

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)
)
Hwashin America Corporation)
661 Montgomery Highway)
Greenville, AL)
Butler County, AL)
)
Permit No. IU330700072)

Administrative Order No. XX-XXX-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act (“AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, as amended, and the regulations promulgated pursuant thereto, the Alabama Department of Environmental Management (“the Department”) makes the following FINDINGS:

1. Hwashin America Corporation operates an automotive components manufacturing facility (“the Facility”), located at 661 Montgomery Highway in the city of Greenville, Butler County, Alabama.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.

3. Pursuant to § 22-22A-4(n), Ala. Code (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.

4. The Department issued State Indirect Discharge (“SID”) Permit No. IU330700072 (“the Permit”), in accordance with ADEM Admin. Code chap. 335-6-5 and the AWPCA, to the Permittee on November 18, 2015, effective January 1, 2016, establishing limitations on the discharges of pollutants from a point source, designated therein as outfall number DSNS01, into the Water Works and Sewer Board of the City of Greenville’s Waste Water Treatment Plant (NPDES Permit No. AL0020532) (“the WWTP”). The Permit requires that the Permittee monitor its

discharges and submit periodic Discharge Monitoring Reports (“DMRs”) to the Department describing the results of the monitoring. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The DMRs submitted to the Department by the Permittee indicate the Permittee discharged pollutants in violation of the limits imposed by Part I.A of the Permit. The effluent violations noted are listed in Attachment #1.

6. Pursuant to ADEM Admin. Code r. 335-6-5-.20(2), any person required to have a SID permit who violates applicable orders of the Department is subject to enforcement action(s), including an administrative order requiring abatement, compliance, mitigation, cessation of discharge, clean up, and/or penalties.

7. The Department entered into Consent Order No. 19-002-CWP (“Consent Order”) with the Permittee on October 4, 2018. The Consent Order required the Permittee to pay a civil penalty, to submit an Engineering Report identifying corrective actions necessary to achieve compliance, and to implement the recommendations in the Engineering Report. The Consent Order required the Permittee to comply with the Permit Limitations for total zinc no later than October 29, 2019, and to comply with all other terms, conditions, and limitations of the Permit immediately.

8. Permit Condition I.D.6 of the Permit requires that all equipment and instrumentation used to determine compliance with the requirements of this permit shall be installed, maintained, and calibrated in accordance with the manufacturer’s instructions or, in the absence of manufacturer’s instructions, in accordance with accepted practices. The Permittee shall develop and maintain quality assurance procedures to ensure proper operation and maintenance of all equipment and instrumentation. The quality assurance procedures shall include the proper use, maintenance, and installation, when appropriate, of monitoring equipment at the plant site.

9. On March 27, 2019, the Department conducted a Compliance Sampling Inspection (“CSI”) of the Facility. Department personnel noted in the inspection report that the Permittee did not have calibration records for the pH meter, and that the Permittee failed to maintain the pH calibration records for three years as required by the Permit. Also, it was noted that the Permittee collected a manual composite sample, but failed to record and maintain records of each sampling event.

10. On October 24, 2019, the Department conducted a CSI of the Facility. Sampling conducted by the Department during the inspection indicated that the Permittee exceeded the daily maximum Permit limits for total zinc and total nickel as specified in Part I.A. of the Permit. The Department’s zinc result was 185.57 mg/l, above the permitted daily maximum of 2.61 mg/l. The Department’s nickel result was 6.57 mg/l, above the permitted daily maximum limitation of 3.98 mg/l.

11. Permit Condition I.B.1 of the Permit requires that, “[t]he permittee shall not discharge or, in any manner, introduce into the publically owned treatment works any pollutant(s) which, alone or in conjunction with a discharge or discharges from other sources, causes pass through or interference or in any other manner adversely impacts the operation or performance of the treatment works”. The WWTP stated in its Noncompliance Forms for the Quarter of January through March 2020, that it exceeded both its daily maximum and monthly average zinc limit due to the Permittee discharging high levels of zinc. The WWTP also stated that it failed its quarterly toxicity test due to high levels of zinc and nickel from the Permittee.

