



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

CERTIFIED MAIL NO. 7003 3110 0006 1998 0758
RETURN RECEIPT REQUESTED

Joe Taormina
President
Johanson Dielectrics
15191 Bledsoe St.
Sylmar, CA 91342
EPA Identification Number: CAD983649229

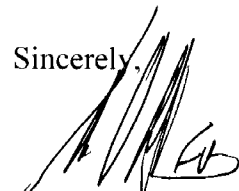
Re: In the matter of Johanson Dielectrics
U.S. EPA Docket No. RCRA-09-2009- 00 0 3

Dear Mr. Taormina:

Enclosed is a copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with the United States Environmental Protection Agency.

Your payment of the penalty identified in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed Consent Agreement and Final Order, please contact Erica Pencak at (415) 972-3943.

Sincerely,


Jeff Scott, Director
Waste Management Division

Enclosure

cc: Charles McLaughlin, DTSC
Gabriel Caballero, LA County Fire Dept
Stephen Baxter, LA County Fire Department

FILED

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

REGISTRAR
REGISTRAR CLERK

In the matter of)	U.S. EPA Docket No.
)	RCRA- 9 -2009- 0003
JOHANSON DIELECTRICS, INC.)	09
)	CONSENT AGREEMENT AND
EPA ID No. CAD 983649229)	FINAL ORDER PURSUANT TO
)	40 C.F.R. SECTIONS 22.13 AND
Respondent.)	22.18
_____)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is Johanson Dielectrics, Inc. ("Johanson," or "Respondent").
2. Respondent owns and operates a facility located at 15191 Bledsoe St., Sylmar, CA 91342 (the "Facility"). The Facility's EPA Identification Number is CAD 983649229. Respondent manufactures multilayer ceramic chip capacitors with applications in the military, aerospace, medical, and commercial sectors.
3. This Consent Agreement and Final Order pursuant to 40 C.F.R. §§ 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to: (1) mark or label containers of hazardous waste, in violation of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34]; (2) close containers of hazardous waste, in violation of 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)]; (3) maintain aisle space, in violation of 22 C.C.R. § 66265.35 [*see also* 40

C.F.R. § 265.35]; and (4) comply with contingency plan requirements, in violation of 22 C.C.R. § 66265.52(e) [*see also* 40 C.F.R. § 265.52(e)].

B. JURISDICTION

4. On August 1, 1992, the state of California (“State”) received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to § 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. § 66001 et seq. The State has been authorized for all the regulations referenced in this CA/FO.
5. Respondent is a “person,” as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
6. Respondent is the “operator” of a facility as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
7. Respondent’s hazardous waste manifests indicate that it is a large quantity “generator” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
8. Respondent is or has been engaged in “storage” of hazardous waste as defined in 22 C.C.R. § 66260.10 [*see also* 40 C.F.R. § 260.10].
9. Respondent generates and accumulates, or has generated and accumulated, materials that are “wastes” as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [*see also* 40 C.F.R. §§ 260.10 and 261.2].
10. At the Facility, Respondent generates and accumulates, or has generated and accumulated, “hazardous waste” as defined in California Health & Safety Code § 25117, and 22 C.C.R. §§ 66260.10 and 66261.3 [*see also* RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. Per the facility’s 2007 Biennial Report, these hazardous wastes include, but are not limited to, ceramic casting filters (containing barium, cadmium, and methyl ethyl ketone), ceramic chunks (containing barium, cadmium, and silver), ceramic setters and ceramic tape (containing barium and cadmium), tank bottoms, mixed solvents (containing methyl acetate and methyl ethyl ketone), carbon mixed with bed water, rags with silver and debris (containing acetone and methyl ethyl ketone), dragout water (containing cadmium and tin), waste acetone, and waste isopropyl alcohol.
11. On August 7, 2008, EPA conducted a RCRA Compliance Evaluation Inspection (“CEI”) at the Facility. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had

violated California Health & Safety Code § 25100 et seq. and the regulations adopted pursuant thereto, as approved and authorized by the United States.

12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, inter alia, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California's authorized hazardous waste program, found at H&SC §§ 25100 et seq., constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California's authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA et seq., 42 U.S.C. § 6921 et seq.
15. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has re-delegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

[Failure to mark or label containers of hazardous waste.]

