

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

March 31, 2015

Garrett Well, LLC
163 Kentucky Avenue
Lexington, Ohio 40502

**Re: Garrett Well, LLC
DFFO
Acknowledgement
RCRA C - Hazardous Waste
Montgomery County
OHD 987 046 232**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Garrett Well, LLC.

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3180.

Sincerely,

A handwritten signature in cursive script that reads "D. A. Crumiell-Hagens".

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Kelly Smith, DMWM, CO
Kelly Jeter, DMWM, CO
Andrea Smoktonowicz, Legal

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAR 31 2015

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Garrett Well, LLC
163 Kentucky Avenue
Lexington, KY 40502

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Garrett Well, LLC, an Ohio limited liability company, (Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13, 3734.02(G) and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director may, by order, exempt any person generating, storing,

treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A). Respondent purchased property (Montgomery County Parcel ID 01010 0037) where a plating business had operated. The property is located at 5307 Webster Street, Dayton, Montgomery County, Ohio (Facility). The property is also listed as 5311 Webster Street, Dayton, Montgomery County, Ohio.
3. On August 16, 2006, Ohio EPA conducted a complaint investigation at the Facility. At the time of the investigation, Master Vision Plating, LLC (Master Vision) operated the Facility. In October 2005, Master Vision purchased the plating business from the previous operator Dayton Alloy Wheel Properties dba the Plate Rite Company. Bohn-Jur Co. (Bohn-Jur) was the property owner.
4. During this investigation referenced in Finding No. 3. of these Orders, Ohio EPA observed approximately ninety 55-gallon containers of unknown waste and material being stored outside the Facility on a gravel area. After evaluating the contents of the containers, Master Vision provided Ohio EPA information that identified seventy-six of the ninety 55-gallon containers as containing waste chromic acid, which is characteristic hazardous waste for corrosivity (D002) as described in OAC rule 3745-51-22 and toxicity (chromium (D007)) as described in OAC rule 3745-51-24. On September 14, 2006, Master Vision transported the seventy-six containers of hazardous waste offsite to an authorized hazardous waste disposal facility. Based on this evidence, Ohio EPA determined Master Vision and Bohn-Jur stored hazardous waste without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F) and Master Vision failed to evaluate wastes in violation of OAC rule 3745-52-11.
5. In July 2007, Bohn-Jur evicted Master Vision from the Facility. At that time all plating operations at the Facility ceased and all plating related material in manufacturing process units and containers were abandoned.
6. On July 14, 2009, Ohio EPA referred Master Vision and Bohn-Jur to the Ohio Attorney General to seek closure of the area where the 55-gallon containers

were stored and a civil penalty for establishing and operating a hazardous waste facility without a hazardous waste installation and operation permit in violation of ORC § 3734.02(E) and (F), as described in Finding No. 4. of these Orders.

7. On June 1, 2010, the Harrison Township Fire Department and Ohio EPA conducted a site investigation at the Facility and observed leaking process tanks, plating vats and leaking drums of waste and chemicals. By letter dated June 22, 2010, Ohio EPA informed Bohn-Jur of the results of the investigation and that Bohn-Jur had failed to evaluate the waste at the Facility to determine if the waste is hazardous waste, in violation of OAC rule 3745-52-11.
8. On July 20, 2010, Ohio EPA's Office of Special Investigations executed a search warrant and collected samples of the waste, which upon analysis indicated characteristic hazardous waste for corrosivity (D002), reactivity (cyanide (D003)), and toxicity (chromium (D007), cadmium (D006), and lead (D008)), as described in OAC rules 3745-51-22, 3745-51-23 and 3745-51-24, respectively. In addition, the building was in poor condition with a leaking roof and there were reports of trespassers. These analytical results indicated Master Vision and Bohn-Jur had again violated ORC § 3734.02(E) and (F) for establishing and operating a hazardous waste facility without a hazardous waste installation and operation permit by storing and disposing of hazardous waste at the Facility.
9. On July 22, 2010, U.S. EPA conducted a site assessment at the Facility and noted approximately 21 plating vats, three underground storage pits, a laboratory and approximately 200 55-gallon drums and other containers at the Facility. Plating vats, drums and containers were found to be deteriorated, with contents spilled onto the floor and near floor drains. The waste in drums, plating tanks, and other containers were determined to be hazardous.
10. On October 18, 2010, U.S. EPA initiated a "time-critical" removal at the Facility under 40 CFR § 300.415(b)(2) to remove the hazardous waste from the plating vats and remove the drums and containers of hazardous waste. The removal action was completed on February 22, 2011.
11. In 2013, Respondent began a dialogue with Ohio EPA regarding potential liabilities associated with the acquisition, cleanup and redevelopment of the Facility. Generally, Ohio EPA informed Respondent that it would need to enter into administrative orders with Ohio EPA to conduct closure of the former hazardous waste storage areas at the Facility to address any issues unresolved by the removal action described in Finding No. 10. To that end, Respondent further explained to Ohio EPA that it was pursuing funding to conduct

assessment of the Facility and requested additional time to submit a hazardous waste closure plan.

12. On or about January 5, 2015, Respondent acquired the Facility from Harrison Township after it was acquired by Harrison Township from the Montgomery County Land Bank, which acquired it through a foreclosure action.
13. As the result of Respondent's ownership of an unpermitted hazardous waste facility, the Director has determined that Respondent is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.
14. The submittal of a Closure Plan which complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100 in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under and is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, provided that Respondent complies with the following:

1. Within 180 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a Closure Plan for the identified hazardous waste storage and disposal areas described in Findings Nos. 4., 7. and 8. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these

Orders and an additional copy shall be submitted to Ohio EPA, Division of Environmental Response and Revitalization, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;

2. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100;
3. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 1., and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan;
4. Upon Ohio EPA approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;
5. Within 60 days after Ohio EPA's approval of the Closure Plan, Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and
6. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information

contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Materials and Waste Management
401 East Fifth Street
Dayton, Ohio 45402
Attn: DMWM Manager

and Ohio EPA Central Office at the following addresses:

For mailings, use the post office box number:

Craig W. Butler, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Craig W. Butler, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

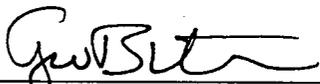
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



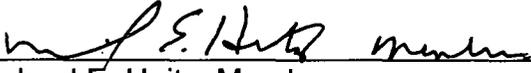
Craig W. Butler, Director

MAR 31 2015

Date

IT IS SO AGREED:

**Garrett Well, LLC,
an Ohio limited liability company**



Michael E. Heitz, Member

2/20/15
Date