



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

June 23, 2015

Hannibal Development, LLC
Dbas Hannibal Development
Partners, LLC
43840 Ohio State Route 7
Hannibal, Ohio 43931

**Re: Ormet Primary Aluminum Co Hannibal Plant
DFFO
Approval
RCRA C - Hazardous Waste
Monroe County
OHD 004 379 970**

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 Hannibal Development, LLC dba Hannibal Development Partners, LLC.

If you have any questions, please contact Jeff Mayhugh at (614) 644-2621.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Dearth". The signature is fluid and cursive.

Brian Dearth, Administrative Officer 1
Division of Materials & Waste Management

Enclosure

ec: Jeff Mayhugh, DMWM, CO
Todd Anderson, Legal
Joe Goicochea, DMWM, SEDO

OHIO E.P.A.

JUN 23 2015

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hannibal Development, LLC
dba Hannibal Development Partners,
LLC
43840 Ohio State Route 7
Hannibal, Ohio, 43931

Director's Final Findings
and Orders

Respondent

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Hannibal Development, LLC dba Hannibal Development Partners (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13, 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 Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms in these Orders shall have the same meaning as used in ORC Chapter 3734. and the regulations promulgated thereunder.

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, by order, may 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 the 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. ORC§ 3734.02(E)(2) requires all persons engaged in the storage, treatment, or disposal of any hazardous waste to have a hazardous waste installation and operation permit, except at a facility that is not subject to permit requirements, under rules adopted by the director pursuant to ORC § 3734.02(E)(3)(b).
3. The former Ormet Corporation aluminum smelting facility located at 43840 Ohio State Route 7, Hannibal, Ohio 43931 (Facility) consists of approximately 1700 acres on the Ohio River north of Hannibal in Monroe County, Ohio. Aluminum is produced through an electrolytic reduction process in carbon-lined steel cells called "pots." There are 12 pot lines housed in six buildings at the Facility, totaling 1032 individual aluminum smelting pots. Normally, over time the lining in these pots fail and must be removed and replaced. These (failed) spent pot liners are listed hazardous waste K088, as described in OAC rule 3745-51-32, when they are discarded due to their cyanide content. On June 13, 2014, Ormet Corporation (Ormet) submitted a notification of temporary Cessation of Regulated Operations indicating that it had temporarily ceased operating its primary aluminum smelting operations at the Facility on June 9, 2014. Ormet continued to market the Facility as an aluminum production facility.
4. In July 2014, Respondent became the owner and operator of the Facility. Respondent actively marketed the aluminum production capabilities such that operations may resume at the Facility. On August 22, 2014, Respondent notified Ohio EPA of its hazardous waste activity as a large quantity generator of hazardous waste and was issued EPA ID number OHD004379970.

5. In a follow up letter dated September 19, 2014, memorializing a September 11, 2014 conference call between Ohio EPA and Respondent, Ohio EPA agreed to exercise enforcement discretion regarding regulatory issues involving the K088 hazardous waste remaining in production units that were usable so that the Respondent could continue to market the Facility as a primary aluminum production facility. Ohio EPA also stated that if those plans changed however, and the pots would not be put back in to production, Ohio EPA and the Respondent could meet to discuss the best options available for appropriate disposal. Throughout the course of marketing the Facility as an aluminum production operation Respondent and Ohio EPA had many communications, calls and emails, with regard to the status of the marketing campaign.
6. During a meeting on December 5, 2014, Respondent notified Ohio EPA that the Respondent would no longer actively market the Facility as an aluminum production facility and that aluminum production operations would not be resumed at the Facility. Respondent informed Ohio EPA that the pot liners had no potential future use and were conclusively K088 hazardous waste. Based upon this information, the K088 hazardous waste in the pots would be subject to regulation no later than ninety (90) days after December 5, 2014, pursuant to OAC rule 3745-51-04(C).
7. On March 5, 2015, pursuant to OAC rule 3745-51-04(C), the K088 hazardous waste in the pots at the Facility became subject to regulation as a hazardous waste and Respondent became a large quantity generator of hazardous waste subject to the requirements set forth in OAC Chapter 3745-52.
8. During the December 5, 2014 meeting, Respondent informed Ohio EPA that the demolition of the buildings housing the pot lines would require Respondent to exceed the ninety (90) day hazardous waste accumulation time pursuant to OAC rule 3745-52-34(A) on or about June 3, 2015. Because the K088 hazardous waste in the pots will be accumulated in excess of the ninety (90) day accumulation time, Respondent will become an owner and operator of a hazardous waste storage facility subject to the full General Facility Standards described above and the requirement to obtain a hazardous waste permit pursuant to ORC § 3734.02(E)(2).
9. As the owner and operator of the Facility, Respondent is seeking relief from the full General Facility Standards in OAC rules 3745-50-40 to 3745-50-235 and Chapters 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256 and

