

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
SLOSS INDUSTRIES CORPORATION
BIRMINGHAM, ALABAMA

NPDES PERMIT NO. AL0003247

ORDER NO. 02-214-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Water Pollution Control Act, Code of Alabama (1975), §§22-22-1 through 22-22-14, as amended, and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, §402, 33 U.S.C. §1342, and without adjudication of issuance of fact or law and with the consent of Sloss Industries Corporation, the Department makes the following FINDINGS:

1. SLOSS INDUSTRIES CORPORATION (hereinafter, "Permittee") operates a facility for the manufacture of Industrial Organic Chemicals, Coke, Mineral Wool, and Ductile Iron Pipe located in **Birmingham**, Alabama.

2. The Permittee was issued National Pollutant Discharge Elimination Permit (hereinafter, "NPDES Permit") #AL0003247 by the Department on September 12, 1993, which authorized the discharge of pollutants and industrial wastes to **Five Mile Creek**, a water of the State, subject to certain terms, limitations and conditions.

3. An application for re-issuance of NPDES Permit Number AL0003247 was submitted on April 3, 1998 and is in the process of being re-issued.

4. The Department alleges that between April 1, 2002 and May 31, 2002, the Permittee violated the discharge limitations of the NPDES Permit Number AL0003247 on the following occasions:

DATE	PARAMETERS	DAILY AVERAGE or DAILY MAXIMUM	REPORTED VALUE (lbs./day)	PERMIT LIMIT (lbs./day)
APRIL 5, 2002	Cyanide, Total	DAILY MAXIMUM	6.67	1.12
APRIL 12, 2002	Cyanide, Total	DAILY MAXIMUM	9.13	1.12
APRIL 19, 2002	Cyanide, Total	DAILY MAXIMUM	8.52	1.12
APRIL 26, 2002	Cyanide, Total	DAILY MAXIMUM	5.42	1.12
APRIL 29, 2002	Fluoranthene	DAILY MAXIMUM	9.162	0.136
APRIL 29, 2002	Phenols (4AAP)	DAILY MAXIMUM	0.48	0.259
APRIL 29, 2002	3,4-Benzo Fluoranthene	DAILY MAXIMUM	0.126	0.122
APRIL 29, 2002	Chrysene	DAILY MAXIMUM	0.126	0.118
APRIL 29, 2002	Pyrene	DAILY MAXIMUM	0.141	0.134
MAY 3, 2002	Cyanide, Total	DAILY MAXIMUM	8.18	1.12
MAY 10, 2002	Cyanide, Total	DAILY MAXIMUM	4.24	1.12
MAY 17, 2002	Cyanide, Total	DAILY MAXIMUM	3.71	1.12
MAY 31, 2002	Cyanide, Total	DAILY MAXIMUM	2.46	1.12
MAY 10, 2002	Hexachlorobenzene	DAILY MAXIMUM	0.029	0.002
MAY 24, 2002	Fluoranthene	DAILY MAXIMUM	0.202	0.136
MAY 2002	Fluoranthene	DAILY AVERAGE	0.1355	0.1355
MAY 10, 2002	2,4 Dimethylphenol	DAILY MAXIMUM	0.114	0.072
MAY 10, 2002	Phenol (4AAP)	DAILY MAXIMUM	0.345	0.259
MAY 24, 2002	Benzo(A)Anthracene	DAILY MAXIMUM	0.119	0.118
MAY 2002	Benzo(A)Anthracene	DAILY AVERAGE	0.085	0.044
MAY 24, 2002	3,4-Benzo Fluoranthene	DAILY MAXIMUM	0.171	0.122
MAY 2002	3,4-Benzo Fluoranthene	DAILY AVERAGE	0.1115	0.046
MAY 24, 2002	Chrysene	DAILY MAXIMUM	0.119	0.118
MAY 2002	Chrysene	DAILY AVERAGE	0.085	0.044
MAY 24, 2002	Pyrene	DAILY MAXIMUM	0.155	0.134
MAY 2002	Pyrene	DAILY AVERAGE	0.106	0.05
MAY 24, 2002	Fluorene	DAILY MAXIMUM	0.202	0.118

Reporting violations: Late submittal of (DMR's) Discharge Monitoring Reports for outfalls DSN002 & DSN003, for reporting year 2001.

