

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:

SOUTHERN WOOD CHIPS, INC.
Jasper, Walker County, Alabama

ADEM Air Facility ID No. 414-S008

CONSENT ORDER No. 95-039-CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 through 22-22A-16, Code of Alabama (1975), as amended; the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended; and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Alabama Department of Environmental Management (hereinafter, the "Department") makes the following FINDINGS:

1. Southern Wood Chips, Inc., an Alabama corporation, is the owner and/or operator of a wood-chip mill located on Old Russellville Road in Jasper, Walker County, Alabama, operating under the authority of ADEM Air Permits No. 414-S008-X001 and 414-S008-X002, issued February 22, 1993. Said permits authorize the construction and operation of two (2) 29 MMBTU/Hr bark-fired boilers, subject to certain terms, limitations and conditions.

2. The Alabama Department of Environmental Management is a duly constituted agency of the State of Alabama pursuant to §§22-22A-1 through 22-22A-16, Code of Alabama (1975), as amended.

3. Pursuant to §22-22A-4(n), Code of Alabama (1975), as amended, the Department is the state air pollution control agency for purposes of the federal Clean Air Act, 12 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended.

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4. Pursuant to ADEM Admin. Code R. 335-3-4-.01(1)(a), no person shall discharge into the atmosphere from any source of emission any air contaminant of an equivalent opacity greater than that designated as twenty percent (20%) opacity, as determined by a six (6) minute average.

5. Pursuant to ADEM Admin. Code R. 335-3-4-.08(2)(d), no person shall cause or permit the emission of particulate matter in excess of 0.20 grains per standard dry cubic foot, adjusted to fifty percent (50%) excess air for boilers burning wood waste only.

6. Pursuant to ADEM Admin. Code R. 335-3-1-.04, the Department exercises discretionary authority to require the owner or operator of any air contaminant source to sample air emissions in accordance with such methods, intervals and procedures as the Director may prescribe.

7. On March 24, 1994, pursuant to the discretionary authority of ADEM Admin. Code R. 335-3-1-.04, the Department notified Southern Wood Chips, Inc. that testing of the two boilers would be required on a quarterly basis following the emissions tests performed on Mary 7 and 8, 1994.

8. On August 8, 1994, the Department issued a Notice of Violation ("NOV") to Southern Wood Chips, Inc. citing the failure to conduct quarterly emissions tests in violation of the March 24, 1994 directive and ADEM Admin. Code R. 335-3-1-.04.

9. On September 8, 1994, a particulate emissions test (EPA Reference Method 5) conducted on Unit No. 414-S008-X001 indicated an average emission rate of 0.23 gr/dscf, adjusted to 50% air, in violation of ADEM Admin. Code R. 335-3-4-.08(2)(d).

10. On September 8, 1994, a visible emissions test (EPA Reference Method 9) conducted on Unit No. 414-S008-X001 indicated an opacity of 21%, 22%, 23% and 23%, as determined by a six-minute average, in violation of ADEM Admin. Code R. 335-3-4-.01(1)(a).

11. On November 28, 1994, the Department issued a NOV to Southern Wood Chips, Inc. citing the September 8, 1994, violations of the particulate and visible emission standards.

12. On December 14, 1994, representatives of Southern Wood Chips, Inc. met with Department staff and presented information outlining the causes contributing to the above

violations, and the response actions taken by Southern Wood Chip, Inc. to prevent future occurrences.

13. Southern Wood Chips, Inc. neither admits nor denies the Findings contained in this consent order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, Southern Wood Chips consents to the terms of this Order.

14. The Department agrees to this Order upon a determination that the terms contained herein are in the best interests of the citizens of the State of Alabama in resolving the cited allegations.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama (1975), as amended, and with the consent of Southern Wood Chips, Inc., it is hereby ORDERED:

A. That there is hereby assessed a civil penalty against Southern Wood Chips, Inc. in the amount of One Thousand Dollars (\$1,000.00) to be paid to the Alabama Department of Environmental Management within 30 days of issuance of this Order.

B. That on or before March 31, 1995, Southern Wood Chips, Inc. shall conduct a test for particulate emissions (EPA Reference Method 5) and a test for visible emissions (EPA Reference Method 9) on boiler units 414-S008-X001 and 414-S008-X002. Results shall be submitted to the Department upon receipt by Southern Wood Chips, Inc. If said results indicate particulate emissions of .19 grains or less per standard dry cubic foot, adjusted to fifty percent excess air, Southern Wood Chips shall be relieved of its present obligation to conduct quarterly testing and reporting.

C. 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 on behalf of the party represented and to legally bind such party.

D. That subject to the terms contained herein and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violations cited in this Order, all NOV's cited hereinabove, and all compliance issues between the ADEM Air Division and Southern Wood Chips, Inc. as of the date of this Order.

E. That Southern Wood Chips, Inc. is not relieved from any liability if it fails to comply with any provision of this Consent Order.

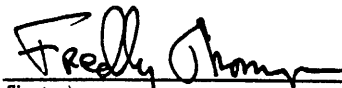
F. That for purposes of this Order only, Southern Wood Chips, Inc. agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including but not limited to the Circuit Court of Montgomery County, Alabama. Southern Wood Chips further agrees that in any action

brought by the Department to compel compliance with the terms of this Order, Southern Wood Chips, Inc. shall be limited to the defenses of Force Majeure, compliance with this Consent Order and physical impossibility.

G That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning Southern Wood Chips, Inc. 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 Southern Wood Chips, Inc. shall not object to such future Orders, litigation or enforcement action based on the issuance of this Consent Order.

H. By agreement of the parties, this Order shall be considered final and effective immediately upon execution by the Director. This Consent Order shall not be appealable, and Southern Wood Chips, Inc. does hereby waive any hearing on the terms and conditions contained herein.

ORDERED and ISSUED this 31st day of January, 1995.



(Signature)

Freddy Thompson President

(Print Name and Title of Authorized Officer)

Southern Wood Chips, Inc.



John M. Smith, Director
Alabama Department of Environmental
Management