UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

REGIONAL HEARING CLERK
DEC 31 1987
Environmental Protection Agency
REGION VII

DIAD 047 303 771

IN THE MATTER OF CHAMBERLAIN MANUFACTURING CORPORATION Formerly of Clinton, Iowa COLLIS, INC Clinton, Iowa Respondents Proceedings under Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6928(a)(1)	Docket No. 87-H-0022 CONSENT AGREEMENT AND CONSENT ORDER

PRELIMINARY STATEMENT

This is a proceeding brought pursuant to the authority of Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (hereinafter "RCRA"), 42 U.S.C. §6978(a). The Complainant is the Regional Administrator of the United States Environmental Protection Agency (hereinafter "EPA"), Region VII. Respondents are Chamberlain Manufacturing Corporation also known as Chamberlain - Collis Division (hereinafter "Chamberlain") and Collis, Incorporated (hereinafter "Collis").

CONSENT AGREEMENT

1. Complainant and Respondents have agreed to a settlement of this proceeding to avoid the time and expense of litigation. However, each

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party reserves its right to a hearing on all issues of fact or law set forth herein if a dispute arises between or among the parties as to the requirements of the Consent Agreement and Consent Order. Complainant expressly reserves the right to compel compliance with the terms of this Consent Order and pursue other legal remedies for non-compliance. Respondents expressly reserve their rights to contest any determination by Complainant that an action taken pursuant to this Order is incomplete, inadequate or not completed within the time limits established.

2. For the sole purpose of this Consent Agreement and Consent Order, Respondents admit the jurisdictional allegations described in this Consent Agreement and Consent Order.

3. Complainant contends and Respondents neither admit nor deny the factual allegations contained in Paragraphs 7 to 30 included herein. The parties agree that this Consent Agreement and Consent Order will be inadmissible in any proceedings brought by EPA other than one for the purpose of enforcing the terms of the Consent Agreement and Consent Order.

4. Respondents and Complainant have entered into this Consent Agreement and Consent Order for the express purpose of formalizing the completion of the approved closure plan, a copy of which is attached hereto as Exhibit 1 and made a part hereof (hereinafter the "Approved Closure Plan"). It is understood by the parties that the Approved Closure Plan includes a groundwater monitoring plan yet to be approved by EPA.

5. EPA recognizes that Respondents have agreed, as a condition of the sale of the facility from Chamberlain to Collis, that Chamberlain is financially responsible for the completion of the Approved Closure Plan.

6. Respondents agree to comply with the terms of the Consent Order below.

FINDINGS OF FACT

7. Respondent Collis owns and operates a facility at 2005 South 19th Street, Clinton, Iowa.

8. Respondent Chamberlain is the former owner and operator of the facility at 2005 South 19th Street, Clinton, Iowa.

9. On or about June 15, 1980, Chamberlain submitted to EPA a Notification of Hazardous Waste Activity pursuant to Section 3010(a) of RCRA, 42 U.S.C. §6930(a), indicating that Chamberlain generated, transported, treated, stored or disposed of hazardous waste from non-specific sources identified as F006, F007 and F008.

10. On or about November 13, 1980, Respondent Chamberlain submitted to EPA its Part A hazardous waste permit application pursuant to Section 3005(e) of RCRA, 42 U.S.C. §6925(e), wherein it identified itself as the owner and operator of the facility and an electroplater of wire products and identified its hazardous waste processes as that of storage in surface impoundments and treatment and storage in tanks.

11. On or about March 16, 1982, Respondent Chamberlain submitted to EPA a revised Part A permit application identifying its hazardous waste from non-specific sources as F006, F008 and F009.

12. On or about January 24, 1983, Respondent Chamberlain and the CERCLA Branch of EPA entered into an Order on Consent pursuant to Section 3013 of RCRA, 42 U.S.C. §6934 for the implementation of an environmental

monitoring program at the facility. The two-phased Order consisted of a hydrogeologic investigation, monitoring and analysis, and a determination of the need for additional shallow and deep groundwater monitoring wells.

13. The groundwater monitoring system developed by Chamberlain in accordance with the aforementioned Section 3013 Order was not required to, and does not meet the requirements of 40 CFR §265 Subpart F - Groundwater Monitoring for purposes of detection groundwater monitoring under RCRA.

14. On or about August 17, 1983, the Office of Solid Waste and Emergency Response, EPA - Headquarters, issued a memorandum clarifying the status of inactive/active storage and disposal facilities under RCRA. In part, the memo stated, "...any facility which is storing hazardous waste that was placed on-site on or before November 19, 1980, is an active storage facility and is subject to the provisions of RCRA, even if no hazardous waste was placed on-site after November 19, 1980. This applies to storage in surface impoundments and waste piles as well as to storage in tanks and containers. If a waste pile or surface impoundment is a storage facility, it should be managed in accordance with the interim status requirements."

15. On or about May 29, 1984, Respondent Collis submitted to EPA a revised Part A permit application to show a change of ownership from Chamberlain Manufacturing Corporation to Collis Incorporated. The hazardous wastes which were treated and stored in tanks were noted as being removed from the facility within 90 days.

