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RECEIVED
NOV 16 2012
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IN THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

FILED

NOV 14 2012

SANDY LANDERS
CLERK OF THE DISTRICT COURT

PEOPLE OF THE STATE OF)
WYOMING,)
)
Plaintiff,)
)
v.)
)
SOLVAY CHEMICALS, INC. a)
Delaware corporation,)
)
Defendant.)

Docket No. 180-334

CONSENT DECREE

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), in the name of the People of the State of Wyoming as Plaintiff, pursuant to Sections 901(a) and 903(c) of the Wyoming Environmental Quality Act (Act) Wyo. Stat. Ann. §§ 35-11-901(a) and 903(c) (2012), has filed a Complaint against Defendant Solvay Chemicals, Inc., a Delaware corporation (Solvay), alleging that Solvay failed to comply with certain conditions of Permit CT-1347 at Solvay's Green River Soda Ash Plant facility (Facility) located in Sweetwater County, Wyoming. DEQ/AQD and Solvay (collectively referred to hereinafter as "Parties") state, and the Court by entering this

Consent Decree finds, that the Parties negotiated this Consent Decree at arm's length and in good faith to avoid or settle certain litigation among the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, the Parties, by and through their respective attorneys, have agreed to the following terms for resolving this litigation prior to trial, before the taking of evidence, without adjudication or admission of any issue of fact or law, and with the consent of the Parties,

IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

I. Jurisdiction and Venue

This Court has jurisdiction over the subject matter and parties in this civil action under Section 901(a) of the Act. Wyo. Stat. Ann. § 35-11-901(a). Venue is proper in Laramie County under Section 903(c) of the Act. Wyo. Stat. Ann. § 35-11-903(c).

II. Parties

A. Solvay is a Delaware corporation and is the operator of the Facility located in Sweetwater County, Wyoming.

B. DEQ/AQD is the agency of Wyoming state government responsible for enforcing the Act, the Wyoming Air Quality Standards and Regulations (WAQSR), the State Implementation Plan (State Plan) adopted pursuant to the federal Clean Air Act as amended, and permits issued pursuant to those provisions including Permit CT-1347.

III. Background

A. Solvay

1. Solvay Soda Ash Joint Venture, a Wyoming general partnership of which eighty percent is owned by Solvay Chemicals, Inc. (Solvay), owns the Facility.
2. Solvay operates the Facility.
3. Solvay is a “person” as defined in Wyo. Stat. Ann. § 35-11-103(a)(vi) and WAQSR, Ch. 1 § 3(a).
4. Solvay holds various DEQ/AQD permits relating to the Facility, including Permit CT-1347.

B. DEQ Permit CT-1347

1. The Act establishes a statutory scheme designed in part to enable the State of Wyoming to prevent, reduce, and eliminate pollution; to preserve and enhance the State of Wyoming’s air, water, and land resources; and, to allow the State of Wyoming to plan the development, use, reclamation, and enhancement of its air, land, and water resources. Wyo. Stat. Ann. § 35-11-102.
2. A DEQ/AQD construction permit “is required before construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced.” Wyo. Stat. Ann. § 35-11-801(c).
3. The DEQ director may impose permit “conditions as may be necessary to accomplish the purpose of [the Wyoming Environmental Quality Act] which

are not inconsistent with the existing rules, regulations and standards.” Wyo. Stat. Ann. § 35-11-801(a).

4. Chapter 6, Section 2 of the WAQSR prescribes the applicability and procedures for issuing permits to sources under Wyoming’s construction permitting program.

5. Chapter 6, Section 2(f) of the WAQSR authorizes the DEQ/AQD to impose reasonable conditions upon construction or modification permits, including emission limits, and emission testing and monitoring requirements.

