costs in the future associated with additional investigation and/or cleanup at the Site.

xii. National Contingency Plan Activities

50. Colorado incurred the Costs to investigate, analyze, respond, and manage public health and/or environmental risks posed by the presence, release, or threat of release of hazardous substances at the Site attributable to the Defendants.

51. The Costs incurred were not inconsistent with, and consistent with, the National Contingency Plan (“NCP”), 40 C.F.R. § 300.

xiii. Liability Activities

52. Upon information and belief, each of the Defendants (except TMRC) arranged for the disposal and/or treatment of hazardous substances at the Site.

53. Upon information and belief, some of the Defendants (including TMRC), by their actions owned and/or operated a facility or some facilities at the Site.

54. Upon information and belief, each of the Defendants was a Research Sponsor of certain research projects at the Site or is responsible for the research projects of certain Defendants or other persons at the Site.

55. Hundreds of different research projects were performed by or on behalf of the Defendants at the Site over the years, using different ores and methods.

56. Pursuant to the Eleventh Amendment of the United States Constitution, Colorado is not liable to any non-federal CERCLA responsible party for any CERCLA response costs related to the Site.

B. Research Sponsor Defendant Specific Allegations

57. The following allegations are organized by Defendant whose liability arises from a particular Research Sponsor or related groups of Research Sponsors.

i. Alumet Partnership

58. Defendant Alumet Partnership is a partnership with its principal place of business in Carrolton, Georgia. Upon information and belief, Alumet Partnership was a Research Sponsor at the Site.

59. During the history of the Site, Alumet Partnership sent hazardous substances to the Site.

60. Alumet Partnership owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

61. Alumet Partnership arranged for the disposal or treatment of hazardous substances at the Site.

62. Alumet Partnership benefited financially from their activities at the Site.

63. As stated above, Colorado incurred response costs as a result of the above referenced releases.

ii. Basic Incorporated

64. Defendant Basic Incorporated is a corporation with its principal place of business in Windsor, Connecticut. Upon information and belief, Basic Incorporated was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Basic Incorporated Parties**”).

65. During the history of the Site, the Basic Incorporated Parties sent hazardous substances to the Site.

66. The Basic Incorporated Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

67. The Basic Incorporated Parties arranged for the disposal or treatment of hazardous substances at the Site.

68. The Basic Incorporated Parties benefited financially from their activities at the Site.

69. As stated above, Colorado incurred response costs as a result of the above referenced releases.

iii. CBS Corporation

70. Defendant CBS Corporation is a corporation, with its principal place of business in New York, New York. Upon information and belief, CBS Corporation was a Research Sponsor, is a successor to Research Sponsors and/or is legally

responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**CBS Corporation Parties**”).

71. During the history of the Site, the CBS Corporation Parties sent hazardous substances to the Site.

72. The CBS Corporation Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

73. The CBS Corporation Parties arranged for the disposal or treatment of these hazardous substances.

74. The CBS Corporation Parties benefited financially from their activities at the Site.

75. As stated above, Colorado incurred response costs as a result of the above referenced releases.

iv. CCX, Inc.

76. Defendant CCX Inc. is a corporation, with its principal place of business in Lower Burrell, Pennsylvania. Upon information and belief, CCX Inc. was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**CCX, Inc. Parties**”).

77. During the history of the Site, the CCX Inc. Parties sent hazardous substances to the Site.

78. The CCX Inc. Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

79. The CCX Inc. Parties arranged for the disposal or treatment of these hazardous substances at the Site.

80. The CCX Inc. Parties benefited financially and otherwise from their activities at the Site.

81. As stated above, Colorado incurred response costs as a result of the above referenced releases.

v. **Cleveland-Cliffs Iron Co.**

82. Defendant Cleveland-Cliffs Iron Co. is a corporation, with its principal place of business in Cleveland, Ohio. Upon information and belief, Cleveland-Cliffs Iron Co. was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Cleveland-Cliffs Iron Co. Parties**”).

83. During the history of the Site, the Cleveland-Cliffs Iron Co. Parties sent hazardous substances to the Site.

84. The Cleveland-Cliffs Iron Co. Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

85. The Cleveland-Cliffs Iron Co. Parties arranged for the disposal or treatment of these hazardous substances at the Site.

