



west virginia department of environmental protection

Division of Water and Waste Management
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Charleston, WV 25304
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Austin Caperton, Cabinet Secretary
dep.wv.gov

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

TO: Huntington Alloys Corporation
Tom Bell, Environmental Manager
3200 Riverside Drive
Huntington, WV 25705

DATE: August 13, 2020

ORDER NO.: 9856

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, Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 12, Section 1 et seq. to Huntington Alloys Corporation (hereinafter "Huntington Alloys").

FINDINGS OF FACT

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

1. Huntington Alloys operates and maintains a metals reclaim tailings earthen impoundment and temporary storage area for the treatment and storage of industrial waste in the drainage basin of Pat's Branch, a tributary of the Guyandotte River, which is a tributary of the Ohio River. The facility is located in Huntington, Cabell County, West Virginia. Huntington Alloys was reissued WV/NPDES Water Pollution Control Permit No. WV0114618 on June 25, 2008, April 24, 2013, and September 19, 2018.
2. On April 18, 2013, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the WV/NPDES permit were observed and documented:

Promoting a healthy environment.

- a. 47CSR58 Section 4.7.d - Huntington Alloys failed to store dums that contain material with the potential to contaminate groundwater in a manner which would contain spills and leaks
- b. 47CSR58 Section 4.7.c – Huntington Alloys failed to prevent or contain any leaks from pumps and ancillary equipment with the potential to contaminate groundwater.
- c. Section A.001 - Exceedances of Huntington Alloys’ permit parameters were observed and documented.
- d. Section C.24 – Huntington Alloys failed to meet the two-year compliance schedule, which became effective on June 25, 2010, to meet final Hexavalent Chromium effluent concentration limitations at Outfall No. 001.

As a result of the aforementioned violations, Notice of Violation (NOV) No. I13-06-002-EJP was issued to Huntington Alloys.

3. On April 24, 2013, WVDEP issued Order No. 7813 to Huntington Alloys in response to the aforementioned violations. Specifically, the Order was issued, because Huntington Alloys failed to come into compliance with the aforementioned final Hexavalent Chromium limitation. The Order required Huntington Alloys to submit a plan of corrective action which identified the causes of the violations of the effluent limit for Hexavalent Chromium at Outlet No. 001, a list of actions taken in the past, and a description of the revisions that would be made to the Storm Water Pollution Prevention Plan (SWPPP) in order to achieve the limitation.
4. On December 19, 2016, January 24, 2018, and September 20, 2018, WVDEP personnel conducted reviews of facility records. During these reviews, the following violations of the terms and conditions of Huntington Alloys’ WV/NPDES permit were observed:
 - a. Section A.001 – Exceedances of Huntington Alloys’ permit parameters were observed and documented.

As a result of the aforementioned violations, NOV Nos. W16-06-1219(1)-RPH, W18-06-023-CJN, and W18-06-103-CJN were issued to Huntington Alloys.

5. On May 1, 2019, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
 - a. Appendix A.II.1 – Huntington Alloys failed to properly operate and maintain the facility. Specifically, there were oil stains on the pavement and gravel areas throughout the plant; there was an oily discharge/spill by the truck wash; solid waste was mixed with concrete and other construction/demolition material; and Outfall No. 002 was covered with vegetation.
 - b. Section A.001 – Exceedances of Huntington Alloys’ permit parameters were observed and documented.
 - c. Section C.1 – Huntington Alloys failed to practice good housekeeping. Multiple pieces of scrap metal were scattered on the earthen impoundment walls of the tailings pond. Drums were stored without cover and were not on a pallet.

- d. Section C.7 – Huntington Alloys failed to submit Discharge Monitoring Reports (DMRs) to the agency within twenty-five (25) days following the end of the reporting period.
- e. Section C.6 – Huntington Alloys failed to submit DMRs.
- f. Section C.12 – Huntington Alloys failed to implement the SWPPP by failing to conduct employee training and annual inspections.

As a result of the aforementioned violations, NOV Nos. W19-06-049-CJN; W19-06-050-CJN; W19-06-051-CJN; W19-06-052-CJN; W19-06-053-CJN; and W19-06-054-CJN were issued to Huntington Alloys.