6. On February 6, 1998, the DEQ/AQD issued Permit CT-1347 to Solvay for the Facility.

7. Condition 9 and Table 1 of Permit CT-1347 limit emissions from the Facility’s #2 Coal Boiler Scrubber and Precipitator (Source #19) to 5.0 pounds per hour (lb/hr) of particulate matter.

C. DEQ Notice of Violation Docket No. 4912-11 (NOV)

1. Pursuant to Wyo. Stat. Ann. § 35-11-701, the DEQ/AQD issued Notice of Violation Docket No. 4912-11 (Notice of Violation) to Solvay on October 20, 2011, alleging that Solvay violated the Act, the WAQSR and Permit CT-1347 by failing to comply with the permitted particulate emission rate for Source #19 from June 16, 2011, through September 14, 2011.

2. Any person who violates any provision of Article 2 of the Act, the WAQSR, or any standard or permit adopted pursuant to those provisions, “is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day

during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction[.]” Wyo. Stat. Ann. § 35-11-901(a).

IV. Settlement

A. Within thirty (30) days after notice to Solvay of entry by the Court of this Consent Decree, Solvay, without admitting any of the facts alleged in the Notice of Violation or the Complaint and without admitting liability or failure to comply with any permit requirements, agrees to pay to the DEQ/AQD the sum of nine thousand one hundred dollars and no cents (\$9,100.00) (Stipulated Civil Penalty) as a full and complete cash payment to resolve this matter. Solvay shall make the check or certified funds payable to the Department of Environmental Quality and shall deliver payment to Nancy Vehr, Sr. Asst. Attorney General, Wyoming Attorney General’s Office, 123 Capitol Building, Cheyenne, WY 82002.

B. Payment of the Stipulated Civil Penalty shall constitute full satisfaction of Solvay’s obligations under this Consent Decree.

V. Release and Covenant Not to Sue and Dismissal with Prejudice

A. DEQ/AQD agrees that payment of the Stipulated Civil Penalty as specified in Section IV of this Consent Decree shall constitute full satisfaction of the claims against Solvay that Wyoming alleged in the Complaint initiating this action or in the Notice of Violation.

B. In consideration of Solvay’s payment of the Stipulated Civil Penalty, the DEQ/AQD and the State of Wyoming hereby release and covenant not to sue Solvay, its respective successors, assigns, affiliates, parents, officers, directors, employees, and

representatives, as to any common law claims, statutory claims, or other claims or causes of action arising out of the facts, transactions, or events alleged in the Complaint initiating this action or in the Notice of Violation on the basis of knowledge DEQ/AQD actually had knowledge at the time of issuing the Notice of Violation.

C. This covenant not to sue is expressly conditioned upon the complete and satisfactory performance by Solvay as specified in Section IV of this Consent Decree.

D. Within thirty (30) days after the complete and satisfactory performance by Solvay of the terms of this Consent Decree, the DEQ/AQD will request that the Court terminate this Consent Decree and dismiss this action with prejudice as to all claims which were made in this lawsuit.

E. The terms of Section V shall survive the termination of the Consent Decree.

VI. Parties Bound

A. This Consent Decree shall apply to, and be binding upon Solvay, its successors and assigns and upon the DEQ/AQD and the State of Wyoming.

B. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Consent Decree shall not be construed so as to create such status. The rights, duties and obligations contained in this Consent Decree shall operate only among the Parties to this Consent Decree.

C. Nothing in this Consent Decree relieves Solvay of its duty to comply with the Act, the WAQSR, Wyoming's State Plan, the federal Clean Air Act, and any rules, regulations and standards adopted thereunder including any permit requirements.

D. This Consent Decree is not and shall not be construed to be a permit or permit modification issued pursuant to any federal, state, or local statute, ordinance or regulation. Solvay shall remain solely responsible for its compliance with the terms of this Consent Decree, all permits, and all applicable federal, state and local laws and regulations.

VII. Terms Not Severable

The terms of this Consent Decree, which embody the comprehensive stipulated settlement between the Parties, are not severable.

