

1 IVOR E. SAMSON (SBN 52767)
ivor.samson@snrdenton.com
2 STEVEN H. FRANKEL (SBN 171919)
steven.frankel@snrdenton.com
3 MATTHEW G. ADAMS (SBN 229021)
matthew.adams@snrdenton.com
4 SNR DENTON US LLP
5 525 Market Street, 26th Floor
San Francisco, CA 94105-2708
6 Telephone: (415) 882-5000
Facsimile: (415) 882-0300

7 Attorneys for Plaintiff
8 GEORGIA-PACIFIC LLC
9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 GEORGIA-PACIFIC LLC,
14 Plaintiff,
15 vs.
16 OFFICEMAX INCORPORATED and
BOISE CASCADE, L.L.C.
17 Defendants.
18

No. 12-02797 DMR

FIRST AMENDED COMPLAINT FOR:

- 1) Recovery of Response Costs Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9607(a);
- 2) Claim for Contribution Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9613(f);
- 3) Declaratory Relief Under CERCLA;
- 4) Continuing Nuisance; and
- 5) Continuing Trespass

JURY TRIAL DEMANDED

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24 Plaintiff Georgia-Pacific LLC (“Georgia-Pacific”) states for its complaint against
25 defendants OfficeMax Incorporated and Boise Cascade, L.L.C. (collectively, “Defendants”) as
26 follows:

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SNR DENTON US LLP
525 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105-2708
(415) 882-5000

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NATURE OF ACTION

1. This action arises from Georgia-Pacific’s cleanup of hazardous substances at certain real property located in Fort Bragg, California (the “Site”), and for which Georgia-Pacific seeks recovery, pursuant to the Federal Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *et. seq.*, from Defendants, the former owners, operators and polluters of the Site, of the response costs Georgia-Pacific has incurred and will continue to incur at the Site. In addition to the recovery of response costs, Georgia-Pacific seeks certain declaratory relief with respect to the Defendants’ liabilities and continuing obligations with respect to the Site as well as damages and other relief arising from Defendants’ continuing nuisance and trespass at the Site.

JURISDICTION AND VENUE

2. This Court has original jurisdiction pursuant to 42 U.S.C. § 9607(a) and 28 U.S.C. § 1331, and supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 42 U.S.C. § 9607(a) and 28 U.S.C. § 1391(b) because the events giving rise to this action, including the releases or threatened releases of hazardous substances, occurred and are occurring at real property located in this District.

PARTIES

4. Plaintiff Georgia-Pacific is a Delaware limited liability company headquartered in Atlanta, Georgia. Georgia-Pacific is one of the world's leading manufacturers of tissue, pulp, paper, packaging, building products and related chemicals.

5. Defendant OfficeMax Incorporated (“OfficeMax”) is a Delaware corporation headquartered in Naperville, Illinois. OfficeMax is engaged in business-to-business and retail office products distribution throughout the United States.

6. Defendant Boise Cascade, L.L.C. (“Boise Cascade”) is a Delaware limited liability company headquartered in Boise, Idaho. Boise Cascade manufactures engineered wood products, plywood, lumber, and particleboard and distributes a broad line of building materials.

FACTUAL BACKGROUND

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2 7. The Site consists of approximately 415 acres along the Pacific Ocean, located at 90
3 West Redwood Avenue, Fort Bragg, Mendocino County, California.

4 8. Union Lumber Company began operating a sawmill at the Site in 1885. Over time,
5 Union Lumber Company developed a significant lumber mill at the Site, including a large dam
6 and log pond in the center of the Site and a railroad line that begins in the northeast portion of
7 the Site.

8 9. Union Lumber Company merged with Boise Cascade Corporation in 1968.
9 Pursuant to the merger, Boise Cascade Corporation assumed Union Lumber Company’s debts,
10 liabilities, obligations and duties associated with the Site. Boise Cascade Corporation owned
11 and operated the Site until it sold the Site to Georgia-Pacific in 1973. Boise Cascade
12 Corporation changed its name to defendant OfficeMax in 2004, after acquiring all the securities
13 of OfficeMax, Inc. in 2003.

14 10. In 2004, defendant Boise Cascade acquired the forest products and paper assets of
15 defendant OfficeMax. Georgia-Pacific is informed and believes that defendant Boise Cascade
16 may have assumed liabilities, obligations and duties associated with the Site in connection with
17 the foregoing transaction.

18 11. Georgia-Pacific ceased operations on the Site on August 8, 2002. Most of the
19 structures and equipment associated with lumber production have been removed and the Site is
20 currently unoccupied and unused except for a small office maintained by Georgia-Pacific and a
21 wastewater treatment plant owned and operated by the City of Fort Bragg.

