

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.

**STIPULATION FOR THE ENTRY OF CONSENT ORDER
AND FINAL JUDGMENT ORDER**

Plaintiff, the State of Vermont, Agency of Natural Resources (ANR or the State), through the Office of the Attorney General, and Saint-Gobain Performance Plastics Corporation (Settling Defendant), individually, and through the undersigned counsel, stipulate and agree as follows:

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

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

WHEREAS, Settling Defendant acquired Chemfab in 2000 and continued to perform fabric coating operations at the Water Street facility until the facility closed in February 2002.

WHEREAS, perfluorooctanoic acid (PFOA) was contained in certain polytetrafluoroethylene (PTFE) coatings purchased by Chemfab and Saint-Gobain from third parties and used by Saint-Gobain at the Water Street facility to coat fabrics, and

used by Chemfab at the Northside Drive and Water Street facilities to coat fabrics.

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

WHEREAS, as a result of this complaint, the State sampled several wells in the area of the Water Street Facility and found PFOA to be present in the wells.

WHEREAS, as a result of the presence of PFOA, the State initiated a response action pursuant to 10 V.S.A. §§ 1283 and 6615 that has included the sampling of approximately 629 water supply wells, 335 of which have been found to contain PFOA at concentrations at or above 20 parts per trillion (ppt).

WHEREAS, as a part of its response, the State has incurred costs, including costs associated with sampling drinking water supplies for PFOA, providing bottled water, and oversight of both State contractor and Settling Defendant's response activities.

WHEREAS, Settling Defendant was formally notified of the release by the State in a letter dated March 1, 2016.

WHEREAS, Settling Defendant has voluntarily cooperated with the State with respect to the response activities to date, including paying for the sampling of soils, surface water, groundwater, and drinking water supply wells throughout Corrective Action Areas I and II (as defined in Section III.5 of the attached Consent Order and Final Judgment Order); providing bottled water to residents in Bennington and North Bennington; paying for the installation of point-of-entry treatment (POET) systems on private supply wells in which PFOA has been detected at concentrations at or above 20 ppt; paying for municipal water lines to be extended to certain residences in Bennington and North Bennington; and agreeing to pay for engineering designs for potential expansions of municipal water lines in Corrective Action Areas I and II.

WHEREAS, Settling Defendant has also voluntarily performed additional response activities at the Site (as defined in Section III.5 of the attached Consent Order and Final Judgment Order), including the submission of a Conceptual Site Model modeling potential PFOA impacts from the Northside Drive and Water Street facilities, a comparative analysis of corrective action alternatives, and a corrective action plan to address PFOA in Corrective Action Area I.

WHEREAS, 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 attached Consent Order and Final Judgment Order.

WHEREAS, the State and Settling Defendant previously entered an agreement, entered as a Consent Order by the Vermont Superior Court, Bennington Unit on October 2, 2017 (10/2/17 Consent Order), addressing response activities for Corrective Action Area I.

WHEREAS, Settling Defendant is entering this agreement notwithstanding that additional sources of per- and polyfluorinated alkyl substances (PFAS) contamination may exist in Corrective Action Areas I and II.

WHEREAS, the State and Settling Defendant now seek to memorialize their agreement concerning additional response activities to be performed at the Site.

WHEREAS, the Attorney General pursuant to 3 V.S.A. Chapter 7 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; and

WHEREAS, the Attorney General believes this settlement is in the State's interest as it will facilitate the prompt remediation and long-term management of groundwater

and drinking water in Corrective Action Areas I and II, and further the goals of the statutory program in 10 V.S.A. Chapter 159.

NOW, THEREFORE, the State and Settling Defendant hereby stipulate and agree as follows:

1. The attached Consent Order and Final Judgment Order (“Consent Order”) shall be lodged with the Court for at least 30 days for public notice and comment. The State will provide notice of the proposed Consent Order on its website, and in other media as the State in its sole discretion deems appropriate. The State reserves the right to withdraw or withhold its consent if comments sent to the Agency of Natural Resources regarding the Consent Order contain facts or considerations that indicate that the Consent Order is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Order without further notice after it is lodged with the Court;

2. Following expiration of the thirty (30) day period, the Parties intend to submit a motion for the Court to enter the attached Consent Order and Final Judgment Order;

