DEQ
Montana Department
of Environmental Quality

VIOLATION LETTER

October 26, 2015

Steve Wright
Columbia Falls Aluminum Co. LLC
2000 Aluminum Dr.
Columbia Falls, MT 59912

Cliff Boyd
CALBAG Resources, LLC
1700 Topaz Dr.
Missoula, MT 59808

Subject: Violation of Administrative Order on Consent (AOC), Docket No. HW-15-01, and the Montana Solid Waste Management Act (EPA ID No. MTD057561763; FID 2386; CVID 18794)

Dear Messrs. Wright and Boyd:

On August 7, 2015, the Montana Department of Environmental Quality (Department) received the Removal, Transportation, and Offsite Plan and Schedule (Plan) for the removal of hazardous wastes from the Columbia Falls Aluminum Smelter Pot Room Building (Building), as required by the above-referenced AOC. On September 2, 2015, the Department sent you comments on the Plan. A revised Plan has not yet been submitted for the Department's review.

Paragraph 19 of the AOC states in part "The Plan shall contain an inventory of all hazardous wastes in the Pot Room Building." The inventory must be competed and included in the Plan before the Plan can be considered complete. To properly complete the inventory, all material in the Building must be assessed in accordance with the requirements of ARM 17.53.601 to determine whether the material is a hazardous waste. If the material is not a hazardous waste, the material is regulated under the Montana Solid Waste Management Act. Paragraph 25 of the AOC states Columbia Falls Aluminum Co. LLC (CFAC) and CALBAG Resources, LLC (CALBAG) may not implement the Plan until they receive written approval of the Plan from the Department. As of the date of this letter, the Department has not approved the Plan.

DEQ has received a complaint regarding the storage of anode carbon removed from the Building and placed on property owned by Mark Russell and the dust created by the handling of the material at the site (CVID 18794). Considering that the Department had no knowledge of the anode carbon to determine whether it was a hazardous waste, on October 2, 2015, I requested that Cliff Boyd of CALBAG test the anode carbon and provide analytical data to support the "knowledge of process" hazardous waste determination and to verify the amount of hazardous constituents contained in the anode carbon. Analytical results from 4 samples tested for RCRA 8 metals, cyanide and fluoride were provided on October 8, 2015. The results were incomplete in that the report did not contain a description of the necessary sampling and analysis protocol, sample location, sample material description, a unique identifier for the sample source, chain of custody, and other procedures that must be included in the Plan. Finally, there was no statement from CALBAG with regard to the analytical results and whether or not the anode carbon is a hazardous waste.

As the Department has not received an updated, complete Plan, there are no approved procedures for the inventory and testing of materials in the Building to determine if they are hazardous wastes prior to their removal, transportation and handling. Therefore, CFAC and CALBAG are in violation of the AOC for failing to determine if the anode carbon and other materials (bus bar, aluminum heels, raw ore and sweepings) are a hazardous waste and for removing materials from the Building prior to approval of the Plan.

The anode carbon on Mr. Russell's property may be destined for recycling, but the anode carbon is still subject to the requirements of the Solid Waste Management Act. The intermediate storage and handling of the anode carbon requires a solid waste management license. Therefore CFAC and CALBAG are in violation of the Solid Waste Management Act for storing and managing materials for recycling without a solid waste management license.

Had CFAC and CALBAG been working under an approved Plan, these violations would likely not have occurred. Therefore in order to prevent future violations and to return CFAC and CALBAG to compliance with the AOC and the Solid Waste Management Act, the Department recommends that they implement the following corrective actions:

1. Cease the removal of materials from the Building until the Plan is approved. Do not transport, store, dispose or recycle nonhazardous materials from the Building until the appropriate solid waste management licenses or approvals are granted.

2. As comments were sent in early September, I anticipated a new Plan would be submitted before the end of October. Please make the necessary revisions as outlined in this letter and the Department's September 2, 2015 plan review letter and resubmit the Plan to the Department by November 20, 2015.

3. Remove all anode carbon stored on the Russell property and transport it back to the Building or an appropriately licensed solid waste management or recycling facility by November 20, 2015. Implement and maintain best management practices to control airborne particulate matter, storm water run-on and run-off, and sediment at the Russell property to contain the movement of any hazardous constituents. Prior to or concurrent with the removal, submit a plan for the testing, removal and proper disposal of any soil on the Russell property that has concentrations of hazardous constituents above naturally-occurring background concentrations. As part of the clean-up plan for the Russell property, the Department requires you to submit a hazardous waste determination for the anode carbon based upon TCLP samples for RCRA 8 metal, cyanide and fluoride for the anode carbon stored on the property.

4. If you wish to process or store any of the solid waste generated from the CFAC clean-up activities at an offsite location, you must first obtain a solid waste management system license from the DEQ Solid Waste Program. Please contact Mary Hendrickson at (406) 444-1808 for additional information. A Montana Pollution Discharge Elimination System storm water permit and additional permits may be required.

Please be advised that the failure to complete the corrective actions outlined in this letter may result in additional enforcement actions, including a lawsuit seeking a temporary restraining order, a preliminary injunction, and penalties.

If you have any questions, please contact me at (406) 444-3937.

Sincerely,

Mike Rieger

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Rick Thompson/Mary Hendrickson, DEQ SW
Jim Perris, CALBAG Resources, LLC
Flathead County R.S.
Carson Coate, EPA-Montana

cc: Complainant/CVID 18794 file/Mark Russell