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RECEIVE

JUL 18 1985

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Mr. W. L. McClain
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Vista Chemical Company
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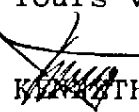
RE: United States of America
Vs. No. 83-2518
Conoco Inc.

Dear Bill:

I enclose herewith a copy of the Order signed by Judge Veron allowing Vista Chemical Company to intervene in this matter. I also enclose herewith a copy of the proposed consent decree signed by all the attorneys.

Thanking you and with kindest personal regards,
I remain

Yours very truly,


KENNETH R. SPEARS

KRS:ds

Enclosures

CCR 000021018

JUL - 3 1985
ROBERT H. SHEMWEILL, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

FILED

JUL 9 - 1985

ROBERT M. SHEMWEILL, CLERK
BY
DEPUTY

UNITED STATES OF AMERICA,

Plaintiff

VERSUS

CONOCO INC.,

Defendant

VISTA CHEMICAL COMPANY,

Applicant for
Intervention

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CIVIL ACTION NO. 83-2518

ORDER

This day there came on to be heard, and was heard, the Motion of Vista Chemical Company for a Leave to Intervene in this cause as a Party Defendant, and the Court being fully advised in the premises is of the opinion that said Motion should be, and the same is, hereby sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED, That Vista Chemical Company be, and is hereby granted leave to intervene herein as a Party Defendant, for the purposes of entering into the settlement reflected by the Consent Decree attached to the Motion.

SO ORDERED AND ADJUDGED, this the 9th day of April 1985.

COPY SENT

DATE 7-10-85

35

TO:

UNITED STATES DISTRICT JUDGE

Tilman
Horn
Gillberg
St. John
Wackerbarth

CCR 000021019

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
V.	)	Civil Action No. 83-2518
	)	
CONOCO INC.,	)	
	)	
Defendant,	)	
	)	
	)	
VISTA CHEMICAL COMPANY,	)	
	)	
Intervenor.	)	
	)	
	)	

CONSENT DECREE

Plaintiff, United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), filed a complaint herein on October 13, 1983, seeking injunctive relief and civil penalties. The complaint alleges that Conoco Inc. ("Conoco") violated the Clean Air Act, 42 U.S.C. § 7401 et seq., ("CAA") and the vinyl chloride National Emission Standard for Hazardous Air Pollutants ("NESHAP"), 40 C.F.R. § 61.60 et seq., by discharging vinyl chloride from relief valves and other equipment at its ethylene dichloride/vinyl chloride ("EDC/VC") plant in Westlake, Louisiana.

At the time of filing of the complaint, Conoco was the owner and operator of the EDC/VC plant in question. On

CCR 000021020

July 20, 1984, Conoco sold the assets comprising the EDC/VC plant to Vista Chemical Company ("Vista"). Consequently, Vista is voluntarily entering into this Consent Decree ("Decree") to avoid the costs of prolonged litigation and to effectuate the injunctive relief sought by the United States in this litigation.

The parties agree that settlement of the disputed issues arising from the United States' complaint without further litigation is in the public interest and that entry of this Decree is the most appropriate means of resolving these issues.

NOW THEREFORE, before the taking of any testimony, without this Decree or any action taken to comply with the terms of this Decree constituting any evidence or waiver or admission by any party with respect to any issue of fact or law, with the consent of the parties, by their respective attorneys, and the Court having considered the matter and being duly advised, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction over the subject matter and over the parties consenting hereto pursuant to 28 U.S.C.

CCR 000021021

§§ 1331, 1345 and 1355, and 42 U.S.C. § 7413. The complaint states a claim upon which relief can be granted.

II.

BOUND PARTIES

The provisions of this Consent Decree shall apply to and be binding upon the above-named parties and upon their officers, agents, servants, employees, successors, assigns and all persons, firms and corporations under, through or for it, and upon those persons, firms and corporations in active concert or participation with them. When this Decree requires that "Conoco and Vista" undertake an identified task or comply with the NESHAP for vinyl chloride, this shall mean that each party is responsible for the completion of the task and/or compliance. Either or both may agree among themselves as to who shall undertake a specific task, but such agreement shall not relieve each of the responsibility under this Decree. Defendants shall give notice in writing of the Consent Decree to any successors in interest prior to a change in ownership or a transfer of right to operate any source covered by this Decree. A copy of such notice shall be simultaneously provided to EPA and to the U.S. Department of Justice ("DOJ").

