

7H
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DELAWARE VALLEY TOXICS COALITION

CIVIL ACTION

and

PHILADELPHIA AREA PROJECT ON
OCCUPATIONAL SAFETY AND HEALTH

FILED JUN 28 1994

Plaintiffs,

v.

R.J.M. MANUFACTURING, INC.

Defendants.

NO. 94-CV-2895

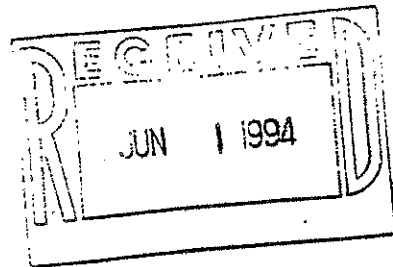
CONSENT DECREE

WHEREAS, the plaintiffs, Delaware Valley Toxics Coalition ("DVTC") and Philadelphia Area Project on Occupational Safety and Health ("PHILAPOSH") filed a complaint against the defendant, R.J.M. Manufacturing Inc. ("RJM") alleging violations of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. §11001 et seq. relating to RJM's facility at 1126 Bridgewater Road, Bensalem, Pennsylvania 19020; and

WHEREAS, plaintiffs seek declaratory relief, injunctive relief and the imposition of civil penalties; and

WHEREAS, defendant, RJM, denies plaintiffs claims and does not admit the facts or allegations of the EPCRA violations in the complaint; and

WHEREAS, the parties have engaged in discussions relating to the settlement of this litigation, which discussions have included



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an assessment of the facts related to plaintiffs' allegations of EPCRA violations; and

WHEREAS, the parties agree that settlement of this litigation and the entry of this Consent Decree without further litigation is the most appropriate means of resolving this action and is in the best interests of the parties and the public;

NOW THEREFORE, the parties hereby agree to enter into this Consent Decree which provides as follows:

1. This Court has jurisdiction over the parties and the subject matter of this lawsuit.

2. This Consent Decree shall apply to and be binding upon the parties to this action, their officers, directors, employees, successors and assigns.

3. This Consent Decree constitutes a full and complete settlement of claims alleged by plaintiffs against the defendant pursuant to EPCRA and to all claims which could have been alleged by plaintiffs against defendant pursuant to EPCRA up to and through the date this Consent Decree is approved by the Court.

4. This Consent Decree does not constitute an admission or adjudication of any allegation in the Complaint, nor of any conclusion of law with respect to any allegation in the Complaint or arising out of the Complaint.

5. This Consent Decree shall not constitute an admission or evidence of wrongdoing or misconduct or liability on the part of defendant or any person affiliated with defendant; nor shall this Consent Decree be admitted in any proceeding against a party over

that party's objection EXCEPT in a proceeding
Consent Decree.

6. The parties deem this Consent Decree to be an appropriate resolution of the lawsuit. The parties deem this Consent Decree to be a full release of RJM from the claims alleged by DVTC and PHILAPOSH, and the parties intend that no entity, including governmental entities, shall bring an action against RJM based on these claims.

7. The parties deem this Consent Decree to be in the public interest.

8. (a) -RJM shall henceforth comply with all applicable requirements of EPCRA. RJM shall furnish copies of EPCRA reports required pursuant to Section 312 and Section 313, 42 U.S.C. §§11022 and 11023, to plaintiffs' attorney at the same time that RJM sends these reports to the relevant governmental entities in the years 1994, 1995 and 1996.

(b) Whenever RJM is not required to file an EPCRA report under Section 312 or Section 313, 42 U.S.C. §11022 or §11023, RJM shall so inform plaintiffs' attorney in writing of this situation in the years 1994, 1995 and 1996.

(c) RJM shall send copies of EPCRA reports or certified statements denying need to file EPCRA reports to:

Jerome Balter, Esquire
Public Interest Law Center of Philadelphia
125 South 9th Street, Suite 700
Philadelphia, PA 19107

9. (a) The Delaware Valley non-profit tax-exempt (§501(C)(3)) organization established in 1979 to support community and worker efforts to eliminate or reduce human exposure to hazardous and toxic substances. Toward this goal DVTC coordinated the efforts of environmental, trade union and community groups to establish the Philadelphia Right-To-Know Ordinance which was the first law in the United States that entitled workers and communities to information about the hazardous and toxic substances in the workplace and being released from the workplaces. It was the Philadelphia Right-To-Know Ordinance which was the forerunner of numerous other right-to-know statutes such as the New Jersey Worker and Community Right-To-Know Act, the Pennsylvania Worker and Community Right-To-Know Act, the Hazard Communication Regulation under the federal Occupational Safety and Health Act; and the Emergency Planning and Community Right-To-Know Act ("EPCRA").

(b) DVTC compiles and publishes Section 313, EPCRA, Toxic Chemical Release data for the greater Philadelphia area (Bucks, Chester, Delaware, Montgomery and Philadelphia counties). This material is made available to citizens and the media.

(c) DVTC provides training and education to community groups throughout the greater Philadelphia area regarding environmental pollution, the sources of such pollution and the means for reducing and eliminating human exposure to these pollutants.

work and activities of DVTC. Payment shall be made to the:

Delaware Valley Toxics Coalition
125 South 9th Street
Philadelphia, PA 19107

10. (a) The Philadelphia Area Project on Occupational Safety and Health ("PHILAPOSH") is a non-profit tax-exempt (§501(C)(3)) corporation. It was founded in 1975 to assist workers in preventing on the job injuries from accidents and to prevent or minimize exposure to hazardous and toxic substances.

