

National Starch &  
Chemical Corp

ACOL

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

29992

In The Matter Of:

NATIONAL STARCH AND CHEMICAL  
CORPORATION  
Cedar Springs Road  
Salisbury, North Carolina

NATIONAL STARCH AND CHEMICAL  
CORPORATION  
Finderne Avenue  
Bridgewater, New Jersey,

Respondent.

Proceeding Under Section  
106(a) of the Comprehensive  
Environmental Response,  
Compensation and Liability  
Act of 1980 (42 U.S.C. §9606(a))

DOCKET NO. 87-01-C

ADMINISTRATIVE ORDER ON CONSENT

I. JURISDICTION

This Administrative Order on Consent (Consent Order) is entered into by the United States Environmental Protection Agency (EPA) with National Starch and Chemical Corporation (National Starch or Respondent) 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), and delegated to the Administrator of EPA by Executive Order 12316 dated August 14, 1981, 46 Federal Register 42237 (1981) and further delegated to the Regional Administrator, EPA Delegation No. 14-14-A, the latter of which was signed on April 16, 1984.

The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. The Respondent consents to and will not contest EPA jurisdiction regarding this Consent Order.

II. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objectives of EPA and National Starch are: (A) to determine fully the nature and extent of the threat to the public health or welfare or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants from the National

Starch site (Remedial Investigation); and (B) to evaluate alternatives for the appropriate extent of remedial action to prevent or mitigate the migration or the release or threatened release of hazardous substances, pollutants, or contaminants from the National Starch site (Feasibility Study). The activities conducted pursuant to this Consent Order are subject to approval by EPA and shall be consistent with the National Contingency Plan, 40 CFR Part 300.68 (a) - (j), 47 Federal Register 31180 (July 16, 1982), revised at 48 Federal Register 40658 (September 8, 1983) and at 50 Federal Register 47973 (November 20, 1985).

### III. FINDINGS OF FACT

The following constitutes an outline of the facts upon which this Consent Order is based:

- A. National Starch and Chemical Corporation, a Delaware Corporation, operates a manufacturing facility in Salisbury, Rowan County, North Carolina. This facility manufactures textile finishing and custom specialty chemicals.
- B. The National Starch Site (the "Site") is a 465-acre tract of land on which National Starch operates its chemical manufacturing facility. During the 1970's, National Starch disposed of wastewater in several trenches on a two-acre portion of the Site. This wastewater contained small quantities of solvents and metals. Results of groundwater testing in this disposal area show low levels of toluene, xylene, 1-2-dichloroethane, allyl alcohol, arsenic, chromium, cadmium and zinc.
- C. EPA has proposed the National Starch site for inclusion on the National Priorities List as defined in Section 105 of CERCLA, 42 U.S.C. §9605.
- D. The topography of the area surrounding the Site is gently sloping uplands intercut by several small tributaries to Grant's Creek. Farmland is located to the south of the Site and residential areas are situated north and southwest of the Site.

### IV. EPA'S CONCLUSIONS OF LAW

- A. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
- B. The Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. §9601(21).
- C. The chemicals found in the groundwater, as described in Paragraph III.B. above are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

D. The presence of hazardous substances at the Site, their past and potential migration to surrounding soils and groundwater, constitute both an actual and a threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

V. EPA'S DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set out above, EPA has determined that:

A. The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

B. The actions required by this Consent Order are necessary to protect the public health and welfare and the environment.

VI. WORK TO BE PERFORMED

All work performed pursuant to this Consent Order shall be under the direction and supervision of a qualified professional engineer or a certified geologist with expertise and experience in hazardous waste site clean up. Prior to the initiation of the site work, the Respondent shall notify EPA in writing regarding the identity of such engineer or geologist and of any contractors and/or subcontractors to be used in carrying out the terms of this Consent Order.

