

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

WOLVERINE TUBE, INC.)

NPDES NO. AL0000043)

SID PERMIT NO. IU 08 52 00224)

CONSENT ORDER NO. 94-078-CWP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama, 1975, §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), the Alabama Water Pollution Control Act, Code of Alabama, 1975, §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.) (the "Act"), and the National Pollutant Discharge Elimination System ("NPDES") 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 any issues of fact or law, but upon the consent of the parties, the Alabama Department of Environmental Management and Wolverine Tube, Inc. hereby agree as follows:

STIPULATED FACTS

1. Wolverine Tube, Inc. ("Wolverine" or "Permittee") operates a facility for the casting, drawing and extrusion of nonferrous tubing located in Decatur, Alabama.

2. The Alabama Department of Environmental Management is a duly constituted department of the State of Alabama pursuant to

§§ 22-22A-1 through 22-22A-16, Code of Alabama, 1975 (1990 Rplc. Vol.)

3. On February 26, 1990, the Department issued to Wolverine a permit under the State Indirect Discharge System ("SID"), and identified as SID No. IU085200224. The SID permit regulates Wolverine's discharge to the local public wastewater treatment system by imposing limitations and monitoring requirements for a variety of parameters. These parameters and their corresponding limitations are set out in the listing of permit limitations attached as Exhibit A and incorporated herein by reference.

4. On March 1, 1990, the Department issued to Wolverine a permit under the NPDES program identified as NPDES Permit No. AL0000043. The NPDES permit regulates Wolverine's discharges directly to nearby streams, and like the SID permit, imposes limitations and monitoring requirements for a variety of parameters. These parameters and their corresponding limitations are also set out in the listing in Exhibit A and are also incorporated herein by reference.

5. On April 6, 1990, the Department issued Administrative Order No. 90-098-WP to Wolverine identifying certain violations of the NPDES permit. Wolverine filed a request for an administrative hearing regarding that Order, but before the hearing was conducted, agreed to certain revisions in the final Order. The revised Order was issued May 28, 1991.

6. Included in the revised Order 90-098-WP were the following provisions:

A. That immediately upon receipt of notice of this Order the Permittee shall comply with all monitoring and reporting requirements of its new NPDES Permit and shall continuously comply with said requirements each and every day thereafter until the expiration of said permit.

B. That not later than 30 days after receipt of notice of this Order, the Permittee shall submit to the Department a plan for achieving "zero discharge" or for achieving compliance with the terms, limitations and conditions of its NPDES permit. If the "zero discharge" option is chosen, the plan shall include interim measures to minimize noncompliance with effluent limitations while pursuing "zero discharge". Said plan shall be prepared by a registered professional engineer licensed to practice in Alabama and shall comply with the requirements of ADEM Admin. Code Chap. 335-6-6-3.

C. That not later than 90 days after receipt of notice of this Order, the Permittee shall have completed implementation of the interim measures to minimize noncompliance described in paragraph B above.

D. That not later than 420 days after receipt of notice of this Order the Permittee shall have achieved "zero discharge" or shall have achieved compliance with the terms, conditions and limitations, of its NPDES permit and shall continuously maintain said compliance each and every day thereafter until the expiration of said permit.

7. Following issuance of the revised Order, and in accordance with the requirements of Wolverine's SID and NPDES permits, Wolverine continued to submit Discharge Monitoring Reports ("DMR's") to the Department on a monthly basis. Each DMR is required to contain information regarding the constituents which must be reported to the Department under each permit.

8. Based on the information provided in the DMRs, the Department issued a series of notices to Wolverine each indicating violations of the company's permits. Specifically, these notices were issued: October 29, 1991; January 13, February 7, May 13, October 5, October 8, 1992; and, April 28, June 18, July 22, and October 20, 1993. A listing of relevant permit violations dating from March, 1992, is set out in chronological order and attached as Exhibit B which is incorporated herein by reference.

9. The information aggregated in Exhibit B indicates recurring violations of both permits, and also indicates violation of the provisions of Paragraphs A and D of Order 90-098-WP as revised on May 28, 1991.