22 12. Over the course of Defendants’ and Georgia-Pacific’s 117 years of lumber
23 production and related operations at the Site, logs were received, unloaded, and stored in the log
24 storage areas. Logs were then removed from inventory, debarked, and milled. Milled lumber
25 was shipped green, kiln dried, or air dried on-site. Finished lumber was transported by rail or
26 flatbed trailers. Bark and wood refuse were transported by truck, conveyer or pneumatic system
27 to the power plant, where they were burned to generate steam for electricity. Site operations
28 were conducted in sawmills, planer buildings, a fence plant, a power plant, lumber storage areas,

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1 and various storage and maintenance facilities.

2 13. The operations by Defendants and Georgia-Pacific on the Site led to releases of
3 hazardous substances, including, but not limited to, metals, dioxins, polycyclic aromatic
4 hydrocarbons and total petroleum hydrocarbons to the soil and groundwater underlying the Site
5 and the surrounding soils and groundwater.

6 14. Georgia-Pacific voluntarily began investigating alleged environmental concerns at
7 the Site in 2004. The Regional Water Quality Control Board, North Coast Region oversaw Site
8 investigation activities until the California Environmental Protection Agency, Department of
9 Toxic Substances Control (“DTSC”) assumed the role of lead regulatory agency in August 2006.
10 For administrative convenience, the DTSC divided the Site into five operable units.

11 15. By letter dated February 16, 2007, DTSC notified Georgia-Pacific that DTSC
12 required Georgia-Pacific to conduct a response action at the Site. Also on February 16, 2007,
13 DTSC issued a Site Investigation and Remediation Order.

14 16. Through December 31, 2011, Georgia-Pacific had expended approximately
15 \$31,400,000 in response costs at the Site arising from releases and threatened releases of
16 hazardous substances. Georgia-Pacific anticipates incurring significant future response costs at
17 the Site.

18 **FIRST CLAIM FOR RELIEF**
19 **(Recovery for Response Costs Pursuant to Comprehensive Environmental Response,**
20 **Compensation and Liability Act, 42 U.S.C. § 9607(a))**

21 17. Georgia-Pacific hereby incorporates the allegations contained in paragraphs 1
22 through 16, inclusive, as though set forth in full.

23 18. Each of the Defendants is a “person” as that term is defined in 42 U.S.C. §
24 9601(21).

25 19. The Site is a “facility” as that term is defined in 42 U.S.C. § 9601(9).

26 20. Contaminants located in the soil and groundwater at, on, or under the Site,
27 including but not limited to, metals, dioxins, polycyclic aromatic hydrocarbons and total
28 petroleum hydrocarbons, are “hazardous substance[s]” as that term is defined in 42 U.S.C. §
9601(14).

1 trespass; losses due to stigma associated with the contamination; loss of future rent; costs to
2 repair and restore the Site to proper condition; statutory costs; attorneys’ fees and costs; and
3 other damages as a result of the continuing trespass for which Defendants are responsible.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Georgia-Pacific prays for judgment as follows:

6 **ON THE FIRST CLAIM FOR RELIEF:**

- 7 1. For recovery in an amount to be determined at trial from Defendants, jointly and
- 8 severally, for the response costs and other damages and expenses Georgia-Pacific
- 9 has incurred and will continue to incur in connection with the release and
- 10 threatened release of hazardous substances at and from the Site;
- 11 2. For prejudgment interest at the legal rate;
- 12 3. For attorneys’ fees, expert witness’ fees, consultants’ fees and costs, as appropriate;
- 13 and
- 14 4. For such other and further relief as the Court deems just and proper.

15 **ON THE SECOND CLAIM FOR RELIEF:**

- 16 1. For recovery in amount to be determined at trial from Defendants for contribution
- 17 to the response costs and other damages and expenses Georgia-Pacific has incurred
- 18 and will continue to incur in excess of its own equitable share of such costs arising
- 19 from the release and threatened release of hazardous substances at and from the
- 20 Site;
- 21 2. For prejudgment interest at the legal rate;
- 22 3. For attorneys’ fees, expert witness’ fees, consultants’ fees and costs, as appropriate;
- 23 and
- 24 4. For such other and further relief as the Court deems just and proper.

25 **ON THE THIRD CLAIM FOR RELIEF:**

- 26 1. For a declaration pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 9613(g)(2) that (a)
- 27 Defendants are jointly and severally liable and responsible under 42 U.S.C. §
- 28 9607(a) for the response costs which have been and will continue be incurred by

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SAN FRANCISCO, CALIFORNIA 94105-2708
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