

**BEFORE THE BOARD OF COMMISSIONERS OF THE
METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO,)	
)	
Complainant,)	Case No. 24B-001
)	
v.)	Show Cause Proceedings Under
)	Sewage & Waste Control Ordinance
CHICAGO MAGNESIUM CASTING COMPANY,)	
)	
)	Hearing Officer: Andrea D. Bonds,
)	Esq.
Respondent.)	

AGREED ORDER OF SETTLEMENT

This matter comes before the assigned Hearing Officer, Andrea D. Bonds, by agreement of Complainant Metropolitan Water Reclamation District of Greater Chicago ("District"), through its General Counsel Susan T. Morakalis, and Respondent Chicago Magnesium Casting Company ("Chicago Magnesium"), through its attorneys William J. Anaya and Thadford A. Felton with the law firm of UB Greensfelder LLP (collectively, the "Parties"), with due notice having been given and Hearing Officer Bonds being fully advised in the premises.

I. STIPULATION OF FACTS

This stipulation of facts and jurisdiction is made and agreed upon for purposes of providing factual and jurisdictional bases for entry of this Agreed Order of Settlement ("Agreed Order").

A. Parties and Background

1. The District is a body corporate and politic organized and existing under the laws of the State of Illinois for the purpose of collecting and treating sewage and industrial wastes, protecting the waterways, and reducing instances of flooding for its service area covering most of Cook County, Illinois. *See* 70 ILCS 2605/1, et seq.

2. At all relevant times, Chicago Magnesium was:

- a) An Illinois corporation, organized and existing under the laws of the State of Illinois, engaged in the business of metal finishing at its facility located at 14101 South Seeley Avenue, Blue Island, Illinois ("Facility"). The Facility is located within the District's service area.
- b) A categorical Significant Industrial User ("SIU"), as defined under Article II of the District's Sewage & Waste Control Ordinance ("SWCO"), subject to the categorical pretreatment standards contained in Appendix C, Article III, Sections 1 (Categorical Standards) and 2 (Compliance Determination) of the SWCO, which mandate compliance with federal categorical pretreatment standards applicable to the Metal Finishing Point Source Category (40 CFR 433).
- c) Authorized to, and has, discharged process wastewater from the Facility to a sewerage system tributary to the District's water reclamation facilities pursuant to a current valid Discharge Authorization ("DA") issued by the District for the Facility.
- d) Subject to Appendix B, Section 1 of the SWCO (Pollutant Concentration Limits ("Local Limits")) for discharges of process wastewater from the Facility to a sewerage system tributary to the District's water reclamation facilities.
- e) Subject to Appendix C, Article I, Section 2 of the SWCO (Compliance Schedule), which makes it unlawful for any SIU to continue discharging process wastewater to a sewerage system under the District's jurisdiction if the Executive Director has found the person to be in violation of the SWCO pursuant to any Cease & Desist Order ("C&D") or amended C&D issued by the District, or that fails to comply with any compliance schedule submitted by the SIU to the District in response to any C&D issued by the District.
- f) Subject to Appendix D, Section 1 of the SWCO (Discharge Authorizations), which makes it unlawful for any SIU to cause or allow the discharge of process wastewater into the sewerage system under the District's jurisdiction unless such SIU is in conformance with all terms and special conditions of a current valid DA, and Section 8, which authorizes the District's Executive Director to order any person or entity that fails to comply with a C&D issued by the District to show cause why the DA should not be revoked.

3. The DA is known as Industrial User Discharge Authorization No. 12988-1 thru No. 12988-6 (as renewed).

4. The DA authorizes the discharge of process wastewater from the Facility to a sewerage system tributary to the District's water reclamation facilities, subject to the terms and special conditions of the DA and any written renewal thereof subsequently issued by the District.

5. The DA authorizes sampling at the Facility from sampling point 2C, which is an outdoor manhole located on the west side of the Facility.

6. Special Condition 3 of the DA (Effluent Limits) provides:

The wastewater discharges at the indicated sampling points shall not exceed the following local limits at any time. The wastewater discharges at the indicated sampling points shall not exceed the following federal effluent limits in any sample representative of a 24-hour daily discharge. Failure to maintain compliance with these limitations is considered a violation of this [DA] and the [SWCO].

The Local Limits and federal categorical pretreatment standards are specified therein. The Local Limits are identical to the limits set forth in Appendix B, Section 1 of the SWCO, including the local limit pertaining to Zinc of 15.0 mg/L. The federal categorical limits under the DA pertaining to Zinc are 2.61 mg/L for the daily maximum and 1.48 mg/L for the monthly average.

B. Jurisdiction over Show Cause Proceedings

7. Jurisdiction over these proceedings exists pursuant to Article VI, Section 3 of the SWCO (Administrative Proceedings, Proceedings for Show Cause).