10. Several of the DMR's indicate the failure to report any information regarding some parameters. The failure to report any of the information required by a permit is a serious violation of the Department's water program. Wolverine asserts that many of the reporting violations result from an inability to collect samples due to insufficient flow at the designated sampling point. The company has suggested alternative sampling points to be used whenever this condition occurs.

11. As a part of its effort to eliminate the discharge of organic pollutants, Wolverine representatives met with ADEM officials on December 2, 1992, to discuss Wolverine's efforts to come into compliance with the NPDES permit. At that time, Wolverine outlined a plan intended to eliminate all organics

from the NPDES discharge and thereby qualify for a general storm water permit. Wolverine thereafter implemented the plan, including steam cleaning the catch basins in its sewer system and forcing steam through the sewer lines. The work was completed in the latter part of 1993. Nevertheless, DMR's submitted throughout 1993, as indicated in Exhibit B, indicate that its discharges regularly exceeded the NPDES permit limits for organic contaminants (primarily 1,1,1 - Trichloroethylene ["TCE"] and Trichloroethane ["TCA"]).

12. On February 11, 1994, the Department served Wolverine with a copy of a proposed administrative order covering the foregoing violations. Wolverine responded with a detailed written submission. Of primary concern to Wolverine is the possible source of TCA and TCE in its discharges, and the appropriate steps to eliminate these materials from the discharge.

13. Based on analysis of samples taken from the residual sludge accumulated in Wolverine's sewer lines, Wolverine believes that this material is the likely source of the TCA and TCE in the discharges. Wolverine believes that removal of this residue will eliminate these violations.

14. The parties hereto have agreed to the terms of this Consent Order, and the Department has determined that the terms of this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based upon the foregoing FINDINGS OF FACTS and pursuant to Code of Alabama, (1975), §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(c), 22-22-9(i), and 22-22-9(k) (1990 Rplc. Vol.) and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act, §402, 33 U.S.C. §1342, and with the consent of Wolverine, it is hereby ORDERED:

A. That not later than ninety-nine days following the date of execution of this Order, Wolverine shall have completed the removal of residue from the company's sewer system. Proper management of this material shall be coordinated with the Hazardous and Solid Waste Branches of the Department's Land Division. Completion of the removal shall be certified by an officer or supervisory official of the corporation having knowledge of the status of the work. In the event Wolverine fails to meet this deadline, it shall pay to the Department a stipulated penalty as follows: completion at any time after the ninety-ninth day but before the 107th day: FIVE THOUSAND (\$5,000.00) DOLLARS; completion of work at any time on or after the 107th day: TEN THOUSAND (\$10,000.00) DOLLARS.

B. That not later than 180 days following the date of execution of this Order, Wolverine shall achieve compliance

with the limitations of its permits regarding the discharge of TCE and TCA. In the event Wolverine fails to meet this requirement, it shall pay to the Department stipulated penalties for violations of permit limitations as described in Paragraph F below. In the event Wolverine's discharge under its NPDES permit complies with the limitations for TCE and TCA for six consecutive reporting periods beginning with the DMR submitted after the responsible official certifies that the work required under Paragraph A hereof is completed, the Department hereby agrees to process Wolverine's request to modify its NPDES permit to a general storm water permit with quarterly monitoring and reporting requirements.

C. That with the exception of the work and the limits for TCE and TCA reporting parameters described in Paragraphs A and B, immediately upon execution of this Order Wolverine shall comply with the limitations set forth in its permits. In the event Wolverine fails to meet this requirement, it shall pay to the Department stipulated penalties for violations of permit limitations as described in Paragraph F below.

D. That immediately upon execution of this Order, Wolverine shall comply with all reporting requirements of both permits. Regarding the monitoring and reporting of flow discharges under the NPDES permit, Wolverine shall attempt to collect samples of the discharge at the designated sampling point. In the event the duration of flow is insufficient for

sampling purposes, Wolverine is directed to obtain a sample from the upstream side of the control weir and to note the alternate sampling location on the DMR.

E. That not later than 30 days following the date of execution of this Order, Wolverine shall pay to the Department NINETEEN THOUSAND DOLLARS (\$19,000.00) for the past violations cited herein.