(b) PHILAPOSH initiated the movement for right-to-know legislation in 1977. The movement was successful in achieving the Philadelphia right to know ordinance, the New Jersey and Pennsylvania Community/worker right to know laws; the Hazard Communication regulation of OSHA and the EPCRA statute.

(c) Approximately 200 trade unions in the greater Philadelphia area belong to PHILAPOSH. These unions include approximately 300,000 workers. PHILAPOSH provides these unions and workers with educational and training programs to reduce exposure to hazardous and toxic substances.

(d) RJM shall pay PHILAPOSH the sum of \$3,000.00 to support the work and activities of PHILAPOSH. Payment shall be made to:

PHILAPOSH
3001 Walnut Street
Philadelphia, PA 19104

11. (a) Chester Residents Concerned for Quality Living

("Chester Residents") is a community organization. Faith Temple Holy Church, a tax-exempt Section 501(c)(3) religious organization, located at 512 West Second Street, Chester, PA 19013.

(b) The Reverend Horace Strand is Chairman of Chester Residents.

(c) Chester Residents actively work to reduce and eliminate environmental pollution in the city of Chester thereby to protect the public health of the citizens of Chester.

(d) RJM shall pay the Faith Temple Holy Church the sum of \$2,000.00 to support the work of Chester Residents. Payment shall be made to:

Faith Temple Holy Church
512 West Second Street
Chester, PA 19013

12. RJM shall pay plaintiffs' reasonable attorney fees and costs in the amount of \$5,000. Payment shall be made to:

Public Interest Law Center of Philadelphia
125 South 9th Street, Suite 700
Philadelphia, PA 19107

13. (a) RJM shall send all payment checks, pursuant to paragraph 9(d), 10(d), 11(d), and 12 to Jerome Balter, Esquire, Public Interest Law Center of Philadelphia, 125 South 9th Street, Suite 700, Philadelphia, Pennsylvania 19107.

(b) Payments made pursuant to Paragraph 9(b), 10(d), 11(d) and 12 shall be made monthly, in four equal installments. The first monthly installment shall be remitted to plaintiffs' attorney within ten (10) days of the date on which this Consent

Decree is approved by the Court. Subsequent

shall be made within thirty (30) days of the last payment.

(c) If any monthly installment payments have not been received by plaintiffs' attorney by the deadline prescribed in Paragraph 13(b), above, plaintiffs' attorney shall so notify RJM in writing and provide a copy of the notification to RJM's attorney, Janice Quimby-Fox, Esquire. Upon receipt of notification of a late installment payment, RJM shall have three (3) business days within which to remit the late payment to plaintiffs' attorney. RJM shall not be deemed to have breached this Consent Decree if any installment payment is made pursuant to the requirements of this Paragraph.

(d) The Public Interest Law Center shall remit these checks to the appropriate recipients. Copies of the letters of transmittal will be sent to RJM's attorneys.

14. Neither DVTC nor PHILAPOSH nor any other entity or person acting with, by or through DVTC or PHILAPOSH, in either their individual or representative capacity, shall file or intervene in any lawsuit pursuant to EPCRA or participate in any EPCRA administrative proceeding or hearing concerning the alleged violations referred to in the Complaint or in this Consent Decree.

15. Notwithstanding paragraph 14, if RJM fails to comply with any of the terms of this Consent Decree, DVTC and PHILAPOSH shall have the right to take any action it desires regarding the alleged violations referred to in the Complaint or in this Consent Decree or to enforce this Consent Decree.

16. This Court shall retain jurisdiction over this Consent Decree for a period of two years from the date of the Court's approval.

17. Any party may apply to the Court for modification, termination or enforcement of this Consent Decree. In the event of a dispute among the parties as to the meaning of any provision of this Consent Decree the parties shall make a good faith effort to resolve the matter before seeking the assistance of the Court.

18. Each of the undersigned hereby certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms and conditions of this Consent Decree and to legally bind the party or parties to it.

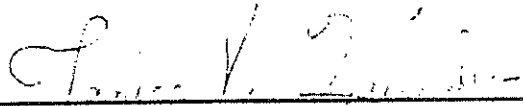
19. The plaintiffs represent that the Regional Office of the Environmental Protection Agency ("EPA") was provided with the sixty day notice forwarded to RJM prior to the commencement of this action; and the parties represent that the EPA did not pursue an independent enforcement action against RJM. Though not required by EPCRA, the parties further represent that the EPA was provided with a copy of this Consent Decree and asked to provide comments or objections within ten (10) days.

20. No party to this Consent Decree shall make public the

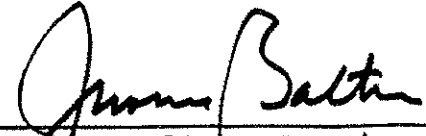
terms of this Consent Decree without written consent of the other parties.

R.J.M. MANUFACTURING, INC.

DELAWARE VALLEY TOXICS COALITION
AND
PHILADELPHIA AREA PROJECT ON
OCCUPATIONAL SAFETY AND HEALTH



Janice Quimby-Fox, Esquire
For Defendants



Jerome Balter, Esquire
For Plaintiffs

APPROVED AND SO ORDERED:



U. S. District Court

Date: June 27, 1994

ENTERED: 6/28/94

CLERK OF COURT