

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FILE COPY

MAY 03 2000

REPLY TO THE ATTENTION OF:
DE-9J

CERTIFIED MAIL Z 164 840 008
RETURN RECEIPT REQUESTED

Ms. Robin Prokop
Plant Manager
Solutia Inc.
500 Monsanto Avenue
Sauget, Illinois 62206-1198

RE: RCRA 3008(h) Consent Order
Solutia Inc.
ILD 000 802 702

Dear Ms. Prokop:

This letter is to acknowledge receipt of the Section 3008(h) Administrative Order on Consent signed by Solutia Inc. A fully executed copy of the Consent Order is enclosed for your file.

Your cooperation in resolving this matter is appreciated.

Sincerely yours,

Joseph M. Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division

Enclosure

cc: Linda Tape, Esq., Thompson Coburn
Alan Faust, Solutia
Jim Moore, IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

SOLUTIA INC.
500 MONSANTO AVENUE
SAUGET, ILLINOIS 62206-1198

EPA ID#: ILD 000 802 702

RESPONDENT

ADMINISTRATIVE ORDER ON CONSENT

U.S. EPA Docket No: R8H-5-00-003

Proceeding under Section 3008(h) of the Resource
Conservation and Recovery Act, as amended, 42
U.S.C. §6928(h).

I. JURISDICTION

1. The United States Environmental Protection Agency ("U.S. EPA") is issuing this Administrative Order on Consent ("Order") pursuant to Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §6928(h). The authority to issue orders under Section 3008(h) of RCRA in Region 5 has been duly delegated to the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5.
2. This Order is issued to Solutia Inc., the owner/operator of Solutia Inc., 500 Monsanto Avenue, Sauget, Illinois, 62206-1198, located in St. Clair County, Illinois, (the "Facility"). The Facility, as delineated on the map attached as Figure 1, lies just east of the Mississippi River within the incorporated boundary of Sauget, Illinois on approximately 314 acres of land. The Facility began operations in 1917 and manufactures chemical products, including industrial chemicals, chemical intermediates, agricultural intermediates, and rubber chemicals.
3. Solutia Inc. consents to and agrees not to contest U.S. EPA's jurisdiction to issue this Order or to enforce its terms. Further, Solutia Inc. must not contest U.S. EPA's jurisdiction to: compel compliance with this Order in any subsequent enforcement proceedings, either administrative or judicial; require Solutia Inc.'s full or interim compliance with the terms of this Order; or impose sanctions for violations of this Order.
4. Solutia Inc. waives any rights to request a hearing on this matter pursuant to Section 3008(b) of RCRA and 40 C.F.R. Part 24, and consents to the issuance of this Order without a hearing pursuant to Section 3008(b) of RCRA as a Consent Order issued pursuant to Section 3008(h) of RCRA.

II. DEFINITIONS

Unless otherwise expressly provided here, terms used in this Order which are defined in RCRA or in regulations promulgated under RCRA must have the definitions given to them in RCRA or in such regulations.

III. PARTIES BOUND

1. This Order applies to and binds U.S. EPA, Solutia Inc. and its agents, successors and assigns, heirs, trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of Solutia Inc. Solutia Inc. must be responsible for and liable for any failure to carry out all activities required of Solutia Inc. by this Order, regardless of Solutia Inc.'s use of employees, agents, contractors, or consultants to perform any such tasks.
2. No change in ownership or corporate or partnership status relating to the facility must in any way alter Solutia Inc.'s responsibility under this Order. Any conveyance of title, easement, or other interest in the Facility, or a portion of the Facility, must not affect Solutia Inc.'s obligations under this Order. Solutia Inc. must give written notice of this Order to any successor in interest prior to transfer of ownership or operation of the Facility or a portion thereof and must notify U.S. EPA in writing within 30 days of the transfer. This written notice must describe how Solutia Inc. has assured that, despite the transfer, all institutional controls that are or may be required for the Facility must be implemented and maintained. This paragraph does not apply if EPA and Solutia Inc. agree that this Order has been terminated as to the Facility or any relevant portion of the Facility.