F. That in addition to the fixed penalties assessed herein, Wolverine shall pay stipulated penalties to the Department for each future discharge which exceeds the individual limitations set forth in its permits discharges according to the following schedule:

Limitations violations - \$200 per violation for each violation occurring following the applicable date of compliance and disclosed on the DMR covering that reporting period; \$400 per violation for each limits violation disclosed on the next following DMR; and \$800 per violation disclosed on any DMR submitted thereafter until and unless the Department issues an Administrative Order assessing other monetary penalties.

The agreement that the foregoing schedule of stipulated penalties will govern the violations described shall expire automatically on December 31, 1994.

G. Nothing in the foregoing schedule shall relieve Wolverine from the obligation to comply with the provisions of its permits, or the Act and the regulations. Nothing in this Consent Order shall operate to relieve Wolverine of any liability for any violations occurring at the facility following issuance of this Order.

H. That all stipulated penalties identified herein are to be paid not later than ten days following the date such stipulated penalties become due by operation of the terms of this Consent Order. The Department is under no obligation to notify Wolverine of the existence of any violations which prompt stipulated penalties or to demand payment of the same.

I. 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.

J. Subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Order. However, the issuance of this Order does not preclude others from seeking fines or relief or sanctions against Wolverine for the violations identified herein.

K. That Wolverine is not relieved from any liability if it fails to comply with any provision of this Consent Order.

L. That for purposes of this Order only, Wolverine 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. Wolverine also agrees that in any action brought by the Department to compel compliance with the terms of this Order, Wolverine shall be limited to the defenses of Force Majeure, compliance with this Order and physical impossibility.

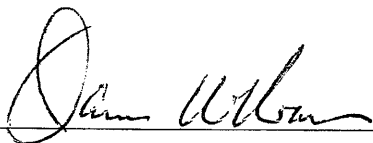
M. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced in the Findings of Fact. Should additional facts and circumstances be discovered in the future concerning Wolverine which would constitute possible violations not addressed in this 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 Wolverine shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

N. By 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 Wolverine does hereby waive any administrative hearing on terms and conditions of same.

Wolverine Tube, Inc.

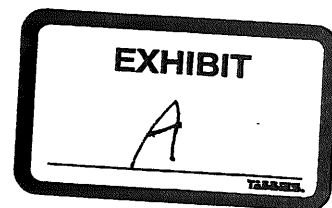
By: R. L. Campbell

Its: V. Pres. DECATUR OPERATIONS



James W. Warr, Director
Alabama Department of
Environmental Management

WOLVERINE TUBE, INC.
NPDES & SID PERMIT LIMITATIONS



NPDES PERMIT

OUTFALLS DSN001 & DSN002

<u>Parameter</u>	<u>Units</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Monthly Avg.</u>
Flow	MGD	---	monitor	monitor
pH	s.u.	6.0	9.0	---
Oil & Grease	mg/l	---	15.0	10.0
Total Residual Chlorine	mg/l	---	0.019	0.011
Temperature	°F	---	86.0	86.0
Bromodichloromethane	mg/l	---	0.006	0.003
Toluene	mg/l	---	10.1	6.8
1,1,1-Trichloroethane	mg/l	---	0.20	0.20
Trichloroethylene	mg/l	---	0.054	0.027

OUTFALL DSN003

<u>Parameter</u>	<u>Units</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Monthly Avg.</u>
Flow	MGD	---	monitor	monitor
pH	s.u.	6.0	9.0	---
Oil & Grease	mg/l	---	15.0	10.0
Total Residual Chlorine	mg/l	---	0.019	0.011
Temperature	°F	---	86.0	86.0
Bromodichloromethane	mg/l	---	0.006	0.003
Toluene	mg/l	---	10.1	6.8
1,1,1-Trichloroethane	mg/l	---	0.20	0.20
Trichloroethylene	mg/l	---	0.054	0.027