3745-270 and the Generator Standards pursuant to OAC Chapter 3745-52, except for the requirements set forth in the exemption application and these Orders, in order to process the 1032 pots to remove and properly dispose the K088.

10. On April 17, 2015, Respondent submitted an application (Application), pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31 to Ohio EPA for an exemption from ORC § 3734.02(E)(2) and specific requirements of OAC Chapter 3745-52. The Application is attached and incorporated herein.-ORC § 3734.02(E) requires all facilities storing, treating, or disposing of hazardous wastes to have a hazardous waste installation and operation permit issued in accordance with ORC § 3734.05. The Application included information justifying the request and documentation that the storage of K088 hazardous waste for up to 550 days in intact pots (containers) and in a containment building at the Facility without a hazardous waste installation and operation permit and complying with specific requirements in OAC Chapter 3745-52 is unlikely to adversely affect public health or safety or the environment.
11. The Application describes how the Facility will be prepared for repurposing, including how the K088 hazardous waste will be removed from the pots and properly managed. Generally, the pots will be removed from the pot lines, staged in an area prior to processing near the containment building, moved into the containment building where the pots will be processed in the following manner: residual aluminum will be removed, steel collector bars underlying the pot will be removed, the pot will have one end removed to facilitate the removal of the rest of the contents in the pot, including the K088 hazardous waste. The K088 hazardous waste will be placed in an appropriate shipping container for shipment off-site to an authorized hazardous waste facility. The remaining material will be segregated and managed appropriately, e.g., scrap metal for steel collector bars, aggregate reuse for clean furnace brick, etc. Respondent anticipates all of these activities will be able to take place within 550 calendar days and will be done in a manner which will not harm human health and the environment. Specifically the Application indicates the following will occur:
 - a. In Section 6.2., Pot Staging Areas, Respondent describes removed pots containing K088 hazardous waste will be staged inside a portion of the building near the containment building where the decommission of the pots, including removal of K088 hazardous waste, will occur. While in these staging areas, Respondent will provide signage of hazardous waste present in the pots and provide emergency contact information;

- b. In Section 6.3, Containment Building, Respondent describes that the pots will only be decommissioned in a containment building which meets and is operated pursuant to all applicable requirements found in OAC rules 3745-256-100 and 3745-256-101. As part of the Application, Respondent submitted a copy of the certification by a qualified registered professional engineer that the containment building design meets the requirements of paragraphs (A) to (C)(4) of this OAC rule 3745-256-101.
- c. In Section 6.4, Pot Processing, Respondent specifically describes how the pots will be decommissioned in the containment building. This section describes the activities which will be undertaken to ensure proper pot decommissioning, proper waste segregation and removal activities and how fugitive dust tracking does not occur.
- d. In Section 7.0, Inspections and Recordkeeping, the Respondent describes how on a daily schedule the Respondent will inspect the containment building and how the pots will be tracked, inspected and logged to ensure proper management of K088 hazardous waste. Furthermore, on a weekly basis a third party will conduct an inspection of the containment building. Additionally, when a container holding K088 hazardous waste is ready for off-site shipment, Respondent will ensure the container is transported off-site pursuant to OAC rules 3745-52-20 through 3745-52-33.
- e. In Section 8.0, Reporting, the Respondent describes how it will provide exception reporting, a biennial report 90 days following completion of the project instead of March 1, 2016 and a monthly status report that will include the number of pots emptied during the prior month, the cumulative number of pots emptied to date and the names and addresses of the receiving facilities.
- f. In Section 9.0, Preparedness and Prevention, Respondent describes measures it will take to prevent releases of K088 hazardous waste and equipment that will be available onsite to address any release of K088 hazardous waste.
- g. In Section 10.0, Contingency Planning, Respondent describes steps it will take in the event of an emergency involving the K088 hazardous waste including the actions that will be taken in the event of a release. Additionally, this section identifies the Facility emergency coordinator and when notification of the Ohio emergency response team will occur.
- h. In section 12.0, Containment Building Closure, Respondent describes action they will take to remove all K088 hazardous waste from the containment building and decontamination procedures.
- i. In Attachment 7, Containment Building Compliance Certification, Respondent provided a certification by a qualified registered professional

