

600 Delaware Avenue, Buffalo, New York 14202-1073

September 23, 1986

Mattar, D'Agostino, Kogler & Runfola  
17 Court Street  
Buffalo, New York 14202

Attention: Lawrence Mattar, Esq.

Re: Resolve Manufacturing, Inc.

Dear Mr. Mattar:

I am forwarding herewith a fully executed original Order on Consent for your files. Resolve has been granted a two-week extension for the submission of the Part 373 permit application pursuant to paragraph "6" of the compliance schedule. This extension shall not alter or extend any other term or condition of the Order.

If you have any questions regarding this matter, please do not hesitate to contact me at 847-4582.

Very truly yours,

Jo Ann E. Gould  
Attorney  
Division of Environmental  
Enforcement

JEG:jb

cc: E. Belmore  
P. Buechi  
J. Spagnoli

Mr. James Alaimo  
175 Wales Avenue 14150  
Tonawanda, New York 14150

In the Matter of Alleged Violations  
of Article 27 of the Environmental  
Conservation Law by:

ORDER  
ON  
CONSENT

FILE  
NO.

RESOLVE MANUFACTURING, INC.

RESPONDENT

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WHEREAS:

1. The New York State Department of Environmental Conservation ("the Department") is responsible for the enforcement of Article 27 of the Environmental Conservation Law of the State of New York (the "ECL"), and the regulations promulgated pursuant thereto.

2. Resolve Manufacturing Inc., a subsidiary of Advance Engineering, ("the Respondent") operates a facility at 100 Harmon Avenue, Falconer, New York. Said facility is assigned EPA I.D. No. NY D0980592653.

3. Respondent conducts operations at that facility involving the transport, storage and treatment of hazardous waste, as defined in Section 27-0901(3) of the ECL, pursuant to a New York State DEC Permit to Operate (No. 2300) granted in accordance with 6 NYCRR Part 360.

4. Said Permit to Operate, with an original expiration date of February 10, 1984, was extended by letter

dated February 11, 1985. Pursuant to said letter, Respondent was advised that the facility was authorized to continue operations in conformance with the requirements of Permit #2300 pending the processing of the Respondent's renewal application.

5. Said Permit to Operate provides, inter alia, that the Respondent is authorized to maintain an inventory of up to 300 drums of regulated hazardous waste at the facility, including up to 200 drums of unreclaimed material and 100 drums of solids, sludges, residues, etc.

6. In accordance with the authorization delegated to the State by the United States Environmental Protection Agency, the Department is responsible for carrying out the policies and procedures of the Resource Conservation and Recovery Act (RCRA) within the State.

7. During the course of a routine facility inspection conducted on March 14, 1986 in accordance with RCRA, to determine the status of compliance with applicable regulations, employees of the Department reported certain violations of RCRA regulations and permit requirements. These were cited as follows:

(a) Excessively large drum inventory on site (a total of 705 drums of waste materials on site) in violation of 6 NYCRR Part 360 permit provisions.

(b) Inadequate aisle space between adjacent rows of drums in Bay #1 and Bay #3, in violation of 6 NYCRR 373-3.3(f)

(c) Storage of drums of D001 wastes less than 50 feet from facility property line in violation of 6 NYCRR 373-3.9.

(d) Various deficiencies in facility Waste Analysis Plan, in violation of 6 NYCRR 373-3.2(d)(2)(i), (ii), (iii), (iv), and (v); and 6 NYCRR 373-3.2(d)(3)(i) and (ii).

(e) Failure to produce documentation stating that TSD facilities are authorized to handle type and quantity of wastes in question, as required by 6 NYCRR 372.2(b)(2)(i).

(f) Inadequate documentation of personnel training for current hazardous waste operations personnel as required by 6 NYCRR 373-3.2(g),(4), (ii), (iii) and (iv).

(g) Contingency Plan not updated to show current emergency coordinators as required by 6 NYCRR Part 373-3.4(c)(4) and 6 NYCRR Part 373-3.4(e)(4).

(h) Failure to maintain adequate daily inspections logs on site, as required by 6 NYCRR 373-3.2(f)(4).

(i) Inadequate waste handling operating records on site and inadequate "waste tracking system" for Bays 1, 2 and 3; in violation of 6 NYCRR 373-3.5(c)(3)(c).

(j) Failure to post "No Smoking" and "Flammable Material" signs on all exterior doors of active parts of the facility, in violation of 6 NYCRR 373-3.2(h)(1).

8. Follow-up inspections of the facility by Department personnel, revealed excessive inventory of drummed waste on site, as follows: May 9, 1986 (824 drums), May 22, 1986 (857 drums), June 13, 1986 (770 drums), June 27, 1986 (1063 drums), July 15, 1986 (706 drums), July 25, 1986 (796 drums). Each inspection revealed more than 400 drums in excess of the Respondent's permitted inventory, pursuant to Part 360 Permit #2300.