SID PERMIT—OUTFALL DSN004

<u>Parameter</u>	<u>Units</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Monthly Avg.</u>
Flow	MGD	---	monitor	monitor
pH	s.u.	6.0	9.0	---
Chromium, Total	lbs/day	---	1.07	0.44
Cyanide, Total	lbs/day	---	0.001	0.0004
Copper, Total	lbs/day	---	4.61	2.43
Lead, Total	lbs/day	---	0.36	0.31
Nickel, Total	lbs/day	---	4.65	3.08
Zinc, Total	lbs/day	---	3.54	1.35
Total Toxic Organics	lbs/day	---	1.58	0.82
Aluminum, Total	lbs/day	---	monitor	monitor
Iron, Total	lbs/day	---	monitor	monitor
Biochemical Oxygen Demand	lbs/day	---	monitor	monitor
Total Suspended Solids	lbs/day	---	monitor	monitor
Sulfates	lbs/day	---	monitor	monitor
Oil & Grease	lbs/day	---	monitor	monitor

WOLVERINE TUBE, INC.
FINAL REVISED PERMIT VIOLATION LIST
MAY 25, 1994



002	3/92	pH	9.3
003	4/92	Total Residual Chlorine	0.33
001	5/92	Trichloroethylene	0.094
002	6/92	1,1,1-Trichloroethane	0.910
002	7/92	1,1,1-Trichloroethane	0.259
004	7/92	Total Toxic Organics	2.57
001	9/92	Temperature	89.0
002	9/92	Temperature	92.0
001	10/92	Total Residual Chlorine	0.43
002	10/92	Total Residual Chlorine	0.10
001	1/93	1,1,1-Trichloroethane	0.222
002	1/93	Trichloroethylene	0.078
001	2/93	pH	1 day no report
002	2/93	pH	1 day no report
001	3/93	Trichloroethylene	0.065, 0.134, 0.198, 0.056
003	3/93	pH	2 days no report
001	4/93	pH	1 days no report
001	4/93	Oil & Grease	16.0
001	4/93	1,1,1-Trichloroethane	0.211
001	4/93	Trichloroethylene	0.075
002	4/93	pH	1 day no report
003	4/93	pH	2 days no report
001	5/93	Temperature	88.0, 87.0
001	5/93	1,1,1-Trichloroethane	0.409
001	5/93	Trichloroethylene	0.087, 0.085
002	5/93	1,1,1-Trichloroethane	0.060, 0.026, 0.026
001	6/93	pH	1 day no report
001	6/93	Oil & Grease	18.0
001	6/93	1,1,1-Trichloroethane	0.235
001	6/93	Trichloroethylene	0.094, 0.062, 0.089
001	8/93	Trichloroethylene	0.089
002	8/93	1,1,1-Trichloroethane	0.223
002	8/93	Trichloroethylene	0.220, 0.126
002	9/93	Trichloroethylene	0.170, 0.0205, 0.080
002	10/93	1,1,1-Trichloroethane	0.272, 0.255
002	10/93	Trichloroethylene	0.261, 0.227, 0.094
001	11/93	pH	failed to report
001	11/93	chlorine	0.05, 0.05
002	11/93	pH	failed to report twice
002	11/93	oil & grease	36.0
002	11/93	chlorine	0.04
002	11/93	Trichloroethylene	0.175, 0.125, 0.055, 0.65
002	12/93	pH	5.2 s.u.
001	01/94	chlorine	0.33, 0.29 daily max., 0.04 monthly avg
002	01/94	Trichloroethylene	0.125, 0.100, 0.118, 0.171, 0.706 daily max, 0.111 monthly avg

WOLVERINE TUBE, INC.
FINAL REVISED PERMIT VIOLATION LIST
MAY 25, 1994

Outfall	Date	Parameter	Reported Value
003	01/94	oil & grease	17.0
003	01/94	chlorine	0.31
002	02/94	oil & grease	20.0
002	02/94	Trichloroethylene	0.105, 0.094, 0.073, 0.456, 0.349, 0.200 daily max, 0.114 monthly avg
002	02/94	1,1,1-Trichloroethane	0.525, 0.410
001	03/94	Trichloroethylene	0.172, 0.170, 0.130, 0.070, 0.196, 0.150 daily max
002	03/94	Trichloroethylene	0.188, 0.056, 0.065, 0.156 daily max, 0.048 monthly avg
001	03/94	1,1,1-Trichloroethane	0.239
001	03/94	Oil & Grease	18.0
003	03/94	all parameters	1 day no report