August 13, 2018

Aluminum Color Industries, Inc.
c/o Lorna Willard, Owner
7307 Yellow Creek Drive
Poland, OH 44514

Re: Aluminum Color Industries, Inc.
Director's Final Findings and Orders
(DFFO)
DFFO
RCRA C - Hazardous Waste
Mahoning County
OHD987042033

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 Aluminum Color Industries, Inc.

If you have any questions, please contact Todd Anderson at (614) 644-2840.

Sincerely,

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

Enclosure

cc: Mitch Mathews, DERR-CO
    Erik Hagen, DERR-CO
    Don Vogel, DERR-CO
    Todd Anderson, Legal
    Natalie Oryshkewych, NEDO
    Frank Zingales, NEDO
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Aluminum Color Industries, Inc.
369 W. Wood St.
Lowellville, Ohio 44436

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 Aluminum Color Industries, Inc. (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, 3745.01 and Ohio Administrative Code (OAC) rule 3745-50-31.

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 Chapters 3734. and 3752. 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 OAC rule 3745-50-31, 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).

3. Respondent is the owner and former operator of an anodizing facility located at 369 W. Wood St., Lowellville, Mahoning County, Ohio 44436 (Facility). The Facility has not operated since December 2015.

4. At the Facility, Respondent generated "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 at the Facility include at a minimum corrosive hazardous waste (D002) in vats/tanks as described in OAC rule 3745-51-22. Respondent at the Facility has been assigned U.S. EPA identification number OHD987042033.

5. On June 10, 2017, Ohio EPA was notified that a fire was occurring at the Facility. Ohio EPA's on-scene coordinator was dispatched to the Facility to assist in addressing the immediate response action. Due to the unknown quantity and hazards associated with the chemicals stored at the Facility and the unknown nature of the smoke from the fire, approximately ten to fifteen nearby residences were evacuated. Additionally, due to proximity of the Facility to the Mahoning River, local drinking water treatment works in Ohio and Pennsylvania were alerted due to the potential risk of discharges from the runoff of fire suppression water entering a creek which drains to the Mahoning River.

6. On June 12, 2017, Ohio EPA's on-scene coordinator provided a briefing of the situation to Ohio EPA hazardous waste program staff regarding the Facility.

7. Based upon the information described in Findings Nos. 5. and 6. of these Orders, on June 13, 2017, Ohio EPA conducted a complaint investigation at the Facility. During the inspection, Ohio EPA inspectors observed numerous vats/tanks associated with the anodizing line, which, when sampled, revealed to be storing corrosive (D002) hazardous waste, as described in OAC rule 3745-51-22. The vats/tanks sampled and determined to contain corrosive hazardous waste were 6, 7, 8, 10, 11, and 12. The total volume of corrosive hazardous waste is approximately 7,200 gallons. Additionally, Ohio EPA observed numerous containers, tanks, vats, pits, and gas cylinders storing waste which had not been evaluated to determine if the waste was hazardous waste.
8. Respondent filed an Annual Chemical Inventory Report pursuant to ORC § 3750, for reporting year 2012. Due to this information, as well as information observed during the investigation and information provided by Respondent, Ohio EPA determined Respondent was subject to Ohio's cessation of regulated operations requirements in ORC § 3752 and OAC Chapter 3745-352.

9. As a result of the investigation and information obtained as described in Findings Nos. 7. and 8. of these Orders, Ohio EPA determined that Respondent, inter alia:

a. Established and operated a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). At a minimum, Respondent is storing approximately 7,200 gallons of hazardous waste in vats/tanks, as described in Finding No. 7. of these Orders, since at least approximately June 2016;

b. Failed to determine if the waste at the Facility is a hazardous waste, in violation of OAC rules 3745-52-11 and 3745-54-13. Respondent failed to determine if the numerous containers and tanks holding waste located throughout the Facility are holding hazardous waste;

c. Failed to provide notice to the Director of Ohio EPA of Respondent's cessation of regulated operations and providing a designated contact person for the Facility, in violation of ORC § 3752.04;

d. Failed to conduct duties of an owner and operator within ninety days of cessation of regulated operations, such as, providing copy of chemical inventory form, a list and location of all tanks and containers holding regulated substances, draining/removing regulated substances from stationary equipment that is to remain at the Facility, and certifying to Ohio EPA all these activities had been accomplished in violation of ORC § 3752.06; and

e. Failed to post warning signs and provide adequate security in violation of ORC § 3752.07(A) and OAC rule 3745-352-30(C).

10. By letter dated June 14, 2017, Ohio EPA notified Respondent of the violations referenced in Finding No. 9. of these Orders. Respondent acknowledged receipt of the notice that same day.