Nothing contained herein shall be construed to affect the existing rights of the State of Louisiana with

CCR 000021022

respect to its claims against Conoco and Vista for discharges of vinyl chloride at the EDC/VC plant in Westlake, Louisiana.

III.

COMPLIANCE

Upon entry of this Decree, Conoco and Vista shall comply with the NESHAP for vinyl chloride, 40 C.F.R. § 61.60 et seq. Towards that end, Conoco and Vista shall do the following:

A. Within thirty (30) days after entry of this Decree submit to EPA the following information:

1. Classify each incinerator bypass that has occurred between May 11, 1983 and March 13, 1985 by category, according to the cause of the incident. Provide a detailed description of the nature and cause of the incinerator bypass for each category named.
2. For each incinerator bypass that has occurred between May 11, 1983 and March 13, 1985 provide:
 - (a) Identification of each bypass incident by the date of occurrence, time duration, description of the category of affected equipment from which exhaust gas(es) were released uncontrolled, and the applicable

CCR 000021023

category listed in III. A. 1, which properly describes the nature and cause of the bypass, and for purposes of this disclosure, "affected equipment" "means that category of equipment from which exhaust gases were initially collected by the vent headers or were released directly into the atmosphere". Accordingly, the respective vent headers do not constitute "affected equipment".

(b) Description of the mechanism, device, method and measure that was/were employed to bypass or reroute either the individual vent(s) or collective exhaust gases from the vent headers around the incinerator and through C-500 scrubber and stack or directly to atmosphere uncontrolled.

B. Within sixty (60) days of entry of this Decree shall submit to EPA a compliance plan ("Plan") which includes a disclosure of the status of compliance with the NESHAP for vinyl chloride and which outlines the measures Conoco and Vista have taken or any that will be taken to ensure compliance with each section of the the NESHAP for Vinyl Chloride 40 C.F.R. § 61.60 et seq., with a timetable for completion of

CCR 000021024

the measures identified. Such a Plan shall address, at a minimum, incinerator by-passes, relief valve discharges and emissions of vinyl chloride from the HCl column during start-up, shut-down, and malfunction. The portion of the Plan on relief valve discharges shall specifically address, inter alia, improvements in operator training, process design, inspection and preventive maintenance programs, quality assurance program for installation of new valve assemblies, process design for alarm system, controlled removal of nitrogen in process equipment before or during start-up, instrumentation for local pressure indication at inlet valve points on each check tank, and a quality assurance program for rupture discs. Conoco and Vista shall append appropriate technical data to the Plan, so that EPA personnel can fully evaluate the merits of the Plan. The Plan may refer to documents in plaintiff's possession.

C. Within forty-five (45) days of submission of the Plan, EPA shall inform Conoco and Vista, in writing, whether or not it approves or disapproves all or part of said Plan. Any disapproval shall include EPA's reasons for the disapproval, and additional or alternative measures EPA believes need to be undertaken in order to ensure compliance with the NESHAP for vinyl chloride. If at any stage of review, consideration, or reconsideration EPA approves the Plan, the parties shall submit the Plan to the Court by

CCR 000021025

stipulation. Such Plan shall become an enforceable addendum to this Decree. If EPA disapproves the Plan, Conoco and Vista shall notify EPA within thirty days of receipt of EPA's disapproval whether or not they agree to the amendments by EPA, and will resubmit the Plan accordingly, or desire to petition the Court for resolution of the issue. In the event Conoco and Vista desire to petition the Court, such a petition shall be submitted within 60 days of EPA's written notification of disapproval. If Conoco and Vista do not file a petition within sixty (60) days of EPA's written notification of disapproval, they shall adhere to EPA's determination.

