

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civ. No. 86-0029-B

INMONT CORPORATION, et al.,

Defendants.

STATE OF MAINE,

Plaintiff,

v.

Civ. No. 86-0031-B

INMONT CORPORATION, et al.,

Defendants.

AMENDED CONSENT DECREE

WHEREAS, the Winthrop Landfill Superfund Site (“Site”) is located in Winthrop, Maine. The Site comprises about 20 acres including two adjoining properties, the former Winthrop Town Landfill and a property that was privately owned by Glenda and Everett Savage. Annabessacook Lake, 21 residences, and wetlands, including a sphagnum bog and cattail marsh, are located near the Site. Prior to the mid-1970s, the Site became contaminated with hazardous substances.

WHEREAS, the United States on behalf of the U.S. Environmental Protection Agency (“EPA”) filed a complaint in this matter on January 29, 1985 (“Complaint”) pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9606 and 9607 and seeking, *inter alia*, reimbursement of response costs incurred by EPA at the Site and performance of an environmental cleanup at the Site.

WHEREAS, the Defendants named in the United States’ complaint included Inmont Corporation, the Town of Winthrop, Maine, Everett Savage, and Glenda Savage.

WHEREAS, the State of Maine (“State”) also filed, on January 30, 1985, a complaint against the same Defendants under the Maine Uncontrolled Hazardous Substance Sites Law, 38 M.R.S.A. §1361, et seq., in which the State also sought performance of a cleanup at the Site.

WHEREAS, on March 23, 1986, this Court approved a consent decree in this matter (“1986 Decree”) which resolved the claims against all named Defendants asserted in the two complaints, and required these settling Defendants, among other things, to implement an environmental cleanup at the Site which had been selected by EPA in an Enforcement Decision Document known as a “Record of Decision” dated November 22, 1985 (“1985 ROD”).

WHEREAS, since 1986, new information has come to EPA’s attention which has caused EPA to revisit its 1985 remedy. In particular EPA has determined that there are contaminated sediments in Hoyt Brook and that they presented an unacceptable risk to human health.

WHEREAS, in accordance with section 117 of CERCLA and 40 C.F.R § 300.430(f), EPA, on April 11, 2019, issued a proposed plan describing the remedial alternatives considered to address the sediments at Hoyt Brook and the proposed remedy, EPA’s preferred alternative.

WHEREAS, on April 23, 2019, EPA held, at the Winthrop Town Office, an informational meeting to discuss the proposed plan and a formal hearing to record comments on the proposed remedy and at which, the State of Maine, through its Department of Environmental Protection, gave testimony concurring with the preferred alternative. EPA received no written comments during a subsequent 30-day public comment period (April 23, 2019 – May 23, 2019).

WHEREAS, EPA selected a remedial action to be implemented regarding the sediments at Hoyt Brook, which is embodied in an Amended Record of Decision (“Amended ROD”), executed on September 5, 2019.

WHEREAS, the remedy selected by EPA in the Amended ROD includes the following components: (i) a cover system over the sediments in Hoyt Brook; (ii) surface water and sediment monitoring; (iii) maintenance of the cover system; and (iv) deed restrictions for the property where the cover system is located in order to prevent any excavation or other disturbance.

WHEREAS, it is necessary to modify the 1986 Decree to provide for the implementation of the cleanup work selected in the Amended ROD.

WHEREAS, the 1986 Decree, paragraph 30, requires that “[a]ny modification of this Consent Decree, including modifications to the Work Plan, must be in writing and approved by the Parties and the Court.”

WHEREAS, this Amended Consent Decree (“Amended Decree”) will require the Settling Parties to perform surface water and sediment monitoring, maintain the cover system, and implement deed restrictions. The installation of the cover system has already been performed as part of a pilot study.

WHEREAS, the signatures of settling Defendants Glenda Savage and Everett Savage, as they will have no additional obligations at the Site and, in any event, have passed away, are not

required signatories of the Amended Decree. Further, the Amended Decree terminates their remedial obligations regarding the Site.