IV. DETERMINATIONS

After consideration of the Administrative Record, the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5 has made the following conclusions of law and determinations:

1. Solutia Inc. is a "person" within the meaning of Section 1004(15) of RCRA.
2. Solutia Inc. is the owner or operator of a facility that has operated under interim status subject to Section 3005(e) of RCRA.
3. Certain wastes and constituents found at the Facility are hazardous wastes and/or hazardous constituents pursuant to Sections 1004(5) and 3001 of RCRA and 40 C.F.R. Part 261.
4. There is or has been a release of hazardous wastes or hazardous constituents into the environment from the Facility.
5. The actions required by this Order are necessary to protect human health and/or the environment.

6. U.S. EPA has determined, in its sole discretion, that Solutia Inc. is a responsible entity with sufficient technical ability and resources (to be assured pursuant to Section XVI) to proceed on an expedited basis under an Order on Consent for the work described here.

V. PROJECT MANAGER

U.S. EPA and Solutia Inc. must each designate a Project Manager and must notify each other in writing of the Project Manager it has selected within 14 days of the effective date of this Order. Each Project Manager is responsible for overseeing the implementation of this Project. The parties must provide prompt written notice whenever they change Project Managers.

VI. WORK TO BE PERFORMED

Pursuant to Section 3008(h) of RCRA, Solutia Inc. agrees to and is hereby ordered to perform the actions specified in this section, in the manner and by the dates specified here. All work undertaken pursuant to this Order must be performed in compliance with RCRA and other applicable federal and state laws and their implementing regulations, and consistent with all relevant U.S. EPA guidance documents as appropriate to the Facility. Such guidance must include, but is not limited to, the Documentation of Environmental Indicator Determination Guidance (Interim Final, February 5, 1999), and relevant portions of the RCRA Corrective Action Plan (May 1994, OSWER Directive 9902.3-2A) and U.S. EPA's risk assessment guidance.

1. Solutia Inc. must complete activities necessary to identify and define the nature and extent of releases of hazardous waste and/or hazardous constituents at or from the Facility. These activities include:
 - a. Provide to U.S. EPA, within 90 days of the effective date of this Order, a Description of Current Conditions (DOCC) Report which includes any recent sampling data from the Facility, which sampling was undertaken by Solutia, a summary of the historic operations, and physical setting of the Facility. The DOCC Report must describe, at a minimum, conditions at all locations specified in the Draft RCRA Hazardous Waste Management Part B permit dated September 1996 (RCRA Log No. B-69) and any other past or present locations at the Facility for which Solutia Inc. has knowledge of past treatment, storage or disposal of hazardous waste or hazardous constituents or past product or waste spills.
 - b. Perform an investigation to identify the nature and extent of any releases of hazardous waste and/or hazardous constituents at or from the Facility which may pose an unacceptable risk to human health and the environment, and provide a report to U.S. EPA. Investigations shall be conducted, at a minimum, in those areas described in the Draft RCRA Hazardous Waste Management Part B permit dated September 1996 (RCRA Log No. B-69), at dismantled manufacturing areas, at surficial fill areas, and in the area of the pipeline(s) which historically ran from the Monsanto river terminal on the Mississippi River to the former and current on-site product storage areas at the Facility. The report must also describe the nature and extent of any releases of hazardous waste and/or

hazardous constituents at or from the Facility which do not pose an unacceptable risk to human health and the environment, and provide the basis for those conclusions, including an evaluation of the risks. The report may be prepared in phases in order to provide timely support for the demonstrations described in Sections VI.2, VI.3, and VI.4, below, and for the determinations and proposal described in Section VI.5, below.

- c. Solutia Inc. may choose to proceed with remedial actions to limit site investigation or risk assessment activities in order to complete the work as defined in Sections VI.2, VI.3, VI.4 and VI.5 below.
2. Solutia Inc. must demonstrate by 1/1/2002, through submitting an Environmental Indicators Report and by performing any other necessary activities, consistent with this section, that migration of contaminated groundwater at or from the Facility is stabilized. That is, the migration of all groundwater known or reasonably suspected to be contaminated with hazardous wastes or hazardous constituents above acceptable levels is stabilized to remain within any existing areas of contamination as defined by monitoring locations designated at the time of the demonstration. In addition, by 1/1/2002 Solutia Inc. must show that any discharge of groundwater to surface water is either insignificant or shown to be currently acceptable according to an appropriate interim assessment. Solutia Inc. must collect monitoring and measurement data in the future as necessary to verify that migration of any contaminated groundwater is stabilized.
 3. Solutia Inc. must demonstrate by 1/1/2004, through submitting an Environmental Indicators Report and by performing any other necessary activities, consistent with this section, that all current human exposures to contamination at or from the Facility are under control. That is, for all media known or reasonably suspected to be contaminated with hazardous wastes or hazardous constituents above risk-based levels, for which there are complete pathways between contamination and human receptors, significant or unacceptable exposures do not exist.
 4. In order to prepare for and provide the demonstrations required by Sections VI.2 and VI.3, above, Solutia Inc. must:
 - a. Determine appropriate risk screening criteria under current use scenarios and provide the basis and justification for the use of these criteria.
 - b. Determine any current unacceptable risks to human health and the environment and describe why other identified risks are acceptable.
 - c. Control any unacceptable current human exposures that are identified. This may include performing any corrective actions or other response measures ("corrective measures") necessary to control current human exposures to contamination to within acceptable risk levels.
 - d. Stabilize the migration of contaminated groundwater.

