April 20, 2017

Mr. John Eslich
Belden Avenue Industrial Park, LLC
3525 Broadway Ave., NE
Louisville, OH 44641

Re: Belden Avenue Industrial Park, LLC
Director's Final Findings and Orders (DFFO)
DFFO
RCRA C - Hazardous Waste
Stark County
OHDO04218095

Subject: Final Findings and Orders of the Director

Dear Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Belden Avenue Industrial Park, LLC.

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3037.

Sincerely,

Tonya Andrews, Administrative Professional 3
Division of Environmental Response & Revitalization

Enclosure

cc: Tammy Heffelfinger, DERR, CO
Mitch Mathews, DERR, CO
Andrea Smoktonowicz, Legal
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Belden Avenue Industrial Park, LLC
3525 Broadway Avenue, NE
Louisville, Ohio 44641

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 Belden Avenue Industrial Park, LLC (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 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 may, by order, exempt any person generating, storing,
treat, 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 OAC rule 3745-50-10(A). Respondent purchased property where a steel manufacturing business had operated. The property is located at 1038 Belden Avenue, NE, Canton, Stark County, Ohio, 44705 (Facility).

3. On November 18 and December 18, 2015, Ohio EPA conducted an inspection at the Facility. At the time of the inspection, the previous owner, Republic Storage Systems, LLC (RSS) owned the Facility.

4. During the inspection referenced in Finding No. 3., Ohio EPA observed approximately five, 55-gallon containers of hazardous waste spent solvent/waste paint (D001-ignitable), as described in OAC rule 3745-51-21, accumulated in excess of the 90 days allowed under OAC rule 3745-52-34, and therefore in violation of ORC § 3734.02(E) and (F) for storage of hazardous waste without a hazardous waste permit. The drums were located at the hazardous waste storage pad located on the exterior east side of the Facility and had accumulation start dates during the March/April 2015 timeframe. The inspector also observed wastes at locations throughout the Facility that RSS failed to evaluate in violation of OAC rules 3745-54-13 and 3745-52-11. Finally, the inspector noted that RSS ceased regulated operations at the Facility on April 10, 2015 but failed to submit the required notification to Ohio EPA and other agencies under ORC § 3752.04, failed to conduct various activities such as drain or remove all regulated substances within 90 days of ceasing regulated operations in violation ORC § 3752.06, and failed to post warning signs within 30 days of ceasing regulated operations in violation of ORC § 3752.07(A).

5. On December 28, 2015, Ohio EPA issued a Notice of Violation letter to RSS for the violations referenced in Finding No. 4.

6. On or about February 24, 2016, Respondent took ownership of the Facility.

7. On April 8, 2016, Ohio EPA received a Cessation of Regulated Operations Program notification from Respondent, listing it as the new owner of the Facility.
8. Since April 2016, Ohio EPA and Respondent have been in discussions about the regulated substances and waste present at the Facility. This includes regulated substances in the following areas: a non-operating wastewater treatment system located on the north side of the Facility consisting of eight tanks with waste liquid/sludge; 733/716 Dip Line consisting of multiple five-gallon containers with waste contents, two tanks with waste contents, and waste liquid/sludge on the floor; 732 Dip Line consisting of multiple five-gallon containers with waste contents and waste liquid/sludge on the floor; 732 Spray Line consisting of waste liquid in the concrete containment area for the metal cleaning/bonderizer process, waste sludge in the bonderizer tank, waste sludge in the paint booths, and multiple five-gallon containers with waste contents; East Paint Mix area consisting of two 55-gallon drums with waste contents; the exterior area, west of the Labor Shop consisting of five 275-gallon totes with waste contents; 731 Spray Line consisting of waste sludge in the paint booths; and the 711 Spray Line consisting of waste liquid/sludge in the Stage 1 and Stage 2 tanks and multiple five-gallon containers with waste contents.

The parties have agreed that Respondent will initially remove all regulated substances from the Facility, then make a waste determination of any regulated substances later determined to be waste (i.e., not "useful") and any other waste at the Facility for proper management offsite.

9. 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.

10. 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 Chapters 3734. and 3752. of the ORC and the regulations promulgated thereunder 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 120 days after the effective date of these Orders, Respondent shall remove all regulated substances pursuant to ORC § 3752.06 from the Facility. This includes the areas referenced in Finding No. 8 of these Orders. Any regulated substances or other material determined to not be useful by Respondent will be considered waste subject to the waste evaluation requirements under OAC rule 3745-52-11. This and any other waste present at the Facility, after being evaluated under OAC rule 3745-52-11, must be managed offsite by Respondent accordingly within 150 days of the effective date of these Orders.

2. Within 30 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a Closure Plan for the identified hazardous waste storage area (storage pad) described in Finding No. 4. of these Orders;

3. 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;

4. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 2., 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;

5. 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;

6. Within 30 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

7. 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 Environmental Response and Revitalization 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 Environmental Response and Revitalization
2120 East Aurora Road
Twinsburg, Ohio 44087
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following addresses:

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 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 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, 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 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

[Signature]
Craig W. Butler
Director

Date

4/17/17

IT IS SO AGREED:

Belden Avenue Industrial Park, LLC

[Signature]
John R. Estlich
Printed or Typed Name
Member

Date

3-9-17