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. Pursuant to the requirements of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34], generators who accumulate hazardous waste on site without a permit or grant of interim status shall comply with the following requirements: (1) the date upon which each period of accumulation begins shall be clearly marked and visible for inspection on each container and portable tank; (2) the date the applicable accumulation period begins shall be clearly marked and visible for inspection on each container and tank; and (3) each container and tank used for onsite accumulation of hazardous waste shall be labeled or marked clearly with the words "Hazardous Waste." Additionally, all containers and portable tanks shall be labeled with the following information: (1) composition and physical state of the wastes; (2) statement or statements which call attention to the particular hazardous properties of the waste (e.g., "flammable, reactive," etc.); and (3) name and address of the person producing the waste.

18. At the time of the CEI, the EPA Investigator observed approximately thirty-nine (39) containers of RCRA hazardous waste, ranging from small bottles to 55-gallon drums, that were not properly marked or labeled.
19. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. § 66262.34(f) [*see also* 40 C.F.R. § 262.34].

COUNT II

[Failure to close containers of hazardous waste.]

20. Paragraphs 1 through 19 above are incorporated herein by this reference as if they were set forth here in their entirety.
21. Pursuant to the requirements of 22 C.C.R. §§ 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)], a container holding hazardous waste shall always be closed during transfer and storage, except when it is necessary to add or remove waste.
22. At the time of the CEI, the EPA Inspector observed three 55-gallon containers of RCRA D001 hazardous waste that had been left open.
23. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 265.173(a)].

COUNT III

[Failure to maintain aisle space]

24. Paragraphs 1 through 23 above are incorporated herein by this reference as they were set forth in their entirety.
25. Pursuant to the requirements of 22 C.C.R. § 66265.35 [*see also* 40 C.F.R. § 265.35], aisle space must be maintained to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the facility in an emergency.
26. At the time of the CEI, the EPA Inspector observed that there was not sufficient aisle space to allow unobstructed access to one 55-gallon drum of silver-contaminated rags in the hazardous waste storage area, in the event of an emergency.
27. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. § 66265.35 [*see also* 40 C.F.R. § 265.35].

COUNT VI

[Failure to comply with contingency plan requirements.]

28. Paragraphs 1 through 27 above are incorporated herein by this reference as they were set forth herein in their entirety.
29. Pursuant to the requirements of 22 C.C.R. § 66265.51 [*see also* 40 C.F.R. § 265.51], each owner or operator is required to have a contingency plan for the facility designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. 22 C.C.R. § 66265.52 details the required content of the contingency plan; 22 C.C.R. § 66265.52(e) states that the plan must include a list of all emergency equipment at the facility, and it must include the location of each item on the list [*see also* 40 C.F.R. § 265.52(e)].
30. At the time of the CEI, the EPA Inspector observed that the Facility's contingency plan did not provide a detailed description of its emergency equipment, nor did it provide the location of this equipment.
31. Therefore, EPA alleges that Respondent has failed to comply with the requirements of 22 C.C.R. § 66265.52(e) [*see also* 40 C.F.R. § 265.52(e)].

D. CIVIL PENALTY

32. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996, see 61 Fed. Reg. 69360 (Dec. 31, 1996), and the Civil Monetary Penalty Inflation Adjustment Rule, see 69 Fed. Reg. 7121 (Feb. 13, 2004), authorizes a civil penalty of up to TWENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$27,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 et seq., occurring after January 31, 1997 through March 15, 2004. The Civil Monetary Penalty Inflation Adjustment Rule issued in February 2004 authorizes a civil penalty of up to THIRTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$32,500) per day for violations occurring after March 15, 2004 through January 12, 2009. 69 Fed. Reg. 7121 (Feb. 13, 2004). The Civil Monetary Penalty Inflation Adjustment Rule issued in December 2008 authorizes a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$37,500) per day for violations occurring after January 12, 2009. 73 Fed. Reg. 75240 (Dec. 11, 2008).
33. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that

Respondent be assessed FIVE THOUSAND DOLLARS (\$5000.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day-violations, for case-specific circumstances, and for the economic benefit gained from non-compliance, where appropriate.

