

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA;)
the STATES OF IDAHO, ILLINOIS,)
INDIANA, MICHIGAN, OHIO,)
TENNESSEE, AND WEST VIRGINIA;)
the COMMONWEALTHS OF)
KENTUCKY AND VIRGINIA;)
the OKLAHOMA DEPARTMENT OF)
ENVIRONMENTAL QUALITY; and)
the MARICOPA COUNTY AIR QUALITY)
DEPARTMENT,)

Plaintiffs,)

v.)

ALERIS INTERNATIONAL, INC.;)
IMCO RECYCLING OF ILLINOIS, INC.;)
IMCO RECYCLING OF MICHIGAN)
L.L.C.; ALUMITECH OF WEST)
VIRGINIA INC.; ROCK CREEK)
ALUMINUM; IMSAMET OF ARIZONA;)
COMMONWEALTH ALUMINUM)
LEWISPORT, LLC; IMCO RECYCLING)
OF IDAHO INC.; ALSCO METALS)
CORPORATION; ALCHEM)
ALUMINUM, INC.; ALCHEM)
ALUMINUM SHELBYVILLE, INC.;)
COMMONWEALTH ALUMINUM)
CONCAST, INC.; IMCO RECYCLING)
OF OHIO, INC.; and ALUMITECH OF)
WABASH INC.,)

Defendants.)

Civil Action No. 1:09-cv-00340

Judge John R. Adams

**SECOND JOINT STIPULATION FOR PARTIAL TERMINATION
OF CONSENT DECREE**

Plaintiffs the United States of America, on behalf of the United States Environmental
Protection Agency (“EPA”), the State of Indiana, on behalf of the Indiana Department of

Environmental Management (“Indiana”), the Commonwealth of Kentucky, on behalf of the Kentucky Department for Environmental Protection (“Kentucky”), the State of Michigan, on behalf of the Michigan Department of Environmental Quality (“Michigan”), the State of Ohio, on behalf of the Ohio Environmental Protection Agency (“Ohio”), the Oklahoma Department of Environmental Quality (“ODEQ”), and the State of West Virginia, on behalf of the West Virginia Department of Environmental Protection (“West Virginia”), and Defendants Aleris International, Inc. (“Aleris International”), Aleris Recycling, Inc. (“Aleris Recycling”), Aleris Recycling Bens Run, LLC (“Aleris Recycling Bens Run”), and Aleris Rolled Products, Inc. (“Aleris Rolled Products”) (collectively, the “Stipulating Parties”) stipulate and agree as follows:

1. The Consent Decree (“Decree”) in this action was entered by the Court on October 22, 2009 (Docket # 25).

2. Paragraph 135 of the Consent Decree provides that

[a]fter an Applicable Company has completed the requirements of Section V (Compliance Requirements) of this Decree for its Covered Facility or Facilities, has complied with all other requirements of this Consent Decree for its Covered Facility or Facilities, has thereafter maintained satisfactory compliance with this Consent Decree and 40 C.F.R. Part 63, Subparts A and RRR for a period of one year at its Covered Facility or Facilities, and has paid any accrued stipulated penalties for its Covered Facility or Facilities as required by this Consent Decree,

the Applicable Company may serve upon the United States and the Applicable Co-Plaintiff a request for termination of the Decree as to that Applicable Company.

3. Paragraph 136 of the Consent Decree provides that

[i]f the United States, after consultation with the Applicable Co-Plaintiff, agrees that the Decree may be terminated as to that Applicable Company, the Applicable Company, the United States, and the Applicable Co-Plaintiff shall submit, for the Court’s approval, a joint stipulation terminating the Decree as to that Applicable Company.

4. On August 25, 2011, this Court approved a joint stipulation terminating the

Decree as to the obligations of Aleris International, Inc., Aleris Recycling, Inc., Aleris Specification Alloys, Inc., and IMSAMET of Arizona with respect to five facilities: Chicago Heights, Illinois; Post Falls, Idaho; Loudon, Tennessee; Saginaw, Michigan; and Goodyear, Arizona. Joint Stipulation for Partial Termination of Consent Decree (Docket #29).

5. This Second Joint Stipulation concerns seven additional facilities: the Wabash facility in Wabash, Indiana; the Morgantown facility in Morgantown, Kentucky; the Coldwater facility in Coldwater, Michigan; the Uhrichsville facility in Uhrichsville, Ohio; the Sapulpa facility in Sapulpa, Oklahoma; the Friendly (Alumitech) facility in Friendly, West Virginia; and the Friendly (Rock Creek) facility in Friendly, West Virginia.

Wabash Facility (Aleris Recycling)

6. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Company for the Wabash facility was Alumitech of Wabash Inc. On May 14, 2010, the United States Bankruptcy Court for the District of Delaware approved the First Amended Joint Plan of Reorganization of Aleris International, Inc. and Its Affiliated Debtors, as Modified (“Plan”). Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling is the successor to Alumitech of Wabash Inc. with respect to the Wabash facility.

