

OHIO E.P.A.

JUL 20 2005

BEFORE THE ENTERED DIRECTOR'S JOURNAL
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Albco Foundry, Inc.
230 Maple Street
Lisbon, OH 44432

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Albco Foundry, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 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 the 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 thereunder.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent owns and operates a non-ferrous foundry located at 230 Maple Street, Lisbon, Columbiana County, Ohio (Facility). At the Facility, Respondent produces yellow brass and zinc/aluminum castings, primarily for the steel industry.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000001610.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes spent foundry sand and cores containing lead (D008) and spent fluorescent bulbs (D009).
5. On December 13, 2002, Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Failed to develop, implement and maintain hazardous waste management training for employees at the Facility, in violation of OAC rule 3745-65-16 (A) through (D);
 - b. Failed to include adequate emergency response procedures, descriptions of arrangements with all local authorities, the current addresses and phone numbers for persons listed as emergency coordinators, a list of emergency equipment at the Facility in the contingency plan, and failed to provide copies of the contingency plan to all local authorities, in violation of OAC rules 3745-65-50 through OAC 3745-65-53;
 - c. Failed to have an emergency coordinator on-site, in violation of OAC rule 3745-65-55;

- d. Established and operated a hazardous waste storage facility without a permit by storing hazardous waste on-site from April, 2002 until December, 2002, in violation of ORC § 3734.02(F);
 - e. Failed to conduct and document inspections of emergency equipment, in violation of OAC rule 3745-65-33;
 - f. Failed to conduct and document weekly inspections of hazardous waste storage areas, in violation of OAC rule 3745-66-74;
 - g. Failed to label a container holding hazardous waste with the words, "Hazardous Waste," and failed to date a container holding over 55 gallons of hazardous waste, in violation of OAC rule 3745-52-34(C); and
 - h. Failed to close a container holding hazardous waste when not adding or removing waste, in violation of OAC rule 3745-66-73(A).
6. By letter dated January 13, 2003, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 5a. through 5.h. of these Orders.
 7. In correspondence dated February 13, 2003, Respondent provided responses to Ohio EPA's January 13, 2003 letter.
 8. By letter dated February 25, 2003, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.b. through 5.h. of these Orders.
 9. In correspondence dated March 26, 2003, Respondent provided responses to Ohio EPA's February 25, 2003 letter.
 10. By letter dated April 4, 2003, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.a. of these Orders.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$44,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. \$19,500.00 of this amount shall be deposited

into the hazardous waste clean-up fund established pursuant to ORC § 3734.28. Payment shall be made within 30 days after the effective date of these Orders by tendering an official check for \$19,500.00 made payable to "Treasurer, State of Ohio" to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.

2. Beginning within 90 days and continuing for a period no less than three years after the effective date of these Orders, and in lieu of payment of the remaining \$24,500.00 of the civil penalty settlement, Respondent shall demonstrate that it is operating as a non-generator or a conditionally exempt small quantity generator of hazardous waste, as that term is defined in OAC rule 3745-51-05(A), in accordance with the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall demonstrate that leaded alloys are no longer used in the production of brass castings at the Facility;
 - b. Within 90 days after the effective date of these Orders, Respondent shall demonstrate that it no longer generates greater than 100 kilograms (or approximately 220 pounds) of hazardous waste in a calendar month;
 - c. Within 90 days after the effective date of these Orders, Respondent shall submit a notification informing Ohio EPA of its conditionally exempt small quantity generator status using EPA Form 9029 *Notification of Regulated Waste Activity Form*;
 - d. Within 90 days after the effective date of these Orders, Respondent shall demonstrate that all hazardous waste foundry sand generated as a result of Respondent's use of leaded alloys at the Facility has been removed from casting and casting-related equipment, and has been managed in accordance with Ohio law;
 - e. Respondent shall take any and all necessary actions to ensure it maintains a conditionally exempt small quantity generator status for a period of at least three years;
 - f. Within 365 days of the effective date of these Orders, and at each one year anniversary thereafter, Respondent shall, for a period of three years, submit to Ohio EPA a report which documents expenses incurred by Respondent directly related to its use of non-leaded alloys in brass casting operations at the Facility, as well as a statement confirming that Respondent has not generated greater than 100

kilograms (or approximately 220 pounds) of hazardous waste in any single month of the previous twelve months. Also included in this report shall be copies of all manifests used for off-site shipments (if any) of hazardous waste from the Facility; and

- g. Respondent shall obtain and analyze a representative sample from each distinct batch of waste foundry sand generated (defined as the core sand satellite accumulation containers prior to the time such core sand is emptied into the 90-day accumulation container) following completion of Order Nos. 2.a. and 2.d. to ensure that the waste no longer exhibits concentrations of Toxicity Characteristic Leaching Procedure (TCLP) metals that would classify the waste as a hazardous waste until such time that four consecutive representative samples are classified as non-hazardous by Respondent. After such time that Respondent has determined that the non-leaded alloys used in brass casting operations at the Facility no longer contribute to or cause the generation of hazardous waste, Respondent shall obtain and analyze representative samples of waste foundry sand generated at the Facility sufficient to demonstrate compliance with OAC rule 3745-52-11. Copies of all analytical results generated as a result of Respondent's implementation of the SEP shall be submitted to Ohio EPA in accordance with Section IX of these Orders.
3. Should Respondent fail to fully implement the SEP during the first year of the three-year SEP period, Respondent shall pay to Ohio EPA the amount of \$8,166.67, which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made within 30 days after Respondent fails to comply with Order Nos. 2.a. through 2.d., 2.f., and/or 2.g. by tendering a certified check for \$8,166.67 made payable to "Treasurer, State of Ohio" to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of this check shall be submitted in accordance with Section IX of these Orders.
4. Should Respondent fail to fully implement the SEP during the second year of the three-year SEP period, Respondent shall pay to Ohio EPA the amount of \$8,166.67, which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made within 30 days after Respondent fails to comply with Order Nos. 2.b., 2.f., and/or 2.g. by tendering a certified check for \$8,166.67 made payable to "Treasurer, State of Ohio" to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of this check shall be submitted in accordance with Section IX of these Orders.

5. Should Respondent fail to fully implement the SEP during the third year of the three-year SEP period, Respondent shall pay to Ohio EPA the amount of \$8,166.67, which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made within 30 days after Respondent fails to comply with Order Nos. 2.b., 2.f., and/or 2.g. by tendering a certified check for \$8,166.66 made payable to "Treasurer, State of Ohio" to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of this check shall be submitted in accordance with Section IX of these Orders.

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 Hazardous 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front 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 closure of hazardous waste units at the Facility, pursuant to ORC Chapter 3734. or any other applicable law in the future to address violations specifically cited in these Orders. 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 closure of hazardous waste units by Respondent for violations specifically cited in these Orders, 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



Joseph P. Koncelik
Director

JUL 20 2005
Date

IT IS SO AGREED:

Albco Foundry, Inc.



Signature

6-30-05
Date

WILLIAM N. MULLANE JR
Printed or Typed Name

PRESIDENT
Title