- e. Conduct groundwater monitoring to confirm that any contaminated groundwater remains within the original area of contamination.
 - f. Prepare a report, either prior to or as part of the Environmental Indicators Report, that describes and justifies any interim actions performed to meet the requirements of this section, including sampling documentation, construction completion documentation, and/or confirmatory sampling results.
5. Solutia Inc. must propose to U.S. EPA by 6/1/2004, final corrective measures necessary to protect human health and the environment from all current and future unacceptable risks due to releases of hazardous waste or hazardous constituents at or from the Facility (the "Final Corrective Measures Proposal"). The proposal must describe all corrective measures implemented at the Facility since the effective date of this Order. It must also include a description of all other final corrective measures evaluated by Solutia Inc., a detailed explanation of why Solutia Inc. preferred the proposed final corrective measures and cost estimates for the final corrective measures evaluated. The proposal must also include a detailed schedule for construction and implementation of the final corrective measures, and for submittal of a Final Remedy Construction Completion Report. This schedule must provide that Solutia Inc. will complete as much of the initial construction work as practicable within 1 year after U.S. EPA selects the final corrective measures and that Solutia Inc. must complete all final corrective measures within a reasonable period of time such that human health and the environment are protected.
- a. As part of the development of its proposal, Solutia Inc. must propose appropriate risk screening criteria, cleanup objectives, and points of compliance under current and reasonably expected future land use scenarios and provide the basis and justification for these decisions.
 - b. U.S. EPA may request reasonable supplemental information from Solutia Inc. if U.S. EPA determines that the proposal and supporting information do not provide an adequate basis for selection of final corrective measures that must protect human health and the environment from the release of hazardous waste or hazardous constituents at or from the Facility. Solutia Inc. must provide such supplemental information in a timely manner as directed in writing by U.S. EPA.
 - c. U.S. EPA must provide the public with an opportunity to review and comment on its proposed final corrective measures, including a detailed description and justification for the proposal (the "Statement of Basis"). Following the public comment period, U.S. EPA must select the final corrective measures to be implemented by Solutia Inc., and provide notification of its decision and rationale in a "Final Decision and Response to Comments" ("Final Decision").
 - d. Upon notification by U.S. EPA, Solutia Inc. must implement the final corrective measures selected in U.S. EPA's Final Decision and in accordance with the schedule therein.