engineer that the containment building design meets the requirements of a containment building found in OAC rule 3745-256-101(A) and (B).

12. Pursuant to ORC § 3734.02(G) and OAC rule 3745-51-31, the Director has determined that the Respondent's management of K088 hazardous waste in pots and in the containment building described in the application for no more than 550 days from the effective date of these orders is unlikely to adversely affect public health and safety or the environment, so long as it is managed in accordance with these orders and the Application.

V. ORDERS

Respondent is hereby exempted from the requirement to obtain a hazardous waste installation and operation permit issued in accordance with ORC § 3734.05, as required by ORC § 3734.02(E) (2) and the requirements for generators accumulating hazardous waste on-site without a permit as set forth in OAC rule 3745-52-34, provided Respondent complies with the Application and the requirements specifically described in the Findings.

1. Within 90 days of the last shipment of K088 hazardous waste, Respondent shall remove all hazardous waste and remove or decontaminate equipment contaminated with hazardous waste in Staging Area 1 (described in the Application) and the containment building where K088 hazardous wastes are stored in accordance with the application.
2. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason including, but not limited to, a determination that Respondents' activities at the Facility adversely affect public health or safety or the environment and/or the activities are not being conducted in accordance with these Orders and/or the Application.
3. Respondent shall provide Vicky German, Ohio EPA, Southeast District Office, Division of Materials and Waste Management, by electronic correspondence at Vicky.German@epa.ohio.gov a monthly summary of removal of K088 hazardous waste from the facility. The summary shall include the number of pots emptied and the amount in pounds of K088 hazardous waste shipped from the site and the name and address of the receiving facility.
4. The exemption provided by Order No. 1 shall terminate when any of the following occurs:

- a. 550 days from the effective date of these orders,
 - b. Ninety days after the Respondent causes the removal of the last shipment of K088 hazardous waste from the Facility, or
 - c. The Director revokes the exemption granted under these Orders.
5. Respondent may request an extension to the time allowed in Order No. 4.a.. due to temporary, unforeseen, and uncontrollable circumstances. The request shall be in writing to the Director and include a description of the circumstances for which the extension is requested. An extension may be granted at the discretion of the Director on a case-by-case basis.
 6. Respondent shall retain copies of all records including all manifests required by OAC rule 3745-52-40 and the inspection log required by OAC rule 3745-66-74.
 7. The issuance of these Orders does not release Respondent of any liability it may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release Respondent from any obligation it has to comply with the State of Ohio's environmental laws, or any variance, except as otherwise specifically provided herein.
 8. These Orders do not exempt Respondent from any other local, state, or federal laws or regulations which are otherwise applicable.

VI. 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.

VII. 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.

VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent reserve all rights, privileges, and causes of action, except as specifically waived in Section IX of these Orders.

IX. WAIVER

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 Ohio Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

X. EFFECTIVE DATE

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

XI. 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

IT IS SO AGREED:

Hannibal Development, LLC dba Hannibal Development Partners, LLC



Signature

5 / JUNE 2015
Date

Eric J. Spindas
Printed or Typed Name