8. Each C&D or amended C&D referenced below was served by U.S. Certified Mail on Chicago Magnesium on or about the date of issuance.

9. On June 28, 2024, the District filed with the District's Clerk a two-count Show Cause Complaint against Chicago Magnesium for violations of the DA's daily maximum effluent limit for Zinc of 2.61 mg/L and its monthly average effluent limit for Zinc of 1.48 mg/L pertaining to wastewater discharges from the Facility into a sewerage system tributary to the District's water reclamation facilities based on sampling events occurring between May 2022 to October 2023.

10. The Show Cause Complaint notified and ordered Chicago Magnesium to show cause before a Board of Commissioners ("Board") appointed Hearing Officer on why it has not complied with the C&Ds issued by the District and why the DA should not be revoked.

C. Chicago Magnesium's Violations of the SWCO

11. The Show Cause Complaint alleges violations of the SWCO based on the following four (4) C&Ds and one (1) amended C&D:

- a) C&D No. 96997 issued on or about July 12, 2022, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by the District in May 2022
- b) C&D No. 97413, issued on or about December 8, 2022, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by the District in October and November 2022
- c) Amended C&D No. 97413, referenced as EA No. 97935, issued on or about June 23, 2023, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by Chicago Magnesium in November 2022, but not self-reported until June 2023
- d) C&D No. 97906, issued on or about June 16, 2023, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by Chicago Magnesium in May 2023
- e) C&D No. 98321, issued on or about November 22, 2023, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by the District in September and October 2023

12. Additional sampling and testing of the Facility's process wastewater occurring after the District filed the Show Cause Complaint has resulted in the issuance of the following C&D:

- a) C&D No. 98611 issued on or about April 18, 2024, for effluent violations of excessive concentrations of Zinc based upon the analytical results of samples collected by the District in February and March 2024

13. The only C&D's that have been issued are those referenced in paragraphs 11 and 12 above and there are no known additional violations, as of July 24, 2024, beyond those identified in this Agreed Order.

14. True and correct copies of the aforementioned C&Ds and the amended C&D were served by the District on Chicago Magnesium by U.S. Certified Mail in accordance with the SWCO.

15. Each of the effluent violations for Zinc referenced in Paragraphs I(C)(11) and (12) above was based upon samples of process wastewater taken from the Facility's sampling point by the District and/or Chicago Magnesium, and subsequently tested in an accredited lab.

16. Chicago Magnesium neither disputes, nor contests, the analytical results memorialized in each C&D and amended C&D attached to the Show Cause Complaint and the C&D stated in Paragraph I(C)(12) above indicating that on the day(s) sampled that the Facility's discharged process wastewater did in each instance exceed the DA's daily maximum effluent limit for Zinc of 2.61 mg/L where indicated and its monthly average effluent limit for Zinc of 1.48 mg/L where indicated.

II. HEARING OFFICER'S FINDINGS AND ORDERS

Hearing Officer Bonds has jurisdiction over the subject matter herein and over the Parties and having considered the stipulated facts set forth above and being otherwise fully advised in the premises, finds the following relief appropriate.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

A. Payment of Civil Penalties and Outstanding Noncompliance Enforcement Charges

1. Subject to Board approval of the Agreed Order and pursuant to Article VI, Sections 3(e) and 5 of the SWCO, Chicago Magnesium shall pay \$12,000.00.00 to the District in satisfaction of all civil penalties sought by the District in these proceedings for the SWCO violations listed above. Nothing contained in this Paragraph shall excuse, diminish or offset any amounts owed by Chicago Magnesium in the future related to new C&Ds for Noncompliance Enforcement Charges

("NCEs") and Late Filing Fees under the SWCO and assessed User Charges (including penalties and interest) under the District's User Charge Ordinance.

2. Chicago Magnesium shall also pay all outstanding NCEs assessed by the District against Chicago Magnesium, currently in the total amount of \$20,000.00.

3. Chicago Magnesium shall also pay up to a maximum of \$3,000.00 for court reporter costs and hearing officer fees as allowed under Article VI, Section 5 of the SWCO ("Reimbursable Costs").

4. Payment of the \$32,000.00 plus Reimbursable Costs, shall be made no later than five (5) business days after the date that the Agreed Order is approved by the Board ("Date of Board Approval").

5. Payment can be submitted by one of the following methods:

a) Via paper checks mailed to:

MWRD
PO Box 95089
Chicago, IL 60694-5089

b) Online through the following link:

<https://mwrld.org/form/user-charge-payment?fnm=&lnm=&email=&dtl=>

c) Direct ACH

Bank Name: BMO Harris Bank NA
ABA Routing #: 0710 0028 8
Account Title: Metropolitan Water Reclamation District of Greater Chicago
Account Subtitle: Lockbox
Account #: 3306719

B. Compliance Period

6. Chicago Magnesium shall exercise all reasonable due diligence in performing any necessary upgrades to the Facility's pretreatment system to ensure that exceedances are eliminated.