VIII. Reservation of Rights

A. By signing this Consent Decree, Solvay does not admit that it violated any provision of the Act, the WAQSR, Wyoming's State Plan, the federal Clean Air Act, or permits or waivers issued pursuant to such authority. By entering this Consent Decree, Solvay does not admit or deny the validity of any allegation contained in the Notice of Violation or the Complaint.

B. DEQ/AQD and the State of Wyoming reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, including seeking injunctive relief and/or civil penalties.

C. DEQ/AQD and the State of Wyoming do not waive sovereign immunity by entering into this Consent Decree and retain immunity and all defenses available to them as sovereigns under all state and federal law, except that any of the Parties may bring an action to seek interpretation or enforcement of this Consent Decree. In the event that DEQ/AQD prevails in an action to enforce this Consent Decree, Solvay shall bear

DEQ/AQD's costs and fees. In all other cases, each party shall bear its own costs, fees, and expenses.

IX. Termination of Consent Decree

Except as otherwise provided in Section V, the terms and conditions of this Consent Decree shall terminate upon the DEQ/AQD's filing of written notice to the Court confirming the completion of Solvay's obligations under this Consent Decree and the Court's entry of a Termination and Dismissal Order.

X. Attorney's Fees/Costs of Action

Each party shall bear its own attorneys fees and costs of this action.

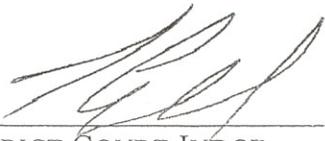
XI. Retention of Jurisdiction

This Court shall retain jurisdiction to enforce the terms and conditions of this Consent Decree, to enter such orders as are appropriate under the Consent Decree, and to resolve all disputes as may be necessary or appropriate for the construction or to carry out the terms of this Consent Decree until it is terminated as provided above.

XII. Authority

The signatories certify that they are duly authorized to bind their respective Parties to this Consent Decree.

DATED this 13 day of Nov., 2012.

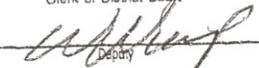

s/ _____
DISTRICT COURT JUDGE

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE

I, Sandy Landers, Clerk of the District Court in and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full true and correct copy of the original thereof as the same appears on file or of record in my office and that the same is in full force and effect as of this date.

Witness my hand and seal of said court this 14 day of Nov. 2012

SANDY LANDERS
Clerk of District Court

By 
Deputy

WE HEREBY CONSENT to the entry of this Consent Decree:

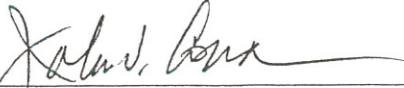
FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:



Steven A. Dietrich, Administrator
Air Quality Division

10-11-12

Date



John Corra, Director
Department of Environmental Quality

10/11/12

Date

FOR SOLVAY CHEMICALS, INC.:

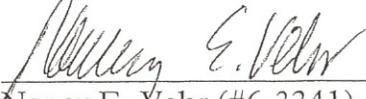


Ron Hughes
General Manager

10/22/12

Date

APPROVAL AS TO FORM:



Nancy E. Vehr (#6-3341)
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6946
Attorney for DEQ/AQD

October 11, 2012

Date



Paul J. Hickey (#5-1431)
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1800 Carey Avenue, Suite 700
PO Box 467
Cheyenne, WY 82003-0467
(307) 634-1525
Attorney for Solvay Chemicals, Inc.

10/23/12

Date

CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of Nov., 2012, a true copy of the foregoing *Consent Decree* was mailed, postage prepaid to the following:

Hickey & Evans, LLP
Attn: Paul J. Hickey
PO Box 467
Cheyenne, WY 82003-0467

Wyoming Attorney General's Office
Attn: Nancy E. Vehr
123 Capitol Building
Cheyenne, WY 82002



CLERK OF DISTRICT COURT



Deputy Clerk District Court