



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

JUL 15 1987

REPLY TO THE ATTENTION OF:
5HE-12

Paul Didier, Director
Bureau of Solid Waste Management
Wisconsin Department of Natural
Resources
P.O. Box 7921
Madison, Wisconsin 53707

Re: Freeman Chemical Corporation
EPA I.D. No. WID 980 615 439
RCRA 3008(h) Corrective Action Order

Dear Paul:

Enclosed please find a document titled "Administrative Order on Consent" (Consent Order) for Freeman Chemical Corporation (Freeman), located in Saukville, Wisconsin. The Consent Order requires Freeman to implement corrective measures to remedy the release of hazardous wastes and hazardous waste constituents to the groundwater, and to implement several investigations necessary to characterize and correct hazards posed to human health and the environment.

The Consent Order, initially drafted by members of your staff, has been revised as a result of comments from U.S. EPA Headquarters and Region V personnel. Also, revisions have resulted from negotiations with Freeman. The objectives of the Consent Order and the work to be performed under the Consent Order have not been changed significantly by these comments and negotiations. I recommend that you transmit the enclosed Consent Order to Kathryn Curtner for her signature. At this time, U.S. EPA is also sending the Consent Order to Freeman for signature. Upon my receipt of these signed copies, I will transmit the Consent Order to the director of the Waste Management Division for signature and to the Regional Administrator for review and approval. I will then return a fully executed Consent Order to you.

Should you have any questions or care to discuss the Consent Order, please do not hesitate to contact Marian Barnes of my staff at (312) 886-7568 or Connie Puchalski, Office of Regional Counsel at (312) 886-6620. I look forward to hearing from you as soon as possible. Thank you for your cooperation.

Sincerely yours,

Richard Karl

Richard C. Karl, Chief
MI/WI Unit
RCRA Enforcement Section

Enclosure

cc: F. Schultz, WDNR - w/encl.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF:

JUL 14 1987

William L. Rosbe, Esq.
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

RE: Freeman Chemical Corporation
EPA I.D. No. WID 980 615 439
RCRA 3008(h) Corrective
Action Order

Ed

JUL 23 1987

Dear Bill:

Enclosed please find a revised Administrative Order on Consent (Consent Order) for corrective measures at the above-captioned facility. At the outset I would like to point out to you that the Scope of Work attached to the Consent Order has been modified. These modifications were made based upon our May 7, 1987 meeting wherein Russell Cerk and Roger Hatcher indicated that much of the corrective measure work for the Freeman facility had already been completed.

Pursuant to your June 1, 1987 letter, we have revised the Consent Order in the following manner:

1. The words "to the greatest extent possible" have been deleted from the "Statement of Purpose" section on page 2 of the enclosed Consent Order.
2. Paragraph 1, page 3 of the "Findings of Fact" section has been corrected to reflect the fact that Freeman Chemical Corporation is a Delaware Corporation whose registered agent is located in Delaware.
3. Paragraph 8, page 5 of the "Findings of Fact" section has been modified to include a sentence as to the current owner and occupant of the Laubenstein warehouse.
4. As to your access concerns, the Consent Order has been modified to allow access to U.S. EPA "at reasonable times".

Please note, however, that the "Access" section of this Consent Order specifically states that this Consent Order does not limit or otherwise affect U.S. EPA's or WDNR's right to access and entry pursuant to applicable laws.

You are correct that the old Consent Order contained two sections dealing with access issues. To correct this, the revised Consent Decree deletes the access provision contained in the "Sampling, Access and Data/Document Availability" Section of the old Consent Decree. We have also modified the "Access" Section to specifically state that access will be for work conducted pursuant to the Consent Order, and record inspection will be for records related to work performed or to be performed pursuant to the Consent Order.

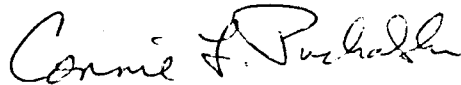
5. The Stipulated Penalties section cannot be deleted from this Consent Order. For without a stipulated penalties provision U.S. EPA has no assurance that the work required by the terms of the Consent Order will be conducted in a timely manner. However, the amount of the Stipulated Penalties has been reduced from \$5,000 per week to \$1,000 for the first week and \$2,000 for each week thereafter.
6. The present policy of U.S. EPA is not to make the resolution of a dispute under the Consent Order final agency action subject to judicial review. Therefore, the enclosed Consent Order does not contain the language you requested indicating that U.S. EPA resolution of a dispute is final agency action.
7. "The Reservation of Rights" section has been changed to allow Freeman Chemical Corporation to reserve all rights and defenses it may have, subject to the provisions of the Consent Order. In addition, the language you requested in paragraph 3 has been added.
8. Per your request, the "Reimbursement of Costs" section has been deleted from the enclosed Consent Order.
9. A paragraph has been added to the "Indemnification" section of the Consent Order to reflect the fact that Freeman Chemical Corporation does not assume any liability arising from acts or omissions of U.S. EPA or WDNR. This language should address your concerns regarding Freeman Chemical's liability for U.S. EPA acts or omissions.
10. The enclosed Consent Decree contains the covenant not to sue language you requested, with one modification. The covenant not to sue can only be for work satisfactorily performed. U.S. EPA must retain the right to sue Freeman Chemical Corporation if work conducted pursuant to the Consent Order is not completed in a satisfactory manner.

I have asked Marian Barnes to send to you a copy of Northern Signal's June 25, 1981 response to the U.S. EPA request for information. You should be receiving it shortly.

U.S. EPA scheduling does not permit much more negotiation on the terms of this Consent Order. U.S. EPA has made every effort to incorporate comments received during the meetings held on March 25, 1987 and May 7, 1987, and in your June 1, 1987 letter. Therefore, after reviewing this Consent Order, please have an authorized individual of Freeman Chemical Corporation sign the Consent Order and return it to me. At this time, U.S. EPA is also sending this Consent Order to the Wisconsin Department of Natural Resources for signature. Upon receipt of the signed copies, I will transmit the Consent Order to the Director of the Waste Management Division for signature and to the Regional Administrator for review and approval. I will then return a copy of the fully executed Consent Order to you.

Should you have any questions, or care to discuss the Consent Order further, please do not hesitate to contact Marian Barnes at (312) 886-7568, or myself at (312) 886-6620. I look forward to hearing from you as soon as possible. Thank you for your cooperation.

Sincerely yours,



Connie L. Puchalski
Assistant Regional Counsel

Enclosure

cc: w/encl. Russell Cerk, Freeman Chemical Corporation
w/encl. Roger Hatcher, Hatcher Incorporated

Rick Karl



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

13 AUG 1987

William L. Rosbe, Esq.
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

REPLY TO THE ATTENTION OF:

→ Ed Synch
→ file

RE: Freeman Chemical Corporation
EPA I.D. No. WID 980 615 439
RCRA 3008(h) Corrective Action Order

Dear Bill:

Pursuant to our telephone conversation on August 4, 1987, enclosed please find what I hope is the final Administrative Order on Consent (Consent Order) for corrective measures at the above-captioned facility. Please note that this Consent Order did not modify the thirty (30) day time period for the submittal of the Completion Report pursuant to Task 1 of the Scope of Work (SOW). While U.S. EPA had no objection to an enlargement of time for this task, Marion Barnes informed me that Roger Hatcher, your consultant, told her that such an extension of time was not necessary.

The changes to the SOW that Roger and Marion agreed to have all been incorporated into the enclosed SOW. These included changes to the Sampling plan language and changes to the groundwater monitoring plan language.

Please have an authorized official of Freeman Chemical Corporation sign this Consent Order and return it to me as quickly as possible. Once the Consent Order has been signed by the Regional Administrator, I will forward you an executed copy of the Consent Order for your files.

Thank you for your cooperation in this matter.

Sincerely yours,

Connie L. Puchalski

Connie L. Puchalski
Assistant Regional Counsel

Enclosure

cc: w/encl. Russell Cerk, Freeman Chemical Corporation
w/encl. Roger Hatcher, Hatcher Incorporated