

**STATE OF TENNESSEE  
AIR POLLUTION CONTROL BOARD**

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF AIR POLLUTION CONTROL</b>
	)	
	)	
<b>AZZ GALVANIZING - CHATTANOOGA LLC,</b>	)	
	)	
	)	
<b>RESPONDENT.</b>	)	<b>CASE NO. APC22-0146</b>

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**TECHNICAL SECRETARY’S ORDER AND  
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

**PARTIES**

**I.**

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board (“Board”) and Director of the Division of Air Pollution Control (“Division”), Department of Environment and Conservation (“Department”).

**II.**

AZZ Galvanizing - Chattanooga LLC (“Respondent”) is a domestic limited liability company authorized to do business in the State of Tennessee. The Respondent’s facility address is 1535 Industrial Boulevard, Jasper, Tennessee 37347. The Respondent’s registered agent for service of process is C T Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919-5546.

**AUTHORITY**

**III.**

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 (“Act”), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, (“Rules”). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue

an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

**IV.**

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

**V.**

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

**VI.**

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

**FACTS**

**VII.**

On September 6, 2016, the Technical Secretary issued operating permit number 071868 (“Permit 071868”), (facility 58-0083), to Tennessee Galvanizing, Inc. for a steel galvanizing operation consisting of two molten zinc kettles with two natural gas fired heaters, two associated chromate quench tanks with one natural gas fired boiler. On July 19, 2019, the Technical Secretary amended Permit 071868 for a change in ownership from Tennessee Galvanizing, Inc. to the Respondent.

**VIII.**

Condition 4 of Permit 071868 states, in pertinent part:

The maximum mass rate of galvanized product output for this source shall not exceed 11,500 lb/hr (5.75 tons/hr) on a daily average basis. The total mass rate of galvanized product output shall include the rate at which product is galvanized in both the primary 42’ Kettle and the secondary 18’ Kettle.

**IX.**

On July 21, 2022, Division personnel conducted an inspection of Respondent's facility. During this inspection, Division personnel reviewed onsite records from June 2020 through June 2022 and discovered that the mass rate of galvanized product output limit was 13,163 pounds per hour on April 1, 2021, and 13,792 pounds per hour on August 14, 2021.

**X.**

On August 8, 2022, the Division issued a Notice of Violation to the Respondent for exceeding the maximum mass rate of galvanized product output of 11,500 pounds per hour on a daily average basis.

**VIOLATIONS**

**XI.**

By failing to comply with condition 4 of Permit 071868, the Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

**ORDER AND ASSESSMENT OF CIVIL PENALTY**

**XII.**

The Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Treasurer, State of Tennessee  
Division of Fiscal Services - Consolidated Fees Section  
Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower, 10<sup>th</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty. The case number, APC22-0146, should be clearly written on all correspondence.

### **RESERVATION OF RIGHTS**

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

### **NOTICE OF RIGHTS**

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation  
c/o Jenny L. Howard, General Counsel  
Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower, 2<sup>nd</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

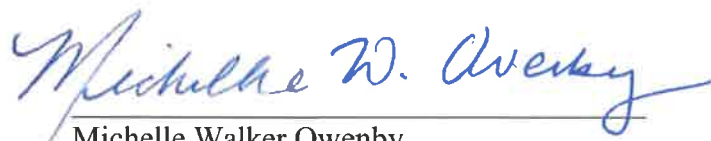
At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control  
Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower, 15<sup>th</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC22-0146, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on May 4, 2023.



Michelle Walker Owenby  
Technical Secretary  
Air Pollution Control Board

Reviewed by:



Grant LeMaster Ruhl

BPR # 036182  
Associate Counsel  
Department of Environment and Conservation  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) 313-5682  
Grant.Ruhl@tn.gov

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Knoxville, TN 37919-5546

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Tennessee Dept. of Environment & Conservation  
Division of Air Pollution Control  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 15th Floor  
Nashville, TN 37243

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300 Montvue Road  
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Reference Information

APC22-0146 / vom

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Label #5 (OPTIONAL)

Tennessee Dept. of Environment & Conservation  
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Nashville, TN 37243

Label #6 - Return Receipt Barcode (Sender's Record)



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1. Article Addressed to:

C T Corporation System  
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2. Certified Mail (Form 3800) Article Number

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 Addressee

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