6. Reporting and other requirements:

- a. Solutia Inc. must establish a publicly accessible repository for information regarding site activities and conduct public outreach and involvement activities.
- b. Solutia Inc. must provide quarterly progress reports to U.S. EPA detailing work performed to date, data collected, problems encountered, project schedule, and percent project completed by the 15th day of each month following a quarter.
- c. The parties must communicate frequently and in good faith to assure successful completion of the requirements of this Order, and must meet on at least a semi-annual basis to discuss the work proposed and performed under this Order.
- d. Solutia Inc. must provide a Final Remedy Construction Completion Report documenting all work that Solutia Inc. has performed pursuant to the schedule in U.S. EPA's Final Decision selecting the final corrective measures.
- e. If ongoing monitoring or operation and maintenance is required after construction of the selected final corrective measures, Solutia Inc. must include an operations and maintenance plan in the Final Remedy Construction Completion Report. Solutia Inc. must revise and resubmit the report in response to U.S. EPA's written comments, if any, by the due dates specified by U.S. EPA. Upon U.S. EPA's written approval, Solutia Inc. must implement the approved operation and maintenance plan in accordance with the schedule and provisions contained therein. U.S. EPA will not unreasonably withhold its approval.
- f. Any risk assessments conducted by Solutia Inc. must estimate human health and ecological risk for both current and reasonably expected future land use scenarios. The Illinois EPA Tiered Approach to Corrective Action Objectives ("TACO") shall be the primary risk assessment method utilized under this Order. As necessary, U.S. EPA guidance and screening values, such as Risk Assessment Guidance for Superfund, U.S. EPA Region 9 Preliminary Remediation Goals, U.S. EPA Region 5 Ecological Screening Levels, and U.S. EPA Region 5 Risk Based Screening Levels, shall be used to supplement TACO.
- g. All sampling and analysis conducted pursuant to this Order must be performed in accordance with the Region 5 RCRA Quality Assurance Project Plan Policy (April 1998) as appropriate for the site, and be sufficient to identify and characterize the nature and extent of all releases as required by this Order. U.S. EPA reserves the right to audit laboratories selected by Solutia Inc. or require Solutia Inc. to purchase and have analyzed any performance evaluation samples selected by U.S. EPA which are compounds of concern. Solutia Inc. must notify U.S. EPA in writing at least 14 days prior to beginning each separate phase of field work performed under this Order. At the request of U.S. EPA, Solutia Inc. must provide or allow U.S. EPA or its authorized

representative to take split or duplicate samples of all samples collected by Solutia Inc. pursuant to this Order.

Project Managers can agree in writing to extend any deadline contained in this section. An extension of more than three months must also be approved by the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division.

VII. ACCESS

1. Upon reasonable notice, and at reasonable times, U.S. EPA, its contractors, employees, and/or any duly designated U.S. EPA representatives are authorized to enter and freely move about the Facility pursuant to this Order for the purposes of, inter alia: interviewing Facility personnel and contractors regarding issues relating to this Order; reviewing the progress of Solutia Inc. in carrying out the terms of this Order; conducting tests, sampling, or monitoring as U.S. EPA deems necessary; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to U.S. EPA by Solutia Inc.. Solutia Inc. must permit such persons to inspect and copy all non-privileged records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Order and that are within the possession or under the control of Solutia Inc. or its contractors or consultants.
2. To the extent that work performed pursuant to this Order must be done beyond the Facility property boundary, Solutia Inc. must use its best efforts to obtain access agreements necessary to complete work required by this Order from the present owner(s) of such property within 60 days of the date that the need for access becomes known to Solutia Inc.. Any such access agreement must provide for access by U.S. EPA and its representatives. Solutia Inc. must insure that U.S. EPA's Project Manager has a copy of any access agreement(s). In the event that agreements for access are not obtained within 60 days, Solutia Inc. must notify U.S. EPA in writing within 14 days thereafter of both the efforts undertaken to obtain access and the failure to obtain access agreements. EPA may, at its discretion, assist Solutia Inc. in obtaining access.
3. Nothing in this section limits or otherwise affects U.S. EPA's right of access and entry pursuant to applicable law, including RCRA and CERCLA.

VIII. RECORD PRESERVATION

1. Solutia Inc. must retain, during the pendency of this Order and for a minimum of six years after termination of the entire Order, all data and all final records and documents now in its possession or control or which come into its possession or control which relate in any way to this Order. Solutia Inc. must notify U.S. EPA in writing 90 days prior to the destruction of any such records, and provide U.S. EPA with the opportunity to take possession of any such non-privileged records. Such written notification must reference the effective date, caption, and docket number of this Order and must be addressed to:

Director
Waste, Pesticides and Toxics Division
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Solutia Inc. must also promptly provide a copy of any such notification to U.S. EPA's Project Manager.

2. Solutia Inc. further agrees that within 30 days of retaining or employing any agent, consultant, or contractor ("Agents") for the purpose of carrying out the terms of this Order, Solutia Inc. must enter into an agreement with any such Agents whereby such Agents must provide Solutia Inc. a copy of all data and final non-privileged documents produced pursuant to this Order.
3. Solutia Inc. agrees that it must not assert any privilege claim concerning any data developed to prepare any reports or conduct any investigations or other actions required by this Order.