12. Permit Condition II.E of the Permit and ADEM Admin. Code R. 335-6-5-.13(6) and 335-6-5-.15(2) require the Permittee to submit an application for permit renewal not later than 180 days prior to expiration of the existing permit. The expiration date for the Permit is December 31, 2020, and the Permittee should have submitted an application for permit renewal so that it was received by the Department by July 5, 2020. The Department received a late permit application for renewal of the Permit on September 15, 2020.

CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY:** Based on information available to the Department, violations of the Permit, 19-002-CWP, ADEM Admin. Code chap. 335-6-5, and the AWPCA were noted. The Department considered the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, the condition of the receiving waters, the violations' effects, if any, on the receiving waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. **THE STANDARD OF CARE:** The Department considers some of the violations listed, such as failure to maintain calibration records, and failure to timely submit a complete permit application, as easily avoidable. In consideration of the standard of care manifested by the Permittee, the Department has enhanced the penalty.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has considered that delayed compliance may have conferred an

economic benefit upon the Permittee but is unable to estimate the economic benefit associated with the violations cited above, as the costs for compliance are not available.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is aware of efforts made by the Permittee to address effluent violations at the Facility pursuant to the previously-issued Consent Order; however, these were required by the Consent Order and did not result in compliance. The penalty has not been adjusted based upon this factor.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of previous violations. In consideration of such history of previous violation, the Department has enhanced the penalty.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. The civil penalty is summarized in Attachment #2.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-(9)(i), as amended, it is hereby ORDERED:

A. The Permittee shall pay to the Department a civil penalty in the amount of \$43,000.00 in settlement of the violations alleged herein within forty-five days after issuance of this Order. Failure to pay the civil penalty within forty-five days after issuance may result in the Department filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. All penalties due pursuant to this Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel

Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee shall submit all missing information from the SID application no later than 30 days after the issuance of this Order.

D. The Permittee shall prepare and submit to the Department, not later than sixty days after the issuance of this Order, an Engineering Report that identifies the potential causes of noncompliance and summarizes an investigation of the changes necessary for the Permittee to achieve and maintain compliance with the Permit. The Engineering Report shall include a Compliance Plan with a schedule for implementation of necessary corrective actions and cost of such necessary corrective actions, if known. At a minimum, the Permittee shall consider each of the following in making its investigation: the need for changes in maintenance and operating procedures; the need for modification of existing treatment and collection system works; and the need for new or additional treatment and collection system works. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the Report is not sufficient, then the Report shall be modified accordingly. The Permittee shall submit modifications to the Engineering Report, if required, so that they are received by the Department no later than thirty days after receipt of the Department's comments. The Permittee shall complete implementation of the recommendations made in the Engineering Report not later than 180 days after the issuance of this Order.

E. The Permittee shall prepare and submit detailed quarterly Progress Reports to the Department describing in detail the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan, including the cost of necessary corrective actions. The Permittee shall submit such reports so that they are received by the Department ninety days after the issuance of this Order and continuing every ninety days thereafter that the Permittee's performance obligations under this Order remain incomplete. In addition, no later than fourteen

days following each applicable due date herein, the Permittee shall submit to the Department a written notice of noncompliance with the requirements of that paragraph, if applicable. Notices of noncompliance shall state the cause(s) of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Order.

F. The Permittee shall comply with the zinc limitations imposed by Part I.A of the Permit within 180 days after the issuance of this Order. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the issuance of this Order.

G. The Permittee shall submit a certification to the Department, signed by a Professional Engineer licensed to practice in the State of Alabama, indicating whether the Permittee is in compliance with all requirements of this Order. The Permittee shall submit such certification so that it is received by the Department no later than 210 days after issuance of this Order.

