



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
*Governor*

Brian C. Rockensuess  
*Commissioner*

January 31, 2023

### **VIA ELECTRONIC MAIL:**

Douglass Carson, President  
BWI Indiana, Inc.  
3100 Research Drive, STE 240  
Dayton, OH 45420  
[doug.carson@bwigroup.com](mailto:doug.carson@bwigroup.com)

Re: Commissioner of the Department of  
Environmental Management  
v.  
BWI Indiana, Inc.  
Plant ID No. 059-00044  
Greenfield, Hancock County  
Case No. 2019-26659-A

**Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.**

Dear Mr. Carson:

Enclosed please find the proposed Agreed Order that provides for the actions required to correct the violations outlined in IDEM's Notice of Violation issued to you in the above referenced case dated October 18, 2022. The civil penalty noted in the proposed Agreed Order is for settlement purposes only. Entering into and timely compliance with the enclosed Agreed Order will constitute resolution of this case.

If you are willing to resolve this matter as provided for in the enclosed Agreed Order, sign and return it to me at the address specified in the Agreed Order within fifteen (15) days of your receipt of the Agreed Order. The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. If you would like to schedule a meeting to discuss the Agreed Order in more detail, please contact me as soon as possible at 317-232-8412 or [LHayhurs@idem.in.gov](mailto:LHayhurs@idem.in.gov).

If this matter cannot be resolved through the enclosed Agreed Order or a mutually acceptable amended Agreed Order, a Commissioner's Order may be issued. It should be understood that the civil penalty for purposes of a Commissioner's Order will be assessed pursuant to IDEM's Civil Penalty Policy adopted as a Nonrule Policy Document on April 5, 1999.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Lisa Ward". The signature is written in a cursive, flowing style.

Lisa Ward  
Case Manager  
Enforcement Section  
Office of Air Quality

Enclosure

cc: Gregory Dronen, BWI Group, Inc., greg.dronen@bwigroup.com  
Matthew Neumann, Krieg DeVault, LLP, mneumann@kdlegal.com  
Joseph VanCamp, BCA Environmental Consultants, LLC,  
jvancamp@bcaconsultants.com  
Lisa Ward, Compliance and Enforcement Branch, OAQ  
Cristopher Cissell, Compliance and Enforcement Branch, OAQ  
Valerie Tachtiris, Office of Legal Counsel



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STATE OF INDIANA                    ) SS:     BEFORE THE INDIANA DEPARTMENT OF  
  )  
COUNTY OF MARION                )           ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT    )  
OF ENVIRONMENTAL MANAGEMENT,    )  
  )  
  ) Complainant,    )  
  )  
  ) v.                )  
  ) Case No. 2019-26659-A  
  )  
BWI INDIANA, INC.,                    )  
  )  
  ) Respondent.    )

**AGREED ORDER**

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code ("IC") 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

**I. FINDINGS OF FACT**

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is BWI Indiana, Inc. ("Respondent"), which owns and operates the stationary chromium electroplating and e-coating facility with Plant ID No. 059-00044, located at 989 Opportunity Parkway, in Greenfield, Hancock County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.



4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") on October 18, 2022, via Certified and Electronic Mail to:

Douglass Carson, President  
BWI Indiana, Inc.  
3100 Research Drive  
STE 240  
Dayton, OH 45420

CT Corporation System,  
Registered Agent  
334 North Senate Avenue  
Indianapolis, IN 46204  
wkuslawdept @wolterskluwer.com

5. During an investigation including an inspection on November 4, 2019 conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Minor Source Operating Permit ("MSOP") 059-39582-00044, issued April 26, 2018 and MSOP 059-40885-00044, issued February 7, 2019 ("Permits"), Condition E.2.2, and 40 CFR 63.343(c)(5)(ii), Respondent is required to operate and maintain any affected source subject to the requirements of this subpart, including all associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. In this case, all air pollution control equipment means that while using a wetting agent Respondent shall maintain the surface tension of the solution at or below 33 dynes per centimeter ("dynes/cm") when using a tensiometer, or 40 dynes/cm when using a stalagmometer in order to minimize emissions.

Respondent operated the chrome electroplating tanks while using a measurement instrument that was not approved for measuring the surface tension of the chrome bath, identified as a "bubble tensiometer" from September 5, 2018 to August 21, 2019, in violation of Permit Condition E.2.2 and 40 CFR 63.343(c)(5)(ii). The bubble tensiometer measurements showed that Respondent operated the chrome electroplating tanks with a surface tension greater than 40 dynes/cm during this period on at least 41 dates.

- b. Pursuant to Minor Source Operating Permit ("MSOP") 059-39582-00044, issued April 26, 2018 and MSOP 059-40885-00044, issued February 7, 2019 ("Permits"), Condition E.2.2, and 40 CFR 63.342(c)(1)(iii), Respondent is required to operate and maintain any affected source subject to the requirements of this subpart, including all associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. In this case, all air pollution control equipment means that while using a wetting agent Respondent shall maintain the surface tension of the solution at or below 33 dynes per centimeter ("dynes/cm") when using a tensiometer, or 40 dynes/cm when using a stalagmometer in order to minimize emissions.

Respondent operated the chrome electroplating tanks with a surface tension of greater than 40 dynes/cm when using a bubble tensiometer or a stalagmometer on various dates from August 22, 2019 to October 24, 2019, and Respondent operated the chrome electroplating tanks with a surface tension greater than 33 dynes/cm when using a tensiometer on various dates

from October 25, 2019 to February 4, 2020, in violation of Permit Condition E.2.2 and 40 CFR 63.342(c)(1)(iii).