6. On April 1, 2020, WVDEP personnel conducted a review of facility records from the time period of 1st Quarter 2018 through 4th Quarter 2019. During this review, the following violations of the terms and conditions of Huntington Alloys' WV/NPDES permit were observed:
 - a. Section A.001 – Fourteen (14) exceedances of Huntington Alloys' permit parameters were observed and documented (Table One). These exceedances can be further defined as:
 - i. Minor violations-six (6)
 - ii. Moderate violations-seven (7)
 - iii. Major violations-one (1)
 - b. Section C.6 – Huntington Alloys failed to submit the following DMRs.
 - i. Outlet No. 001 – 4th quarter 2019, 2nd half 2018, and 2nd half 2019
 - ii. Outlet No. 002 – 2nd half 2018 and 2nd half 2019
7. On May 15, 2020, a representative of Huntington Alloys submitted a Plan of Corrective Action (POCA) and schedule (attached) that outlined action items and completion dates for how and when Huntington Alloys will achieve compliance with all terms and conditions of the WV/NPDES permit and pertinent laws and rules. The POCA was subsequently approved by WVDEP personnel.
8. On August 5, 2020, WVDEP personnel met with representatives of Huntington Alloys to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

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

1. Huntington Alloys shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Upon the effective date of this Order, the aforementioned approved POCA and schedule, dated May 15, 2020, shall be incorporated into and become part of this Order. Failure to adhere to the approved POCA and schedule is a violation of this Order.

3. Because of Huntington Alloys' permit violations, Huntington Alloys shall be assessed a civil administrative penalty of twenty-five thousand seven hundred forty dollars (\$25,740) 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 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Huntington Alloys hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 and/or Chapter 22, Article 12, Section 11 of the Code of West Virginia. Under this Order, Huntington Alloys 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, Huntington Alloys 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 Huntington Alloys 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, Huntington Alloys 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 Huntington Alloys becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Huntington Alloys 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 Huntington Alloys 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 Huntington Alloys (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 Huntington Alloys 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 Huntington Alloys 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 Huntington Alloys, its successors and assigns.
7. This Order shall terminate upon Huntington Alloys' notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.


~~Tom Bell, Environmental Manager~~
Huntington Alloys Corporation
Michael T Eberhardt EHS Director

9/4/2020
Date

Public Notice begin:

Date

Public Notice end:

Date

Katheryn Emery, P.E., Acting Director
Division of Water and Waste Management

Date

Table One: Huntington Alloys DMR Exceedance Summary

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Qtr 2018 through 4th Qtr 2019						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Mar 2018	Hexavalent Chromium	mg/l	0.011	0.0365	232%	-	X	-
Jun 2018	Hexavalent Chromium	mg/l	0.011	0.0248	125%	-	X	-
Sept 2018	Hexavalent Chromium	mg/l	0.011	0.0236	115%	-	X	-
Sept 2019	Hexavalent Chromium	mg/l	0.011	0.019	73%	X	-	-
Mar 2018	Total Iron	mg/l	1.5	2.05	37%	X	-	-
Jun 2018	Total Iron	mg/l	1.5	5.72	281%	-	X	-
March 2019	Total Iron	mg/l	1.5	1.7	13%	X	-	-
Mar 2018	Total Recoverable Coppe	mg/l	0.093	0.108	16%	X	-	-
Jun 2018	Total Recoverable Coppe	mg/l	0.093	0.22	137%	-	X	-
Dec 2018	Total Recoverable Coppe	mg/l	0.036	0.07	94%	X	-	-
March 2019	Total Recoverable Coppe	mg/l	0.036	0.124	244%	-	X	-
June 2019	Total Recoverable Coppe	mg/l	0.036	0.081	125%	-	X	-
Sept 2019	Total Recoverable Coppe	mg/l	0.036	0.295	719%	-	-	X