86. The Cleveland-Cliffs Iron Co. Parties benefited financially and otherwise from their activities at the Site.

87. As stated above, Colorado incurred response costs as a result of the above referenced releases.

vi. Dravo Corporation

88. Upon information and belief, Defendant Dravo Corporation is a corporation, with its principal place of business in Pittsburgh, Pennsylvania. Upon information and belief, Dravo Corporation was a Research Sponsor at the Site.

89. During the history of the Site, Dravo Corporation sent hazardous substances to the Site.

90. Dravo Corporation owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

91. Dravo Corporation arranged for the disposal or treatment of these hazardous substances at the Site.

92. Dravo Corporation benefited financially and otherwise from their activities at the Site.

93. As stated above, Colorado incurred response costs as a result of the above referenced releases.

vii. Ecolab, Inc.

94. Defendant Ecolab, Inc. is a corporation, with its principal place of business in St. Paul, Minnesota. Upon information and belief, Ecolab, Inc. was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Ecolab, Inc. Parties**”).

95. During the history of the Site, the Ecolab, Inc. Parties sent hazardous substances to the Site.

96. The Ecolab, Inc. Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

97. The Ecolab, Inc. Parties arranged for the disposal or treatment of these hazardous substances at the Site.

98. The Ecolab, Inc. Parties benefited financially and otherwise from their activities at the Site.

99. As stated above, Colorado incurred response costs as a result of the above referenced releases.

viii. Fluor Enterprises, Inc.

100. Defendant Fluor Enterprises, Inc. is a corporation, with its principal place of business in Irving, Texas. Upon information and belief, Fluor Enterprises, Inc. was a Research Sponsor, is a successor to Research Sponsors and/or is legally

responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Fluor Enterprises, Inc. Parties**”).

101. During the history of the Site, the Fluor Enterprises, Inc. Parties sent hazardous substances to the Site.

102. The Fluor Enterprises, Inc. Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

103. The Fluor Enterprises, Inc. Parties arranged for the disposal or treatment of these hazardous substances at the Site.

104. The Fluor Enterprises, Inc. Parties benefited financially and otherwise from their activities at the Site.

105. As stated above, Colorado incurred response costs as a result of the above referenced releases.

ix. Hecla Limited.

106. Defendant Hecla Limited is a corporation, with its principal place of business in Coeur d’Alene, Idaho. Upon information and belief, Hecla Limited was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Hecla Limited Parties**”).

107. During the history of the Site, the Hecla Limited Parties sent hazardous substances to the Site.

108. The Hecla Limited Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

109. The Hecla Limited Parties arranged for the disposal or treatment of these hazardous substances at the Site.

110. The Hecla Limited Parties benefited financially and otherwise from their activities at the Site.

111. As stated above, Colorado incurred response costs as a result of the above referenced releases.

x. Honeywell International Inc.

112. Defendant Honeywell International Inc. is a corporation, with its principal place of business in Phoenix, Arizona. Upon information and belief, Honeywell International Inc. was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Honeywell International Inc. Parties**”).

113. During the history of the Site, the Honeywell International Inc. Parties sent hazardous substances to the Site.

114. The Honeywell International Inc. Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

115. The Honeywell International Inc. Parties arranged for the disposal or treatment of these hazardous substances at the Site.

116. The Honeywell International Inc. Parties benefited financially and otherwise from their activities at the Site.

117. As stated above, Colorado incurred response costs as a result of the above referenced releases.

xi. Horseneck Holdings Limited.

118. Defendant Horseneck Holdings Limited is a corporation, with its principal place of business in Toronto, Ontario. Upon information and belief, Horseneck Holdings Limited was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Horseneck Holdings Limited Parties**”).

119. During the history of the Site, the Horseneck Holdings Limited Parties sent hazardous substances to the Site.

120. The Horseneck Holdings Limited Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

121. The Horseneck Holdings Limited Parties arranged for the disposal or treatment of these hazardous substances at the Site.

122. The Horseneck Holdings Limited Parties benefited financially and otherwise from their activities at the Site.

123. As stated above, Colorado incurred response costs as a result of the above referenced releases.

xii. Huntington Ingalls Incorporated.

124. Defendant Huntington Ingalls Incorporated is a corporation, with its principal place of business in Newport News, Virginia. Upon information and belief, Huntington Ingalls Incorporated was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Huntington Ingalls Incorporated Parties**”).

125. During the history of the Site, the Huntington Ingalls Incorporated Parties sent hazardous substances to the Site.

126. The Huntington Ingalls Incorporated Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

127. The Huntington Ingalls Incorporated Parties arranged for the disposal or treatment of these hazardous substances at the Site.