IX. STIPULATED PENALTIES

Solutia Inc. is subject to the following stipulated penalties:

1. For failure to submit quarterly progress reports by the dates scheduled in Section VI.6: \$1000 per day for the first 14 days and \$2000 per day thereafter.
2. For failure to adequately demonstrate that groundwater migration is stabilized by 1/1/2002: \$5000 per day.
3. For failure to adequately demonstrate that current human exposures are under control by 1/1/2004: \$5000 per day.
4. For failure to submit the Final Corrective Measures Proposal in Section VI.5 by 6/1/2004: \$2500 per day for the first 14 days and \$5000 per day thereafter.
5. For failure to initiate the selected final corrective measures, as described in Section VI.5, in accordance with the approved schedule: \$2500 per day for the first 14 days and \$5000 per day thereafter.
6. For failure to submit the Final Remedy Construction Completion Report as scheduled in Section VI.5: \$1000 per day for the first 14 days and \$2000 per day thereafter.
7. For failure to submit the DOCC Report required in Section VI.1 within 90 days of the effective date of the Order: \$1000 per day for the first 14 days and \$2000 per day thereafter.

Whether or not Solutia Inc. has received notice of a violation, stipulated penalties begin to accrue on the day after the complete performance is due or the day a violation occurs, and continue to

accrue through the day of correction of the violation. For items 2 and 3 above, stipulated penalties will not accrue during the period, if any, beginning on the 31st day after the deadline for submission of the Environmental Indicators Report until the date that U.S. EPA notifies Solutia Inc. in writing of any deficiency in the required demonstration(s). Nothing herein prevents the simultaneous accrual of separate stipulated penalties for separate violations of this Order. Nothing in this paragraph shall limit the mitigation or reduction of a stipulated penalty based on a determination that Solutia Inc. was unaware of a violation.

All penalties owed to the United States under this section are due and payable within 60 days of Solutia Inc.'s receipt from U.S. EPA of a written demand for payment of the penalties, unless Solutia Inc. invokes the dispute resolution procedures under Section X: Dispute Resolution. Such a written demand must describe the violation and must indicate the amount of penalties due.

Interest begins to accrue on any unpaid stipulated penalty balance beginning on the thirty-first day after Solutia Inc.'s receipt of U.S. EPA's demand letter. Interest accrues at the current value of funds rate established by the Secretary of the Treasury. Pursuant to 31 U.S.C. § 3717, an additional penalty of 6% per annum on any unpaid principal is assessed for any stipulated penalty payment which is overdue for 90 or more days.

All penalties must be made by certified or cashier's check payable to the United States of America, or by wire transfer, and must be remitted to:

U.S. Department of the Treasury
Attention: U.S. EPA Region 5, Office of the Comptroller
P.O. Box 70753
Chicago, Illinois 60673.

All such checks must reference the name of the Facility, Solutia Inc.'s name and address, and the U.S. EPA docket number of this action. Copies of all such checks and letters forwarding the checks must be sent simultaneously to the U.S. EPA Project Manager.

Solutia Inc. may dispute U.S. EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under Section X: Dispute Resolution. The stipulated penalties in dispute continue to accrue, but need not be paid, during the dispute resolution period. Solutia Inc. must pay stipulated penalties and interest, if any, in accordance with the dispute resolution decision and/or agreement. Solutia Inc. must submit such payment to U.S. EPA within 60 days of receipt of such resolution in accordance with the payment instructions of this section.

Neither the invocation of dispute resolution nor the payment of penalties alter in any way Solutia Inc.'s obligation to comply with the terms and conditions of this Order not directly in dispute.

The stipulated penalties set forth in this section do not preclude U.S. EPA from pursuing any other remedies or sanctions which may be available to U.S. EPA by reason of Solutia Inc.'s failure to comply with any of the terms and conditions of this Order. However, U.S. EPA must

not seek both a stipulated penalty under this section and a statutory penalty for the same violation.

