

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL



**In the Matter of:**

Arkema Inc.  
2000 Market Street, 26<sup>th</sup> Floor  
Philadelphia, Pennsylvania 19103-3222

**Termination and Satisfaction of Orders  
and Release from Liability**

**Regarding property known as:**

The Former Turco-Purex Facility, located  
on State Route 95, approximately one mile  
west of Marion, in Marion County, Ohio

**Director's Final Findings  
and Orders**

Pursuant to Ohio Revised Code ("ORC") Chapters 3734, 3745 and 6111, the Director of Environmental Protection ("Director") hereby makes the following Findings and issues the following Orders, including a Release from Liability.

**DEFINITIONS**

1. Wherever the following terms are used in these Findings and Orders, the following definitions shall apply:
  - A. "Ohio EPA" means the Ohio Environmental Protection Agency.
  - B. "Site" means the property located on State Route 95, approximately one mile west of the City of Marion, in Marion County, Ohio, formerly owned and operated by Elf Atochem North America, Inc. (subsequently known as ATOFINA Chemicals, Inc., which is now known as Arkema Inc.), subsequently owned and operated by IVAX

1

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

*[Handwritten Signature]* 5-6-05

Specialty Chemicals Sub, LLC (which acquired the property from its former affiliate, IVAX Industries, Inc.), and now owned by GALION PARTNERS, LLC (“GALION”), and includes any other areas to which hazardous wastes or hazardous substances, solid wastes, industrial wastes or other wastes from the property may have been placed, disposed or released.

- C. “Facility” means the former Great Lakes Carbon Corporation and Turco-Purex plant located on and comprising a portion of the Site.

### **FINDINGS**

2. The Site is approximately 26.857 acres in size and it is located on State Route 95, approximately one mile west of the City of Marion in Marion County, Ohio. The Site is situated between the Little Scioto River and Rock Swale Ditch.
  
3. The Facility was owned and operated by the Great Lakes Carbon Corporation for the manufacture, warehousing and distribution of charcoal briquettes from 1963 to 1979. The Facility was owned and operated by Turco-Purex for chemical blending operations from 1979 to 1993. Turco-Purex was acquired by the Pennwalt Corporation in 1985. In 1989, Pennwalt became Elf Atochem North America, Inc., subsequently known as ATOFINA Chemicals, Inc., which became Arkema Inc. in October 2004. The Facility was acquired by IVAX Industries, Inc. in 1993, by IVAX Specialty Chemicals Sub, LLC on October 6, 1998, and by GALION PARTNERS, LLC on March 9, 2005.
  
4. On November 1, 1993, Director’s Final Findings and Orders were issued to Elf Atochem

North America, Inc. and required the implementation of a remedial investigation and feasibility study for the Site. The specific mutual objectives of Elf Atochem and Ohio EPA were: to complete a full investigation of the Site, including the Facility; to determine the nature and extent of environmental contamination at the Site; and to develop and evaluate appropriate remedial measures to address environmental contamination at the Site.

5. A Remedial Investigation was conducted between 1992 and 1995, and included investigation of soil, surface water, sediment and ground water at the Site pursuant to applicable Ohio law. Actual and threatened releases of chemicals and compounds associated with the historic operations at the Facility were identified through surface and subsurface soil sample analyses, including acetone, cis-1,2-dichloroethene (DCE), tetrachloroethene (PCE), toluene, vinyl chloride, arsenic and lead. Arsenic and lead were eliminated from consideration due to the fact that on-Site concentrations do not vary significantly from the corresponding off-Site sample concentrations. Ground water contamination at the Site is limited to PCE. However, petroleum hydrocarbon contamination of undetermined origin was discovered in Monitoring Well # 8 on June 13, 1997. The contamination in question appears to be discrete and limited to ground water within Monitoring Well # 8.
6. The Feasibility Study Report for the Site was approved by Ohio EPA on April 12, 2002. The Remedial Investigation Report was approved by Ohio EPA on August 20, 2003.
7. A Preferred Plan describing Ohio EPA's proposed remedy for the Site was announced as

being available to the public on August 25, 2003. Comments were solicited from the public and copies of the Preferred Plan were made available in the document repository at the local library. A public hearing to provide information and to take comments was held on September 23, 2003.

8. On January 15, 2004, a Decision Document, signed on January 14, 2004 by the Director, was entered in the Director's Journal.
  
