

**STATE OF RHODE ISLAND  
PROVIDENCE, SC.**

**SUPERIOR COURT**

**TERRENCE GRAY, in his capacity as  
Director, RHODE ISLAND  
DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT;  
and PETER F. NERONHA, in his  
capacity as Attorney General of the  
STATE OF RHODE ISLAND**

**Plaintiffs,**

**vs.**

**RHODE ISLAND RECYCLED  
METALS LLC; EDWARD SCIABA;  
and AARE, LLC**

**Defendants**

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**C. A. No. PC-15-0890**

**ORDER**

This matter came before the Honorable Court, Superior Court Judge Brian P. Stern presiding on October 21 and 22, 2024 and November 1, 2024 upon Plaintiffs Peter F. Neronha in his capacity as Attorney General of the State of Rhode Island (“Attorney General”), and Terrence Gray in his capacity as the Director of the Rhode Island Department of Environmental Management (“RIDEM”) (collectively, the “Plaintiffs” or “State”), Motion for Emergency Preliminary Injunctive Relief and to Modify the July 27, 2016 Order (the “2016 Order”) Appointing Special Master to Appoint a Receiver (“Motion to Modify”) and the Defendants Rhode Island Recycled Metals (“RIRM”) and AARE, LLC’s (collectively, the “Defendants”) opposition thereto, and in accordance with and for the reasons set forth in this Court’s Decision of December 13, 2024, (“Decision”), it is hereby

ORDERED, ADJUDGED and DECREED:

The Plaintiffs' Motion to Modify is denied in part and granted in part. The Plaintiffs' petitions for a receivership and injunction ceasing operations at RIRM's facility are denied. However, the Motion to Modify is granted such that the Special Master remains in place and the 2016 Order is modified to provide for the following duties and powers:

A. Process

1. The Special Master shall have complete control and management oversight of the Applicant's environmental and site development application permitting process with respect to the remediation and redevelopment of the site for all RIDEM and all other environmental regulatory permits required to operate a metals recycling facility at the Premises (including seeking a RIPDES permit). Control and management oversight shall be broadly construed and shall include prosecuting, monitoring, evaluating, and guiding the Applicants through the site plan pre-application and application approval processes. The Special Master shall prosecute the site plan previously circulated in draft form for a metals recycling facility and submitted to RIDEM, as modified to remove "shipbreaking" on the Premises and to substitute therefore an engineered system at the waterfront to accommodate loading and off-loading of metals at the Premises (the "Plan") and shall be authorized to make such modifications as the Special Master deems necessary or appropriate.
2. RIRM shall retain control over non-environmental permits and approvals necessary for the operation of the Property as a metals recycling facility, whether prior or subsequent to the implementation of the Plan.
3. The Special Master shall have direct contact with and the right to instruct and guide RIRM vendors, including environmental consultants and engineers. The Special Master may terminate the services of any RIRM vendor, hire and/or replace vendors and take such other actions the Special Master deems necessary and appropriate in furtherance of Plan approval (as the same may be amended).
4. RIRM shall timely pay all third-party fees and expenses incurred in connection with the Special Master's prosecution of the Plan. The Special Master may, in his discretion, utilize funds in the Special Master's possession to pay expenses associated with the prosecution of the Plan, including but not limited to, professional fees and other expenses.
5. The Special Master shall participate in the Public Involvement Plan ("PIP") process and serve as moderator at the PIP public meetings.

6. Within thirty (30) days after final approval of the Plan by RIDEM and other required environmental regulatory agencies (including RIRM's application for a RIPDES permit), RIRM shall terminate operations at the Premises, and shall thereafter commence implementation of approved plans. Except as necessary for the construction of the approved Plan, the Interim Controls, as identified below, shall remain in place.

7. In the event RIDEM or any other necessary regulatory agency denies the application(s) submitted by RIRM in furtherance of the Plan, the Applicant shall have the right to pursue its rights under the Administrative Procedures Act. The Special Master shall not be obligated to appeal any adverse decision(s) relating to the Applicant's applications nor shall the Special Master be required to participate in any such appeal. In the event RIRM fails to timely appeal any adverse decision, operations at the Property shall cease immediately.

## B. Operations

1. Within ten (10) days of entry of an order on the Motion to Modify, RIRM shall commence the following site improvements at the Premises which shall remain in place until the earlier of (i) redevelopment of the Premises in accordance with plans approved by RIDEM and any other necessary regulatory agencies, or (ii) capping of the Premises in accordance with RIDEM regulatory requirements (such period of time being the "Interim Use Period"):

- a. Install a 4 inch +/- crushed stone riprap "construction entrance" at the entrance to the Premises on Allens Avenue;
- b. Extend the existing asphalt berm surrounding the front of the shoreline trench from its existing endpoints to the north and south property lines immediately west of the covered soil piles (the "Waterline Berm");
- c. Cover the middle 1/3 of the Premises, which shall be referred to as the "Operating Area," with 4 inches +/- of recycled asphalt, and the remaining areas of the Property with 1 inch +/- of recycled asphalt; and
- d. Place barriers on the east and west sides of the Operating Area to segregate the eastern and western portions of the site, which areas are not to be utilized by RIRM during the Interim Use Period.

The foregoing improvements shall be known as the "Interim Controls." If the Interim Controls are not completed and in place to the satisfaction of the Special Master within thirty (30) days of the entry of and order on the Motion to Modify, RIRM shall cease operations at the Premises until the Interim Controls are completed to the Special Master's satisfaction.

2. RIRM shall maintain, repair and restore (as necessary) the Interim Controls throughout the Interim Use Period. The Special Master shall have the authority to require RIRM to modify and/or

improve the Interim Controls based upon observed conditions at the site. If the Special Master determines that RIRM fails or refuses to properly maintain the Interim Controls in a timely manner, the Special Master may file a motion with the Court seeking to enjoin further operations at the Premises.

3. RIRM shall implement and maintain dust control measures at the Premises to minimize the risk of particulate matter becoming airborne, which measures may include use of water and/or chemical additives (i.e., calcium chloride).

4. RIRM shall implement monthly air monitoring testing at the Premises. Such monitoring shall be conducted on the third (3rd) Tuesday of each month following the entry of an order on the Motion to Modify, and RIRM shall provide air quality reports to RIDEM and the Special Master following each monthly test. RIDEM shall have the right to direct RIRM to test for particulate matter consistent with the hazardous materials identified as being present at the Premises.

PER ORDER:

  
Brian P. Stern  
Associate Justice

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JUDGE:

DATED: January 10, 2025

ENTER:

/s/ Carin Miley  
Senior Deputy Clerk I

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January 10, 2025

CLERK:

DATED: January 10, 2025

Respectfully submitted,

FOR THE STATE OF RHODE ISLAND

PETER F. NERONHA  
Attorney General of Rhode Island

By:

/s/ Sarah W. Rice

Sarah W. Rice (#10588)  
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Deputy Chief, Public Protection Bureau

/s/ Alison H. Carney

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TERRENCE GRAY, Director of the  
RHODE ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

By:

/s/ Jenna Giguere  
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Dated: December 18, 2024

**CERTIFICATION**

I, the undersigned, hereby certify that on this December 18, 2024, I electronically filed and served the within document through the electronic filing system. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Maria V. Gomes