7. On August 24, 2011, Aleris Recycling served upon the United States and Indiana¹ a request for termination of the Consent Decree as to Aleris Recycling with respect to the Wabash facility in Wabash, Indiana.

8. None of the sources or emission units subject to 40 C.F.R. Part 63, Subpart RRR, at the Wabash facility have operated since the Effective Date of the Consent Decree. On December 29, 2011, Indiana issued a new permit to Aleris Recycling that reflected the removal

¹ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, Indiana is the Applicable Co-Plaintiff for the Wabash facility.

of all sources and emission units subject to 40 C.F.R. Part 63, Subpart RRR, from the Wabash facility.

9. Based on the information provided by Aleris Recycling and the removal of all sources and emission units subject to 40 C.F.R. Part 63, Subpart RRR, from the Wabash facility, the United States and Indiana are satisfied that Aleris Recycling has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Wabash facility.

Morgantown Facility (Aleris Recycling)

10. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Company for the Morgantown facility in Morgantown, Kentucky, was the company formerly known as Aleris International, Inc. (now known as Old AII, Inc.). Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling is the successor to the former Aleris International, Inc. with respect to the Morgantown facility.

11. On January 26, 2012, Aleris Recycling served upon the United States and Kentucky² a request for termination of the Consent Decree as to Aleris Recycling with respect to the Morgantown facility.

12. Based on the information provided by Aleris Recycling, the United States and Kentucky are satisfied that Aleris Recycling has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Morgantown facility

Coldwater Facility (Aleris Recycling)

13. Pursuant to Paragraph 26(i) of the Consent Decree, the Coldwater facility

² Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, Kentucky is the Applicable Co-Plaintiff for the Morgantown facility.

comprises two plants located in Coldwater, Michigan.

14. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Companies for the Coldwater facility were Alchem Aluminum, Inc. and IMCO Recycling of Michigan, L.L.C. Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling is the successor to IMCO Recycling of Michigan, L.L.C. with respect to the Coldwater facility.

15. On November 21, 2011, Aleris Recycling served upon the United States and Michigan³ a request for termination of the Consent Decree as to Aleris Recycling with respect to the Coldwater facility.

16. Based on the information provided by Aleris Recycling, the United States and Michigan are satisfied that Aleris Recycling has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Coldwater facility.

Uhrichsville Facility (Aleris Rolled Products)

17. Pursuant to Paragraph 26(jj) of the Consent Decree, the Uhrichsville facility comprises two plants located in Uhrichsville, Ohio.

18. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Companies for the Uhrichsville facility were IMCO Recycling of Ohio, Inc. and Commonwealth Aluminum Concast, Inc. Pursuant to Schedule 7.6.1 to the Plan, Aleris Rolled Products is the successor to Commonwealth Aluminum Concast, Inc. with respect to the Uhrichsville facility.

19. On December 20, 2011, Aleris Rolled Products served upon the United States and

³ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, Michigan is the Applicable Co-Plaintiff for the Coldwater facility.

Ohio⁴ a request for termination of the Consent Decree as to Aleris Rolled Products with respect to the Uhrichsville facility.

20. Based on the information provided by Aleris Rolled Products, the United States and Ohio are satisfied that Aleris Rolled Product has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Uhrichsville facility.

Sapulpa Facility (Aleris Recycling)

21. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Company for the Sapulpa facility in Sapulpa, Oklahoma, was the company formerly known as Aleris International, Inc. (now known as Old AII, Inc.). Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling is the successor to the former Aleris International, Inc. with respect to the Sapulpa facility.

22. On November 10, 2011, Aleris Recycling served upon the United States and ODEQ⁵ a request for termination of the Consent Decree as to Aleris Recycling with respect to the Sapulpa facility. Aleris Recycling submitted additional information in support of its request for termination to the United States and ODEQ on December 15, 2011, and February 27, 2012.

23. Furnace #5 at the Sapulpa facility has not operated since the Effective Date of the Consent Decree. As an “Idle Unit” under the Decree, Furnace #5 was not subject to certain measures otherwise required by the Decree. Aleris Recycling has prepared an addendum to the Operation, Maintenance, and Monitoring Plan (“OM&M Plan”) for the Sapulpa facility in which it commits to perform the measures set forth in Paragraphs 31, 33, 37, 39, and 41 of the Decree

⁴ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, Ohio is the Applicable Co-Plaintiff for the Uhrichsville facility.

⁵ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, ODEQ is the Applicable Co-Plaintiff for the Sapulpa facility.

in the event that Furnace #5 is brought online after the termination of this Decree with respect to the Sapulpa facility.

24. Based on the information provided by Aleris Recycling, including the addendum to the OM&M Plan for the Sapulpa facility, the United States and ODEQ are satisfied that Aleris Recycling has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Sapulpa facility.

