

OHIO E.P.A.

DEC -7 2016

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

**Roberts-Demand No. 3 Corp. dba  
Electro Plating & Fabricating Co.**  
4008 East 89<sup>th</sup> Street  
Cleveland, OH 44105

**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 Roberts-Demand No. 3 Corporation dba Electro Plating & Fabricating 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 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law. No change in ownership 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**

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 operates an electropolishing facility located at 4008 East 89<sup>th</sup> Street, Cleveland, Cuyahoga County, Ohio 44105 (Facility).

3. 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. The hazardous wastes generated by Respondent at the Facility include spent acid and rinse waters (D002 – corrosivity, D007 – chromium, D008 – lead, D010 – selenium), spent alkali cleaner (D002, D008), and spent isopropyl alcohol (D001 – ignitability) as described in OAC rules 3745-51-22 (corrosivity), 3745-51-24 (toxicity) and 3745-51-21 (ignitability), respectively. Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD004209904.
4. On January 28, 2016, Ohio EPA conducted a compliance evaluation inspection at the Facility. During the inspection, Ohio EPA learned that when Respondent determined that the spent isopropyl alcohol it is using to dry parts was no longer effective, Respondent poured it into the secondary containment under the electropolish line in Area A, and allowed the spent isopropyl alcohol to evaporate. Respondent had no waste evaluation information for this waste stream and had been managing the spent isopropyl alcohol in this manner for about one year. Additionally, Ohio EPA observed that the hazardous waste tanks used to accumulate the spent acid and alkali wastes were flat-bottomed and rested on the surface of the secondary containment.
5. As a result of the inspection referenced in Finding No. 4. of these Orders, Ohio EPA determined that Respondent, *inter alia*:
  - a. Failed to determine if the spent isopropyl alcohol is a hazardous waste, in violation of OAC rule 3745-52-11; and
  - b. Failed to design or operate the hazardous waste tank system in a manner that allows any release to be detected within 24 hours, in violation of OAC rule 3745-66-93(C)(3). Specifically, the flat-bottomed hazardous waste tanks resting flush against the surface of the secondary containment do not allow detection of releases within 24 hours.
6. By letter dated March 3, 2016, Respondent was notified of the violations referenced in Finding No. 5. of these Orders.
7. By letter received April 4, 2016, Respondent provided information in response to the violations referenced in Finding No. 5. of these Orders. Respondent submitted analytical results for metals analysis of the spent isopropyl alcohol, and photos showing the hazardous waste tanks were elevated upon 4 inch by 4

inch boards inside the secondary containment to facilitate leak detection.

8. By electronic mail dated April 25, 2016, Respondent submitted analytical results to Ohio EPA demonstrating that the spent isopropyl alcohol is characteristically hazardous for ignitability (D001), and Respondent indicated to Ohio EPA that the spent isopropyl alcohol will now be managed as a hazardous waste and sent to an authorized facility.
9. Based upon the review of information provided by Respondent as referenced in Findings Nos. 7. and 8. of these Orders, Ohio EPA determined that Respondent, *inter alia*, unlawfully treated and disposed of the hazardous waste spent isopropyl alcohol by pouring it into the secondary containment under the electropolish line in Area A and allowing it to evaporate without a permit, in violation of ORC § 3734.02(E) and (F).
10. By letter dated May 26, 2016, Ohio EPA notified Respondent of the violation referenced in Finding No. 9. of these Orders. This letter also notified Respondent that the violations referenced in Finding No. 5. of these Orders were resolved.
11. The Director has also determined that, based upon the information submitted by Respondent as referenced in Findings Nos. 7. and 8. of these Orders, the secondary containment meets the definition of a tank as defined in OAC rule 3745-50-10(114) and is therefore subject to the hazardous waste tank rules in OAC rule 3745-66-90 through 3745-66-101.
12. The Director has determined that the secondary containment tank under the electropolish line used to store and evaporate the spent isopropyl alcohol did not meet the requirements for a hazardous waste tank including but not limited to, having a hazardous waste tank assessment, meeting the general operating requirements of a hazardous waste tank, was not inspected daily, and did not meet the special requirements for ignitable wastes, in violation of OAC rules 3745-66-91, 3745-66-94, 3745-66-95, and 3745-66-98, respectively.
13. Because Respondent has ceased using the secondary containment tank under the Area A electropolish line to store and evaporate the spent isopropyl alcohol, no releases were observed from the secondary containment tank during the Ohio EPA inspection, and because it will continue to be used as secondary containment for the collection and detection of releases of the liquids used in the Area A electropolish line, the Director has determined that no further action is required of Respondent at this time with regard to the violations referenced in

Findings Nos. 9. and 12. 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 \$6,000.00 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 environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$6,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent including the U.S. EPA Identification number assigned to the Facility. A copy of the check shall be sent to the Financial Program Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. of these Orders.

#### **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 Environmental Response and Revitalization  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
50 West Town Street  
Columbus, Ohio 43215

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 the secondary containment tanks under the electropolish lines and 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 closure or corrective action. Ohio EPA and Respondent each reserve all 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek closure of the secondary containment tanks under the electropolish lines and corrective action at the Facility, which rights 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**

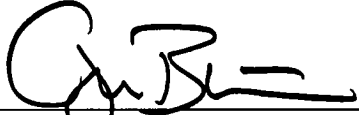
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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.

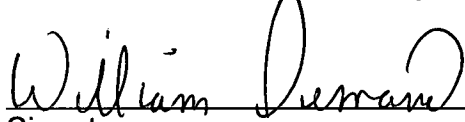
**IT IS SO ORDERED AND AGREED:**

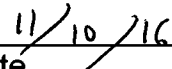
**Ohio Environmental Protection Agency**


  
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Craig W. Butler  
Director

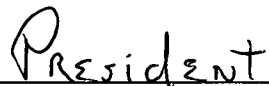
**IT IS SO AGREED:**

**Roberts-Demand No. 3 Corp. dba Electro Plating & Fabricating Company**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Printed or Typed Name

  
\_\_\_\_\_  
Title