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MUSIC CLUB
PESTICIDE
UAC
8/7/87

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

| | | |
|---------------------------------|---|---------------------------------|
| In The Matter Of: |) | |
| |) | |
| BIG O JAMBOREE, MUSIC CLUB SITE |) | Proceeding under Section |
| Williamston, North Carolina |) | 106(a) of the Comprehensive |
| |) | Environmental Response, Compen- |
| |) | sation and Liability Act of |
| |) | 1980, 42 U.S.C. §9606(a) |
| Olin Corporation |) | |
| Mr. Robert Yohe, President, |) | DOCKET NO.: 86-18-C |
| |) | |
| Kerr-McGee Chemical Corporation |) | |
| Mr. George Rice, Senior Vice |) | |
| President, |) | |
| |) | |
| Respondents. |) | |
| |) | |

ORDER

The following Order is issued to Olin Corporation, Robert Yohe, President, and Kerr-McGee, George Rice, Senior Vice President, (Respondents) pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, and delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order 12316 dated August 14, 1981, 46 Federal Register 42237 (1981) and further delegated to the Regional Administrator of Region IV, EPA. Notice of the issuance of this order has been given to the State of North Carolina.

EPA has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment due to the release and threat of release of hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601 (14) from the following location:

Big O Jamboree, Music Club Pesticide Site
Western Music Club
U.S. 17
Williamston, North Carolina 27892

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This Order directs you to undertake certain actions to protect the public and the environment from the endangerment.

FINDINGS OF FACT

1. The Big O Jamboree Music Club Pesticide Site (the "site") has been used in the past as a fertilizer and pesticide manufacturing plant located at U.S. Highway 17 in Williamston, North Carolina.
2. The dry blending plant/warehouse is presently being used as a music club.
3. The fertilizer plant has been torn down except for the western wing which is now an equipment shed.
4. Respondent, Olin-Corporation, operated a fertilizer and manufacturing plant on the site from approximately 1956 to 1969.
5. Respondent, Kerr-McGee Chemical Corporation, operated a distribution facility for pesticides on the site from approximately 1969 to 1977.
6. The site is presently owned by Odis Ward Whitaker, who owns and operates the Music Club.
7. The State of North Carolina's soil sample analysis of July 24, 1985, shows contamination in the following form: 1650 ppm toxaphene, 1900 ppm DDT, 7200 ppm DDD, 127 ppm lindane and 83 ppm endrin.
8. A new public water supply well is proposed to be constructed 200 yards from the site.
9. Toxaphene and lindane are known or suspected carcinogens. DDT, Parathion and endrin are toxic hazardous substances.
10. The Town of Williamston and 7200 people are within two miles of this site.
11. The site is located 100 yards from the Roanoke River and lies in its floodplain.
12. In order to protect human health and welfare and the environment, the EPA has concluded that it is necessary that action be taken to contain and terminate the release or threat of release of hazardous substances from the site into the environment. Respondents Olin Corporation and Kerr-McGee Chemical Corporation do not agree with this conclusion.

CONCLUSIONS OF LAW

1. The above - referenced site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. Olin Corporation and Kerr-McGee Chemical Corporation are past facility owner/operators within the meaning of Section 107(a) of CERCLA, 42 U.S.C. §9607(a).
3. DDT, toxaphene, lindane, endrin, DDD and parathion are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
4. The hazardous substances described above were stored, treated or disposed of at the facility in such a manner that they have been released into the environment and there continues to be a threat of release into the environment within the meaning of Section 101(22) and 106(a) of CERCLA, 42 U.S.C. §9601(22) and 9606(a).

DETERMINATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Regional Administrator has determined that:

1) The release and threat of release of hazardous substances from the facility may present an imminent and substantial endangerment to the public health or welfare or the environment; 2) In order to protect public health and welfare and the environment, it is necessary that action be taken to mitigate the release and threat of release of hazardous substances from the facility into the environment; and 3) The actions required in this Order are consistent with the National Contingency Plan.

ORDER

Based on the foregoing findings, conclusions, and determinations, it is hereby ordered that:

1. Respondents, no later than August 15, 1987, shall submit for EPA approval a proposal (Work Program), the sampling portion of which is to be completed within 90 days of EPA written approval thereof, encompassing work to be undertaken in meeting the requirements of this Order, which Work Program shall include the following measures and shall be conducted under the oversight of EPA through its On-Scene Coordinator (OSC) and consistent with the National Contingency Plan:
 - a) Remove contaminated soil beneath the dry blending plant/warehouse and in front of warehouse portion as indicated by sampling results. Dispose of such soil at an approved hazardous waste facility.