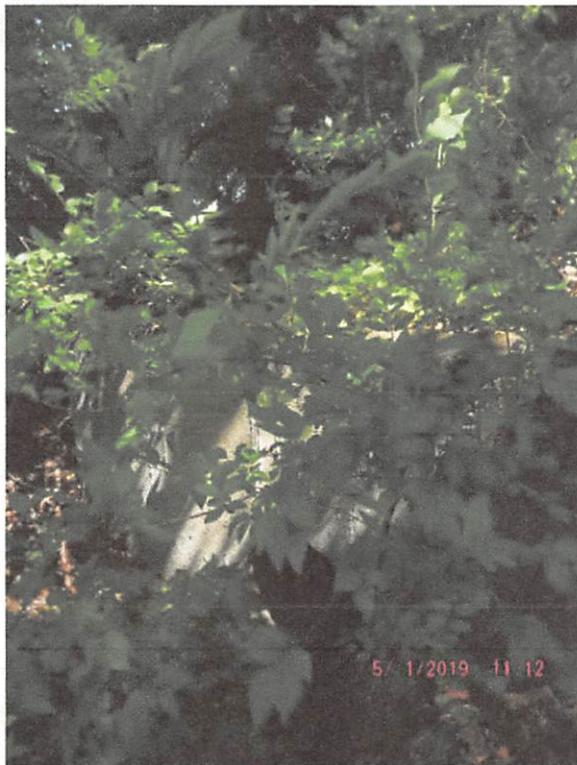
Outlet 001 DMR Exceedances - pH MAX. DAILY (Max.) - 1st Qtr 2018 through 4th Qtr 2019						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Jun 2019	pH	S.U.	9.0	9.6	80.0%	X		

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		6	7	1

Huntington Alloys – Photo Log – May 1, 2019



Outlet No. 002 marker covered by vegetation



Outlet No. 002 covered by vegetation

Huntington Alloys – Photo Log – May 1, 2019



Metal parts laid on the earthen impoundment walls of the tailings pond



Metal parts laid on the earthen impoundment walls of the tailings pond



Metal parts laid on the earthen impoundment walls of the tailings pond



Metal parts laid on the earthen impoundment walls of the tailings pond

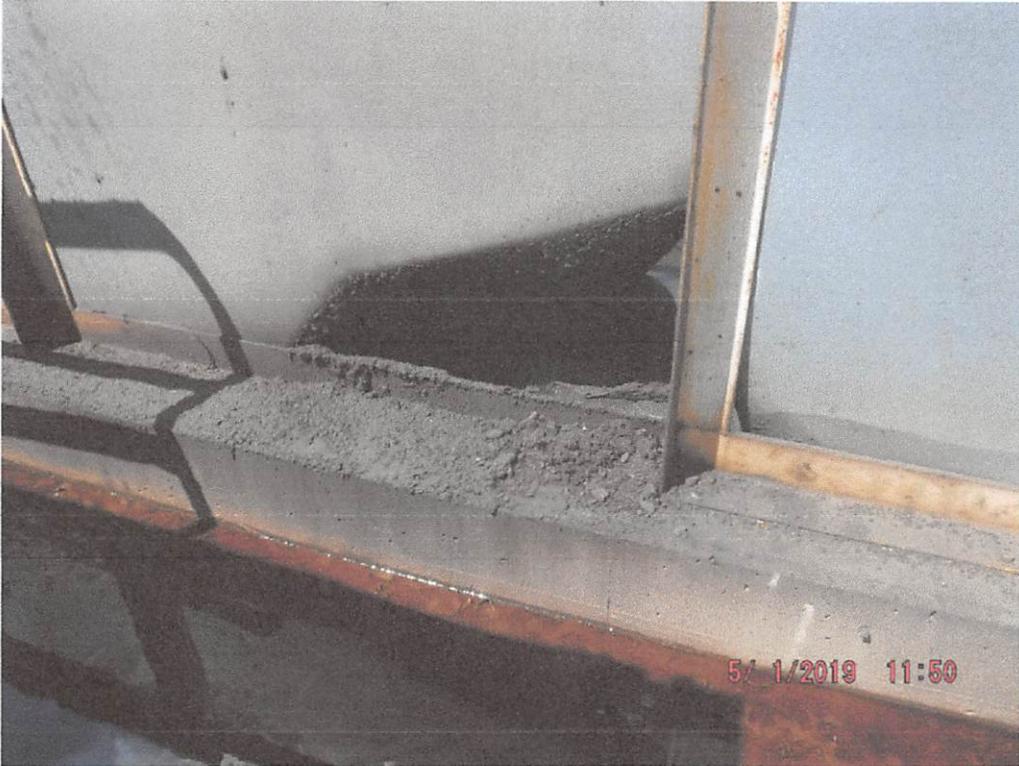
Huntington Alloys – Photo Log – May 1, 2019



Unpermitted outfall by the tailings pond earthen impoundment



Overview of truck wash, showing hole and area of oil spill



Hole in truck wash and oil spill



Oil spill

Huntington Alloys – Photo Log – May 1, 2019



Oil spill



Drums without cover or pallets

Huntington Alloys – Photo Log – May 1, 2019



Dumpster with leak



Overview of lot with stained pavement