

BEFORE THE NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

STATE OF NORTH CAROLINA)	
)	
COUNTY OF NEW HANOVER)	
)	
IN THE MATTER OF:)	
ELEMENTIS CHROMIUM INC.)	SPECIAL ORDER BY CONSENT
)	
)	SOC 2023-_____
)	
CASTLE HAYNE, NEW HANOVER)	
COUNTY)	
NORTH CAROLINA)	
[FACILITY ID NUMBER 6500055])	

This SPECIAL ORDER BY CONSENT (the “ORDER”) is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between ELEMENTIS CHROMIUM INC. (the “COMPANY”) and the ENVIRONMENTAL MANAGEMENT COMMISSION (the “COMMISSION”), an agency of the State of North Carolina.

WITNESSETH:

- I. The COMMISSION and the COMPANY do hereby stipulate and agree to the following:
 - A. The COMPANY operates a sodium bichromate and chromic acid manufacturing plant (the “FACILITY”) located at 5408 Holly Shelter Road in Castle Hayne, New Hanover County, North Carolina. The FACILITY currently operates under Title V Air Quality Permit No. 02937T40, issued on August 28, 2018.
 - B. “Affected sources” at the FACILITY include the receiving, storage, conveyance, and processing equipment used for manufacturing sodium bichromate and chromic acid from chromite ore and two natural gas, No. 6, No. 2 fuel oil/on-specification used oil-fired boilers.
 - C. The FACILITY is subject to both State and Federal Air Quality regulations which are included in the COMPANY’s Air Quality Permit 02937T40. The permitted emission sources and associated air pollution control devices and appurtenances are subject to emissions and operational standards as well as monitoring, recordkeeping, and reporting requirements.

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- D. Title V Permit No. 02937T40 has an expiration date of January 31, 2023. Specific Condition 3.K of the permit states that, “permit expiration terminates the facility’s right to operate unless a complete 15A NCAC 02Q .0500 renewal application is submitted at least six months before the date of permit expiration.” Therefore, the due date for the renewal application was July 31, 2022. A renewal application was submitted to the North Carolina Department of Environmental Quality’s Division of Air Quality (“DAQ”) on August 2, 2022.
- E. DAQ will continue to review the renewal application filed on August 2, 2022, without requiring submission of a new renewal application, but has determined that its review of the renewal application for Air Quality Permit 02937T40 will not be completed, nor the renewed permit issued, prior to the permit expiration date of January 31, 2023.
- F. DAQ plans to issue a Notice of Violation to the COMPANY when Air Quality Permit No. 02937T40 expires.
- G. DAQ has determined that, due to the COMPANY’s commitment to maintain compliance with all State and Federal Air Quality Regulations, this ORDER is a necessary and appropriate mechanism to address the period of time the FACILITY will be in operation without an Air Quality (Title V) Permit.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them, have agreed to enter into this ORDER with the following terms and conditions:

- II. The COMPANY, desiring to operate in a safe and environmentally sound manner during the period of this ORDER and thereafter in accordance with the rules and regulations of the COMMISSION, do hereby agree to adhere to the following conditions:
 - A. The COMPANY shall comply with all terms and conditions of Air Quality Permit No. 02937T40, including after such permit expires, until a new Air Quality Permit is issued.
- III. The COMPANY shall pay the following penalties:

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- A. The COMPANY shall pay DAQ a civil penalty in the amount of \$8,000. This amount shall be paid within 30 days of the effective date of this ORDER.
- B. In the event that the COMPANY fails to comply with any deadline or requirement as set out in this ORDER or fails to achieve final compliance with any applicable requirement in this ORDER, unless excused under Paragraph IV, the COMPANY shall pay stipulated penalties according to the following schedule:

Failure to comply with the following terms or conditions of Air Quality Permit No. 02937T40:	Stipulated Penalties
Emission Standards or Limits	\$8,000 for the first 5 violations and \$16,000 thereafter
Operating Limits	\$4,000 per violation for the first 5 violations and \$8,000 per violation thereafter
Monitoring Requirements	\$4,000 per violation for the first 5 violations and \$8,000 per violation thereafter
Recordkeeping and Reporting Requirements	\$2,000 per violation for the first 5 violations and \$4,000 per violation thereafter
All Other Terms or Conditions	\$2,000 per violation for the first 5 violations and \$4,000 per violation thereafter

The COMPANY shall notify DAQ in writing of any violation of Paragraph II of this ORDER within ten (10) days of discovering such violation. Failure to pay the civil penalties within thirty (30) days of receipt of the Director’s written demand will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. The only issue in such an action will be whether thirty (30) days has lapsed.

- IV. The COMPANY’s obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed, may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the DAQ Director. Contractor delays or failure to obtain funding will not be considered events beyond the COMPANY’s control. If any such delaying event occurs, the COMPANY shall notify DAQ in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented.

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V. In addition to the stipulated penalties set forth in Paragraph III, in the event the COMPANY violates this ORDER, the COMPANY may be subject to an injunction action pursuant to N.C.G.S. § 143-215.114C for relief necessary to prevent or abate the violations described in Paragraph I. Except as authorized pursuant to this Paragraph and Paragraph III, the COMPANY shall not be issued any further Notices of Violation or be subject to enforcement action for the violations specified in Paragraph I. Any other violations for which the COMPANY is responsible, shall subject the COMPANY to appropriate enforcement action pursuant to N.C.G.S. §§ 143-215.114A, 143-215.114B and 143-215.114C.

VI. The COMPANY waives any rights it may have to seek judicial review to challenge this ORDER.

VII. All notices and reports required by this ORDER shall be delivered to:

Regional Air Quality Supervisor
N.C. Dept. of Environmental Quality
127 Cardinal Drive Extension
Wilmington, North Carolina 28405

All payments required from the COMPANY by this ORDER shall be delivered to:

Enforcement Group – Payments
NCDEQ – DAQ
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

VIII. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed special orders to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.

IX. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

X. The Parties may jointly stipulate and agree to modify this ORDER at any time subject to the requirements of 15A NCAC 02D .2203. Any modifications of this ORDER must be agreed to in writing and signed by all Parties.

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- XI. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.

- XII. This ORDER is effective on execution by the COMMISSION and shall expire upon issuance of a renewed Air Quality permit to the FACILITY, or on December 31, 2023, whichever comes first.

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ATTESTED:

ELEMENTIS CHROMIUM, INC.

BY: 
Matt Hamburg
Plant Manager

DATE: 12-28-2022

APPROVED AND ACCEPTED:

BY: _____
For the Environmental Management Commission

DATE: _____