Based on the foregoing, it is hereby AGREED to and ORDERED that the following work shall be performed:

A. Within thirty (30) calendar days of the effective date of this Consent Order, the Respondent shall submit to EPA a work plan for a complete Remedial Investigation and Feasibility Study (RI/FS Work Plan). This plan shall be developed in accordance with the EPA Remedial Investigation and Feasibility Study guidance documents which have been provided to the Respondent by EPA. As described in this guidance, the RI/FS Work Plan must include: (1) a sampling plan; (2) a health and safety plan; (3) a community relations plan; (4) a plan for satisfaction of permitting requirements; (5) a description of chain-of-custody procedures; and (6) a description of quality control and quality assurance procedures. The RI/FS Work Plan shall be subject to review, modification and approval by EPA.

B. After receipt of the RI/FS Work Plan by EPA, EPA shall notify the Respondent in writing of EPA's approval or disapproval of the RI/FS Work Plan or any part thereof. In the event of any disapproval, EPA shall specify in writing both the deficiencies and any EPA recommended modification regarding the RI/FS Work Plan.

C. Within twenty (20) calendar days of the receipt of EPA notification of RI/FS Work Plan disapproval, the Respondent shall amend and submit to EPA a revised RI/FS Work Plan. In the event of subsequent disapproval of the RI/FS Work Plan, EPA retains the right to conduct a complete RI/FS pursuant to its authority under CERCLA.

D. The Respondent shall implement the tasks detailed in the approved RI/FS Work Plan which will be approved by EPA and will be attached to and incorporated in this Consent Order (Attachment 1). This work shall be conducted in accordance with the EPA RI/FS guidance documents and with the standards, specifications, and schedule contained in the approved RI/FS Work Plan.

E. Within seven (7) calendar days of receipt of written approval of the RI/FS Work Plan by EPA, Respondent shall commence Task I of the RI/FS Work Plan.

F. The Respondent shall provide monthly written progress reports to EPA according to the schedule contained in the RI/FS Work Plan. At a minimum these progress reports shall: (1) describe the actions which have been taken toward achieving compliance with this Consent Order; (2) include all results of sampling and tests and all other data received by the Respondent; and (3) include all plans and procedures completed during the past month, subsequent to EPA approval of the RI/FS Work Plan, as well as such actions, data, and plans which are scheduled for the next month. These reports are to be submitted to EPA by the tenth day of each month following the date of EPA approval of the RI/FS Work Plan.

G. The Respondent shall provide preliminary and final reports to EPA according to the schedule contained in the RI/FS Work Plan.

H. EPA shall review the preliminary and final reports and within 30 calendar days of receipt by EPA of such reports, EPA shall notify the Respondent in writing of EPA's approval or disapproval of these reports or any part thereof. In the event of any disapproval, EPA shall specify in writing both the deficiencies and the reasons for such disapproval.

I. Within 30 calendar days of receipt of EPA notification of preliminary or final report disapproval, the Respondent shall amend and submit to EPA such revised reports for EPA review. In the event of disapproval, EPA retains the right to amend such reports, to perform additional studies, or to conduct a complete Remedial Investigation and Feasibility Study pursuant to its authority under CERCLA.

J. Documents, including reports, approvals, and other correspondence, to be submitted pursuant to this Consent Order, shall be sent by certified mail to the following addresses or to such other addresses as the Respondents or EPA hereafter may designate in writing:

- 1) Documents (5 copies) to be submitted to EPA should be sent to:

Giezelle S. Bennett  
Enforcement Project Manager  
U.S. EPA - Region IV, ERRB/ICS  
345 Courtland St., N.E.  
Atlanta, Georgia 30365

- 2) Documents to be submitted to the Respondent should be sent to:

Alex M. Samson, Jr.  
National Starch and Chemical Corporation  
10 FINDERNE AVENUE  
P.O. Box 6500  
BRIDGEWATER, New Jersey 08807

K. In addition to the EPA-approved tasks and deliverables to be completed pursuant to this Consent Order, EPA may determine that additional tasks, including remedial investigatory work and/or engineering evaluation, may be necessary as part of the RI/FS. If the parties agree, these tasks will be incorporated in the Work Plan and become a part of this Order. If the parties do not agree, EPA shall have the right to perform the additional tasks and seek recovery of the costs of performing the additional tasks.

