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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
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Boston, Massachusetts 02109-3912

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BY HAND

March 29, 2012

Wanda Santiago, Regional Hearing Clerk
U.S. Environment Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Re: In re: Roberts Chemical Company, Inc., EPA Docket No. RCRA-01-2011-0130

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter are the original and one copy of a Consent Agreement and Final Order.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Andrea Simpson".

Andrea Simpson
Senior Enforcement Counsel

Enclosures

cc: Jennifer Cervenka, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 - NEW ENGLAND
BEFORE THE ADMINISTRATOR

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OFFICE OF
REGIONAL HEARING CLERK

In the Matter of:)

ROBERTS CHEMICAL COMPANY, INC.)

Formerly located at:)

258 Pine Street)

Pawtucket, Rhode Island 02860)

EPA ID No. RIR000508416)

and)

Presently located at:)

330-B Victor Road)

Attleboro, Massachusetts 02703)

EPA ID No. MAC300015252)

Proceeding under Section)

3008(a) of the Resource)

Conservation and Recovery)

Act, 42 U.S.C. § 6928(a))

DOCKET NO. RCRA-01-2011-0130

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the United States Environmental Protection Agency ("EPA"), having filed a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint and Compliance Order") against Respondent, Roberts Chemical Company, Inc. ("Roberts") (collectively, the "Parties") on October 4, 2011;

Roberts having filed an Answer and Request for Hearing on November 4, 2011; and

EPA and Roberts having agreed that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order without further litigation is the most appropriate means of resolving this matter.

NOW, THEREFORE, before the taking of any testimony, upon the pleading, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby Ordered and Adjudged as follows:

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding under Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 (hereinafter, "RCRA"), 42 U.S.C. § 6928(a), alleging that Roberts violated RCRA and the State of Rhode Island's hazardous waste program at its former facility located in Pawtucket, Rhode Island, and ordering Roberts to comply with the hazardous waste regulations promulgated pursuant to RCRA and the Commonwealth of Massachusetts' hazardous waste program at its current facility located in Attleboro, Massachusetts.

2. The Complaint and Compliance Order alleged that Roberts violated Section 3002 of RCRA, 42 U.S.C. § 6922, and the regulations promulgated thereunder at 40 C.F.R. Parts 262 and 265, and Section 23-19.1, *et seq.* of Title 23 of the Rhode Island General Laws, R.I. Gen. Laws § 19.1, *et seq.* and the regulations promulgated thereunder, known as the Rhode Island Rules and Regulations for Hazardous Waste Management. The Complaint and Compliance Order cited numerous alleged hazardous waste management violations at Roberts' Pawtucket, Rhode Island facility, including: failure to segregate incompatible wastes; failure to have adequate secondary containment for containers of hazardous waste; failure to properly label or mark containers of hazardous waste; failure to ensure that containers of hazardous waste were in good condition; failure to conduct adequate hazardous waste determinations; failure to have an adequate hazardous waste training program; failure to have an adequate hazardous waste contingency plan and failure to conduct and document weekly inspections of hazardous waste containers.

3. Paragraph 69 of the Complaint and Compliance Order ordered Roberts to immediately achieve and maintain compliance with all applicable requirements of RCRA and the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the regulations promulgated thereunder at 310 C.M.R. 30.000 *et seq.*, at Roberts's facility in Attleboro, Massachusetts.

4. Paragraph 70 of the Complaint and Compliance Order ordered Roberts to submit to EPA written confirmation of Roberts' compliance (accompanied by a copy of any appropriate supporting documentation and photographs depicting compliance) or noncompliance with the following applicable requirements of the Massachusetts Hazardous Waste Management Act and RCRA: 310 C.M.R. § 30.342(1), as referenced by 310 C.M.R. § 30.351(8)(b), (regarding storage of incompatible wastes); 310 C.M.R. § 30.342(1)(e), as referenced by 310 C.M.R. § 30.351(8)(b), (regarding secondary containment for containers of hazardous waste); 310 C.M.R. § 30.341(2), as referenced by 310 C.M.R. § 30.351(8)(a), (regarding marking and labeling of containers of hazardous waste); 310 C.M.R. § 30.341(2), as referenced by 310 C.M.R. § 30.351(8)(a), (regarding placement of accumulation dates on containers of hazardous waste); 310 C.M.R. § 30.342(1), as referenced by 310 C.M.R. § 30.351(8)(b), (regarding condition of containers of hazardous waste) and 310 C.M.R. § 30.342(1), as referenced by 310 C.M.R. § 30.351(8)(b), (regarding inspection of containers of hazardous waste).

