

IN THE COURT OF COMMON PLEAS
NOBLE COUNTY, OHIO

STATE OF OHIO, ex rel.	:	
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	
	:	Case No.
Plaintiff,	:	JUDGE
	:	
vs.	:	
	:	
NATIONAL ALUMINUM CORPORATION	:	
	:	
Defendant.	:	

CONSENT JUDGMENT

The State of Ohio by its Attorney General, Anthony J. Celebrezze, Jr., for and on behalf of the State of Ohio and at the written request of the Director of the the Ohio Environmental Protection Agency ("OEPA"), filed a Complaint seeking injunctive relief and civil penalties for Defendant's alleged violations of Ohio Revised Code Chapters 3704 and the rules adopted thereunder. With regard to these issues, the parties have reached agreement on the terms of permanent injunctive relief and for payment of a civil penalty.

NOW THEREFORE, before the taking of testimony, and without the hearing or trial of any issues of law or fact, and

without this Consent Judgment constituting any evidence or admission by the Defendant with respect to any issue of law or fact, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter herein pursuant to Chapter 3704 of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted against Defendant under these statutes. The Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PERSONS BOUND

The provisions of this judgment shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns and successors in interest.

III. SATISFACTION OF LAWSUIT

Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any civil liability of the Defendant for all violations of Chapter 3704 of the Ohio Revised Code and the rules adopted thereunder known to the Plaintiff at this time for Defendant's violations of the terms and conditions

of Permit to Install Number 06-907 and Permits to Operate Numbers 0661000027K001, 0661000027K002 and 0661000027K003, (as described in the Complaint) at Defendant's facility located at Noble Industrial Park, Route #4, Caldwell, Noble County, Ohio. The judgment shall not limit the authority of the State of Ohio to seek relief for other claims not known at this time or involving other places of business of the Defendant, or for future violations of Ohio Revised Code Chapter 3704. All violations known to Plaintiff have been alleged in the Complaint.

IV. COMPLIANCE PROGRAM

Pursuant to the schedule set forth in Section V, below, Defendant is ordered to implement the control program outlined below to bring sources K001, K002, and K003 into compliance with Chapter 3704 of the Revised Code and the rules adopted thereunder. For matters of volatile organic compound emissions regulation only, O.A.C. Section 3745-21-09(Y)(1) applies to lines K001 and K002 and O.A.C. Section 3745-21-09(F) applies to line K003. To accomplish this, Defendant shall;

1. Install a catalytic incinerator with a capacity of at least 7500 SCFM (standard cubic feet per minute) to

achieve at all times an overall control efficiency of seventy five percent (75%) for the VOC emissions from K001, K002 and K003. "Overall control efficiency" means the product of the capture efficiency of the control system multiplied by the destruction efficiency of the incinerator. "Overall control efficiency" shall be determined by the testing protocol as set forth in Section VI below.

2. Duct all VOC emissions from K002 and K003, including VOC emissions from any existing or later developed floor sweep, directly to the incinerator described above for destruction.

3. Duct all VOC emissions (except for the oven floor exhaust) from K001 to the make-up air system for the oven for K003. Should production on line K003 at any time cease, Defendants shall vent all VOC emissions from line K001 through line K003 to the incinerator for

destruction, except to the extent necessary to protect the safety of personnel and property when line K003 is down for maintenance or repair.

4. Any time lines K002 and K003 operate, all VOC emissions from these lines shall be vented to the incinerator for destruction. Any time line K001 operates, all VOC emissions from this line shall be vented to line K003 as make-up air and thus to the incinerator for destruction, unless the incinerator is at or would exceed 7,500 scfm and a lower explosion limit ("LEL") of 17%, but in no event shall Defendant fall below the seventy-five percent (75%) overall control efficiency.

5. Install monitoring equipment to continuously monitor and record the temperature (in degrees Fahrenheit) of the exhaust gases from any operating source immediately before entering the incinerator catalyst bed.

6. Install monitoring equipment to continuously measure and record the temperature (in degrees Fahrenheit) of all exhaust gases immediately upon exiting the incinerator catalyst bed.

7. When operating lines K001, K002 and K003, Defendant's incinerator shall not be operated at more than 7,500 scfm with a LEL in excess of 17%.