16. Effective May 31, 1984, Collis Inc. acquired substantially all of the assets of the Collis Division of Chamberlain Manufacturing Corporation.

17. In August 1984, Respondent Collis submitted to EPA a closure plan for its hazardous waste storage surface impoundments.

18. On or about September 6, 1984, EPA informed Respondent Collis that contamination of groundwater and soil had occurred at the site and remedial measures were warranted to prevent the release of additional contaminants from the hazardous waste storage surface impoundments.

19. On or about November 1, 1984, Respondent Collis submitted to EPA a post-closure plan for the hazardous waste storage surface impoundments.

20. On or about April 4, 1985, Respondent Collis submitted to EPA a report on "Potential Releases from Solid Waste Management Units." According to this report, the surface impoundments received electroplating waste sludge from the facility's settling tanks from 1970 to 1979.

21. The hazardous waste storage surface impoundments at the facility were storing hazardous waste on November 19, 1980, and are therefore subject to RCRA.

22. On or about November 15, 1985, EPA provided Respondent Collis comments on the August 1984 closure plan, the November 1984 post-closure plan and the groundwater monitoring program. Respondent Collis submitted a response to EPA regarding the November 1985 comments on or about February 25, 1986.

23. Pursuant to 40 CFR §265.91(b), separate monitoring systems for each waste management component of a facility are not required provided that provisions for sampling upgradient and downgradient water quality will detect any discharge from the waste management area. In the case of a facility consisting of more than one surface impoundment, landfill, or land

treatment area, the waste management area is described by an imaginary boundary line which circumscribes the several waste management components.

24. Pursuant to 40 CFR §265.92(a), the owner or operator is required to obtain and analyze samples from the installed groundwater monitoring system.

25. On or about September 12, 1986, a representative of the EPA conducted a RCRA Compliance Evaluation Inspection (CEI) at Respondents' facility to determine compliance with the requirements of RCRA. During this CEI, the following groundwater monitoring violations were noted:

a) Monitoring wells were not placed at the boundary of the waste management area, contrary to the requirements of 40 CFR §265.91(b)(2); and,

b) Collis had not obtained and analyzed samples from each of its installed groundwater monitoring wells, contrary to the requirements of 40 CFR §265.92(a). Data was presented during the inspection for only two of its monitoring wells.

26. Therefore, Respondent Collis is in violation of 40 CFR §§265.91(b) and 265.92(a) by failing to properly locate groundwater monitoring wells at the boundary of the waste management area and obtain and analyze groundwater samples from all of the monitoring wells in the groundwater monitoring system.

27. On or about March 6, 1987, EPA requested information from Collis pursuant to Section 3007 of RCRA regarding the closure activities for the hazardous waste storage surface impoundments which had taken place at Respondents' facility to date.

28. On or about March 24, 1987, Collis responded to EPA's request of March 6, 1987, stating that removal of the hazardous waste sludge from the surface impoundments began on November 11, 1986 and continued until February 13, 1987, that transportation of the sludge to an off-site hazardous waste disposal facility began on December 14, 1986 and concluded on February 17, 1987, and that the hazardous waste (F006) sludge currently generated is stored on-site for less than 90 days prior to transport to an off-site hazardous waste disposal facility.

29. On or about March 31, 1987, EPA approved Respondent Collis' closure plan for the hazardous waste storage surface impoundments which is included in the Approved Closure Plan. On October 1, 1987 Respondent Collis requested an extension of the time period to complete closure of the surface impoundments.

30. On or about August 27, 1987, EPA granted Respondent Collis' request for an extension of time until September 15, 1987 for the submission of the groundwater monitoring plan as required by the Approved Closure Plan. EPA received Respondent Collis' groundwater monitoring plan on or about September 4, 1987. EPA has provided comments to Respondent Collis regarding deficiencies in this plan on October 9, 1987.

CONSENT ORDER

31. IT IS ORDERED AND AGREED BY THE PARTIES that Collis take the following corrective actions within the time periods specified for each:

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a. Complete closure of the surface impoundments in accordance with the Approved Closure Plan within 180 days of the March 31, 1987 approval date, as required by 40 CFR §265.113(b), or within a later period of time that is approved by EPA.

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b. Within thirty (30) days of receipt of EPA's comments on the groundwater monitoring plan, Collis will submit to EPA a revised groundwater monitoring plan which addresses all of EPA's comments and all of the requirements outlined in the Approved Closure Plan. The RCRA Groundwater Monitoring Technical Enforcement Guidance Document may be used as guidance for the preparation of this plan.

c. Initiate the groundwater monitoring plan within 30 days of approval of the plan by EPA.

d. Comply with any and all city, state, and federal wastewater discharge permits.

32. IT IS ORDERED AND AGREED BY THE PARTIES that Chamberlain Manufacturing Corporation pay for the completion of the Approved Closure Plan in accordance with Paragraph 5 above.