#### VII. DESIGNATED PROJECT COORDINATORS

On or before the effective date of this Consent Order, EPA and the Respondent shall each designate a Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Order. To the maximum extent possible, communications between the Respondent and EPA concerning the activities performed pursuant to the terms and conditions of this Consent Order including reports, approvals, and other correspondence, shall be directed through the Project Coordinators. EPA and the Respondent each have the right to change their respective Project Coordinator. Such a change shall be accomplished by notifying the other party in writing at least five (5) calendar days prior to the change.

The EPA designated On-Scene Coordinator, who may be the Project Coordinator, shall have the authority vested in the On-Scene Coordinator by the National Contingency Plan, 40 C.F.R. Part 300 et seq., 47 Federal Register 31180 (July 16, 1982). This includes the authority to halt, conduct, or direct any tasks required by this Consent Order and/or any response actions or portions thereof when conditions present an immediate risk to public health or welfare or the environment.

The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage of work.

#### VIII. QUALITY ASSURANCE

The Respondent shall use quality assurance, quality control, and chain-of-custody procedures in accordance with the EPA, Region 4, Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual, U. S. Environmental Protection Agency, Region IV, Environmental Services Division, April 1, 1986, throughout all sample collection and analysis activities. This manual shall be provided to the Respondents by EPA. The Respondents shall consult with EPA in planning for, and prior to, all sampling and analysis as detailed in the RI/FS Work Plan. In order to provide quality assurance and maintain quality control regarding all samples collected pursuant to this Consent Order, the Respondent shall:

- A. Ensure that EPA personnel and/or EPA authorized representatives are allowed access to the laboratory(s) and personnel utilized by the Respondent for analyses.
- B. Ensure that the laboratory(s) utilized by the Respondent for analyses perform such analyses according to EPA methods or methods deemed satisfactory to EPA and submit all protocols to be used for analyses to EPA at least 14 calendar days prior to the commencement of the analysis.
- C. Ensure that the laboratory(s) utilized by the Respondent for analyses participate in a quality assurance/quality control program equivalent to that which is followed by EPA and which is consistent with EPA document QAMS-005/80. As part of such a program, and upon request by EPA, such laboratory(s) shall perform analyses of samples provided by EPA to demonstrate the quality of each laboratory's analytical data. A maximum annual number of four per analytical combination; e.g., four aqueous samples by Gas Chromatography/Mass Spectrometry, etc., may be provided to each laboratory for analysis.

#### IX. SITE ACCESS

To the extent that areas covered by the Work Plan are presently owned by parties other than those bound by this Consent Order, the Respondent has obtained or will use its best efforts to obtain site access agreements from the present owners. Such agreements shall provide reasonable access to EPA and/or their authorized representatives. In the event that site access agreements are not obtained within a reasonable time after entry of this

Order, the Respondent shall notify EPA regarding both the lack of, and efforts to obtain such agreements and EPA shall obtain such agreements and EPA shall obtain access for the Respondent.

X. SAMPLING, ACCESS, AND DATA/DOCUMENT AVAILABILITY

The Respondent shall make the results of all sampling and/or tests or other data generated by the Respondent, or on the Respondent's behalf, with respect to the implementation of this Consent Order, available to EPA and shall submit these results in progress reports as described in Section VI of this Consent Order. EPA will make available to the Respondent the results of sampling and/or tests or other data similarly generated by EPA.

At the request of EPA, the Respondent shall allow split or duplicate samples to be taken by EPA and/or its authorized representatives, of any samples collected by the Respondent pursuant to the implementation of this Consent Order. The Respondent shall notify EPA not less than 72 hours in advance of any sample collection activity. This notification may be given verbally in the field by the Respondent to EPA's authorized representative.

EPA and/or any EPA-authorized representative shall at least have the authority to enter and freely move about all property at the Site at all reasonable times for the purpose of inter alia: inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Consent Order; conducting such tests as EPA or the Project Coordinator deem necessary; and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order. All parties with access to the Site pursuant to this paragraph shall comply with all approved health and safety plans.