X. DISPUTE RESOLUTION

1. The parties must use their best efforts to informally and in good faith resolve all disputes or differences of opinion.
2. If either party disagrees, in whole or in part, with any decision made or action taken pursuant to this Order, that party must notify the other party's Project Manager of the dispute. The Project Managers must attempt to resolve the dispute informally.
3. If the Project Managers cannot resolve the dispute informally, either party may pursue the matter formally by placing its objections in writing. A written objection must set forth the specific points of the dispute, the basis for that party's position, and any matters which it considers necessary for determination.
4. U.S. EPA and Solutia Inc. must in good faith attempt to resolve the dispute through formal negotiations within 21 days, or a longer period if agreed in writing by the parties. During formal negotiations, either party may request a conference with appropriate senior management to discuss the dispute.
5. If the parties are unable to reach an agreement through formal negotiations, within 14 business days after any formal negotiations have concluded, Solutia Inc. and U.S. EPA's Project Manager may submit additional written information to the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5. U.S. EPA must maintain a record of the dispute, which must contain all statements of position and any other documentation, submitted pursuant to this section. U.S. EPA must allow timely submission of relevant supplemental statements of position by the parties to the dispute. Based on the record, U.S. EPA must respond to Solutia Inc.'s arguments and evidence and provide Solutia Inc. its detailed written decision on the dispute signed by the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5 ("EPA Dispute Decision").
6. If U.S. EPA takes any enforcement action regarding an EPA Dispute Decision, Solutia Inc. reserves the right to assert all arguments or defenses available to it.

XI. FORCE MAJEURE AND EXCUSABLE DELAY

Force majeure, for purposes of this Order, is defined as any event arising from causes not foreseen and beyond the control of Solutia Inc. that delays or prevents the timely performance of any obligation under this Order despite its best efforts.

If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a force majeure event, Solutia Inc. must notify U.S. EPA within 2 business days after discovering or obtaining knowledge that the event may cause a delay. If Solutia Inc. wishes to claim a force majeure event, within 15 business days thereafter Solutia Inc.

must provide to U.S. EPA in writing all relevant information relating to its claim, including its proposed revised schedule.

If U.S. EPA determines that a delay or anticipated delay is attributable to a force majeure event, the time for performance of such obligation under this Order that is affected by the force majeure event must be extended in writing for such time as U.S. EPA determines is necessary to complete such obligation or obligations. U.S. EPA will not unreasonably withhold its agreement that the delay or anticipated delay is attributable to a force majeure event.

XII. MODIFICATION

This Order may only be modified by mutual agreement of U.S. EPA and Solutia Inc., except as provided for in Section VI - Work to be Performed. Any agreed modifications must be in writing, be signed by both parties, must have as their effective date the date on which they are signed by U.S. EPA, and must be incorporated into this Order.

XIII. RESERVATION OF RIGHTS

1. U.S. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Solutia Inc.'s failure to comply with any of the requirements of this Order, including without limitation the assessment of penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. §6928(h)(2), filing an action to enforce this Order, or issuing an administrative order for performance of corrective actions or other response measures. This Order must not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which U.S. EPA has under RCRA, CERCLA, or any other statutory, regulatory, or common law authority of the United States.
2. U.S. EPA reserves all of its rights to perform any portion of the work consented to here or any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health and/or the environment.
3. If U.S. EPA determines that activities in compliance or noncompliance with this Order have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health and/or the environment, or that Solutia Inc. is not capable of undertaking any of the work ordered, U.S. EPA may order Solutia Inc. to stop further implementation of this Order for such period of time as U.S. EPA determines may be needed to abate any such release or threat and/or to undertake any action which U.S. EPA determines is necessary to abate such release or threat.
4. While U.S. EPA may review and comment on documents not required by this Order and prepared by Solutia Inc., U.S. EPA has no obligation to do so and such comments must not relieve Solutia Inc. of its obligation to achieve the required cleanup or performance standards or to obtain any necessary permits.

5. Solutia Inc. does not admit any of the factual or legal determinations made by the U.S. EPA. Except as otherwise specifically provided herein, Solutia Inc. reserves all of its rights, remedies and defenses, both legal and equitable, without limitation, including all rights and defenses it may have: (a) to challenge U.S. EPA's performance of work; (b) to challenge U.S. EPA's stop work orders; (c) regarding liability or responsibility for conditions at the Facility; or (d) to challenge the decisions made by U.S. EPA pursuant to this Order, with the exception of its right to contest U.S. EPA's jurisdiction to issue or enforce this Order. Solutia Inc. has entered into this Order in good faith without trial or adjudication of any issue of fact or law. Solutia Inc. reserves its right to seek judicial review of U.S. EPA actions taken under this Order, including in the context of a proceeding brought by the United States to enforce the terms of this Order or to collect penalties for violations thereof.
6. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive or other appropriate relief relating to the Facility, Solutia Inc. shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been raised in the present matter.

