

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

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

Formosa Plastics Corporation, Texas,)

Formosa Plastics Corporation, Louisiana,)

Formosa Hydrocarbons, Inc.,)

Defendants.)

Civil Action No. 6:09-CV-00061

SECOND AMENDMENT TO CONSENT DECREE

A. On September 29, 2009, Plaintiff the United States of America (“United States”), on behalf of the Environmental Protection Agency (“EPA”), filed a complaint in this action and contemporaneously lodged a Consent Decree between the United States and Defendants Formosa Plastics Corporation, Texas, Formosa Plastics Corporation, Louisiana, and Formosa Hydrocarbons, Inc., now Formosa Hydrocarbons Company, Inc.;

B. On February 3, 2010, this Court entered the Consent Decree (“Consent Decree”) that fully resolved the claims in the complaint;

C. On March 13, 2013, this Court entered the First Amendment to the Consent Decree;

D. The United States and Formosa Plastics Corporation, Texas (“FPC TX”) (the “Parties to the Second Amendment”) recognize, and the Court by entering this Second Amendment finds, that this Second Amendment has been negotiated at arm’s length and in good faith and that this Second Amendment will reduce the amount of hazardous waste generated at the FPC TX facility located at 201 Formosa Drive, Point Comfort, Texas 77978 (“Point Comfort Facility”) and is fair, reasonable and in the public interest;

E. FPC TX’s ethylene dichloride (“EDC”) and vinyl chloride monomer (“VCM”) units operate groundwater recovery systems to remove contaminated groundwater from the subsurface aquifer. The groundwater from both recovery systems heretofore has been sent to the VCM Unit and treated in column VC-630B where it was steam stripped and then discharged to sump TZT-07 in the Combined Water Treatment Plant (CWTP). The recovered groundwater from the EDC and VCM units (“Recovered Contaminated Groundwater”) carries Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6971 *et seq.* listed hazardous waste codes K019 (heavy ends from the distillation of ethylene dichloride in ethylene dichloride production), K020 (heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production),

and U077 (ethane, 1,2-dichloro-), and these listed hazardous waste codes remain with the recovered groundwater after stripping. For this reason, Appendix D.B.2 of the 2010 Consent Decree requires that all sludge generated at and downstream of sump TZT-07 be managed as listed hazardous waste (K019/K020/U077).

F. Since 2010, FPC TX has made wastewater process equipment changes downstream of TZT-07 to improve wastewater discharge quality entering Lavaca Bay. These equipment changes include the installation of the large tanks to increase retention and allow solids to settle and associated filtration. Due to these changes, the volume of listed hazardous waste generated at the Point Comfort Facility has increased substantially.

G. As a result of this Second Amendment, FPC TX will reduce the volume of hazardous waste generated at the Point Comfort Facility through the following actions: 1) Elimination of the generation of listed hazardous waste at TZT-07 and points downstream by not discharging the Recovered Contaminated Groundwater to TZT-07; and 2) Cleaning points at and downstream of TZT-07 after the Recovered Contaminated Groundwater has been redirected to a truck loading area for off-site disposal in accordance with the Post Closure Order.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law, and upon the consent and agreement of the Parties, it is hereby ADJUDGED, ORDERED, and DECREED as follows:

1. The Consent Decree shall remain in full force and effect in accordance with its terms except for the modifications set forth below.

2. FPC TX must transport, in accordance with all applicable local, state, and federal statutes, laws, rules, and ordinances the Recovered Contaminated Groundwater in properly

licensed and placarded trucks to an off-site facility, authorized and permitted to treat and/or dispose of hazardous waste pursuant to Chapter 335 of Title 30 Tex. Admin. Code (“Permitted Hazardous Waste Facility”). After the Recovered Contaminated Groundwater has been redirected to a truck loading area for off-site disposal, FPC TX must, in accordance with Appendix I, clean or replace TZZ-07 and any downstream wastewater system conveyance or treatment components that accumulated, or had the potential to accumulate, solids.

3. FPC TX shall ensure that the Recovered Contaminated Groundwater is transported by low emission vehicles (“LEV”). For purposes of this Second Amendment, LEV shall mean vehicles that are equipped with diesel exhaust fluid (“DEF”) systems. DEF is a urea-based fluid which when added to the diesel fuel in appropriate amounts by the system improves the selective catalytic reduction which reduces emissions. However, if in the future, other types of low emission vehicles with emission reduction capabilities equal or superior to DEF are available to transport the Recovered Contaminated Groundwater, such vehicles may be used to transport the Recovered Contaminated Groundwater without modification of this Consent Decree upon written notice to EPA, which describes such emission reduction capabilities.

4. FPC TX must collect all rinsate, along with any solids, generated from the cleaning activities and collect them in containers and manage them as RCRA listed hazardous waste in strict accordance with all applicable statutes and rules. Ultimately, FPC must send the rinsate and solids offsite for disposal at a Permitted Hazardous Waste Facility.

5. Upon completion of the Detailed Cleaning Procedures set forth in Appendix I to this Second Amendment to Consent Decree, Provision B.2. of Appendix D to the Consent Decree is no longer in effect.

6. However, if subsequent to the cleanings required by Appendix I to this Second Amendment to Consent Decree, FPC TX introduces any RCRA listed hazardous waste into its wastewater system, FPC TX must again thereafter manage all wastewater sludge generated at and downstream from Unit TZZ-07 under the applicable hazardous waste codes. If FPC TX again directs Recovered Contaminated Groundwater to its wastewater treatment system, then wastewater sludge generated at and downstream of TZZ-07, must be managed under hazardous waste codes U077, K019, and K020, and any other applicable hazardous waste codes.

SO ORDERED this ____ day of _____ 2023.

United States District Judge

Signature Page to Second Amendment to Consent Decree in *U.S. v. Formosa Plastics Corporation, Texas, et al.*

Through its undersigned representatives, the party below consents to entry of the Second Amendment to the Consent Decree, subject to the public notice and comment provisions of 28 C.F.R. § 50.7.

FOR THE UNITED STATES OF AMERICA

Date: January 11, 2023

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FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY

LAWRENCE
STARFIELD

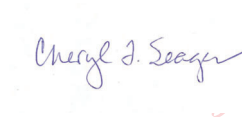
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Lawrence E. Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
Washington, DC

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FOR THE U.S. ENVIRONMENTAL PROTECTION
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FORMOSA PLASTICS CORPORATION, TEXAS,
FORMOSA HYDROCARBONS COMPANY, INC.



RICK CRABTREE
General Manager
Formosa Plastics Corporation, Texas
Point Comfort, Texas

11/17/2022
DATE