5. Although the Permittee does not agree with certain Findings presented in this Consent Order, it does agree, in the spirit of cooperation and with the desire to amicably resolve this matter with the Department, not to contest this Consent Order. In view of the aforementioned and its desire to comply with the provisions of the Alabama Water Pollution Control Act and its implementing regulations, the Permittee also agrees to all the terms of this Consent Order.

6. Likewise, the Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama (1975), §§22-22A-5 and 22-22-9, as amended, and with the consent of the Permittee, it is hereby ORDERED:

A. That, not later than 30 days after the effective date of this Consent Order, the Permittee shall pay to the Department a civil penalty of Thirty Two Thousand Three Hundred Dollars (\$32,300.00) for the violations cited herein.

B. That the Permittee shall continue the increase in monitoring frequencies as required by Consent Order No. 01-090-CWP for Total Zinc to once per week at outfall 001A, for Total Cyanide to once per week at outfall 001, and for the organic parameters listed on pages 1b and 1c of the permit to once per month until such time as the permit is reissued. These monitoring frequencies shall remain in effect until such time as the permit has been reissued and the new monitoring frequencies and limitations are in effect.

C. That the Permittee shall submit within 90 days of the effective date of this Consent Order an Engineering Report prepared by an Alabama Registered Professional Engineer

establishing a schedule for attaining compliance with Agricultural and Industrial "A & I" Water Quality Standards for Five Mile Creek. This report shall include a schedule for installation of equipment. All necessary treatment modifications and /or additions shall be completed, and compliance with the A & I Water Quality Standards shall be achieved within 365 days from the effective date of this Consent Order.

D. That, the Permittee will comply with the discharge limitations of the applicable Permit immediately upon the effective date of this Consent Order and will maintain compliance each and every day thereafter. Beginning May 31, 2002, and continuing 365 days from the effective date of this Consent Order, the Permittee will pay to the Department stipulated penalties in the amount of Eight Hundred Dollars (\$800.00) for each and every violation of any daily maximum limitation of the Permit and Sixteen Hundred Dollars (\$1,600.00) for the violation of each and every monthly average limitation of the Permit. If, after 90 days from the effective date of this Consent Order, the Permittee continues to violate the Permit by discharging amounts which are causing acute toxicity in the receiving waters, the Department reserves the right to proceed unilaterally to address those violations through subsequent orders, litigation and/or suspension or revocation of the Permit. All penalties owed to the Department under this condition shall be due and payable within 30 days after the occurrence of the violation. All penalties shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

OGC

Alabama Department of Environmental Management

P.O. Box 301463

Montgomery, Alabama 36130-1463

All such checks shall reference the Permittee's name, address, and the docket number of this Consent Order and shall be accompanied by a letter describing the dates and values of the violations for which the stipulated penalties are paid.

E. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

F. That, subject to the terms of these presents and subject to the provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of past violations which are cited in this Consent Order.

G. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. That, for purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court for Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Consent Order, the Permittee shall be limited to the defense of *Force Majeure*, compliance with this Consent Order, and physical impossibility.

I. That this Consent Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning the Permittee which would constitute possible violations not addressed in this Consent Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.

J. That, by the agreement of the parties, this Consent Order shall be considered final and effective upon the signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any administrative hearing on the terms and conditions of same.

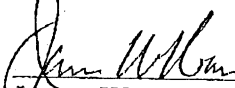
Sloss Industries, Inc.

By: 

Its: President

7/20/02
Date

ALABAMA DEPARTMENT
OF ENVIRONMENTAL
MANAGEMENT



James W. Warr, Director
Alabama Department of
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6 Aug 2002
Date