33. All notices, whether verbal or written, and all written documents required to be submitted to EPA pursuant to this Order shall be directed to:

Elizabeth Koesterer
Iowa Section, RCRA Branch
Waste Management Division
U.S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101
Telephone 913/236-2887

34. The EPA and its authorized representatives shall have access to Collis' facility located at 2005 South 19th Street, Clinton, Iowa, at all times necessary to monitor the implementation of activities conducted pursuant to this Order.

35. This Consent Agreement and Consent Order shall be effective upon receipt by Collis and Chamberlain of a fully executed copy thereof. All time periods herein shall be calculated therefrom unless otherwise provided in this Consent Agreement and Consent Order.

Dec 31, 1987
Date

Thomas E. Stygen
Chamberlain Manufacturing Corporation
Clinton, Iowa

November 12, 1987
Date

Collis Inc.
Clinton, Iowa

October 23, 1987
Date

Audrey Bimby
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII

It is so ordered.

12-31-87
Date

Morris Kay
Regional Administrator
U.S. Environmental Protection Agency
Region VII

EXHIBIT A
TO
CONSENT ORDER
DOCKET NO. 87-H-0022

PUNCH LIST FOR COMPLETION OF COLLIS INC. APPROVED CLOSURE PLAN

This punch list summarizes the items to be completed in the approved closure plan and shall be considered a part of the December 31, 1987 Consent Agreement and Consent Order between EPA, Collis Inc. and Chamberlain Manufacturing Corporation attached hereto as though set forth in full therein.

The punch list items are as follows:

1. Determine the pH of all leaching solutions. The use of deionized water to perform leach tests has only limited value. The deionized water would have very limited buffering capacity and, hence, the ambient pH of the sample would most likely be the pH of the leaching fluid. Without the determination of the pH of the leaching solution, the data presented is only marginally useful in making the determination of the fate of the residual cation contamination at this site. Action Required:

   None.

2. Collect additional stream samples and other site samples. This is to provide EPA with a statistically representative number of data points. Nine soil samples will be collected and analyzed for chromium and nickel so as to provide a correlation between the chromium and nickel concentrations. Also, provide additional information to support the assumption that there are no plausible pathways for hazardous constituent migration. Chamberlain's analytical data implies that Manufacturer's Ditch has been adversely impacted by cyanide and possibly other constituents. Also to be considered is the presence of elevated concentrations of cyanide in the water found in the impoundments. If the noted contamination is being transported to the impoundments by the surging action of the groundwater, then there are additional points to consider in making the claim that "there are no plausible pathways..." These must be provided so as to provide the documentation specified in the closure plan. Action Required:

> Collect five (5) surface water samples from Manufacturer's Ditch. One sample will be collected up-gradient from the impoundments, one sample will be collected down-gradient from the Collis NPDES discharge and three samples will be collected between the foregoing two samples in areas adjacent to the impoundments. Each sample will be analyzed for chromium, cadmium, nickel and cyanide.

Collect nine (9) soil samples from areas in the northwest, east and south portions of the impoundment areas. Three samples shall be taken from each area, one each at depths of zero to two feet, two to four feet and four to six feet. These samples shall be composited and analyzed for nickel and chromium.

3. Process spiked samples through all of the same procedures as the site samples. This is consistent with good quality assurance/quality control (QA/QC) procedures. All constituents of concern must be analyzed in accordance with the test methods found in the most current EPA publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," and associated QA/QC procedures specified in each test method. Title 40 C.F.R. 260.11 incorporates the SW-846 test methods by reference. Other procedures may be utilized if they are approved using the petitioning procedures found in 40 C.F.R. 260.21. Action Required:

Process a spiked sample for chromium, cyanide and cadmium in accordance with the current EPA publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," including the QA/QC procedures specified in each test method.

4. Provide the corresponding concentrations in milligrams per kilogram (mg/kg) so that the significance of Table #3 can be determined. It would appear that an additional column with this information would suffice. Action Required:

Amend Table #3.

5. Analyze all constituents of concern. Of primary concern is the closure performance standard. Amendment "1" of the portion of the approved closure plan entitled "Amendments to the Closure Plan for the Metal Finishing Waste Surface Impoundments at Collis, Incorporated, Clinton, Iowa, August 1984" describes the analytes of concern. The presence or absence of all of the hazardous constituents specified in that amendment has not been addressed. The data presented to date have been deficient in providing all the specified information. Only with a comprehensive report with all appropriate supporting data will closure be determined complete. Action Required:

See action required under Paragraph No. 2, above.

6. Clean up areas of surface impoundment berms that contain chromium sludge. If, after clean-up, concentrations of chromium remain, these concentrations must be justified. Action Required:

None.

7. Action Required:

Backfill and regrade former impoundment areas.

8. Action Required:

A registered professional engineer and Collis Inc. as the owner/operator will submit a Certificate of Closure. The registered professional engineer's certificate of closure will include a final engineering report, address the management of water removed from the impoundments and closure of the waste drying oven.

8. Action Required.

Implement the approved groundwater monitoring plan.