The Respondent may assert a confidentiality claim, if appropriate, covering part or all of the information requested by this Consent Order pursuant to 40 C.F.R. §2.203(b). Such an assertion shall be adequately substantiated when the assertion is made. Analytical data shall not be claimed as confidential by the Respondent. Information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to the Respondent.

XI. RECORD PRESERVATION

EPA and the Respondent agree that each shall preserve, during the pendency of this Consent Order and for a minimum of six (6) years after its termination, all records and documents developed pursuant to this Consent Order, despite

any document retention policy to the contrary. After this six-year period, the Respondent shall notify EPA within 30 calendar days prior to the destruction of any such documents. Upon request by EPA, the Respondent shall make available to EPA such records or copies of such records, except for privileged documents. Additionally, if EPA requests that some or all documents be preserved for a longer period, the Respondent shall comply with such request.

#### XII. DISPUTE RESOLUTION

If the Respondent objects to any EPA notice of disapproval or decision made pursuant to this Consent Order, the Respondent shall notify EPA in writing of its objections within fourteen (14) days of receipt of the decision. EPA and the Respondent then have an additional fourteen (14) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any issue within this fourteen (14) day period, EPA shall provide a written statement of its decision to the Respondent.

#### XIII. DELAY IN PERFORMANCE/STIPULATED PENALTIES

If any event occurs which causes delay in the achievement of the requirements of this Consent Order, the Respondent shall have the burden of proving that the delay was caused by circumstances beyond the reasonable control of the Respondent. The Respondent shall promptly notify EPA's Project Coordinator orally and shall, within seven (7) calendar days of oral notification to EPA, notify EPA in writing of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and the timetable by which the Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of the Respondent, the time for performance hereunder shall be extended for a period equal to the delay resulting from such circumstances. The Respondent shall adopt all reasonable measures to avoid or minimize delay. Failure of the Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and constitute a waiver of the Respondent's right to request a waiver of the requirements of this Consent Order. Increased costs of performance of the terms of this Consent Order or changed economic circumstances shall not be considered circumstances beyond the control of the Respondent. In the event that EPA and the Respondent cannot agree that any delay in the achievement of the requirements of this Consent Order, including the failure to submit any report or document, has been or will be caused by circumstances beyond the reasonable control of the Respondent, the dispute shall be resolved in accordance with the provisions of the "Dispute Resolution" Section (Section XII) of this Consent Order.



Unless excused by the provisions above, the Respondent shall pay into the Hazardous Substance Response Fund, administered by EPA, the sums set forth below as stipulated penalties. Checks should be addressed to:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 371003M  
Pittsburgh, PA 15251  
Attn: Collection Officer for Superfund

Stipulated penalties shall accrue as follows:

For the first week of failure to comply with the major tasks designated in the work plan there will be a penalty of \$1000, and for each week thereafter \$2000.

The stipulated penalties set forth in this Section do not preclude EPA from electing to pursue remedies or sanctions, which may be available to EPA by reason of the Respondent's failure to comply with any of the requirements of this Consent Order. Such remedies and sanctions include a suit for statutory penalties up to the amount authorized by law, a federally-funded response action, and a suit for reimbursement of costs incurred by the United States and the State of North Carolina.

Any reports, plans, specifications, schedules, and attachments required by this Consent Order are, upon approval by EPA, incorporated into this Consent Order. Any non-compliance with such EPA approved reports, plans, specifications, schedules, and attachments shall be considered a failure to achieve the requirements of this Consent Order.

#### XIV. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Consent Order, including the completion of an EPA-approved Remedial Investigation and Feasibility Study, the Respondent is not released from liability, if any, for any actions beyond the terms of this Consent Order taken by EPA respecting the site. EPA reserves the right to take any enforcement action pursuant to CERCLA and/or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Consent Order.

The Respondent and EPA expressly reserve all rights and defenses that they may have, including EPA's right both to disapprove of work performed by the Respondent and to request that the Respondent perform tasks in addition to those detailed in the RI/FS Work Plan, as provided in this Consent Order. In the event that the Respondent declines to perform any additional and/or modified tasks, EPA will have the right to undertake such work and to complete the RI/FS. In addition, EPA reserves the right

to undertake removal actions and/or remedial actions at any time. In either event, EPA reserves the right to seek reimbursement from the Respondents thereafter for such costs incurred by the United States or the State of North Carolina.