WHEREAS, On August 20, 1985, United Technologies Corporation (“UTC”) sold Inmont Corporation (“Inmont”) to BASF Corporation (“BASF”) under a May 14, 1985 Stock Purchase Agreement (“1985 SPA”). On July 31, 1991, UTC and BASF entered into a settlement agreement (“1991 Settlement Agreement”) that resolved disputes over various Inmont environmental liabilities relating to the 1985 SPA, including liabilities associated with the Site, and under the terms of such Settlement Agreement, UTC explicitly assumed responsibility for Inmont’s liabilities associated with the Site. In accordance with Section 3.1.4 of the 1991 Settlement Agreement, BASF also granted UTC a power of attorney for Inmont to execute any documents relating to the disposition of Inmont environmental liabilities for which UTC was taking responsibility. In April 2020, UTC changed its name to Raytheon Technologies Corporation. Accordingly, Raytheon Technologies Corporation has power of attorney for Inmont.

WHEREAS, based on the information currently available, EPA has determined that, with Raytheon taking responsibility for Inmont’s liabilities associated with the Site, the remedial work will be properly and promptly conducted by the remaining settling Defendants, Inmont and the Town of Winthrop, if conducted in accordance with the Amended Decree.

WHEREAS, the Parties recognize, and the Court by entering this Amended Decree finds, that this Amended Decree has been negotiated by the Parties in good faith, that implementation of this Amended Decree will expedite the cleanup of the Site and will avoid prolonged and complicated litigation between the Parties, and that this Amended Decree is fair, reasonable, in the public interest, and consistent with CERCLA and the Maine Uncontrolled Hazardous Substance Sites Law.

NOW THEREFORE, it is hereby **ORDERED** and **DECREED** as follows:

1. Paragraph 1 (Definitions) of the 1986 Decree is amended as follows:

“Parties” means all parties that have agreed to this Amended Decree, the United States, State of Maine, Town of Winthrop, and Inmont Corporation.

“Settling Parties” means the defendants, Town of Winthrop and Inmont Corporation.

“Work Plan” means the Amended Remedial Action Work Plan attached as Appendix A, hereto.

2. Paragraph 6 of the 1986 Decree is amended to include the following additional response activities:

a. A sediment cover system (already constructed as part of a pilot study);

b. Surface water and sediment monitoring to be conducted in accordance with approved monitoring plan;

c. Inspections and maintenance of the cover system in accordance with approved maintenance plan; and

d. Recording of an environmental covenant on the real property where the cover system is located granting access for construction and repair work and preventing any unauthorized excavation or other disturbance to the cover system (recorded on October 7, 2020).

3. Paragraphs 14 and 42 of the 1986 Decree are amended to require that payments for technical oversight costs and stipulated penalties be made in accordance with instructions provided by EPA.

4. Paragraph 30 of the 1986 Decree is amended to allow non-material modifications to the 1986 Decree, as amended including the Amended Remedial Action Work Plan, to be effective upon written consent of the Parties.

5. Paragraph 55 of the 1986 Decree is amended to require that notices be sent as follows:

To EPA via email:	Almerinda Silva Remedial Project Manager silva.almerinda@epa.gov
To the State via email:	Rebecca Hewett Remedial Project Manager rebecca.l.hewett@maine.gov Jeffrey Skakalski Assistant Attorney General jeffrey.skakalski@maine.gov
To the Town via email:	Jeffrey Kobrock Town Manager manager@winthropmaine.org
To Inmont Corporation via email:	David Platt Raytheon Technologies Corp. david.platt@rtx.com

6. Paragraph 61 of the 1986 Decree is amended to provide that the effective date of this amendment is the date that the Court's approval of this Amendment is recorded in its docket.

7. The "Remedial Action Work Plan" that was attached as Appendix A to the 1986 Decree is superseded by the "Amended Remedial Action Work Plan" which is attached hereto as Appendix A.

8. The following appendixes are attached to and incorporated into this Amended Consent Decree:

- a. Appendix A is the Amended Remedial Action Work Plan.
- b. Appendix B is the 1986 Consent Decree.
- c. Appendix C is the 2019 ROD Amendment.

9. The obligations of Glenda Savage and Everett Savage to record deed restrictions on their property as provided under the 1986 Decree are terminated. The Settling Parties shall use best efforts to ensure that deed restrictions described in the ARAWP are recorded on the property formerly owned by the Savages.

10. The undersigned representatives of the United States, the State of Maine, and each Settling Party certifies that he or she is fully authorized to enter into the terms and conditions of this Amended Decree and to execute and legally bind such Party to this document.

