

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELSA MORGAN-SKINNER, ET AL

Defendants.

Civil Action No. 1:00-cv-424
Judge Herman J. Weber

**STIPULATION AND PROPOSED ORDER AMENDING THE REQUIREMENTS SET
FORTH IN PARAGRAPH 13(c) OF THE CONSENT DECREE**

WHEREAS, the United States of America (the “United States”) and Settling Generator/Transporter Defendants (collectively, “Stipulating Parties”) are among the parties to a Consent Decree, which was entered by the Court on April 3, 2001 (hereinafter the “Consent Decree”);

WHEREAS, the Stipulating Parties desire to make a modification of the Consent Decree through this Stipulation and Proposed Order Amending the Requirements Set Forth in Paragraph 13(c) of the Consent Decree Entered in the Above-Referenced Case (“Stipulation and Proposed Order”); and

WHEREAS, the Settling Generator/Transporter Defendants are defined by Appendix D of the Consent Decree and generally listed at Appendix A of this Stipulation and Proposed Order;¹

¹ Counsel for the Settling Generator/Transporter Defendants has informed the United States that several of the original Settling Generator/Transporter Defendants are no longer implementing the work required by the Consent Decree due to financial issues, including bankruptcies. Appendix A to this Stipulation and Proposed Order identifies only those Settling Generator/Transporter Defendants whom Counsel has identified as currently implementing the work.

WHEREAS the Settling Generator/Transporter Defendants are the only Defendant signatories on this Stipulation and Proposed Order because the requirements of Paragraph 13(c) apply only to the Settling Generator/Transporter Defendants.

NOW THEREFORE, the Stipulating Parties have each reviewed this Stipulation and Proposed Order and hereby agree that, upon approval of this modification by the Court, the Consent Decree shall be modified as follows:

The text included in Paragraph 13(c) of the entered Consent Decree is to be stricken in its entirety and replaced with the following language:

13(c) Addressing Exceedances of Groundwater Trigger Levels

If future groundwater monitoring results demonstrate that contact with the Waste Material is causing contamination of the Site groundwater to exceed Site-specific groundwater trigger levels, then Settling Generator/Transporter Defendants shall, within 60 days of EPA's determination or some other longer time period agreed to by EPA, submit to EPA, for the Agency's review and approval, pursuant to Section XIII of this Consent Decree (EPA Approval of Plans and Other Submissions), a plan to address the exceedances of the Site-specific groundwater trigger levels.

Subject to the notice and comment provisions of 28 C.F.R. § 50.7, THE UNDERSIGNED PARTY enters into this Stipulation and Proposed Order amending the Consent Decree entered in the matter of the *United States of America v. Elsa Morgan-Skinner et al* (S.D. Ohio).

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

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THE UNDERSIGNED PARTIES enter into this Stipulation and Proposed Order amending the Consent Decree entered in the matter of the *United States of America v. Elsa Morgan-Skinner et al* (S.D. Ohio).

FOR THE SETTLING GENERATOR/TRANSPORTER DEFENDANTS



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SO ORDERED.

Dated and entered this ____ day of ____, 2015.

United States District Judge
Southern District of Ohio

APPENDIX A

SETTLING GENERATOR/TRANSPORTER DEFENDANTS

Newell Holdings Delaware, Inc. (f/k/a Anchor Hocking Corporation)

Quality Carriers, Inc., successor in interest to Chemical Leaman

The Dow Chemical Company

Ford Motor Company

Henkel Corporation (“Henkel”), on behalf of Cognis Corporation, successor to Henkel, and on behalf of the Emery division of Quantum Chemical Corporation f/k/a National Distillers & Chemical Corporation, a predecessor of Henkel, each of which entity shall be deemed to be a Settling Generator/Transporter Defendant under and a Party to this Consent Decree.

GE Aircraft Engines

Monsanto Company

OXY USA Inc.

Velsicol Chemical Corporation, now known as Velsicol Chemical LLC