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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0470  
Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL AND GROUNDWATER PROTECTION ACTS  
WEST VIRGINIA CODE CHAPTER 22, ARTICLES 11 AND 12**

TO: Norwins Development, LLC  
ATTN: Thomas Shaw  
263 High Point Drive  
Buckhannon, WV 26201

DATE: March 1, 2024

ORDER NO.: 10213

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-11-1 et seq. and 22-12-1 et seq. to Norwins Development, LLC (hereinafter "Norwins").

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Norwins operates a car wash facility located near Buckhannon, Upshur County, West Virginia. Norwins was reissued WV/NPDES Water Pollution Control Permit No. WV0078743, Registration No. WVG990241, on November 7, 2017 and October 18, 2022.
2. On May 13, 2019, West Virginia Department of Environmental Protection (WVDEP) issued Order No. 8970 to Norwins. The Order was issued in response to Norwins' violations of WV Legislative Rule and the WV/NPDES permit.
3. On July 23, 2019, Norwins submitted a Plan of Corrective Action (POCA) to address violations contained in Order No. 8970. On October 18, 2019, the POCA was approved by WVDEP. The POCA stated that an appropriate marker would be placed at the Outlet;

Discharge Monitoring Reports (DMRs) would be submitted as required; a maintenance log would be maintained; and quarterly inspections would be conducted.

4. On May 9, 2023, WVDEP personnel conducted an inspection of the facility. During this inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. 47CSR58 Section 4.11.6 – Norwins failed to clarify in the Groundwater Protection Plan (GPP) that no wastes were being used for deicing, fills, etc., unless provided for in existing regulations.
  - b. 47CSR58 Section 4.12.1.a – The following GPP practices were not in place:
    - i. Norwins failed to provide documented proof that annual employee trainings occurred at the facility during 2021 and 2022.
    - ii. Norwins failed to conduct and document quarterly inspections during 2021 and 2022.
  - c. Section B.2 – Norwins failed to electronically submit annual DMRs.
  - d. Section B.13 – Norwins failed to electronically submit and provide copies of the 6-month Maintenance Logs.
  - e. Appendix A.I.13 – Norwins failed to post a marker with the correct WV/NPDES permit number at Outlet No. 001.

As a result of the aforementioned violations, Notice of Violation (NOV) Nos. W23-49-014-ALC and W233-49-016-ALC were issued to Norwins.

5. On August 3, 2023, WVDEP personnel conducted an inspection of the facility. During this inspection, violations of the following sections of West Virginia State Code and the WV/NPDES permit were observed and documented:
  - a. Section B.2 – Norwins failed to electronically submit annual DMRs in 2021 and 2022. The DMR submitted for 2022 on May 10, 2023 was based upon samples that were not taken until January 11, 2023.
  - b. Section B.13 – Norwins failed to electronically submit and provide copies of the 6-month Maintenance Logs for 2021 and 2022.
  - c. 22-11-1 et seq. – Norwins failed to comply with the terms and conditions of Order No. 8970. Specifically, Norwins failed to adhere to the approved POCA by failing to submit DMRs as required; maintain and submit a maintenance log; and conduct quarterly GPP inspections.

As a result of the aforementioned violations, NOV Nos. W23-49-29-ALC and W233-49-30-ALC were issued to Norwins.

6. On January 2, 2024, WVDEP personnel and representatives of Norwins met to discuss the terms and conditions of this Order.

**ORDER FOR COMPLIANCE**

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq. and 22-12-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Norwins shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Norwins shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Norwins will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0078743, Registration No. WVG990241, and Order No. 10213. The plan of corrective action shall be submitted to:

**Chief Inspector  
Environmental Enforcement – Mail Code #031328  
WVDEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Norwins' WV/NPDES permit violations, Norwins shall be assessed a civil administrative penalty of six thousand one hundred thirty dollars (\$6,130) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector  
Environmental Enforcement – Mail Code #031328  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

### **OTHER PROVISIONS**

1. Norwins hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21 and 22-12-11. Under this Order, Norwins agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Norwins does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Norwins other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Norwins shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Norwins becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Norwins shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Norwins intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Norwins (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Norwins of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Norwins to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Norwins, its successors and assigns.
7. This Order shall terminate upon Norwins' notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



\_\_\_\_\_  
Thomas Shaw  
Norwins Development, LLC

Public Notice begin:

Public Notice end:

\_\_\_\_\_  
Jeremy W. Bandy, Director  
Division of Water and Waste Management

3/6/24

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Sturm  
Environmental  
Services

VICTORIA, L 100P% HALEN<sup>\*</sup>

**COMPANY:** TWISTED WIRE ELECTRICAL SERVICES

DATE TIME SAMPLED \* 04-11-23 1300

**SAMPLE ID:** FINK RUN EFFLUENT

DAY/L TIME RECEIVED: 01-11-23 1344

**SAMPLE BY:** E WARE

TW 230111-1

LABORATORY ID: 24

PARAMETER	TEST RESULTS	UNITS	METHOD	METHOD DETECTION LIMIT*	MINIMUM REPORTING LIMIT	DATE/TIME ANALYZED	ANALYST
TSS	20.6	mg/L	USGS F76S-AF		4	01-12-23 1650	EK
BOD	JT	mg/L	SMJ17 <sup>W</sup> /SI10B-16	2.0	3.0	01-12-23 1335	DH
Ct	185	mg/L	EPA 300.0 Rev 2.1(1993)	1.0	1.0	01-12-23 1221	DC
TPQ	1.37	mg/L	EPA 200.7 Rev 4.4(1994)	64	35	01-12-23 0827	DB
ORG C	U	mg/L	EPA 110.6A Gravimetric Extraction	3.0	20.0	01-12-23 1001	SW

\*Data Provided

\*\*See Attached: The following results meet or exceed requirements and standards as fairly by the verifying authority except where noted.

**Data Qualifiers:**

- I Analytic found in organic Matrix. Indicates possible suspect or background contamination.
- U Estimated value based on laboratory calibration curve.
- E Estimated value is an estimate because correlation to known values requires limit.
- P Precipitation detected.
- F Sample results rejected.
- R Recoveries are outside of given deficiencies in QC or method performance. Re-sampling and/or re-analysis is necessary.
- N Recovery rate was analyzed for, but not detected.
- X Recovery rate was analyzed for, but not detected.
- O Out of holding. Time does not meet at CEI Lab.
- L This result is not reported due to non-compliance.
- D Does not meet at CEI Lab.
- H Does not meet at CEI Lab.
- A Does not meet at CEI Lab compliance.

APPROVED

Approved \_\_\_\_\_

09/05/2023 12:26

STURM OFFICE AND LABORATORY - POST OFFICE BOX 650 • BRANDRIDGE WEST VIRGINIA 26036 • TEL: 800 333 6644

EPA REGIONAL FIELD OFFICE - TEST OFFICE BOX 9337 • SOUTH CHARLESTON WEST VIRGINIA 26039 • TEL: 304 744 6644



## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

**Responsible Party:** Norwins Development LLC **Receiving Stream:** Finks Run

**Treatment System Design Maximum Flow:** 0.0003 MGD

**Treatment System Actual Average Flow:**                      MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			4c, 5a	4d, 5b	4e									
a)	Amount of Pollutant Released	1 to 3	1	1	1									
b)	Toxicity of Pollutant	0 to 3	0	0	0									
c)	Sensitivity of the Environment	0 to 3	0	0	0									
d)	Length of Time	1 to 3	1	3	1									
e)	Actual Exposure and Effects thereon	0 to 3	0	0	0									
	<b>Average Potential for Harm Factor</b>		0.4	0.8	0.4	No	No	No	No	No	No	No	No	No
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>												
	Degree of Non-Compliance	1 to 3	3	3	1									

### Potential for Harm Factors:

1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)

1)d - Length of Time of Violation

1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

### Examples/Guidance:

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

**Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.**

[illegible]



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
<b>Potential for Harm to Human Health</b>	<b>Major</b>	\$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	<b>Moderate</b>	\$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	<b>Minor</b>	\$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
4c, 5a	Minor	Major	\$1,700	2	\$3,400
4d, 5b	Minor	Major	\$1,900	1	\$1,900
4e	Minor	Minor	\$400	1	\$400
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
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0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$5,700</b>

## **Penalty Adjustment Factors**

(pursuant to 47CSR1-6.2)

### **Penalty Adjustment Factor**

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

**Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

## Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$570
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)	\$400		\$400
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$570)
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$430</b>
<b>Penalty =</b>			<b>\$6,130</b>

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	\$400
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
<b>Estimated Economic Benefit</b>	<b>\$400</b>
<b>Comments:</b> Avoided cost of sampling/submitting 2021 and 2022 DMRs.	