11. The Director has determined based upon the information and violation described in Findings Nos. 7. and 9.a., Respondent is subject to all final standards found in OAC Chapters 3745-54 and 3745-55, including but not limited to, providing
security for the Facility as described in OAC rule 3745-54-14 and conducting inspections as described in OAC rule 3745-54-15. Based upon the information described in Finding No. 7. of these Orders, the Director has determined Respondent is in violation of OAC rules 3745-54-14 and 3745-54-15.

12. On June 19, 2017, Ohio EPA conducted a follow-up inspection to determine progress on addressing violations and conduct sampling of waste at the Facility. During the inspection, Ohio EPA observed that Respondent had secured the Facility. However, Respondent had not posted the required warning signs pursuant to ORC § 3752.07(A) and was not conducting the weekly inspections required pursuant to OAC rules 3745-352-30(C) and 3745-54-15.

13. On June 26, 2017, Ohio EPA received sample results for some of the samples taken during the June 19, 2017 sampling event described in Finding No. 12. of these Orders. These results demonstrate that approximately an additional 2,200 gallons of corrosive (D002) hazardous waste is being stored in tank 13 and a phosphoric acid storage tank at the Facility.

14. Based upon the information described in Finding No. 13. of these Orders, the Director has determined Respondent has established and operated a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A).

15. On June 29, 2017, Respondent was issued Director’s Final Findings and Orders (2017 Orders).

16. On July 24, 2017, Respondent provided Ohio EPA with some information required by the 2017 Orders referenced in Finding No. 15. of these Orders. Included in the package provided to the Ohio EPA were information documents to comply with cessation of regulated operations regulations and security description updates to the Facility.

17. On September 5, 2017, Ohio EPA spoke via telephone with Respondent concerning contact with any hazardous waste removal and disposal facilities. Respondent informed Ohio EPA that an environmental consultant visited the Facility during the week of August 29, 2017 and would be providing a quote to address the hazardous waste and CRO requirements at the Facility.

18. Based upon insufficient information and documentation provided to Ohio EPA by Respondent to remedy the 2017 Orders referenced in Finding No. 15. of these Orders, Ohio EPA determined that Respondent, was in violation of ORC §
3734.13(D) of the 2017 Orders referenced in Finding No. 15. of these Orders

**inter alia:**

a. Failed to comply with Order No. 2. of the DFFO's referenced in Finding No. 15. of these Orders. Respondent failed to properly characterize all waste at the Facility pursuant to OAC rules 3745-52-11 and 3745-54-13 and provide this documentation to Ohio EPA within 14-days of the effective date of the Orders. Ohio EPA has not received this waste evaluation documentation. Therefore, Respondent remains in violation of OAC rules 3745-52-11/3745-54-13, in addition to Order No. 2.:

b. Failed to comply with Order No. 2. of the DFFO's referenced in Finding No. 15. of these Orders. Respondent failed to submit documentation showing that all hazardous wastes identified at the Facility were shipped off-site to an authorized facility within 30-days of the effective date of the Orders. Ohio EPA has not received this shipment documentation (i.e., manifests). Therefore, Respondent remains in violation of ORC §3734.02(E)&(F), in addition to Order No. 3.

19. The violations referenced in Finding No. 18. of these Orders were documented in a Notice of Violation (NOV) dated September 6, 2017 and sent to Respondent.

20. On October 13, 2017, Respondent completed sampling of Tanks 6, 9, 10 and 12 located at the Facility. An environmental analytical laboratory completed the analysis for the samples provided by Respondent.

21. On October 17, 2017, Respondent provided to Ohio EPA a list of chemicals identified from the chemical inventory completed by Ohio EPA on June 13, 2017.


23. On November 14, 2017, Respondent provided to Ohio EPA, a copy of the signed contract between the environmental consultant and Respondent for the proper transport and disposal of (4) tanks/baths at the Facility. The contents of the tanks to be removed were designated as Tanks 6, 9, 10 and 12.

24. On November 15, 28 and 29, 2017, Respondent caused the transportation of the content of multiple tanks of waste from the Facility consisting of anodizing and wastewater treatment unit tanks to an authorized environmental waste facility.

25. On December 1, 2017, Respondent's environmental consultant notified Ohio
EPA via electronic mail that they were scheduled to begin removing waste from the Facility on December 6, 2017 and December 7, 2017.

26. On December 4, 2017, Respondent provided to Ohio EPA via electronic mail a copy of the Non-Hazardous Waste Manifest for the waste removed from multiple tanks by the environmental waste company as referenced in Finding No. 23. of these Orders.

27. On December 7, 2017, Respondent's environmental consultant removed the hazardous waste located in Tanks 6, 9, 10 and 12 from the Facility.