11. This Amended Decree will be lodged with the Court for at least 30 days for public notice and comment in accordance with section 122(d)(2) of CERCLA and 28 C.F.R. § 50.7. The United States may withdraw or withhold its consent if the comments regarding the Amended Decree disclose facts or considerations that indicate that the Decree is inappropriate, improper, or inadequate.

12. Settling Parties agree not to oppose or appeal the entry of this Amended Decree.

13. Upon entry of this Amended Decree by the Court, this Amended Decree constitutes a final judgment under Fed. R. Civ. P. 54 and 58 among the Parties.

SO ORDERED this ___ day of _____, 2022.

United States District Judge

Signature page to Amended Consent Decree in
U.S. and the State of Maine v. Inmont Corp., et al. (D. Maine).

FOR THE UNITED STATES:

TODD KIM
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division

1/25/22
Dated

/s/ Mark Gallagher
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**FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY:**

BRYAN OLSON

Digitally signed by BRYAN
OLSON
Date: 2021.11.23 13:17:06 -05'00'


BRYAN OLSON
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U.S. Environmental Protection Agency, Region 1

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Boston, MA 02109-3912

Signature page to Amended Consent Decree in
U.S. and the State of Maine v. Inmont Corp., et al. (D. Maine).

FOR THE STATE OF MAINE:

11/22/2021
Dated



JEFFREY M. SKAKALSKI

Assistant Attorney General
Maine Office of the Attorney General
6 State House Station
Augusta, ME 04333-006

Signature page to Amended Consent Decree in
U.S. and the State of Maine v. Inmont Corp., et al. (D. Maine).

FOR INMONT CORPORATION:

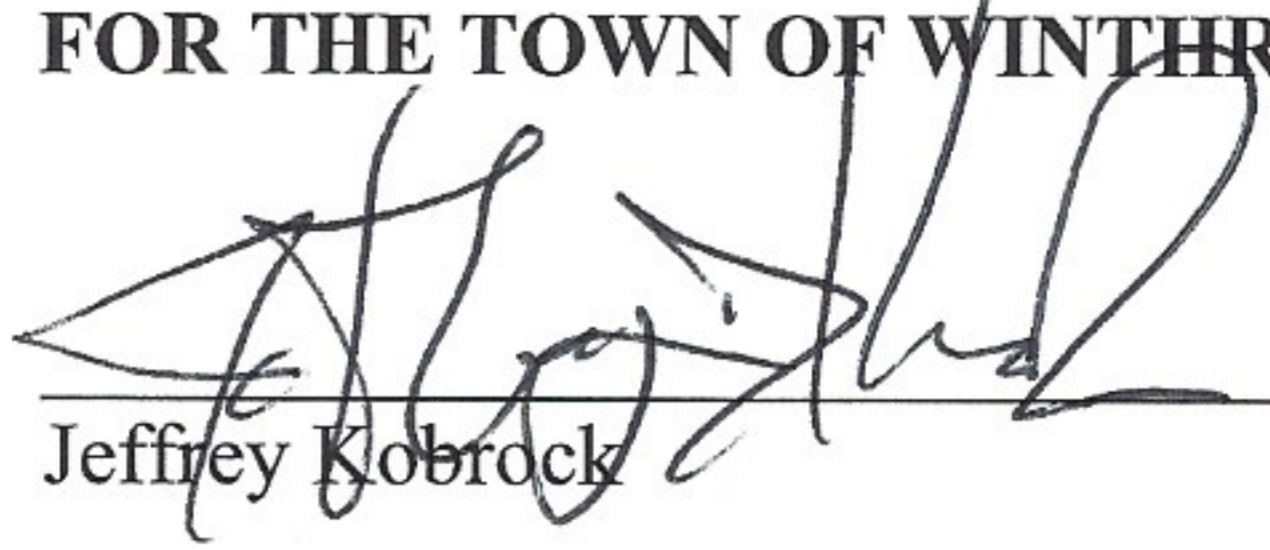
11/30/21
Dated


ANNETTE McNEELY
Vice President, EH&S
Raytheon Technologies Corporation
8 Farm Springs Road
Farmington, Connecticut 06032
(Acting under Power of Attorney)

Signature page to Amended Consent Decree in
U.S. and the State of Maine v. Inmont Corp., et al. (D.Maine).

17/1/21
Dated

FOR THE TOWN OF WINTHROP, MAINE:


Jeffrey Kobrock

Town Manager
17 Highland Avenue
Winthrop, Maine 04364