5. Paragraph 71 of the Complaint and Compliance Order ordered Roberts to submit to EPA written standard operating procedures ("SOPs") that describe how Roberts determines if a waste is a hazardous waste as required under 310 C.M.R. § 30.302, as referenced by 310 C.M.R. § 30.351(10), and also ordered Roberts to describe how Roberts manages its hazardous wastes in compliance with 310 C.M.R. § 30.351.

6. Paragraph 72 of the Complaint and Compliance Order ordered Roberts to submit to EPA documentation that demonstrates that Roberts' employees are properly trained to handle hazardous wastes as set forth in 310 C.M.R. § 30.351(9)(g), including the identification of individuals employed by Roberts who handle hazardous wastes and specify what training has been provided or will be provided.

7. Paragraph 73 of the Complaint and Compliance Order ordered Roberts to submit to EPA documents and information demonstrating how Roberts is complying with the requirements governing emergency procedures, prevention and response as set forth in 310 C.M.R. § 30.351(9)(b), including, but not limited to: identification of employees designated as emergency coordinators; lists of emergency and spill response equipment (including communication equipment, alarms, fire protection equipment and spill control equipment) and lists of appropriate state and local contacts to ensure compliance with 310 C.M.R. § 30.351(i), (j) and (k).

8. On November 4, 2011, Roberts filed an Answer to the Administrative Complaint and Compliance Order, together with a request for an administrative hearing.

9. On or about December 5, 2011, Roberts submitted to EPA documentation and information ordered by EPA in Paragraphs 70 through 73 of the Complaint and Compliance Order.

10. The provisions of this Consent Agreement and Final Order shall apply to and be binding on Roberts, its successors and assigns.

11. Roberts stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and Compliance Order and that the Complaint and Compliance Order states a claim upon which relief may be granted. Roberts waives any defenses it might have as to jurisdiction

and venue, and without admitting or denying the factual allegations and legal conclusions contained in the Complaint and Compliance Order, consents to the terms of this Consent Agreement and Final Order.

12. Roberts hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and Compliance Order and waives its right to appeal the Final Order.

II. TERMS OF SETTLEMENT

13. Based on information submitted to EPA by Roberts on or about December 5, 2011, EPA has determined that Roberts has complied with Paragraphs 69 through 73 of the Complaint and Compliance Order which relate to requirements under the cited provisions of RCRA and the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the regulations promulgated thereunder at 310 C.M.R. 30.000 *et seq.*

14. Roberts stipulates that it shall continue to comply with all applicable requirements of RCRA and the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the regulations promulgated thereunder at 310 C.M.R. 30.000 *et seq.*

15. Roberts shall bear its own costs and attorneys' fees in connection with the action resolved by this Consent Agreement and Final Order.

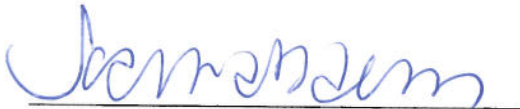
16. This Consent Agreement and Final Order constitutes a settlement between EPA and Roberts for the specific violations alleged in the Complaint and Compliance Order. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Roberts to comply with such laws and regulations.

17. This Consent Agreement and Final Order in no way relieves Roberts or its employees of any criminal liability. Nothing in the Consent Agreement and Final Order shall be construed to limit the authority of the United States to undertake any action against Roberts in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

18. Each undersigned representative of the Parties certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind that party to it.

19. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this Consent Agreement and Final Order is filed with the Regional Hearing Clerk.

For EPA:



Joanna Jerison, Manager
Legal Enforcement Unit
Office of Environmental Stewardship
U.S. Environmental Protection
Agency, Region 1

Date: 3/23/12

For Roberts:



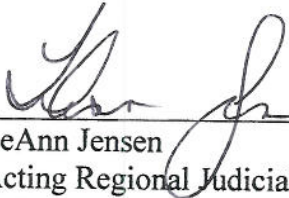
Robert R. McIntyre, Jr.
President
Roberts Chemical Company, Inc.

Date: 3/20/12

III. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Roberts is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

Date: 3/27/12



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

In the Matter of: Roberts Chemical Company, Inc.
Docket No. RCRA-01-2011-0130

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent to the following persons, in the manner specified on the date below:


Copy hand-delivered: Wanda Santiago, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912

Copy by first class mail: Robert R. McIntyre, Jr.
President
Roberts Chemical Company, Inc.
330-B Victor Road
Attleboro, MA 02703

Copy by first class mail: Jennifer Cervenka, Esq.
Partridge Snow & Hahn LLP
180 South Main Street
Providence, Rhode Island 02903

Copy by EPA Pouch Mail: The Honorable Judge Barbara Gunning
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900L
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Date: 3/29/12


Andrea Simpson, Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region 1
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Boston, MA 02109-3912
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