3. When this Consent Order is entered by the Court, the 10/2/17 Consent Order in *State of Vermont, Agency of Natural Resources v. Saint-Gobain Performance Plastics Corporation*, Docket No. 205-7-17 Bncv, shall be superseded by and replaced with this Consent Order, which incorporates the Parties’ obligations from the 10/2/17 Consent Order, except that Appendix A of the 10/2/17 Consent Order is incorporated by reference into this Consent Order, unless expressly modified;

4. The State and Settling Defendant agree to stipulate to the dismissal with prejudice of the case titled “*Saint-Gobain v. State of Vermont*,” Docket No. 717-12-17 Wncv, and Settling Defendant agrees not to file any other challenge to Vermont standards of 20 ppt for PFOA, perfluorooctane sulfonic acid (PFOS), perfluorohexane

sulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), or perfluorononanoic acid (PFNA), or to challenge the 20 ppt standard(s) in any dispute or action arising under this Consent Order or the 10/2/17 Consent Order, provided, however, that nothing herein or in the 10/2/17 Consent Order shall be deemed an admission or acknowledgment by Settling Defendant that a 20 ppt standard is necessary or appropriate for PFOA, PFOS, PFHxS, PFHpA, or PFNA, or as a limitation on Settling Defendant's ability to challenge the appropriateness of a 20 ppt standard in any proceeding other than those described above, or any current or future standard other than a 20 ppt standard for PFOA, PFOS, PFHxS, PFHpA, or PFNA;

5. The Consent Order has been negotiated by and between the State and Settling Defendant in good faith and is in the State's interest;

6. The State and Settling Defendant hereby waive all rights to contest or appeal the Consent Order and they shall not challenge, in this or any other proceeding, the validity of the Consent Order or this Court's jurisdiction to enter or enforce the Consent Order;

7. The Consent Order sets forth the complete agreement of the Parties, and it may be altered, amended, or otherwise modified only as provided in Section XXIII (Modification) of the Consent Order;

8. The Consent Order may be executed in identical counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument;

9. The undersigned representatives of Settling Defendant and the State hereby certify that they are fully authorized to enter into this Consent Order and to execute and legally bind such Party to it;

10. Settling Defendant will not oppose entry of this Consent Order by this

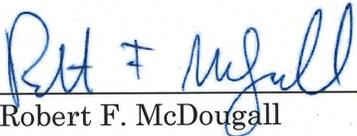
Court or challenge any provision of this Consent Order unless the State has notified Settling Defendant in writing that it no longer supports entry of the Consent Order; and

11. Settling Defendant shall identify, on the attached signature page, the name, address, email, and telephone number of an agent who is authorized to accept service by mail or email on behalf of Settling Defendant with respect to all matters arising under or relating to this Consent Order. Settling Defendant will accept service in that manner and waive the formal service requirements set forth in Rule 4 of the Vermont Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons.

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

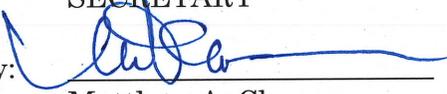
STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

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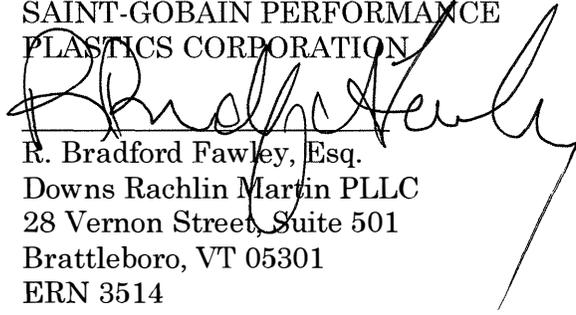
STATE OF VERMONT
AGENCY OF NATURAL RESOURCES

JULIE S. MOORE
SECRETARY

By: 
Matthew A. Chapman
General Counsel
1 National Life Drive, Davis 2
Montpelier, VT 05620
ERN 4943

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

SAINT-GOBAIN PERFORMANCE
PLASTICS CORPORATION

By: 
R. Bradford Fawley, Esq.
Downs Rachlin Martin PLLC
28 Vernon Street, Suite 501
Brattleboro, VT 05301
ERN 3514

Dated at Malvern, Pennsylvania, this __2nd__ day of April, 2019.

SAINT-GOBAIN PERFORMANCE
PLASTICS CORPORATION

By: 

Thomas Kinisky
President
Saint-Gobain Corporation
20 Moores Road
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