XIV. OTHER CLAIMS

Nothing in this Order must constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity, against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken or migrating from the Facility. Solutia Inc. waives any claims or demands for compensation or payment under Sections 106(b), 111, and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. §9507 for, or arising out of, any activity performed or expense incurred pursuant to this Order. Additionally, this Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

XV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

Solutia Inc. agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of acts or omissions of Solutia Inc. or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. This indemnification must not be construed in any way as affecting or limiting the rights or obligations of Solutia Inc. or the United States under their various contracts.

XVI. FINANCIAL ASSURANCE

Within 90 days of the effective date of this Order, Solutia Inc. must submit to U.S. EPA for review and approval a cost estimate to assure completion of corrective action activities at the Facility. Within 30 days of U.S. EPA's approval of the cost estimate, Solutia Inc. must provide

financial security, in the amount of the cost estimate, in one of the forms permitted under 40 C.F.R. § 264.145 (modified to replace the terms "post-closure" and "closure" with "corrective action" and referencing this Consent Order, as approved by EPA). Upon U.S. EPA's selection of the final corrective measures to be implemented by Solutia Inc., the amount of required financial assurance under this paragraph may be modified based on the anticipated costs for completion of the final corrective measures (including long term operation and maintenance costs).

XVII. SEVERABILITY

If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order must remain in force and must not be affected thereby.

XVIII. TERMINATION AND SATISFACTION

Solutia Inc. may request that U.S. EPA issue a determination that the requirements of the Order have been met for all or a portion of the Facility. Solutia Inc. may also request that U.S. EPA issue a "No Further Interest" or "No Further Action" determination for all or a portion of the Facility.

The provisions of the Order must be satisfied upon Solutia Inc.'s and U.S. EPA's execution of an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights", consistent with U.S. EPA's Model Consent Order.

Solutia Inc.'s execution of the Acknowledgment must affirm its continuing obligation to preserve all records as required by Section VIII, to maintain any necessary institutional controls or other long terms measures, and to recognize U.S. EPA's reservation of rights as required in Section XIII.

XIX. SURVIVABILITY/PERMIT INTEGRATION

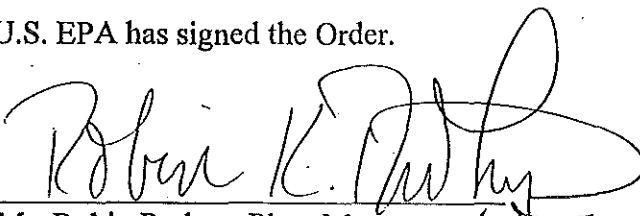
Except as otherwise expressly provided in this section, this Order shall survive the issuance or denial of a RCRA permit for the Facility, and this Order shall continue in full force and effect after either the issuance or denial of such permit. Accordingly, Solutia Inc. shall continue to be liable for the performance of obligations under this Order notwithstanding the issuance or denial of such permit. If the Facility is issued a RCRA permit and that permit expressly incorporates part of the requirements of this Order, or expressly states that its requirements are intended to replace some of the requirements of this Order, Respondent may request a modification of this Order and shall, with EPA approval, be relieved of liability under this Order for those specific obligations. If the Facility is issued a RCRA permit and that permit expressly incorporates all of the requirements of this Order, or expressly states that its requirements are intended to replace all of the requirements of this Order, Respondent may request that this Order be terminated. U.S. EPA shall approve such a request if it finds that the permit incorporates all of the requirements of this Order. U.S. EPA shall not unreasonably withhold its approval to modify or terminate this Order.

XX. EFFECTIVE DATE

The effective date of this Order is the date U.S. EPA has signed the Order.


IT IS SO AGREED:

DATE: 4-26-00

BY: 
Ms. Robin Prokop, Plant Manager
Solutia Inc.

IT IS SO ORDERED:

DATE: May 3, 2000

BY: 
Joseph M. Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
Region 5

U.S. ENVIRONMENTAL
PROTECTION AGENCY

APR 28 2000

OFFICE OF REGIONAL
COUNSEL

U.S. ENVIRONMENTAL
PROTECTION AGENCY
MAY 04 2000
OFFICE OF REGIONAL
COUNSEL