

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
THE HEIL COMPANY
FORT PAYNE, ALABAMA

ORDER NO. 89-049-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 to 22-22A-16 (1975 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, ALA. CODE §§ 22-22-1 to 22-22-14 (1975 and 1988 Cum. Supp.), and the Federal Water Pollution Control Act, § 307, 33 U.S.C. § 1317 the Alabama Department of Environmental Management (hereinafter "the Department") makes the following FINDINGS OF FACT:

1. The Heil Company (hereinafter "the Permittee") operates a waste disposal truck body manufacturing plant located in Fort Payne, Alabama.

2. The Permittee was issued a State Indirect Discharge permit (hereinafter "SID") by the Department authorizing the discharge of pollutants and other industrial wastes into Big Wills Creek, a water of the State, through the Fort Payne Sewage Treatment Plant.

3. The above permit, which was issued subject to certain terms, conditions, and limitations, contains daily maximum

ISSUED 2/23/89	SERVED 2/14/89
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limits for pH, total copper (Cu), lead (Pb), zinc (Zn), phosphates (PO₄-P), and oil & grease (O&G). This permit also includes daily average limits for pH, copper, lead, zinc, phosphates, and oil and grease.

The parameters of this permit's daily discharge limitations are as follows:

DATE	pH (s.u.)	Cu (mg/l)	Pb (mg/l)	Zn (mg/l)	O&G (mg/l)	PO ₄ -P (mg/l)
Daily Minimum	6.0	n/a	n/a	n/a	n/a	n/a
Daily Maximum	9.0	2.0	0.2	2.61	150	40.0
Daily Average	n/a	1.0	0.1	1.48	100	20.0

4. The above permit was issued upon the condition that the Permittee monitor its discharges and that it submit the results of said monitoring to the Department monthly on Discharge Monitoring Reports (hereinafter "DMRs").

5. On 12 May 1988, the Department found the Permittee had violated the limitations and conditions of its permit, and issued Administrative Order No. 88-057-WP to the Permittee. A copy of said Order is attached as Exhibit A and is incorporated herein by reference.

6. The Permittee has since violated both the terms of its permit and the Departments Order of 12 May 1988, as detailed below:

DATE	pH (s.u.)	Cu (mg/l)	Pb (mg/l)	Zn (mg/l)	O&G (mg/l)	PO ₄ -P (mg/l)
5/12/88						59.4
5/18/88				3.20		56.3
5/26/88						56.3
5/88 average			0.17	1.80		55.0
6/1/88						56.3
6/9/88						59.4
6/16/88			0.86			59.4
6/24/88						59.4
6/29/88						74.9
6/88 average			0.29			61.9
7/7/88						74.9
7/14/88						66.0
7/20/88						67.9
7/27/88						71.4
7/88 average						70.05
8/3/88						81.2
8/17/88						69.6
8/24/88						67.9
8/31/88						62.5
8/88 average						70.3
9/7/88						62.5
9/14/88						59.4
9/22/88						66.1
9/28/88						71.4
9/88 average				1.65		64.9
10/6/88						67.9
10/12/88						64.3
10/18/88						64.3
10/19/88						67.9
10/20/88						71.4
10/27/88						69.6
10/88 average						67.6
11/2/88						71.4
11/9/88						450.0
11/17/88						425.0
11/22/88						453.0
11/30/88						447.4
11/88 average				1.77		370.0

7. During this period, the Permittee made a good faith effort to comply with the terms and conditions of its permit, and to meet the requirements of the Department's Order.

8. While in the process of implementing the requirements of the Department's Administrative Order, compliance with that Order was rendered impossible by the following circumstances:

(a) The Town of Fort Payne requested that the Permittee cease discharges of a large volume of water which was needed by the Permittee for the dilution of wastewaters in order to comply with the Department's Administrative Order. The Permittee complied with this request by the City of Fort Payne.

(b) The Permittee's efforts to comply with its permit and the Department's Order were based upon faulty data for phosphates.

1. The Permittee's phosphate discharges were ten times greater than the previously reported concentrations. When this error became known, it became apparent that the Permittee could not comply with the Department's Order.

2. The faulty data for phosphates was supplied by an independent contractor for the Permittee.

9. Upon discovering that compliance was impossible under the terms of the Department's Order, the Permittee immediately took steps to ameliorate the deficiencies in its pollution control system.

10. The Permittee has the ability to pay a civil penalty.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(c), 22-22-9(j) and 22-22-9(1) (1975 and 1988 Cum. Supp.), and the Federal Water Pollution Control Act § 307, 33 U.S.C. § 1317 it is hereby ORDERED:

A. That the Permittee shall pay to the Department a total of Four Thousand Six Hundred, (\$4,600) dollars, consisting of the following

1. \$4,500 for 45 permit violations, and
2. \$100 for violation of the Department's

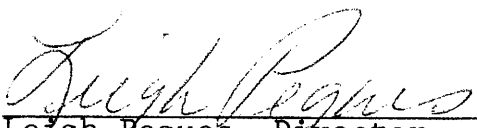
Order of 12 May 1988.

B. That not later than 90 days after receipt of this Order, the Permittee shall have achieved compliance with the terms, conditions, and limitations of its SID permit, and shall continuously maintain compliance with the terms, limitations and conditions of its SID permit each and every day thereafter.

C. That the failure to comply with the provisions of this Order shall constitute cause for the revocation of its SID permit and/or the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department or others against the Permittee.

D. That the issuance of this Order does not preclude the Department or others from seeking criminal fines or other appropriate sanctions or relief against the Permittee for violations stated herein.

ORDERED and ISSUED this 23rd day of February, 1989.



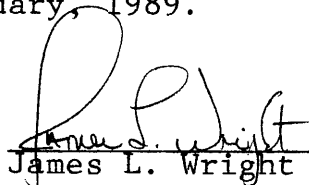
Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 89-049-WP upon the Heil Company by sending the same postage paid, through the U.S. Mail, as Certified Mail No. P 966 410 306, with instructions to forward and return receipt requested to:

Mr. Glen Stadtler
The Heil Company
Post Office Box 109
Fort Payne, Alabama 35967

Done this 23rd day of February, 1989.


James L. Wright