- c. Pursuant to Permits Condition E.2.2, 40 CFR 63.346(b)(8), and 40 CFR 63.346(b)(13), Respondent is required to record the total process operating time of the chrome electroplating tanks, and for sources using wetting agents or fume suppressants to comply with the standards, to record the dates, and times when the surface tension measurements are made and the wetting agents are added to the chrome electroplating tanks.

Respondent failed to maintain records of the exact times the surface tension measurements were made or the wetting agents were added to the chrome electroplating tanks from September 5, 2018 to November 4, 2019, in violation of Permits Condition E.2.2, 40 CFR 63.346(b)(8), and 40 CFR 63.346(b)(13).

- d. Pursuant to Permit Condition E.2.2, and 40 CFR 63.346(b)(11), Respondent is required to maintain records of the total process operating time of the chrome electroplating tanks.

Respondent failed to maintain records of the total process operating time for the chrome electroplating tanks from September 5, 2018 to November 4, 2019, in violation of Permit Condition E.2.2, and 40 CFR 63.346(b)(11).

- e. Pursuant to Permit Condition E.2.2, and 40 CFR 63.346(c), Respondent is required to maintain all records required by this subpart for a period of five (5) years.

Respondent failed to maintain all records required by this subpart as listed in the violations above from September 5, 2018 to November 4, 2019, in violation of Permit Condition E.2.2, and 40 CFR 63.346(c).

- f. Pursuant to 326 IAC 2-6.1-6, Respondent shall submit a permit application prior to the construction of new or the modification of existing emissions units.

Respondent constructed and operated emissions units in 2018 prior to applying for and receiving the appropriate permit, in violation of 326 IAC 2-6.1-6.

6. Respondent submitted a permit application on October 22, 2019, and received MSOP Minor Permit Revision 059-42100-00044, issued on December 9, 2019, to address the unpermitted units constructed in 2018.
7. Respondent submitted a permit application on November 7, 2022, which is being processed as Registration 059-46011-00044, which removes the chrome plating process.

8. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with the rules and permit conditions listed in the findings of fact above.
3. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Lisa Ward, Enforcement Case Manager  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
LHayhurs@idem.in.gov

4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Fourteen Thousand Four Hundred Dollars (\$14,400.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management  
Accounts Receivable  
IGCN, Room 1340  
100 North Senate Avenue  
Indianapolis, IN 46204

6. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.

7. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
8. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
9. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
10. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
11. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
12. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
13. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
14. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the violations specified in the NOV.
15. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
16. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

TECHNICAL RECOMMENDATION:  
Department of Environmental  
Management

By: David P. McIver

David P. McIver  
Section Chief  
Enforcement Section  
Office of Air Quality

Date: January 20, 2023

RESPONDENT:  
BWI Indiana, Inc.

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNSEL FOR RESPONDENT:

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_\_\_.

For the Commissioner:

\_\_\_\_\_  
Matthew Stuckey  
Assistant Commissioner  
Office of Air Quality  
Indiana Department of Environmental  
Management

**From:** [Doug Carson](#)  
**To:** [ROBERTS, GOLDIE](#)  
**Cc:** [HAYHURST, LISA](#); [gregdronen@bwigroup.com](mailto:gregdronen@bwigroup.com); [mneumann@kdlegal.com](mailto:mneumann@kdlegal.com); [Joe VanCamp](#); [Cissell, Christopher](#); [McIver, David](#); [Tachtiris, Valerie](#)  
**Subject:** RE: BWI Indiana, Inc. (#26659-A) Revised Proposed Agreed Order  
**Date:** Tuesday, January 31, 2023 2:46:02 PM

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\*\*\*\* This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\*

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Dear Goldie,

On behalf of BWI I confirm receipt of the reviewed PAO.

Warmest regards,

Doug

Doug Carson  
SVP  
BWI Group  
3100 Research Blvd  
Kettering, OH 45429

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**From:** ROBERTS, GOLDIE <GROBERTS@idem.IN.gov>  
**Sent:** Tuesday, January 31, 2023 9:55 AM  
**To:** Doug Carson <doug.carson@bwigroup.com>  
**Cc:** HAYHURST, LISA <LHAYHURS@idem.IN.gov>; [gregdronen@bwigroup.com](mailto:gregdronen@bwigroup.com); [mneumann@kdlegal.com](mailto:mneumann@kdlegal.com); [jvancamp@bcaconsultants.com](mailto:jvancamp@bcaconsultants.com); [Cissell, Christopher](#) <CCissell@idem.IN.gov>; [McIver, David](#) <DMcIver@idem.IN.gov>; [Tachtiris, Valerie](#) <VTachtir@idem.IN.gov>  
**Subject:** BWI Indiana, Inc. (#26659-A) Revised Proposed Agreed Order

You don't often get email from [groberts@idem.in.gov](mailto:groberts@idem.in.gov). [Learn why this is important](#)

Please find attached a PDF copy of the Revised Proposed Agreed Order issued for BWI Indiana, Inc., Hancock County, IN – Air Enforcement Case #2019-26659-A.  
Please contact Lisa Ward at (317) 232-8412 or [lhayhurs@idem.in.gov](mailto:lhayhurs@idem.in.gov) with any questions.

Please confirm your receipt of this electronic document.

Thank you

**Goldie Roberts**