

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

HOBART CORP., <i>et al.</i> , Plaintiffs, v. THE DAYTON POWER & LIGHT CO., <i>et al.</i> , Defendants.	: : : :	Case No. 3:13-cv-115 JUDGE WALTER H. RICE
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DECISION AND ENTRY SUSTAINING PLAINTIFFS' UNOPPOSED
MOTION TO DROP DEFENDANT STATE OF OHIO WITHOUT
PREJUDICE (DOC. #87); OVERRULING AS MOOT DEFENDANT
STATE OF OHIO'S MOTION TO DISMISS (DOC. #11)

Plaintiffs filed suit against numerous defendants, including the State of Ohio, seeking to recover response costs under §§ 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). The State of Ohio filed a Motion to Dismiss, Doc. #11, arguing that the Eleventh Amendment to the United States Constitution barred Plaintiffs' claims against the State.

In response to that motion, Plaintiffs have filed a Motion to Drop Defendant State of Ohio Without Prejudice, pursuant to Federal Rule of Civil Procedure 21. Doc. #87. Plaintiffs indicate that Defendant State of Ohio does not oppose the dismissal without prejudice, and note that no other defendant has filed a cross-claim against the State. Moreover, as Plaintiffs note, this case is in the early stages of litigation, and no motions for summary judgment are pending.

The Court finds that, under the circumstances presented here, Plaintiffs' motion is well-taken. Accordingly, the Court SUSTAINS Plaintiffs' Motion to Drop Defendant State of Ohio Without Prejudice, Doc. #87, and OVERRULES AS MOOT Defendant State of Ohio's Motion to Dismiss, Doc. #11.

Date: June 11, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE