January 12, 2015

General Environmental Management
1533 Chillicothe Road
Chagrin Falls, Ohio 44023

Re: General Environmental Management
DFFO
Exemption
RCRA C - Hazardous Waste
Cuyahoga County
OHD 004 178 612

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for General Environmental Management and Fortuna Development, LLC.

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

Sincerely,

Demitria Crumiell-Hagens
Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc:  Mitch Mathews, DMWM, CO
     Natalie Oryshkewyhc, DMWM, NEDO
     Todd Anderson, Legal
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

General Environmental Management LLC
16533 Chillicothe Road
Chagrin Falls, OH 44023

and

Fortuna Development, LLC
2727 Transport Road
Cleveland, Ohio 44145

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to General Environmental Management LLC (Respondent GEM) and Fortuna Development, LLC (Respondent Fortuna) (together Respondents) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13, 3734.02(G), and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the Facility shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same
meaning as defined in ORC Chapter 3734 and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), 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, are unlikely to adversely affect the public health or safety or the environment, 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. Respondents are each a “person” as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).

3. Respondent GEM operated a used oil processing located at addresses 2533 – 2525 Rockefeller Avenue and 2655 – 2727 Transport Road, Cleveland, Cuyahoga County, Ohio for purposes of recycling used oil primarily for purposes of fuel recovery. Respondent (Fortuna) owns the property where Respondent GEM operated the used oil processing facility, which is described by the Cuyahoga County Recorder’s office as permanent parcel numbers 122-07-003, 122-27-004, 122-27-014, 122-27-019 (Facility).

4. Respondent GEM notified Ohio EPA of its used oil activities at the Facility and was issued a U.S. EPA identification number OHD004178612.

5. Respondent GEM managed “hazardous waste” and “used oil” as those terms are defined by ORC § 3734.01, and OAC rules 3745-50-10(A), 3745-51-03 and 3745-279-01.

6. Ohio EPA conducted numerous inspections at the Facility and determined Respondents GEM and other previous owners and operators of the Facility, had, inter alia, established and operated a hazardous waste facility without a permit in violation of ORC § 3734.02 (E) and (F) through treatment, storage and disposal of hazardous waste at the Facility.

7. Respondents GEM as well as other previous owners and operators of the Facility, were notified of the violations referenced in Finding No. 6. of these
Orders.

8. Respondents GEM as well as other previous owners and operators of the Facility, provided information to Ohio EPA with respect to the violations of ORC § 3734.02 (E) and (F). Included in this information were descriptions of the actions taken to address the hazardous waste management units where hazardous waste was managed without a permit in violation of ORC § 3734.02(E) and (F).

9. On December 23, 2013, Respondent Fortuna acquired the Facility. By acquiring the Facility, Respondent Fortuna became an owner of a hazardous waste facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02 (E) and (F).

10. Due to the establishment and operation of a hazardous waste facility as described in Findings Nos. 6. and 9. of these Orders, Respondants as owner and operator of the Facility, are required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 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, Respondent is required to submit “Parts A and B” of the application in accordance with OAC Chapter 3745-50.

11. Except as provided for in Finding No. 12. of the Orders, the Director has determined that based upon the information referenced Finding No. 8. of these Orders, no further action is necessary to address the hazardous waste units at the Facility. The Director has determined the substantive requirements of the closure performance standard pursuant to OAC rule 3745-55-11 have been achieved for all hazardous waste units at the Facility.

12. The submittal of a certification which attests that the hazardous waste management units described in Findings Nos. 6. and 8. of these Orders were closed as described in that information and in a manner consistent with the closure performance standard as set forth in OAC rule 3745-55-11(A) and (B), in lieu of the submittal of an application for a hazardous waste facility installation and operation permit, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, and the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51, is 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 for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

V. ORDERS

Respondents shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. The Respondents are hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility and a closure plan, provided that Respondents, within 30 days after the effective date of these Orders, submit to Ohio EPA for review and approval a certification for the hazardous waste management units referenced in Finding Nos. 6. and 8. of these Orders. The certification shall attest that the information regarding the actions taken to address the hazardous waste management units referenced in Finding No. 8. of these Orders met the substantive requirements of OAC rule 3734-55-11(A) and (B). This certification shall state:

"I certify under penalty of law that this attestation was prepared either by me, or under my direction, to assure that qualified personnel properly gathered, reviewed and evaluated the information with regard to the units referenced in Finding No. 6. of the Orders dated (enter effective date of Orders). Based upon my knowledge or inquiry of the qualified person or persons who reviewed and evaluated the information gathered, the hazardous waste management units referenced in Finding No. 6. of the Orders dated (enter effective date of Orders) were closed in accordance with OAC rules 3745-55-11(A) and (B). I believe this statement to the best of my knowledge be true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

VI. TERMINATION

Respondents may request termination of these Orders when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and Ohio EPA's Division of Materials and Waste Management 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of each Respondent.

**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 operation of Respondents' 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 Respondents.

**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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: DMWM Manager
XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondents to perform corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734, or any other applicable law. Respondents reserve their rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondents each reserve all other 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondents, which right Ohio EPA does not waive, compliance with these Orders shall be a full
accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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

JAN 12 2015
Date
IT IS SO AGREED:

General Environmental Management LLC

[Signature]

Date 10/14/14

Printed or Typed Name Scott Forster

Title Vice President

IT IS SO AGREED:

Fortuna Development, LLC

[Signature]

Date 9/26/14

Printed or Typed Name Matthew J. Fortuna

Title Member