E. ADMISSIONS AND WAIVERS OF RIGHTS

34. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO. Respondent consents to and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.
35. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO. Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

36. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
37. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
38. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

39. Respondent consents to the assessment of and agrees to pay a civil penalty of FIVE

THOUSAND DOLLARS (\$5,000.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.

40. Respondent shall submit payment of the FIVE THOUSAND DOLLAR (\$5,000.00) penalty in two payments.
41. Respondent shall submit the first payment of TWO-THOUSAND, FIVE HUNDRED DOLLARS (\$2,500.00) within thirty (30) calendar days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.
42. Respondent shall submit the second payment of TWO-THOUSAND, FIVE HUNDRED DOLLARS (\$2,500.00), plus EIGHTEEN DOLLARS AND SEVENTY-FIVE CENTS (\$18.75) of applicable interest, within one-hundred twenty (120) calendar days of the Effective Date of this CA/FO.
43. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to "Treasurer of the United States" and sent to:

U.S. Environmental Protection Agency Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

At the time payment is made, a copy of the check shall be sent to:

Danielle Carr
Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

Clinton Seiter (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

44. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM

6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.

H. DELAY IN PERFORMANCE/STIPULATED PENALTIES

45. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below:

For failure to submit a payment to EPA by the time required in this CA/FO: FIVE HUNDRED DOLLARS (\$500.00) per day for first to fifteenth day of delay, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000.00) per day for each day of delay thereafter.

46. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.
47. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 43.
48. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
49. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

I. RESERVATION OF RIGHTS

50. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this

CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), or any other statutory, regulatory or common law enforcement authority of the United States.

51. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
52. The entry of this CA/FO and Respondent’s consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent’s liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
53. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

J. OTHER CLAIMS

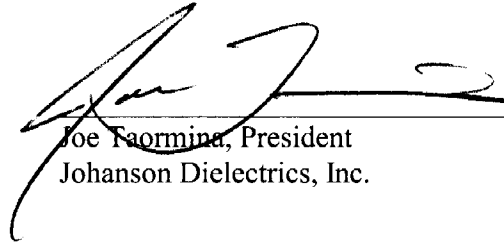
54. Nothing in this CA/FO shall constitute or be construed as a release from any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

K. MISCELLANEOUS

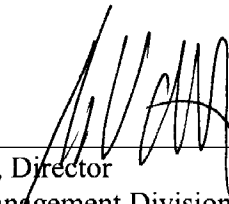
55. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.
56. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.
57. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

IT IS SO AGREED.

3/16/09
Date


Joe Faormina, President
Johanson Dielectrics, Inc.

32309
Date



Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region 9

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-~~9~~⁰⁹-2009-~~0003~~⁰⁰⁰³) be entered and that Johanson Dielectrics, Inc. pay a civil penalty of FIVE THOUSAND DOLLARS (\$5000.00). TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) is due within 30 days of the Effective Date of this Consent Agreement and Final Order; TWO-THOUSAND, FIVE HUNDRED DOLLARS (\$2,500.00), plus EIGHTEEN DOLLARS AND SEVENTY-FIVE CENTS (\$18.75) of applicable interest, is due within one-hundred twenty (120) calendar days of the Effective Date of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

03/26/09
Date


Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of Johnson Dielectrics (RCRA-09-2009-0003), dated March 26, 2009, has been filed with the Regional Hearing Clerk, and a copy was served on Respondent, and Counsel for EPA, as indicated below:

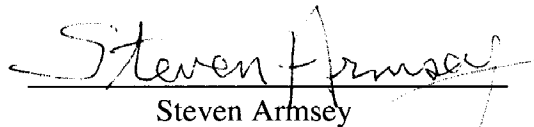
BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent - Joe Taormina, President
Johnson Dielectrics
15191 Bledsoe Street
Sylmar, CA 91342

HAND DELIVERED:

Complainant - Erica Pencak, Esq.
(By Counsel) Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, Calif., this 1st day of April, 2009.


Steven Armsey

For: Danielle Carr
Regional Hearing Clerk
EPA, Region 9