7. No later than September 30, 2024, Chicago Magnesium shall have a full-time designated person possessing a valid IEPA Class K Operators License onsite during regular business hours and/or shall have a person with a valid IEPA Class K Operators License on retainer who will provide direct and active field supervision of all pretreatment facilities to ensure they are functioning properly and that all necessary chemicals are being supplied. Additional Chicago Magnesium staff shall be trained on the operation of the Facility's wastewater treatment system for operational redundancy during Chicago Magnesium's regular business hours.

8. Chicago Magnesium shall complete all necessary upgrades to the Facility's pretreatment system required to comply with the DA's daily maximum and monthly average effluent of zinc no later than September 30, 2024, and provide the District with monthly progress reports during this compliance period due on the first Friday of each month clearly showing the milestones achieved in the pretreatment system upgrades with an ultimate objective of bringing Chicago Magnesium into compliance with the SWCO.

9. Chicago Magnesium shall sample and test its process wastewater in accordance with the SWCO's standards and frequency and submit all the samples/results to the District for review, including during this Compliance Period. Nothing in this Paragraph shall limit or restrict in any way the District's right to sample and test the Facility's process wastewater consistent with the SWCO.

10. Should the analytical results of sampling and testing performed by either party after the Date of Board Approval of the Agreed Order but before the Compliance Period lapses show any discharge of Facility process wastewater exceeding the DA's daily maximum effluent limit for Zinc of 2.61 mg/L or its monthly average effluent limit for Zinc of 1.48 mg/L or any DA effluent limit exceedance, including Local Limits, resulting in the issuance by the District of a C&D or amended C&D, Chicago Magnesium shall promptly pay to the District the assessed NCE,

which is currently \$5,000.00 for each newly issued C&D (Initial), \$10,000.00 for each newly issued C&D (Recurring) and \$500.00 for each Amendment to a C&D under the SWCO. For purposes of this Paragraph, promptly means no later than 30 calendar days after the date of issuance of each such C&D.

11. Chicago Magnesium shall provide District staff with access to the Facility upon request during regular business hours for purposes of inspecting the Facility's process wastewater and pretreatment facilities and determining compliance with the Agreed Order.

12. The Compliance Date of September 30, 2024, supersedes any other compliance date(s) for the C&Ds referenced in paragraphs 11 and 12 of Section I.

C. Post-Compliance Period Effluent Violations

13. After the Compliance Period has lapsed, should the analytical results of sampling and testing performed by either party show any discharge of Facility process wastewater exceeding the DA's daily maximum effluent limit for Zinc of 2.61 mg/L or its monthly average effluent limit for Zinc of 1.48 mg/L or any DA effluent limit, including Local Limits, exceedance resulting in the issuance by the District of a C&D or amended C&D, Chicago Magnesium shall promptly pay to the District: a) the assessed NCE, consistent with the SWCO, which is currently \$5,000.00 for each newly issued C&D (Initial), \$10,000.00 for each newly issued C&D (Recurring) and \$500.00 for each Amendment to a C&D under the SWCO; and b) a civil penalty in the amount of \$2,000.00 for each documented day of effluent violation(s), with a regulatory multiple day average that exceeds acceptable limits constituting a separate day of offense. For purposes of this Paragraph, promptly means no later than 30 calendar days after the date of issuance of each such C&D or Amended C&D.

D. Board Review and Approval of the Agreed Order

14. If the Board does not approve the Agreed Order, the District shall promptly file a motion to reinstate the Show Cause Complaint, which shall include a date agreed to by the Parties

for the Formal Show Cause Hearing, with proper notice to Chicago Magnesium. Upon reinstatement and approval of such new date by Hearing Officer Bonds, the District shall promptly file and serve a Notice of Formal Show Cause Hearing specifying the date of the hearing. Nothing in this Agreed Order shall constitute an admission or statement against interest by either Party in the event the Board does not approve this Agreed Order.

15. If the Board approves the Agreed Order, it will automatically become a binding and enforceable final order, with Hearing Officer Bonds, or her successor, retaining jurisdiction of this matter to consider any motion by any party for the purposes of enforcing the terms of this Agreed Order.

E. Reinstatement after Board Approval of the Agreed Order

16. Hearing Officer Bonds, or her successor, shall retain jurisdiction to enforce the terms of the Agreed Order for a period of 18 months following the Date of Board Approval.

17. During such time, the District shall have leave to reinstate this case for the limited purpose of seeking to revoke the DA in the event that: a) Chicago Magnesium fails to pay the \$32,000.00 in civil penalties and NCEs, plus Reimbursable Costs in the time period provided in Paragraph II(A) above; and/or b) after the Compliance Period has lapsed, any Facility discharge exceeds the DA's daily maximum effluent limit for Zinc of 2.61 mg/L or its monthly average effluent limit for Zinc of 1.48 mg/L or any DA effluent limit, including Local Limits

18. In the event this case is reinstated as provided above, Chicago Magnesium waives all rights to contest the underlying effluent violations memorialized in each C&D and amended C&D attached to the Show Cause Complaint and the C&D stated in Paragraph I(C)(12) above indicating that the Facility's discharged process wastewater did in each instance exceed the DA's daily maximum effluent limit for Zinc of 2.61 mg/L where indicated and its monthly average effluent limit for Zinc of 1.48 mg/L where indicated.

19. Reinstatement of this case shall under no circumstances excuse Chicago Magnesium from performing all of its obligations under the Agreed Order, including payment of \$32,000.00 in civil penalties and outstanding NCEs, and payment of Reimbursable Costs, in the time period provided in Paragraph II(A) above, the NCEs provided in Paragraph II(B)(10) above and the NCEs and civil penalties provided in Paragraph II(C)(13) above.

20. Chicago Magnesium shall have leave to file a motion in this case to contest any sampling and testing data from the District that form the basis of any effluent violation resulting in the imposition of any new NCEs and/or civil penalties assessed by the District pursuant to Paragraphs II(B)(10) and II(C)(13) above. There is a rebuttable presumption that such data is valid and accurately reflects the effluent violations detected. No legal challenge of any effluent violation will be considered, and is forever waived, unless the motion to contest is filed with the District's Clerk within thirty (30) calendar days of Chicago Magnesium's receipt of written notice of the violation from the District, whether by issuance of a C&D, Amended C&D, or other written notice from the District.

F. Notice and Submittals

21. Except for payments, service of any notice or other documentation as required or otherwise provided under the Agreed Order shall be upon the following designated representatives by First Class U.S. Mail and by email if an email address is provided below:

As to the District:

Alexander J. O'Connor
Senior Attorney
Metropolitan Water Reclamation District of Greater Chicago
100 East Erie Street, 3rd Floor
Chicago, IL 60611
oonnora@mwrd.org

As to Chicago Magnesium:

Mr. Robert Littlefield
President
Chicago Magnesium Casting Co.
14101 South Seeley Avenue
Blue Island, Illinois 60406

With a copy to:

Thadford A. Felton, Esq.
UB Greensfelder LLP
200 West Madison Street, Suite 3300
Chicago, IL 60606-3607
TFelton@ubglaw.com

G. Failure to Insist on Performance Shall Not Constitute Waiver

22. If the District fails to insist on the performance or partial performance by Chicago Magnesium of any act or requirement contained in the Agreed Order, it shall not constitute a waiver by the District of any kind, nor shall it release Chicago Magnesium from its duty to satisfy all present and future obligations arising under the Agreed Order in their entirety. Any such instance shall be construed strictly in the District's favor and shall not estop the District from enforcing any provisions of the Agreed Order. Chicago Magnesium agrees that if it violates any terms of the Agreed Order, no waiver by the District of its right to take advantage of such violation shall constitute a waiver of any other obligations under the Agreed Order.

H. Execution of the Agreed Order

23. The Agreed Order may be executed by the Parties and Hearing Officer Bonds in one or more counterparts, all of which taken together shall constitute the same instrument. The Agreed Order may also be executed and accepted by facsimile signature and any such signature shall be of the same force and effect as an original signature. The undersigned representatives for each of the Parties certify that they are fully authorized by the party whom they represent to enter the terms and conditions of the Agreed Order and to legally bind them to it.

WHEREFORE, the Parties, by their undersigned representatives, enter this Agreed Order of Settlement and submit it to Hearing Officer Bonds so that it may be signed by her, then submitted to the District's Board of Commissioners for approval.

AGREED BY:

Complainant METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, a body corporate and politic

By: Susan T. Morakalis
Susan T. Morakalis, General Counsel

DATE: _____

Respondent CHICAGO MAGNESIUM CASTING COMPANY, an Illinois corporation

By: _____
Robert Littlefield, President

DATE: _____

Approved By: _____
Thadford A. Felton, Esq.

DATE: _____

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AGREED BY:

Complainant METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, a body corporate and politic

By: _____
Susan T. Morakalis, General Counsel

DATE: _____

Respondent CHICAGO MAGNESIUM CASTING COMPANY, an Illinois corporation


By: _____
Robert Littlefield, President

DATE: 8-27-24

Approved By: _____
Thadford A. Felton, Esq.

DATE: 8-27-24

ENTERED:


Andrea D. Bonds, Hearing Officer

DATE:

9/6/24

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