D. Conoco and Vista shall complete the measures outlined in the Plan within the time periods specified therein. However, if any circumstance arises which will cause a delay in meeting the schedule for completion of any of the measures in the Plan, Conoco and Vista shall submit written notification to EPA and this Court no later than fourteen (14) calendar days after the date Conoco and Vista conclude that such circumstance will cause a delay in meeting the schedule, describing in detail the anticipated length of the delay, the precise circumstances causing the delay, the measures taken or to be taken to prevent or minimize the delay, and the schedule for implementation of the measures to be taken. Conoco and Vista shall take

CCR 000021026

reasonable measures to prevent or minimize any delay. If Plaintiff agrees with Conoco and Vista that delay in meeting the schedule for completion of any of the measures in the Plan will be or has been caused by an act of God, fire, flood, strike, or other circumstances entirely beyond the control of and without the fault of Conoco and Vista, the deadline may be extended to a period no longer than the delay actually caused by such circumstance. In that event, the parties shall stipulate to an extension of the particular deadline affected and shall file a joint motion with this Court requesting an appropriate modification of this Decree. In the event that the parties do not agree, any party may at any time submit the matter to this Court for resolution. Financial, economic or business conditions or changes in same, or increased costs or expenses associated with the implementation of actions called for by this Decree shall not in any event be a basis for changes in this Decree or extensions of time.

E. The plaintiff does not, by its consent to the entry of this Decree, warrant or aver in any manner that defendants' completion of the measures outlined in this section will result in compliance with the provisions of the NESHAP for vinyl chloride. Notwithstanding EPA's review or approval of any Plan, the defendants shall remain solely

CCR 000021027

responsible for compliance with the terms of this Decree and the NESHAPs for vinyl chloride.

IV.

STIPULATED PENALTIES

Conoco and Vista shall take all measures to perform their obligations pursuant to this Decree. If Conoco and Vista fail to comply with the requirements of this Decree, Conoco and Vista shall pay the following stipulated penalties:

A. If Conoco and Vista fail to submit the Plan described in and in the time required by Section III, Conoco and Vista shall pay \$1,000.00 per day of noncompliance.

B. If Conoco and Vista fail to take or complete the tasks within the timetable outlined in the Plan of Section III, Conoco and Vista shall pay \$1,000.00 for each day in excess of the scheduled time period for each task.

C. All payments of stipulated penalties under this Section shall be paid within thirty (30) days of the event by certified check made payable to the Treasurer of the United States and mailed to the United States Attorney for the Western District of Louisiana. A copy of the letter forwarding such check, together with a brief description of the noncompliance should be mailed to EPA.

CCR 000021028

D. Nothing contained herein shall be construed to prevent or limit the rights of the plaintiff to obtain any other injunctive relief or civil penalties under the Act in order to obtain compliance with the Clean Air Act and the regulations promulgated thereunder.

V.

REPORTING AND PROGRESS REPORTS

A. During the pendency of this Decree, Conoco and Vista shall submit directly to EPA copies of all semiannual, quarterly, and relief valve discharge reports which are required to be submitted by the applicable laws and regulations to the State of Louisiana pursuant to EPA delegation of the NESHAP program to the State. Defendants shall also include in the semiannual reports all discharges, leaks, and/or emissions reported to the National Response Center pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). Conoco and Vista are each obligated to submit these reports only for the period of time during which each owned and operated or continues to own and operate the EDC/VC plant.

B. Commencing on the first calendar quarter after entry of the Plan as an addendum to this Decree, Conoco and Vista shall also submit quarterly progress reports within fifteen (15) days of the end of such quarter detailing all

actions taken toward completion of the tasks enumerated in the Plan pursuant to Section III.

C. All reports or other communications required to be in writing under this Decree shall be addressed as follows:

Director, Air and Waste
Management Division
United States Environmental
Protection Agency
Region VI
1201 Elm Street
Dallas, Texas 75270

Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
10th & Constitution Avenue, N.W.
Washington, D.C. 20530

Conoco Inc.
Environmental and Engineering Group
Legal Department
Post Office Box 2197
Houston, Texas 77252

General Counsel
Vista Chemical Company
15990 Barker's Landing Road
Houston, Texas 77079

CCR 000021030

D. For the purposes of this section, documents are to be deemed delivered when postmarked.

VI.