128. The Huntington Ingalls Incorporated Parties benefited financially and otherwise from their activities at the Site.

129. As stated above, Colorado incurred response costs as a result of the above referenced releases.

xiii. Lockheed Martin Corporation.

130. Defendant Lockheed Martin Corporation is a corporation, with its principal place of business in Littleton, Colorado. Upon information and belief, Lockheed Martin Corporation was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Lockheed Martin Corporation Parties**”).

131. During the history of the Site, the Lockheed Martin Corporation Parties sent hazardous substances to the Site.

132. The Lockheed Martin Corporation Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

133. The Lockheed Martin Corporation Parties arranged for the disposal or treatment of these hazardous substances at the Site.

134. The Lockheed Martin Corporation Parties benefited financially and otherwise from their activities at the Site.

135. As stated above, Colorado incurred response costs as a result of the above referenced releases.

xiv. Mesa Operating Limited Partnership.

136. Defendant Mesa Operating Limited Partnership is a partnership, with its principal place of business in Irving, Texas. Upon information and belief, Mesa Operating Limited Partnership was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**Mesa Operating Limited Partnership Parties**”).

137. During the history of the Site, the Mesa Operating Limited Partnership Parties sent hazardous substances to the Site.

138. The Mesa Operating Limited Partnership Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

139. The Mesa Operating Limited Partnership Parties arranged for the disposal or treatment of these hazardous substances at the Site.

140. The Mesa Operating Limited Partnership Parties benefited financially and otherwise from their activities at the Site.

141. As stated above, Colorado incurred response costs as a result of the above referenced releases.

xv. United Nuclear Corporation.

142. Defendant United Nuclear Corporation is a corporation, with its principal place of business in Fairfield, Connecticut. Upon information and belief,

United Nuclear Corporation was a Research Sponsor, is a successor to Research Sponsors and/or is legally responsible for the actions of its present and/or former affiliates which were Research Sponsors at the Site (the “**United Nuclear Corporation Parties**”).

143. During the history of the Site, the United Nuclear Corporation Parties sent hazardous substances to the Site.

144. The United Nuclear Corporation Parties owned, leased and/or operated one or more facilities at the Site from which numerous actual releases of hazardous substances occurred or from which the threat of release existed.

145. The United Nuclear Corporation Parties arranged for the disposal or treatment of these hazardous substances at the Site.

146. The United Nuclear Corporation Parties benefited financially and otherwise from their activities at the Site.

147. As stated above, Colorado incurred response costs as a result of the above referenced releases.

FIRST CLAIM FOR RELIEF
(CERCLA Cost Recovery, 42 U.S.C. § 9607(a)(4)(A))

148. Colorado incorporates paragraphs 1 through 147 above, as if fully stated herein.

149. The Defendants are each “persons” as defined in Section 101(21) of CERCLA. 42 U.S.C. § 9601(21). Upon information and belief, the Defendants

(and/or their successors and assigns) (except TMRC) are responsible for Research Sponsors as set forth above.

150. The Site and the buildings, structures, installations, equipment, pipes, wells, pits, ponds, lagoons, impoundments, ditches, landfills, and storage containers, among other facilities, located at the Site are, and at all times relevant herein were, each a “facility,” as defined by Section 101(9) of CERCLA. 42 U.S.C. § 9601(9).

151. The waste materials from each of the Defendants’ research projects contained radionuclides, metals, and/or other constituents and constitute “hazardous substances” as defined by Section 101(14) of CERCLA. 42 U.S.C. § 9601(14).

152. The Defendants’ research activities resulted in the disposal and/or treatment of hazardous substances at the Site, which constitutes and results in a release or threatened release of a hazardous substance within the meaning of Section 101(22) of CERCLA. 42 U.S.C. § 9601(22). A release or threatened release of a hazardous substance has occurred at the Site, which caused continuing contamination of soil and groundwater at and under the Site.

153. All of the Defendants (except TMRC) arranged for the disposal and/or treatment of hazardous substances at a CERCLA “facility” or “facilities” from which or at which hazardous substances were released or were threatened to be released as described in Section 107(a)(3) of CERCLA. 42 U.S.C. § 9607(a)(3).

154. In addition, as set forth above, a number of the Defendants (including TMRC) were, at times relevant herein, “owners and/or operators” as defined in Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), of a CERCLA “facility” or “facilities” from which or at which hazardous substances were released or were threatened to be released during their time of operation or ownership.