Friendly (Alumitech) Facility (Aleris Recycling)

25. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Company for the Friendly (Alumitech) facility in Friendly, West Virginia, was Alumitech of West Virginia Inc. Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling is the successor to Alumitech of West Virginia Inc. with respect to the Friendly (Alumitech) facility.

26. On August 30, 2011, Aleris Recycling served upon the United States and West Virginia⁶ a request for termination of the Consent Decree as to Aleris Recycling with respect to the Friendly (Alumitech) facility.

27. Based on the information provided by Aleris Recycling, the United States and West Virginia are satisfied that Aleris Recycling has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Friendly (Alumitech) facility.

Friendly (Rock Creek) Facility (Aleris Recycling Bens Run)

28. Pursuant to Paragraph 26(c) and Appendix A of the Consent Decree, the Applicable Company for the Friendly (Rock Creek) facility in Friendly, West Virginia, was Rock Creek Aluminum. Pursuant to Schedule 7.6.1 to the Plan, Aleris Recycling Bens Run is

⁶ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, West Virginia is the Applicable Co-Plaintiff for the Friendly (Alumitech) facility.

the successor to Rock Creek Aluminum with respect to the Friendly (Rock Creek) facility.

29. On August 24, 2011, Aleris Recycling Bens Run served upon the United States and West Virginia⁷ a request for termination of the Consent Decree as to Aleris Recycling Bens Run with respect to the Friendly (Rock Creek) facility.

30. Based on the information provided by Aleris Recycling Bens Run, the United States and West Virginia are satisfied that Aleris Recycling Bens Run has met the requirements for termination of the Consent Decree as set forth in Paragraph 135 of the Decree with respect to the Friendly (Rock Creek) facility.

Stipulation of Partial Termination of Consent Decree

31. The Stipulating Parties stipulate and agree that the Consent Decree may be terminated as to:

- a. Aleris Recycling's obligations under the Consent Decree (as successor to Alumitech of Wabash Inc.) with respect to the Wabash facility;
- b. Aleris Recycling's obligations under the Consent Decree (as successor to the former Aleris International, Inc.) with respect to the Morgantown facility;
- c. Aleris Recycling's obligations under the Consent Decree (as successor to IMCO Recycling of Michigan, L.L.C.) with respect to the Coldwater facility;
- d. Aleris Rolled Products's obligations under the Consent Decree (as successor to Commonwealth Aluminum Concast, Inc.) with respect to the Uhrichsville facility;
- e. Aleris Recycling's obligations under the Consent Decree (as successor to the former Aleris International, Inc.) with respect to the Sapulpa facility;
- f. Aleris Recycling's obligations under the Consent Decree (as successor to

⁷ Pursuant to Paragraph 26(d) and Appendix A of the Consent Decree, West Virginia is the Applicable Co-Plaintiff for the Friendly (Rock Creek) facility.

Alumitech of West Virginia Inc.) with respect to the Friendly (Alumitech) facility; and

g. Aleris Recycling Bens Run's obligations under the Consent Decree (as successor to Rock Creek Aluminum) with respect to the Friendly (Rock Creek) facility.

32. Pursuant to Paragraph 3 of the Consent Decree, the obligations of the Decree apply to and are binding upon Aleris International (and its successors, assigns, or other entities or persons otherwise bound by law) jointly and severally with each Applicable Company with respect to that Company's Covered Facility or Facilities. The Stipulating Parties stipulate and agree that the Consent Decree may be terminated as to Aleris International's obligations under the Consent Decree with respect to the Wabash, Morgantown, Sapulpa, Friendly (Alumitech), and Friendly (Rock Creek) facilities; the plant at the Coldwater facility owned and operated by Aleris Recycling; and the plant at the Uhrichsville facility owned and operated by Aleris Rolled Products.

33. The Stipulating Parties stipulate and agree that this Second Joint Stipulation shall not affect the obligations of Aleris International or Aleris Rolled Products as successor to any other entity designated as an Applicable Company under the Decree, nor shall it affect the obligations of Aleris International or Aleris Rolled Products under the Decree with respect to any other facility owned and operated by Aleris International or Aleris Rolled Products and covered by the Decree.

Second Joint Stipulation For Partial Termination Of Consent Decree, United States et al. v. Aleris International, Inc. et al., No. 1:09-cv-00340 (N.D. Ohio)

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FOR DEFENDANTS ALERIS INTERNATIONAL, INC.; ALERIS RECYCLING, INC.;
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Second Joint Stipulation For Partial Termination Of Consent Decree, United States et al. v. Aleris International, Inc. et al., No. 1:09-cv-00340 (N.D. Ohio)

IT IS SO ORDERED, this 16th day of April, 2012.

John R. Adams

HON. JOHN R. ADAMS
United States District Judge
Northern District of Ohio