H. This Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

I. Final approval and issuance of this Order are subject to the requirements that the Department provide notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

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

K. 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 Permittee of its obligation to comply in the future with any permit.

L. Failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this _____ day of _____, _____.

Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

Attachment 1: Limitation Violations

Attachment 1: Effluent Violations

Monitoring Period	Outfall	Parameter	Limit	Reported	Unit	Violation Type
November 2019	S011	Zinc, Total (As Zn)	1.48	12.2	mg/l	Monthly Average
November 2019	S011	Zinc, Total (As Zn)	2.61	23.3	mg/l	Maximum Daily
December 2019	S011	Zinc, Total (As Zn)	1.48	1.74	mg/l	Monthly Average
January 2020	S011	Zinc, Total (As Zn)	1.48	16.2	mg/l	Monthly Average
January 2020	S011	Zinc, Total (As Zn)	2.61	42.7	mg/l	Maximum Daily
January 2020	S011	Copper, Total	0.12	0.129	mg/l	Maximum Daily
January 2020	S011	Flow	0.04	0.074	MGD	Monthly Average
February 2020	S011	Zinc, Total (As Zn)	1.48	1.54	mg/l	Monthly Average
February 2020	S011	Zinc, Total (As Zn)	2.61	3.77	mg/l	Maximum Daily
April 2020	S011	Zinc, Total (As Zn)	2.61	14.8	mg/l	Maximum Daily
April 2020	S011	Zinc, Total (As Zn)	1.48	14.8	mg/l	Monthly Average
May 2020	S011	Zinc, Total (As Zn)	1.48	5.78	mg/l	Monthly Average
May 2020	S011	Zinc, Total (As Zn)	2.61	14.9	mg/l	Maximum Daily
June 2020	S011	Zinc, Total (As Zn)	1.48	3.26	mg/l	Monthly Average
June 2020	S011	Zinc, Total (As Zn)	2.61	5.65	mg/l	Maximum Daily

Attachment 2: Penalty Synopsis

Attachment2

**Hwashin America Corporation
Greenville, Butler County
IU330700072**

Violation*	Number of Violations*		(B)	(C)										
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*										
SID Passthrough	1	\$ 10,000.00	\$ -	\$ 5,000.00										
Late SID Application	1	\$ 750.00	\$ 500.00	\$ -										
Failure to maintain calibration records	1	\$ 150.00	\$ 50.00	\$ 50.00										
Effluent Violations	15	\$ 21,500.00	\$ -	\$ 5,000.00										
		\$32,400.00	\$550.00	\$10,050.00										
		Total (A)	Total (B)	Total (C)										
<div style="border: 1px solid black; padding: 10px;"> <p>Additional Adjustments due to negotiations, receipt of additional information, or public comment</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Mitigating Factors (-)</td> <td style="width: 40%;"></td> </tr> <tr> <td>Economic Benefit (+)</td> <td></td> </tr> <tr> <td>Ability to Pay (-)</td> <td></td> </tr> <tr> <td>Other Factors (+/-)</td> <td></td> </tr> <tr> <td>Total Adjustments (+/-)</td> <td></td> </tr> </table> </div>		Mitigating Factors (-)		Economic Benefit (+)		Ability to Pay (-)		Other Factors (+/-)		Total Adjustments (+/-)		Base Penalty Total		\$43,000.00
		Mitigating Factors (-)												
		Economic Benefit (+)												
		Ability to Pay (-)												
		Other Factors (+/-)												
Total Adjustments (+/-)														
[Total (A) + Total (B) + Total (C)]														
Mitigating Factors (-)														
Economic Benefit (+)														
Ability to Pay (-)														
Other Factors (+/-)														
INITIAL PENALTY				\$43,000.00										
Total Adjustments (+/-)				\$0.00										
FINAL PENALTY				\$43,000.00										

Footnotes

*See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors