

STATE OF VERMONT

SUPERIOR COURT
BENNINGTON UNIT

CIVIL DIVISION
Docket No. Bncv

STATE OF VERMONT, AGENCY OF
NATURAL RESOURCES,
Plaintiff,

v.

SAINT-GOBAIN PERFORMANCE
PLASTICS CORPORATION,
Defendant.

PLEADINGS BY AGREEMENT

The State of Vermont, Agency of Natural Resources, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Settling Defendant Saint-Gobain Performance Plastics Corporation, by their undersigned counsel, hereby submit these pleadings by agreement pursuant to Vermont Rule of Civil Procedure 8(g).

THE STATE'S ALLEGATIONS

The Parties

1. The State of Vermont Agency of Natural Resources (ANR) is a state agency created through 3 V.S.A. § 2802.

2. Saint-Gobain Performance Plastics Corporation (Settling Defendant) is a California corporation with offices and operations in the United States. From approximately 2000-2002, Settling Defendant owned and operated a fabric coating facility at 1030 Water Street in the Village of North Bennington, Vermont.

Statutory Scheme

3. ANR has authority to regulate hazardous materials and solid and hazardous waste through 10 V.S.A. Chapter 159 and administrative rules and procedures adopted under that authority.

4. Pursuant to 10 V.S.A. § 6615(a) and (b) and 10 V.S.A. § 1283(c), ANR may recover its costs of investigation, removal, mitigation, and remediation for releases of hazardous materials, and may require a responsible person to take necessary removal and remedial actions.

5. Pursuant to 3 V.S.A. Chapter 7, the Attorney General has the general supervision of matters and actions on behalf of the State, and may settle such matters as the interests of the State require.

Facts

Perfluorooctanoic Acid (PFOA) Release and Agency Response

6. From approximately 1968 to 1978, Chemical Fabrics Corporation (Chemfab) operated a fabric coating facility at 108 Northside Drive in the Town of Bennington, Vermont.

7. In 1978, Chemfab moved from the Northside Drive facility to a facility at 1030 Water Street in the Village of North Bennington, Vermont.

8. In 2000, Settling Defendant acquired Chemfab.

9. From approximately 2000-2002, Settling Defendant continued fabric coating operations at the Water Street facility.

10. PFOA was contained in certain polytetrafluoroethylene (PTFE) coatings purchased by Chemfab and Saint-Gobain from third parties and used at the Northside Drive and Water Street facilities (Facilities) to coat fabrics.

11. PFOA is a synthetic, fully fluorinated, organic acid used in a variety of consumer products and industrial applications.

12. In February 2016, ANR received a complaint that Settling Defendant's fabric coating operation may have resulted in the release of PFOA into the environment.

13. In response to the complaint, ANR sampled several drinking water wells in the area of the Water Street facility and found PFOA to be present in the wells.

14. As a result of the presence of PFOA in drinking water wells, ANR initiated a response action that has included sampling additional wells, providing bottled water, and overseeing State contractor and Settling Defendant's response activities.

a. ANR has sampled approximately 629 drinking water wells in the Village of North Bennington, Town of Bennington, and Town of Shaftsbury.

b. Of those 629 wells sampled, 335 contained PFOA concentrations at or above 20 parts per trillion (ppt). 20 ppt is Vermont's primary groundwater quality standard for PFOA.

Settling Defendant's Response Activities

15. By letter dated March 1, 2016, ANR notified Settling Defendant that ANR had determined Settling Defendant may be responsible for cleanup actions.

16. Settling Defendant has voluntarily cooperated with ANR with respect to response activities, including paying for the sampling of soils, surface water, groundwater, and drinking water supply wells in the Bennington and North Bennington area; providing bottled water to residents in Bennington and North Bennington; paying for the installation of point-of-entry treatment (POET) systems on private drinking water wells in which PFOA has been detected at concentrations at or above 20 ppt; and paying for municipal water lines to be extended to certain residences in Bennington and North Bennington.

17. Settling Defendant has developed Conceptual Site Models identifying potential sources and pathways of PFOA in portions of the Village of North Bennington, Town of Bennington, and Town of Shaftsbury.

18. Settling Defendant has developed comparative analyses of corrective action alternatives with respect to drinking water and groundwater remediation in Corrective Action Areas I and II as defined in Appendix B to the Consent Order being filed with these Pleadings by Agreement.

19. The response activities performed to date by Settling Defendant and the State have ensured that residents have drinking water that meets state and federal standards and advisory levels while the State and Settling Defendant cooperate to implement the additional response activities provided for in the Consent Order.

ANR's Determinations

20. The Facilities released PFOA and caused and/or contributed to PFOA

contamination in areas including, but not necessarily limited to, Corrective Action Areas I and II.

21. Pathways for the PFOA contamination include, but are not necessarily limited to, airborne emissions through stacks at the Facilities.

22. Saint-Gobain is liable pursuant to 10 V.S.A. § 6615 and 10 V.S.A. § 1283 for the release of the hazardous material PFOA, response costs, and resulting contamination in the area including, but not necessarily limited to, Corrective Action Areas I and II.

SETTLING DEFENDANT'S RESPONSE TO THE ALLEGATIONS

Settling Defendant answers the preceding allegations as follows:

23. Settling Defendant admits the allegations set forth in paragraphs 1 through 2, 6 through 11, and 15 through 19.

24. The allegations in paragraphs 3 through 5 set forth the purported statutory scheme in Vermont, to which no response is necessary.

25. Settling Defendant denies the allegations and conclusions set forth in paragraphs 12 through 14 and 20 through 22.

STIPULATION

26. Notwithstanding paragraph 25, the State and Settling Defendant have agreed to a Stipulation for the Entry of Consent Order and Final Judgment Order, and Consent Order and Final Judgment Order, which Stipulation has been executed by the parties and is being filed in this action together with these Pleadings by Agreement and the Consent Order and Final Judgment Order. This

agreement is made in compromise of disputed claims and is not an admission of liability by Settling Defendant, and Settling Defendant expressly denies the allegations as set forth in paragraph 25.

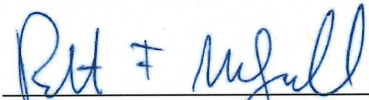
27. The Consent Order is in the parties' interests because it will memorialize areas of agreement between the State and Settling Defendant and facilitate remediation and long-term management of groundwater and drinking water in Corrective Action Areas I and II.

28. The parties agree and request that the Court withhold entry of the Consent Order for 30 days to allow for public notice and comment with ANR.

Dated at Montpelier, Vermont, this 5th day of April, 2019.

STATE OF VERMONT

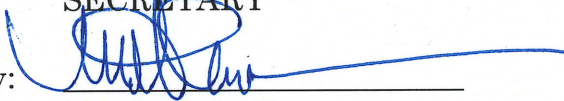
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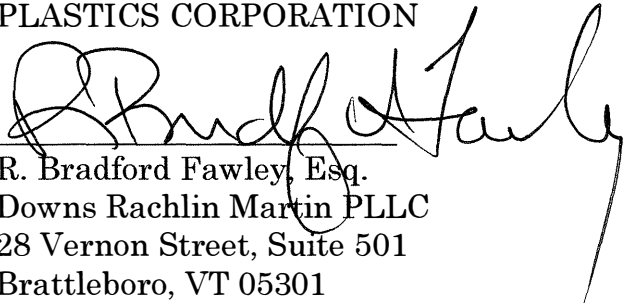
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Dated at Brattleboro, Vermont, this 3rd day of April, 2019.

SAINT-GOBAIN PERFORMANCE
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