XV. REIMBURSEMENT OF COSTS

At the end of each year, EPA shall submit to the Respondent an accounting of all oversight costs incurred by the U.S. Government with respect to this Consent Order. The Respondent agrees to reimburse EPA up to \$70,000 in satisfaction of EPA's claim against the Respondent for the oversight costs associated with this Order. The Respondent shall, within 30 calendar days of receipt of that accounting, remit a check for the amount of those costs made payable to the Hazardous Substance Response Trust Fund. Checks should specifically reference the identity of the site and be addressed to:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 371003M  
Pittsburgh, PA 15251  
ATTN: Collection Officer for Superfund

A copy of the transmittal letter should be sent to the Project Coordinator.

If this Order is terminated pursuant to paragraph XXIII, the Respondent will reimburse EPA for its oversight costs incurred to the termination date up to the \$70,000 maximum.

XVI. OTHER CLAIMS

Nothing herein is intended to release any claims, causes of action or demands in law or equity that EPA may have against any person, firm, partnership, or corporation not a signatory to this Consent Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

XVII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations consistent with EPA policy unless an exemption from such requirements is specifically provided herein.

XVIII. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

The Respondent agrees to indemnify and save and hold the United States Government, its agencies, departments, agents, and employees, harmless from any and all claims or causes of action arising from or on account of acts or omissions of the Respondent, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Consent Order. EPA is not a party in any contract involving the Respondent at the Site.

XIX. PUBLIC COMMENT

Upon submittal to EPA of an approved Feasibility Study Final Report, EPA shall make such Feasibility Study Final Report available to the public for review and comment for, at a minimum, a twenty-one (21) working day period, pursuant to EPA's Community Relations Policy. Following the public review and comment period, EPA shall notify the Respondent which remedial action alternative is approved for the Site.

XX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

In consideration of the communications between the Respondent and EPA prior to the issuance of this Consent Order concerning its terms, the Respondent agrees that there is no need for a settlement conference prior to the effective date of this Consent Order. Therefore, the effective date of this Consent Order shall be the date on which it is signed by the Regional Administrator, EPA - Region IV.

This Consent Order may be amended by mutual agreement of EPA and the Respondent. Such amendments shall be in writing and shall have as the effective date, that date on which such amendments are signed by the Regional Administrator, EPA Region IV.

No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by the Respondent will be construed as relieving the Respondent of its obligation to obtain such formal approval as may be required by this Consent Order.

XXI. PARTIES BOUND

This Consent Order shall apply to and be binding upon the Respondent and EPA, their agents, successors, and assigns and upon all persons, contractors and consultants acting under or for either the Respondent or EPA or both.

No change in ownership or corporate or partnership status relating to the Site will in any way alter the status of the Respondent or in any way alter the Respondent's responsibility under this Consent Order. The Respondent will remain the Respondent under this Consent Order and will be responsible for carrying out all activities required of the Respondent under this Consent Order.

The Respondent shall provide a copy of this Consent Order to all contractors, sub-contractors, laboratories, and consultants retained to conduct any portion of the work performed pursuant to this Consent Order within fourteen (14) calendar days of the effective date of this Consent Order or date of such retention.

XXII. NOTICE TO THE STATE

The requirement of Section 106(a) of CERCLA to notify the State of North Carolina has been satisfied.

XXIII. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall be deemed satisfied upon the Respondent's submission of written notice to EPA that the Respondent has completed all work agreed to pursuant to this Consent Order. The responsibilities assumed by Respondent pursuant to this Consent Order shall terminate if a final decision is made not to list this Site on the National Priorities List.

It is AGREED and ORDERED:

BY: Lee E. Ravan, Deputy  
Jack E. Ravan  
Regional Administrator  
U.S. Environmental Protection  
Agency  
Region IV

12/1/86  
Date

BY: Alexander M. Salmon, Jr.  
National Starch and  
Chemical Company Corporation

\_\_\_\_\_  
Date

EFFECTIVE DATE: \_\_\_\_\_