155. Colorado has incurred in excess of approximately \$4 million in unreimbursed response costs not inconsistent with the NCP, 40 C.F.R. §§ 300 *et seq.*, as a result of these releases or threatened releases of hazardous substances at the Site.

156. Colorado has also incurred costs associated with risk of and/or need of insurance for environmental liability.

157. Defendants are jointly and severally liable for Colorado’s response costs, including litigation fees, expenses, and costs.

SECOND CLAIM FOR RELIEF
(In the alternative, CERCLA Cost Recovery for Costs Incurred After May 31, 1997, 42 U.S.C. § 9607(a)(4)(B))

158. Colorado incorporates paragraphs 1 through 147 above, as if fully stated herein.

159. This Second Claim for Relief is an alternative claim to the First Claim for Relief in this Complaint in the event the Court finds that Colorado is not entitled to a claim for relief under 42 U.S.C. § 9607(a)(4)(A).

160. The Defendants are each “persons” as defined in Section 101(21) of CERCLA. 42 U.S.C. § 9601(21). Upon information and belief, the Defendants (and/or their successors and assigns) (except TMRC) are responsible for each Research Sponsor as set forth above.

161. The Site and the buildings, structures, installations, equipment, pipes, wells, pits, ponds, lagoons, impoundments, ditches, landfills, and storage containers, among other facilities, located at the Site are, and at all times relevant herein were, each a “facility,” as defined by Section 101(9) of CERCLA. 42 U.S.C. § 9601(9).

162. The waste materials from each of the Defendants’ research projects contained radionuclides, metals, and/or other constituents and constitute “hazardous substances” as defined by Section 101(14) of CERCLA. 42 U.S.C. § 9601(14).

163. The Defendants’ research activities resulted in the disposal and/or treatment of hazardous substances at the Site, which constitutes and results in a release or threatened release of a hazardous substance within the meaning of Section 101(22) of CERCLA. 42 U.S.C. §9601(22). A release or threatened release of a hazardous substance has occurred at the Site, which caused continuing contamination of soil and groundwater at and under the Site.

164. All of the Defendants (except TMRC) arranged for the disposal and/or treatment of hazardous substances at a CERCLA “facility” or “facilities” from which

or at which hazardous substances were released or were threatened to be released as described in Section 107(a)(3) of CERCLA. 42 U.S.C. § 9607(a)(3).

165. In addition, as set forth above, a number of the Defendants (including TMRC) were, at times relevant herein, “owners and/or operators” as defined in Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), of a CERCLA “facility” or “facilities” from which or at which hazardous substances were released or were threatened to be released during their time of operation or ownership.

166. As a direct and proximate result of such releases or threatened releases of hazardous substances at the Site, Colorado has incurred approximately \$4 million in necessary, unreimbursed response costs to investigate and clean up hazardous substances in a manner not inconsistent with, and consistent with, the NCP, 40 C.F.R. §§ 300 *et seq.*

167. Colorado has also incurred costs associated with risk of and/or need of insurance for environmental liability.

168. Defendants are jointly and severally liable for Colorado’s response costs, including litigation fees, expenses, and costs as well as enforcement and insurance costs.

PRAYER FOR RELIEF

Colorado seeks the following relief against all Defendants and each of them, jointly and severally:

A. Issue service of process as authorized by law;

- B. Enter judgment for Colorado against Defendants upon the claims and causes of action set forth herein;
- C. Award cost recovery upon all causes of action, including but not limited to the following:
 - i. Pre- and post-judgment interest as allowed by law;
 - ii. Attorney fees and costs;
 - iii. All past and future response costs;
 - iv. Costs of restoring and remediating the Site;
 - v. Consultant fees and costs.
- D. Order that Colorado is entitled to cost recovery and order Defendants to fully compensate and reimburse Colorado for all fees and costs associated with the investigation, evaluation, and cleanup of the Site and all other efforts and actions taken by Colorado related to the contamination set forth in this complaint and in the pursuit of this action.
- E. Enter declaratory judgment in favor of Colorado, under 42 U.S.C. § 9613(g)(3) and 28 U.S.C. § 2201, declaring Colorado's rights under federal law, in accordance with the claims alleged in this pleading, including, but not limited to the following: that Defendants are liable for future response costs incurred by Colorado under CERCLA §§ 107 and 113(g)(2); and
- F. Such other and further relief as this Court deems just and proper.

Respectfully submitted this 10th day of August 2016.

s/ Jonathan P. Fero

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