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- b) Locate, transport off the site and properly dispose of all drums of DDT, toxaphene and parathion buried on the site.
 - c) Utilize existing water well on site to sample and identify any groundwater contamination and to assure that the contamination is not migrating from the property. If results prove inadequate for sampling, install and sample an additional well in an appropriate location for such purposes.
2. All actions carried out by the Respondents pursuant to this Order shall be done in accordance with all applicable federal, state, and local laws.
 3. Upon request Respondents will provide EPA with split samples of any samples collected in accordance with the requirements of this Order.
 4. Respondents shall use their best efforts to obtain whatever permits, approvals, or authorizations which are necessary in order to perform their obligations under this Order. Respondents shall promptly notify the EPA in the event of their inability to obtain such authorization on a timely basis. In the event Respondents are unable to obtain the necessary authorizations required to perform the work required under this Order, the EPA shall, consistent with its legal authority, assist in obtaining all such authorizations Respondents were unable to obtain or which Respondents could not obtain without terms or conditions which would effectively prevent implementation of the work required under this Order. If Respondents cannot obtain such authorizations on a timely basis, the time for performance of any obligation dependent upon such authorization shall be appropriately extended. If Respondents cannot obtain such authorization, this Order may be appropriately modified.
 5. All response work performed pursuant to this Order shall be under the direction and supervision of a qualified professional engineer or certified geologist with expertise and experience in hazardous waste site cleanup. Respondents shall notify EPA as to the identity of such engineer or geologist and of any contractors and subcontractors to be used in carrying out the terms of this Order in advance of their work at the site.
 6. Respondents shall use quality assurance, quality control, and chain-of-custody procedures in accordance with EPA guidance throughout all activities. Respondents shall consult with EPA in planning for sampling and analysis. Respondents shall provide a quality control report to EPA certifying that all activities have been performed as approved.

7. Respondents shall preserve all records developed pursuant to implementation of this Order for a period of at least six (6) years following completion of all work by Respondents pursuant to this Order.
8. Within thirty days of completion of the Work Program, the EPA shall advise Respondents, in writing, as to whether the implementation of the Work Program was in accordance with the provisions of said Program and this Order. If EPA determines that the implementation of the Work Program was not in accordance therewith and the parties cannot agree as to whether the Work Program has been properly implemented consistent with the terms, conditions and provisions of this Order, EPA may take any action and pursue any remedy to which it might be entitled by law.
9. In the event that the On-Scene Coordinator determines that activities implemented are not in compliance with this Order, or any other circumstances or activities are creating an imminent and substantial endangerment to the public health or welfare or the environment, the Regional Administrator of EPA, Region IV, may order Respondents to halt further implementation of this Order for such period of time as necessary to abate the endangerment.
10. Neither the United States nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, their officers, directors, employees, agents, servants, receivers, trustees, successors, or assignees, or of any persons, including but not limited to firms, corporations, subsidiaries, contractors, or consultants, in carrying out activities pursuant to this Order, nor shall the United States or any agency thereof be held out as or deemed a party to any contract entered into by the Respondents in carrying out activities pursuant to this Order.
11. Respondents' compliance with this Order shall not constitute an admission of law or fact or evidence of the same, nor of any violation of any law or regulation and this Order shall not be admitted as evidence as an admission or declaration by EPA or Respondents in any proceeding. This Order shall neither create nor affect the rights of persons or entities who are not parties or bound by this Order.
12. All submittals and notifications to EPA pursuant to this Order shall be made to Mr. Patrick M. Tobin, Director, Waste Management Divison, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, and Mr. Reuben Bussey, Assistant Regional Counsel at the same address.

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13. This Order is effective upon receipt, notwithstanding any conferences requested by Respondents. Response actions shall commence as of the date of EPA approval of the Work Program. All times for performance of response activities shall be calculated from that date.
14. This Order shall apply to and be binding upon the parties to this action, their successors, assigns, and contractors.

If there are any questions concerning the factual determinations upon which the Order is based, the appropriateness of any action which you are ordered to take, and any other relevant and material issue, you may request an informal conference with appropriate EPA personnel at the EPA Regional Office located at 345 Courtland Street, Atlanta, Georgia. Such a request must be made in writing or by telephone with written follow-up within fifteen (15) days, after receipt of this Order. However, you are hereby placed on notice that EPA will take any action which may be necessary in the opinion of EPA for the protection of public health, welfare, and the environment and Respondents may be liable under Section 107(a) of CERCLA for the costs of these government actions. Respondents may appear in person or may be represented by attorney or other representative at any conference held at their request. Any request for a conference should be made to:

Norton E. Jessup
On-Scene Coordinator
Superfund Branch
Waste Management Division
U.S. Environmental Protection Agency, Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365
404/347-2216

or

Mr. Reuben Bussey
Assistant Regional Counsel
U.S. E.P.A. - Region IV
404/347-2641

VIOLATIONS OF ORDER

Violation by the Respondents of this Order through failure to comply with any provision herein or otherwise, shall be enforceable pursuant to Sections 106(b) and 113(b) of CERCLA, 42 U.S.C. §9606(b) and 9613(b). Failure to comply may also subject Respondents to civil penalties and/or punitive damages in an amount of three times the amount of any costs incurred by the United States as a

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result of such failure, as provided in Section 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §9606(b) and 9607(c)(3). Nothing herein shall preclude EPA from taking such other actions as may be necessary to protect the public health and welfare or the environment and recovering the costs thereof.

Date: AUG 7 1987

By: Lee G. D'Almeida for
Jack E. Ravan
Regional Administrator