29. On December 20, 2017, the environmental waste company provided to Ohio EPA a waste profile for the wastewater removed from the Facility on November 15, 28 and 29, 2017 as referenced in Finding No. 24. of these Orders. The waste profile provided characterized the waste removed from the Facility as non-hazardous.

30. On January 2, 2018, Ohio EPA received a copy of a hazardous waste manifest from the December 7, 2017 hazardous waste removal as referenced in Finding No. 27. of these Orders. The information provided in the hazardous waste manifest revealed that the tanks contained waste which was characteristically hazardous for corrosivity (D002) and toxicity due to chromium and lead (D007, D008) as described under OAC rules 3745-51-22 and 3745-51-24. A hazardous waste evaluation had not been completed by Respondent at this time.

31. On January 29, 2018, Ohio EPA requested an update from Respondent regarding the removal of phosphoric acid. Respondent informed Ohio EPA that Respondent's environmental consultant was contacted to adjust the quote for the removal.

32. On February 16, 2018, Respondent notified Ohio EPA via electronic mail that on February 12, 2018 Respondent's environmental consultant was contacted and told to set a date for the removal of the phosphoric acid. Respondent was still waiting for an adjusted quote from the environmental consultant.

33. On May 9, 2018, Respondent provided Ohio EPA via electronic mail a copy of the signed contract with Respondent's environmental consultant for the removal of hazardous waste from Tank #7 and Tank #8.
34. On June 12, 2018, Respondent caused the removal of the hazardous waste stored in Tanks 7, 8, 9 and the phosphoric acid storage tank to an authorized facility.

35. On June 28, 2018, Respondent met with Ohio EPA to discuss remaining obligations at the Facility, including proper characterization of the remaining waste and off-site management of the waste. During the meeting Ohio EPA and Respondent discussed that by entering into consensual Director’s Final Findings and Orders would resolve the Orders issued in June 29, 2017 Director’s Final Findings and Orders (2017 Orders) and the violations of those 2017 Orders.

36. Upon the effective date of these Orders, the Director’s Final Findings and Orders issued on June 29, 2017 are terminated and the violations of the 2017 Orders described in Finding No. 18. of these Orders are resolved.

37. Respondent is required to have a hazardous waste facility installation and operation permit and have been and are subject to all general facility standards found in OAC Chapter 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, Respondents are required to submit “Parts A and B” of the application in accordance with OAC Chapter 3745-50.

38. The completion of closure activities for the area at the Facility where hazardous waste was stored as described in Finding Nos. 7. and 13. of these Orders, in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is acceptable and unlikely to adversely affect the public health or safety or the environment. Therefore, the Director finds that the issuance to Respondents 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. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall continue to implement all security measures required pursuant to ORC § 3752.07(A) and OAC rule
3745-54-14. Additionally, Respondent shall conduct inspections to ensure security at the Facility as required by OAC rules 3745-54-15 and 3745-352-30(C).

2. Within 14 days of the effective date of these Orders, Respondent shall properly characterize all waste at the Facility pursuant to OAC rules 3745-52-11 and 3745-54-13 and shall provide this documentation to Ohio EPA.

3. Within 45 days after the effective date of these Orders, Respondent shall submit documentation showing that all hazardous wastes identified at the Facility have been shipped off-site to an authorized facility.

4. Within 75 days after the effective date of these Orders, Respondent shall conduct all activities required pursuant to ORC § 3752.06.

5. Respondents are 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:

   a. Within 90 days after the effective date of these Orders, Respondents shall submit to Ohio EPA for review and approval a Closure Plan for the hazardous waste management units described in Finding Nos. 7. and 13. of these Orders as well as any additional areas/units determined based upon Order No. 2. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Erik Hagen, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;

   b. 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 and OAC rule 3745-56-28 Including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100;

   c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan referenced in Order No. 5.a., and provides Respondent with a written statement of deficiencies, Respondent CVC 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;

d. Upon Ohio EPA's written approval of the Closure Plan, Respondents 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;

e. Within 90 days after approval of the Closure Plan pursuant to Order No. 5.a., Respondents 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

f. Within 60 days after the effective date of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Closure certification of the area described in Order No. 5.a., will abate the violation referenced in Finding No. 14. 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 the chief of 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 Respondent.

VII. OTHER CLAIMS

Nothing in these Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, from, 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  
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
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 right to exercise its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future, corrective action at the Facility. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in 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 see corrective action at the Facility, which rights Ohio EPA does not waive, compliance with these Orders shall be in 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

Aluminum Color Industries, Inc.

Signature

LORNA WILLARD

Printed or Typed Name

OWNER

Date

7/30/18