

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC 31 2007

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

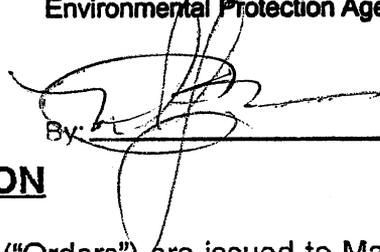
Magnesium Aluminum Corporation :
3425 Service Road :
Cleveland, Ohio 44111 :

Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 12/31/07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Magnesium Aluminum Corporation ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3704.03 and 3745.01.

II. PARTIES

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 Facility (as hereinafter defined) 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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. Respondent is a corporation incorporated in the State of Ohio. It owns and operates a manufacturing facility ("Facility") located at 3425 Service Road in Cleveland. At the Facility, Respondent operates a 1500-pound per hour gas aluminum melting furnace, referred to as emissions unit P009.

2. Emissions unit P009 was installed on July 1, 2004 and is governed by Permit to Install (PTI) 13-04367, which was issued pursuant to ORC 3704.03(F) on October 26, 2004.

3. The Facility and emissions unit P009 are each "air contaminant sources," as that term is defined at ORC 3704.01(C), and are subject to Ohio Administrative Code ("OAC") Chapter 3745-35.

4. ORC Section 3704.05(A) states that no person shall violate any rule adopted by the Director under Chapter 3704. OAC Rule 3745-35-02(A) is a rule, adopted by the Director under Chapter 3704, that provides that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Director in accordance with the requirements of that rule.

5. From July 1, 2004 and continuing to the present, Respondent has operated emissions unit P009 in violation of ORC Section 3704.05 (A) and OAC Rule 3745-35-02(A) by failing to apply for and receive a permit to operate ("PTO") for the unit.

6. ORC Section 3704.05(C) states that no person who is the holder of a permit issued under division (F) of section 3704.03 of the Revised Code shall violate any of its terms and conditions.

7. From October 26, 2004 and continuing to the present, Respondent has operated emissions unit P009 in violation of the terms and conditions of PTI 13-04367. The violations include:

- Failure to perform weekly checks for visible emissions, in violation of condition II.C.3 of PTI 13-04367.
- Failure to submit semiannual deviation reports, in violation of condition II.D.2 and II.D.3 of PTI 13-04367.

8. On April 19, 2006 and January 16, 2007, the City of Cleveland, Division of Air Quality ("CDAQ") sent notices of violation to Respondent for the above violations. CDAQ is an agent of Ohio EPA for the Division of Air Pollution Control in Cuyahoga County.

9. On April 14, 2007, Ohio EPA sent a Director's Warning Letter to Respondent that required Respondent to submit a PTO application and begin to perform visible emission checks and submit deviation reports within fourteen days of the date of the letter. To date, Respondent has failed to comply with the terms of the Warning Letter.

10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within fourteen (14) days of the effective date of these Orders, Respondent

shall submit a PTO application to CDAQ for emissions unit P009.

2. Immediately upon the effective date of these Orders, Respondent shall begin to perform and record the results of daily checks for visible emissions and shall submit semi-annual deviation reports as required by the terms and conditions of PTI 13-04367.

3. Respondent shall pay the amount of sixty-seven thousand three hundred seventy dollars (\$67,370) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for fifty three thousand eight hundred ninety six dollars (\$53,896) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

4. In lieu of paying the remaining thirteen thousand four hundred seventy-four dollars (\$13,474) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$13,474. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

5. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216 - 1049

6. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$13,474 of the civil penalty in accordance with the procedures in Order 3.

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 Air Pollution Control 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 the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative as that term is defined in the above-referenced rule.

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 Respondent's activities at the 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:

City of Cleveland
Division of Air Quality

1925 St. Clair Avenue
Cleveland, Ohio 44114
Attn: George Baker

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

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. 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


Chris Korleski
Director

12/26/07
Date

IT IS SO AGREED:

Magnesium Aluminum Corporation


Signature

12/19/07
Date

JERRY PILMAN
Printed or Typed Name

PRESIDENT
Title