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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

NORTHWEST ENVIRONMENTAL
DEFENSE CENTER, a non-profit corporation,
OREGON CENTER FOR
ENVIRONMENTAL HEALTH, a non-profit
corporation, and SIERRA CLUB, a non-profit
corporation,

Civil No.: 04-CV-1727-JE

~~PROPOSED~~ STIPULATED ORDER
OF DISMISSAL

Plaintiffs,

v.

OWENS CORNING CORPORATION,

Defendant.

WHEREAS, Northwest Environmental Defense Center (“NEDC”), Sierra Club, and Oregon Center for Environmental Health (collectively, “Plaintiffs”), commenced this action

pursuant to § 304(a)(1) and (3) of the Clean Air Act (the “Act” or “CAA”), 42 U.S.C. § 7604(a)(1) and (3), against Owens Corning Corporation (“Owens Corning” or “Defendant”);

WHEREAS, Plaintiffs have alleged that Owens Corning is constructing a polystyrene foam insulation board manufacturing facility, located at 18456 NE Wilkes Road, Portland, Oregon 97230 (“the Facility”), which has the potential to emit more than 250 tons per year of HCFC-142b, a “greenhouse gas” and ozone-depleting substance, without a required preconstruction permit;

WHEREAS, Plaintiffs have alleged that this unpermitted construction has violated and is violating CAA § 165(a), 42 U.S.C. § 7475(a), and the State of Oregon’s State Implementation Plan (“SIP”) implementing the federal CAA, OAR 340-210-0215, 340-210-0240, 340-216-0020, 340-224-0100;

WHEREAS, Plaintiffs have sought declaratory and injunctive relief, the imposition of civil penalties, and an award of costs and attorneys’ fees;

WHEREAS, Owens Corning denies that it has violated or is violating any provision of the CAA or Oregon’s SIP;

WHEREAS, Plaintiffs and Owens Corning (collectively, “the Parties”) have reached an agreement to resolve Plaintiffs’ claims for declaratory and injunctive relief, civil penalties, and costs and attorneys’ fees;

WHEREAS, the Parties enter this Stipulation without any admission of fact or law.

NOW, THEREFORE, the Parties Stipulate and Agree as follows:

1. Within TWENTY (20) days of the entry of this Stipulated Order of Dismissal by the

Court, Owens Corning will make contributions totaling THREE HUNDRED THOUSAND DOLLARS (\$300,000) as follows: ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000) to the Bonneville Environmental Foundation to fund its “Solar Classroom Project;” ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000) to Portland Public Schools for the construction of a “High Performance Classroom” at DaVinci Middle School; and FIFTY THOUSAND DOLLARS (\$50,000) to Energy Options to fund its public education and outreach work regarding alternative energy sources.

2. Within TWENTY (20) days of entry of this Stipulated Order of Dismissal by the Court, Owens Corning will pay TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000) in settlement of Plaintiffs’ claims for attorneys’ fees and costs.

3. Entry by the Court of this Stipulated Order of Dismissal will resolve all legal disputes regarding Owens Corning’s construction activities that occurred at the Facility prior to the date on which this Stipulated Order of Dismissal is entered by the Court.

4. Entry by the Court of this Stipulated Order of Dismissal shall in no way be construed as a waiver of Plaintiffs’ right to challenge any actions by Owens Corning that occur after the date on which the Stipulated Order of Dismissal is entered by the Court, except that Plaintiffs will not challenge or seek to enjoin future activity at the Facility on the basis that the construction activity that took place before the entry by the Court of this Stipulated Order of Dismissal was unlawful.

5. Upon entry of the Stipulated Order of Dismissal by the Court, the Stipulated Injunction signed by the Court on December 6, 2004, Docket No. 5, shall be lifted and shall have

no further binding effect.

6. Owens Corning may use the existing structures at the Facility for future construction or operations, pursuant to any applicable permit requirements for future construction or operations.

7. Owens Corning shall never manufacture in Oregon using HCFC-142b as a blowing agent.

8. Owens Corning shall never manufacture in Oregon using any ozone-depleting substance listed in 40 C.F.R. Part 82, Subpart A, Appendix A and Appendix B, as a blowing agent.

9. This Stipulated Order of Dismissal is effective immediately following entry of the Court's May 17, 2006 Findings and Recommendation as an Opinion and Order of the Court.

Respectfully submitted and presented this 8 day of June, 2006,



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IT IS SO ORDERED.

Dated this 8 day of June, 2006.

A handwritten signature in black ink, reading "John Jelderks". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Hon. John Jelderks, Magistrate Judge
United States District Court, District of Oregon