9. Ohio EPA's remedy for the Site consists of:
  - A. Institutional controls, i.e., a shallow ground-water use restriction which would prohibit the withdrawal of overburden ground water for potable use at the Site, and an industrial land use restriction which would restrict the use of the Site to industrial purposes only (Attachment A); and
  - B. Engineering controls, i.e., restrictive fencing, to restrict access to the Site.
  
10. The Director has determined that the remedy described above is protective of human health and the environment, and complies with applicable state and federal requirements for industrial land use. In issuing these Findings and Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Findings and Orders, and to evidence relating to conditions calculated to result from compliance with these Findings and Orders, and their relation to benefits to the people of the state to be derived from such compliance.

## **ORDERS**

### **Release from Liability**

11. In consideration of the completion of the Remedial Investigation and Feasibility Study at the Site, and subject to the Reservation of Rights, set forth in Paragraph 12 herein, and the Conditions, set forth in Paragraph 13 herein, Arkema Inc., IVAX Specialty Chemicals Sub, LLC, GALION PARTNERS, LLC, and their respective agents, affiliates, successors and assigns are hereby released from: (1) any and all liability for past work or other activities performed at the Site under or pursuant to the Findings and Orders issued by the Director of Ohio EPA on November 1, 1993; and (2) any requirements to conduct any additional work or any other activity at the Site pursuant to the November 1, 1993 Findings and Orders and ORC Chapters 3734, 3745 and 6111.

### **Reservation of Rights**

12. Ohio EPA reserves all rights it may have to take any action and seek any other relief from Arkema or IVAX or GALION or any other party with respect to the following:
  - A. any costs of monitoring compliance with the Conditions described in Paragraph 13 herein;
  - B. the enforcement of the Conditions described in Paragraph 13 herein, in the event that Arkema or IVAX or GALION and/or their agents, successors or assigns fail to comply with such Conditions and the Director of Ohio EPA revokes the above Release from Liability in the event of such non-compliance with such Conditions;
  - C. any claims arising from the future release or disposal of hazardous waste or hazardous substances, solid wastes, industrial wastes or other wastes at the Site; and

D. any circumstances at the Site previously unknown to Ohio EPA.

The circumstances known to Ohio EPA at the Site are described in the following documents:

Focused Feasibility Study Report, approved by Ohio EPA on April 12, 2002;

Remedial Investigation Report, approved by Ohio EPA on August 20, 2003;

Preferred Plan, issued on August 25, 2003; and

Decision Document, dated January 14, 2004, and signed January 15, 2004.

#### **Conditions**

13. The Release from Liability provided herein shall remain in effect for as long as Arkema, IVAX and GALION and their respective agents, affiliates, successors and assigns meet the following conditions:

A. comply with the activity and use limitations contained in the “Environment Covenant,” signed by Jorge P. Newbery on behalf of GALION PARTNERS, LLC on March 11, 2005 and to be recorded in the Deed Records, Office of the Recorder, Marion County, Ohio (Attachment A);

B. maintain the existing fence around the Site; and

C. submit to Ohio EPA, on an annual basis, documentation verifying compliance with the activity and use limitations contained in the recorded Environment Covenant and maintenance of the restrictive fence around the Site.

#### **Reservation of Rights as to Other Parties**

14. Nothing in these Findings and Orders shall constitute or be construed as a release regarding any claim or cause of action against any person, firm, political subdivision, trust, joint venture, partnership, corporation or other entity not identified in these Findings and Orders

for any liability they may have arising out of or relating to the Site.

**TERMINATION AND SATISFACTION OF ORDERS**

15. Except for the Article XII, paragraph E, regarding record preservation and Article XVI, Reservation of Rights, all obligations of Elf Atochem North America, Inc. and its successors and assigns under the Findings and Orders dated November 1, 1993 are hereby deemed satisfied and the Findings and Orders are hereby terminated.

**ASSIGNMENT**

16. Arkema, IVAX and GALION shall have the right to assign any or all of their rights, obligations and duties set forth in these Findings and Orders, including the Release from Liability, without the consent of Ohio EPA, provided, however, Arkema, IVAX and GALION shall remain fully liable for the performance of all obligations and duties set forth herein notwithstanding said assignment.

**NOTICE**

17. All documents demonstrating compliance with these Orders and other documents required under these Orders are to be submitted to Ohio EPA and shall be addressed to:

Ohio Environmental Protection Agency	and	Ohio EPA
Northwest District Office		Central Office, DERR
347 N. Dunbridge Road		122 S. Front Street
Bowling Green, Ohio 43402		Columbus, Ohio 43216-1049
ATTN: Site Coordinator – DERR		ATTN: Enforcement Coordinator

and a copy of such documents shall be submitted to:

