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ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director

NORTH CAROLINA
Environmental Quality

CERTIFIED MAIL 7021 0350 0000 1637 5769
RETURN RECEIPT REQUESTED

August 24, 2021

Kobus De Wet
American Zinc Products LLC
484 Hicks Grove Rd
Mooresboro, NC 28114

Subject: **NOTICE OF VIOLATION/NOTICE OF INTENT TO ENFORCE**
Tracking Number: **NOV-2021-SS-0015 (BIMS Inc. #202101792)**
Permit No. NC0089109
American Zinc Products, LLC
Rutherford County

Dear Permitee:

On July 30, 2021, the Division of Water Resources (DWR) visited your facility in response to notification that a release of low pH solution was occurring from a breach in the raffinate pond liner. The low pH solution had impacted groundwater and/or subsurface soils in the area of the raffinate pond. DWR staff assessed surface water located closest to the area of impact: an unnamed tributary to the Broad River arrived onsite. It is unclear when the discharge to the unnamed tributary to the Broad River began and the rate of discharge throughout the release period. Surface water sampling of the unnamed tributary indicated multiple instances of a pH of approximately 4.1, significantly below surface water standards.

Violations

As a result of the above-referenced release, the following violations are noted:

(1) Unlawful Discharge
(2) Discharge or Intermixing of Waste Without a Permit
(3) Oil Pollution and Hazardous Substances Control Act – Unlawful Discharge

Violation 1. Unlawful Discharge

G.S. 143-215.1 (a) - "Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in that permit.

(1) "Make any outlet into the Waters of the State."

Violation 2. Discharge or Intermixing of Waste Without a Permit

G.S. 143-215.1 (a) - "Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in that permit.

(6) "Cause or permit any waste, directly or indirectly, to be discharged to or in any manner intermixed with the waters of the State in violation of the water quality standards applicable to the assigned classifications or in violation of any effluent standards or limitations established for any point source, unless allowed as a condition of any permit, special order or other appropriate instrument issued or entered into by the Commission under the provisions of this Article."

- Violation of Water Quality Standards: 15A NCAC 02B.0211 (14)
  "pH: shall be between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;"

  As referenced above, pH in the affected unnamed tributary was approximately 4.1

Violation 3. Oil Pollution and Hazardous Substances Control Act – Unlawful Discharge
G.S. 143-215.83 – states that "It shall be unlawful, except as otherwise provided in this Part, for any person to discharge, or cause to be discharged, oil or other hazardous substances into or upon any waters, tidal flats, beaches, or lands within this State, or into any sewer, surface water drain or other waters that drain into the waters of this State, regardless of the fault of the person having control over the oil or other hazardous substances, or regardless of whether the discharge was the result of intentional or negligent conduct, accident or other cause."

Required Response
This Office requests that you respond to this letter in writing within 10 days of receipt of this Notice. Your response should be sent to this Office at the letterhead address. Your response should address the following items:

1. Please submit a report assessing the cause, significance, and extent of the release. The report should contain details of the estimated quantity of solution released (i.e., amount of product loss, estimated discharge rate to groundwater, etc.), conditions under which the solution was released and chemical composition of the solution. Please include specific details as to why secondary containment and spill prevention measures failed during the release. You are to include a narrative describing the operational condition of the containment structures (i.e., raffiante pond liner system) prior to and during the release. You are to identify other areas within the plant with similar liner systems as well as providing a narrative describing in detail the construction specifications of liner systems at the facility. You are also to submit a timeline of events associated with the release (i.e., time discharge first observed, time discharge to Broad River observed, notification times, etc.).

2. Please submit a plan listing all actions you will take to prevent future releases including any enhancements to containment structures, changes in operation and maintenance of existing containment structures or how similar liner systems will be evaluated for integrity. Your comments should address but are not limited to the following issues: spill response plan, preventative maintenance, monitoring of liner system integrity, etc.

Fines may be imposed under NCGS 143-215.6A(a)(1) of not more than $25,000 per violation of any classification, standard, limitation or management practice established pursuant to G.S. 143-214.1. Additional action may include the issuance of a special order against you under the authority of G.S. 143-215.2, or a request to the Attorney General to institute an action for injunctive relief. If any failure to act is continuous, penalties may be assessed not to exceed a maximum penalty of $25,000 per day per violation under NCGS 143-215.6A (b) so long as the violation continues. Your response to this correspondence will be considered **in any civil penalty assessment process that may occur.**

This office requires that the violations, as detailed above, be abated immediately and properly resolved. Thank you for your attention to this matter. This Office is considering sending a recommendation for enforcement to the Director of the Division of Water Resources regarding these issues and any future/continued violations that may be encountered.

If you have any question regarding this Notice, please feel free to contact me direct at 828-296-4680 or via email at landon.davidson@ncdenr.gov.

Sincerely,

DocuSigned by:
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G. Landon Davidson, P.G., Regional Supervisor
Water Quality Regional Operations Section
Asheville Regional Office
Division of Water Resources, NCDEQ

Ec: Charles Howell, Environmental Manager
Brent Burch, Jeff Menzel –NCDEQ DWM HWS
Stan Aiken – NCDEQ DEMLR