

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

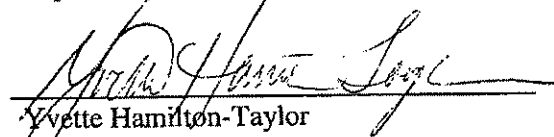
In re: NewChem, Inc. Facility)	Appeal No. RCRA (3008) 12-01
)	
EPA ID No. WVD074968413)	
)	

JOINT NOTICE OF VOLUNTARY DISMISSAL

Appellant NewChem, Inc. ("NewChem") and the United States Environmental Protection Agency ("EPA") hereby file this Joint Notice of Voluntary Dismissal of the Appeal that NewChem filed on February 14, 2012, Environmental Appeal Board Appeal No. RCRA (3008) 12-01. Appellant and EPA have worked cooperatively to resolve the issues raised in NewChem's Appeal Brief, and EPA has withdrawn the November 29, 2011 Final Decision and Response to Comments ("Final Decision") that was the subject of NewChem's appeal. On March 2, 2012, EPA withdrew the Final Decision and reopened the Statement of Basis for a thirty (30)-day public comment period during which time NewChem will have an opportunity to submit comments and additional information regarding EPA's proposed remedy.¹ The parties, therefore, respectfully request that the Environmental Appeals Board issue an Order dismissing NewChem's appeal.

¹ A copy of the March 2, 2012 Public Notice withdrawing the Final Decision is attached as Exhibit A.

Respectfully submitted,



Yvette Hamilton-Taylor

Diane Ajl

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U.S. Environmental Protection Agency

Region III

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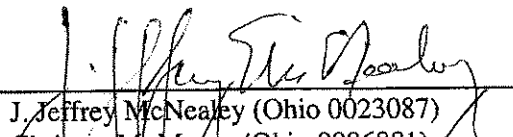
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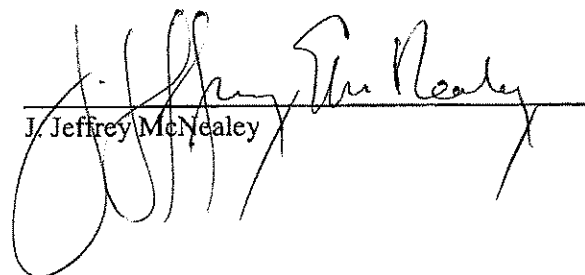
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via regular U.S. mail, postage prepaid, this 5th day of March, 2012 upon:

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COLUMBUS/1622389v.1

Exhibit A



http://www.epa.gov/reg3wcmd/publicnotice_NewChem.html

Last updated on Thursday, March 01, 2012

Mid-Atlantic Land and Chemicals

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NewChem New Cumberland WV

Public Notice

DATE OF NOTICE: March 2, 2012

PURPOSE OF THIS NOTICE: On August 25, 2011, the U.S. Environmental Protection Agency (EPA)

issued a Statement of Basis in which it described the proposed remedy under the Resource Conservation and Recovery Act, as amended (RCRA), for the NewChem Facility, located on State Route 2, New Cumberland, West Virginia. EPA requested comments from the public on its proposed remedy through the commencement of a thirty (30)-day public comment period which was announced in the Hancock County Courier. The public comment period ended on September 26, 2011. During that time, the Administrative Record, including the SB describing the proposed remedy, was made available for review by the public at the EPA Region III office in Philadelphia and also at the Swaney Memorial Library in New Cumberland, West Virginia. EPA received no comments on its proposed remedy. On November 29, 2011, EPA issued a Final Decision and Response to Comments (Final Decision) which described the selected Final Remedy for the Facility as the implementation of enhanced anaerobic bioremediation for contaminated groundwater and institutional controls.

Today, EPA is announcing its intention to withdraw its November 29, 2011 Final Decision and to reopen its August 25, 2011 Statement of Basis through the commencement of another thirty (30) day public comment period in order to request additional comments from the public on its August 25, 2011 Statement of Basis.

FACILITY DESCRIPTION: The Facility is situated in Hancock County, West Virginia approximately 3.5 miles southwest of Newell, West Virginia, adjacent to West Virginia State Route 2. The Facility comprises 13.71 acres, approximately six acres of which comprise the manufacturing portion of the Facility. The Facility is currently being operated by NewChem, a subsidiary of Deltech Resins Company. NewChem performs custom organic chemical manufacturing, solvent recovery and drying, as well as production of powder biocides. The facility had a history of poor waste management practices that resulted in an EPA emergency response from June 1993 through May 1996. During this time approximately 2000 drums of waste were removed from site. Many of these drums had leaked their contents onto the ground. Environmental investigations at the site since 2006 have revealed low levels of residual contamination at the facility. Soil and groundwater data from sampling events revealed mostly low levels of a variety of metals, volatile and semivolatile organics and pesticides. For surface waters and sediments no contaminants of concern have been identified.

INFORMATION AVAILABILITY: Information regarding EPA's proposed remedy is available on EPA's website at www.epa.gov/reg3wcmd/public_notices.htm. The Administrative Record, which contains all the information considered in EPA's proposed remedy, is available at U.S.



EPA Region 3, 1650 Arch Street, Philadelphia, PA. 19103. Office hours are: Mon-Fri, 8:00 AM – 5:00 PM. It is also available at the Swaney Memorial Library, 100 Court Street, New Cumberland, WV 26047 (304) 564 -3471. For additional information, contact Bill Wentworth, Project Manager, at Mail Code: 3LC20, at EPA Region 3's address listed above; Phone: 215-814-3184; Fax: 215-814-3113, or Email: wentworth.william@epa.gov.

COMMENT PROCESS: Persons wishing to comment on EPA's proposed remedy must submit comments to EPA within the 30 day comment period ending **April 2, 2012**. Interested persons may also request a public hearing on this proposed remedy. All comments and/or requests for a hearing must be submitted in writing via mail, fax, or email to the EPA Project Manager, Bill Wentworth, as listed above, and must be received prior to April 2, 2012. All comments will be considered in making a final decision.

FINAL DECISION: EPA will make a final decision after considering all comments, consistent with applicable RCRA requirements and regulations. If the decision is substantially unchanged from the one in this notice, EPA will issue a final decision and inform all persons who submitted written comments or requested notice of EPA's final determination. If the final decision is significantly different from the one proposed, EPA will issue a public notice explaining the new decision and will reopen the comment period.

[NewChem Statement of Basis](#) [PDF, 61 kB, 13 pages, [About PDF](#)]