V. SCHEDULE OF COMPLIANCE

To reduce the emissions of volatile organic compounds from Defendant's facility in accordance with paragraph IV supra, Defendant shall take the following actions within or by the dates set forth below:

- a. Award contracts for emission control systems accomplish emission control by June 15, 1987.
- b. Award contracts for process modifications or issue orders for the purchase of component parts by August 31, 1987.
- c. Submit a detailed report to the Southeast District Office of OEPA on the progress of Defendant in meeting the terms of this Order by September 30, 1987.
- d. Initiate on-site construction or installation of emission control equipment or process change by November 30, 1987.

- e. Complete on-site construction or installation of emission control equipment or process change by December 31, 1987; and
- f. Achieve and demonstrate final compliance by February 28, 1988.

OEPA interprets its regulations so as to allow Defendant to proceed with the foregoing Compliance Program without the issuance of revised installation permits.

Defendant shall notify the OEPA Southeast District Office in writing no later than fourteen days after the achievement of each milestone set forth above.

VI. COMPLIANCE TESTING

Defendant shall demonstrate a seventy-five percent (75%) "overall control efficiency" (as defined in Section IV(1), supra) by testing, measuring and recording the VOC emissions from K001, K002 and K003 while all lines are operating simultaneously and with the incinerator operating at 7,500 scfm and at a LEL of 17%. Defendant shall conduct a separate test for line K001, while K002 and K003 are operating, to demonstrate that even if K001 is completely vented to the atmosphere, that Defendant will still meet the seventy-five percent (75%) overall control efficiency. Each test, measurement and record shall comply with O.A.C. Section 3745-21-10(C). Defendant shall notify the

Southeast District office of OEPA in writing thirty (30) days before any proposed test date(s).

VII. CIVIL PENALTY

Defendants shall pay a civil penalty of fifty thousand dollars (\$50,000) to the Plaintiff. Payment shall be made by tendering a certified check payable to the "Treasurer of the State of Ohio" for this amount to counsel for Plaintiff, or his successor, within ten days after entry of this Consent Judgment.

VIII. STIPULATED PENALTIES

(a) Any violation of the terms of this Consent Judgment shall place Defendant in contempt of Court, and Defendant shall pay a penalty of Five Hundred Dollars (\$500) per violation per day to the Court. This stipulated penalty shall not be suspended in part or in whole. Except as noted in this Section VIII(a) and (b), Defendant waives any right it may have to contest the imposition of this stipulated penalty except the defense that Defendant did in fact comply with said Judgment. Nothing in this Judgment shall be construed to limit the right of Plaintiff to seek further penalties from Defendant for subsequent violations of this Judgment or O.R.C. Chapter 3704.

(b) The parties agree that in any action to enforce this consent order, Defendant may raise at that time the issue of whether it is entitled to raise the defense that its violation of the terms hereof resulted from causes beyond its control, such as acts of God, of public enemies, or impossibility of the performance of the terms hereof. While Plaintiff disagrees that such a defense exists, the parties do, however, agree and stipulate that it is premature at this time to raise and decide the existence of such defense, and that the appropriate time to resolve the existence of such a defense is at such time that Plaintiff seeks to enforce such provisions of this consent order.

VIII. MISCELLANEOUS

Defendant is enjoined from violating any provision of Ohio Revised Code Chapter 3704 or the rules adopted thereunder.

Nothing in this Order shall release Defendant of its obligation to comply with applicable state or local statutes, rules or ordinances.

The Court shall retain jurisdiction of this matter for the purpose of making any Order which it may deem at any time appropriate to carry out the terms of this Consent Judgment.

Defendant shall pay all costs of this action.

Each party shall bear its own attorney's fees.

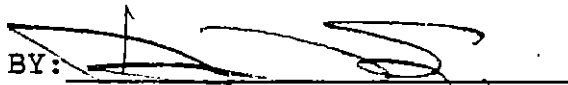
Date

JUDGE, COMMON PLEAS COURT

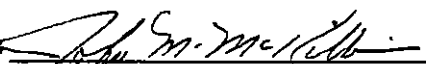
Approved:

STATE OF OHIO, ex rel.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO


NATIONAL ALUMINUM CORPORATION

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