

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

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IN THE MATTER OF )

SOLUTIA, INC. )

702 CLYDESDALE AVENUE )

ANNISTON, ALABAMA )

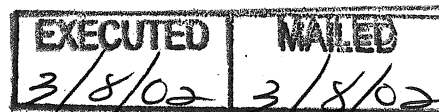
USEPA ID NUMBER ALD 004 019 048 )

) CONSENT ORDER  
) NO.: 02-117-CHW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act, Code of Alabama (1975), §§ 22-30-1 through 22-30-24, as amended, the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code R.") promulgated pursuant thereto, and the federal Solid Wastes Disposal Act, 42 U.S.C. §§ 6901 through 6992k, as amended, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Alabama Department of Environmental Management (hereinafter "the Department") makes the following FINDINGS:

1. Solutia Inc. (hereinafter "Solutia") operates a facility in Anniston, Alabama, which has been assigned EPA ID Number ALD 004 019 048. Solutia is a chemical manufacturer that makes various chemicals including biphenyl, therminol, and p-nitrophenol (PNP). Solutia was issued a Hazardous Waste Post-Closure Permit on January 7, 1997.



2. The Alabama Department of Environmental Management is a duly constituted department of the state of Alabama pursuant to §§22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.

3. Pursuant to Code of Alabama (1975), § 22-22A-4(n), as amended, the Department is the state agency responsible for the promulgation and enforcement of hazardous waste regulations in accordance with the federal Solid Waste Disposal Act, 42 U.S.C. §§ 6901 through 6992k as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Hazardous Wastes Management and Minimization Act, Code of Alabama (1975), §§ 22-30-1 through 22-30-24, as amended.

4. Condition III.B.2. of Solutia's Hazardous Waste Permit requires that Solutia shall notify the Department in writing, within fifteen (15) calendar days of discovery, of any additional Solid Waste Management Unit(s) (SWMU). A SWMU is defined in Solutia's permit as "...any unit which has been used for the treatment, storage, or disposal of solid waste at any time, irrespective of whether the unit is or ever was intended for the management of solid waste...."

5. Condition III.C.1. of Solutia's Hazardous Waste Permit requires that Solutia shall notify the Department in writing of any newly discovered release(s) of hazardous waste or hazardous constituents at previously identified SWMUs discovered during the course of groundwater monitoring, field investigations, environmental audits, or other means, within fifteen (15) calendar days of discovery.

6. EPA Region 4 and ADEM conducted an inspection of Solutia on May 10, 2001. The inspection revealed that Solutia did not notify the Department within fifteen (15) calendar days of the discovery that PNP-contaminated groundwater was seeping from the facility into an off-site ditch as required by Permit Conditions III.B.2. and III.C.1.

7. During the inspection, Solutia personnel reported that Alabama Power had informed them that a yellow liquid was seeping from the soil into an off-site ditch at the west fence line of Solutia's property. The liquid appeared to be groundwater contaminated with PNP. Solutia responded to the situation by digging several pits bordering the fence on Solutia's property near the seepage. Because PNP contaminated groundwater was collected in these pits, these pits constituted a SWMU as defined by the permit.

8. Groundwater that collected in the pits was sampled and collected in drums. The analysis of the groundwater revealed approximately 40 mg/L of PNP. Solutia personnel stated that they were not aware of the exact source of the PNP that was seeping into the off-site ditch, but the groundwater at Solutia has PNP contamination from prior operations that is being remedied under their RCRA Permit.

9. The area where the pits were dug is immediately adjacent to Solutia's wastewater treatment plant. The wastewater plant treats wastewater from the PNP production process, which is contaminated with PNP. As a result of the inspection, Solutia was issued a Notice of Violation (NOV) dated May 25, 2001.

10. A review of groundwater sampling results since 1997 from wells at Solutia revealed the highest level of PNP detected was 1.1 mg/L on 4/17/97 from well OW-19.

11. On May 25, 1999, Solutia was cited in a Notice of violation for having clumps (approximately one gallon) of PNP waste on the floor of the drummed PNP area next to a floor drain, which led to the wastewater treatment plant. The floor in the drummed PNP area had large cracks in it that could have allowed PNP (U 170) to infiltrate to the underlying soil and groundwater. Solutia was also cited for wastewater that was spilling from one end (north end of southern basin) of the wastewater treatment plant onto the ground. The wastewater included a discharge contaminated with PNP.

12. On June 30, 1999, August 17, 1999, and September 8, 1999, Solutia responded to the May 25, 1999 Notice of Violation with actions that had been taken to correct the cited violations. In the responses, Solutia informed the Department that cracks in the floor of the drummed PNP area had been sealed and the observed PNP waste had been washed to the wastewater treatment plant. Solutia also informed the Department that additional safeguards had been installed to prevent material from escaping from the wastewater treatment plant basin and that samples of the soil in the area of the spill had been sampled and did not reveal the presence of any PNP. On September 20, 1999 the Department accepted the corrections implemented by Solutia as adequate to correct the violations cited in the May 25, 1999 Notice of Violation.

13. Solutia has the ability to pay the penalty ordered in this matter.

14. Solutia neither agrees nor disagrees with the Findings presented in this Consent Order, but, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Hazardous Wastes Management and Minimization Act, has consented to the terms of this Consent Order.

15. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Consent Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-30-19(a) and (b), and 22-30-20, as amended, and with the consent of Solutia, it is hereby ORDERED:

A. That immediately upon receipt of this Order and continuing each and every day thereafter, Solutia shall notify the Department in writing, within fifteen (15) calendar days of discovery, of any additional Solid Waste Management Unit(s) and any newly discovered release(s) of hazardous waste or hazardous constituents at previously identified SWMUs.

B. That not later than thirty (30) days from the date of receipt of notice of this Order, Solutia shall pay to the Department a civil penalty in the amount of eighty seven thousand dollars (\$87,000).

C. That all penalties due pursuant to this Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

All checks shall reference Solutia's name and address, and the ADEM Consent Order number of this action.

D. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. That Solutia is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. That, for purposes of this Consent Order only, Solutia agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not

limited to, Montgomery County Circuit Court. Solutia also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Solutia shall be limited to the defenses of *Force Majeure*, compliance with this Agreement, and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of Solutia, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to be beyond the reasonable control of Solutia) and which delays or prevents performances by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state or local permits shall not constitute *Force Majeure*. The Department may also grant any other additional time extension for good cause shown but is not obligated to do so.

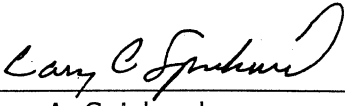
H. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations shall be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Solutia shall not object to such future orders, litigation, or enforcement action based on the issuance of this

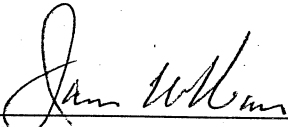
Consent Order if future Orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and Solutia does hereby waive any hearing on the terms and conditions of same.

SOLUTIA INC.

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

  
\_\_\_\_\_  
Larry A. Spickard

  
\_\_\_\_\_  
James W. Warr

DIRECTOR OF MANUFACTURING  
\_\_\_\_\_  
Title

Director

Date Signed: March 7, 2002

Date Signed: 8 March 2002