CIVIL PENALTY

Conoco shall pay a civil penalty in the amount of \$100,000.00 in full satisfaction of plaintiff's civil claims for all violations of the NESHAP for vinyl chloride prior to August 1, 1984, except for violations which should have been reported to either EPA or the appropriate state agency but were not. Payment of \$100,000.00 shall be made within thirty (30) days of entry of this Decree, by certified check payable to the "Treasurer of the United States", and tendered to the Plaintiff at the Office of the United States Attorney for the Western District of Louisiana.

VII.

OBLIGATION TO COMPLY WITH ALL LAWS

Nothing in this Decree shall be construed to relieve the defendants or their officers, agents, servants, employees, successors or assigns of their obligations to comply with all applicable federal, state, and local statutes or regulations. Implementation of the Plan provided for in Section III of this Decree shall not relieve defendants of their obligation to comply with the National Emission Standard

for Vinyl Chloride, 40 C.F.R. § 61.60 et seq., and the Clean Air Act, 42 U.S.C. § 7401 et seq.

VIII.

ENTRY AND INSPECTION

During the pendency of this Decree the Administrator of EPA, or his authorized representative, shall have authority to enter the Westlake EDC/VC facility upon reasonable notice for purposes of examining remedial measures and inspecting and copying records, logs, contracts, or other documents which are necessary to assess compliance with this Decree.

IX.

CONFIDENTIALITY

All documents or information identified as confidential by Vista or Conoco in accordance with 40 C.F.R. Part 2, which are submitted to EPA, shall be disclosed only in accordance with 40 C.F.R. Part 2.

X.

RETENTION OF JURISDICTION

The Court shall retain jurisdiction to enforce the terms and conditions of this Decree and to resolve disputes arising hereunder until termination of this Decree.

CCR 000021032

XI.

TERMINATION OF DECREE

This Decree will terminate either: (1) three calendar months after plaintiff and defendants have notified the Court that the physical measures identified in the Plan described in Section III have been completed or (2) one year from the date an approved Plan is submitted to the Court as an addendum to this Decree, whichever shall occur later, provided that this Decree shall not terminate until all penalties under this Decree are paid.

XII.

COSTS OF ACTION

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

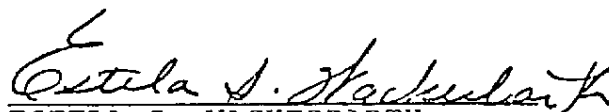
Date

United States District Judge

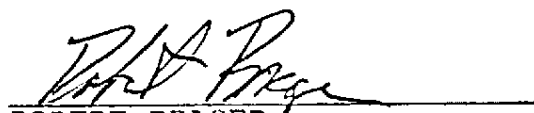
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WE HEREBY CONSENT to the entry of this Decree
subject to the public notice requirements of 28 C.F.R.
§ 50.7.

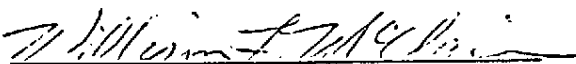
FOR CONOCO INC.


ESTELA S. WACKERBARTH
Counsel for Conoco

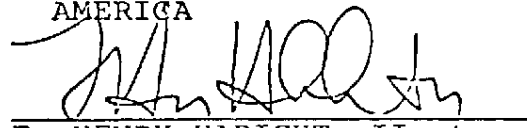

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FOR VISTA CHEMICAL COMPANY

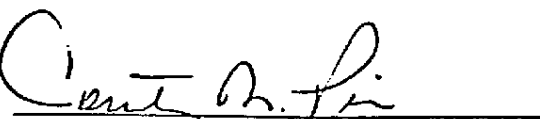

WILLIAM L. MCCLAIN
Counsel for Vista

FOR THE UNITED STATES OF
AMERICA

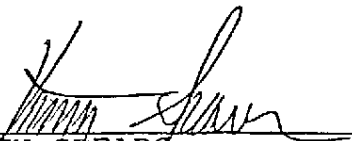

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CCR 000021034


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