9. Respondent admits that it has civilly violated the regulations and permit conditions as set forth herein above.

10. Respondent having been duly advised, waives its right to a hearing in this matter, consent to the issuance and entry of this Order and agrees to be bound by the provisions, terms and conditions hereof:

NOW THEREFORE, IT IS ORDERED THAT:

I. Respondent shall, on or before the dates indicated:

<u>Item</u>	<u>Date</u>
1. Reduce inventory of full drums of concentrated RCRA waste (codes F001, F002, F003, F005, D001) to 600 drums through drum consolidation or shipment off site to permitted hazardous waste treatment, storage or disposal facility.	August 15, 1986
2. Further reduce RCRA drum inventory as described above to 500 drums on site.	August 29, 1986

3. Further reduce RCRA drum inventory as described above to 400 drums on site. September 12, 1986
4. Reduce RCRA drum inventory to 300 drums (including 200 drums unreclaimed material and 100 drums of solids and sludges, residues, etc.) on site, to attain compliance with Permit No. 2300. September 26, 1986
5. Submit to the Department an approvable financial cost estimate for facility closure. September 1, 1986
6. Submit a complete 6 NYCRR Part 373 Permit Application to the Department concurrently correcting violations noted in Waste Analysis Plan, Personnel Training Records, Financial Assurance for Closure, etc. September 30, 1986  
Revised to 10/14/86
7. Submit documentation of adequate financial assurance for closure with the Part 373 permit application in compliance with 6 NYCRR 373-2.8(d)(1), (2),(3), and/or (4). September 30, 1986  
10 VIOLATIONS  
9/30/86
8. Submit proof of proper TSD Facility Liability Insurance. September 30, 1986  
10 VIOLATIONS  
9/30/86

II. All submissions herein required to be made to the Department pursuant to Parts (6), (7), and (8) of paragraph I above, shall be submitted to each of the following addresses:

New York State Department of  
Environmental Conservation  
Division of Regulatory Affairs  
600 Delaware Avenue  
Buffalo, New York 14202  
Attention: Paul Eismann  
2 copies

New York State Department of  
Environmental Conservation  
Division of Solid and Hazardous Waste  
50 Wolf Road  
Albany, New York 12233-0001  
Attention: Paul Counterman  
1 copy

United States Environmental Protection Agency  
Region II  
26 Federal Plaza  
New York, New York 10278  
Attention: Andrew Belina  
1 copy

III. If the Department disapproves any submission required from the Respondent pursuant to this Order, the Department shall notify Respondent in writing of the Department's objections. If the objections are not resolved within fifteen (15) days, or such longer period as the Department may allow, the Respondent shall be in default of this Order, and the Department may exercise its rights under applicable law to remedy the default.

IV. In the event that despite good faith efforts, Respondent is unable to procure Liability Insurance Coverage as required pursuant to Part (8) of Paragraph I above, Respondent shall notify the Department, in writing (Attention: Edward Belmore, P.E.) by September 30, 1986, and monthly thereafter, of the status of Respondent's efforts to obtain appropriate liability insurance coverage, and submit to the Department copies of all correspondence between Respondent and insurance agents or brokers to substantiate Respondent's efforts in this regard.

Nothing contained in this paragraph or any other provision of this Order shall be construed as relieving the Respondent of its legal obligation to procure liability insurance coverage and/or otherwise comply with the provisions of 6 NYCRR Part 373 to obtain a valid Permit to Operate. Respondent acknowledges that at some future date the Department may take the necessary actions to revoke or rescind permits to operate based on the failure to procure adequate TSD facility liability insurance coverage.

V. Respondent shall be liable to the Department for a civil penalty, pursuant to Section 71-2705 of the ECL in the amount of Fifteen Thousand Dollars (\$15,000.00) for the cited violations. Said penalty shall be paid in fifteen equal installments of One Thousand Dollars (\$1,000.00) each, due and payable on the first day of each month for fifteen (15) consecutive months, beginning October 1, 1986 and continuing to and including December 1, 1987. The payments shall be made by certified check, payable to the Order of the Department, at the following address:

New York State Department of  
Environmental Conservation  
Division of Environmental Enforcement  
600 Delaware Avenue  
Buffalo, New York 14202

VI. The failure of Respondent to comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL.

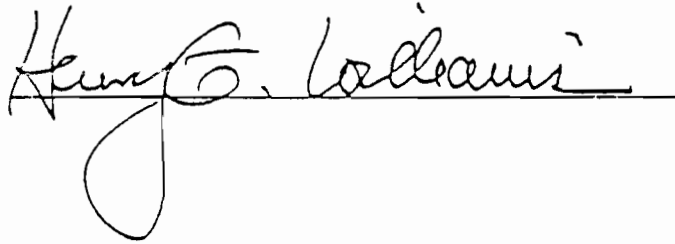


VII. The effective date of this Order shall be the date upon which it is signed by the Commissioner or his designated representative.

DATED: SEP 11 1986

, New York  
, 1986

HENRY G. WILLIAMS, Commissioner  
New York State Department of  
Environmental Conservation

A handwritten signature in cursive script, reading "Henry G. Williams", is written over a horizontal line. The signature is fluid and includes a large, looping flourish at the end.