

ALABAMA DEPARTMENT
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

WELLBORN CABINET, INC.)

CLAY COUNTY)

ASHLAND, ALABAMA)

CONSENT ORDER NO. 96-005-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, 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. Wellborn Cabinet, Inc. (hereinafter "Wellborn") operates a sawmill and wooden cabinet-making facility in Ashland, Clay County, Alabama (Air Division facility number 304-S008). The plant is located on State Highway 77 South in Ashland, Alabama.

2. The Alabama Department of Environmental Management is a duly constituted department 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, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through

ISSUED 11/6/95	<i>Executed</i> SERVED 11/6/95
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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.

I.
RECORDKEEPING PROBLEMS

4. The Department issued Wellborn permits nos. 304-S008-Z002, 304-S008-Z003, 304-S008-Z007, and 304-S008-Z008 on September 17, 1992 and permits nos. 304-S008-Z005 and 304-S008-Z006 on June 11, 1992. These permits were for Wellborn's coating lines.

5. Provisos No. 8 of permits nos. 304-S008-Z002, 304-S008-Z003, 304-S008-Z005, 304-S008-Z006 and 304-S008-Z007 and Proviso No. 10 of permit No. 304-S008-Z008 contain language that states that Wellborn must maintain in permanent form accurate and understandable records of its emission of VOCs. The provisos also required that the records be maintained in a manner that they could be inspected and available upon request.

6. Departmental personnel inspected the facility on August 29, 1994 and it was discovered that VOC emission records for the months of March 1994 to July 1994 were not available.

7. On October 21, 1994, the Department sent a Notice of Violation (NOV) to Wellborn for failure to maintain VOC emission records as required in its facility's permits.

8. On November 4, 1994, Wellborn responded to the aforementioned NOV.

II.
CYCLONE PROBLEMS

9. ADEM Admin. Code R. 335-3-4-.01 states that visible emissions from stationary sources are limited to one (1) six minute period in any sixty (60) minute period of an opacity greater than twenty percent (20%), but not greater than forty percent (40%). After that,

emissions from that same source may not exceed an opacity greater than twenty percent (20%) during a six minute average.

10. During an Air Division inspection on November 21, 1991, Department personnel observed visible emissions from the cyclone atop the fuel storage silo that were hovering around the twenty percent (20%) opacity level. The Department's inspector noted to Wellborn personnel that it was apparent that the facility had a problem that needed to be addressed.

11. During Air Division inspections on July 30, 1993, May 13, 1994, and July 21, 1994, the cyclone was observed also with excessive emissions emanating from the silo. The incident on July 21, 1994, persisted for over 30 minutes and a visible emissions observation conducted by the Air Division representative indicated visible emissions with opacities as high as 60%.

12. On August 12, 1994, the Department sent Wellborn a letter describing the problems noted in finding number 11 and asked Wellborn to provide the Department with a compliance schedule by August 26, 1994 that would outline the corrective action Wellborn would initiate at the facility.

13. In the meantime, on August 29, 1994, a Department representative made an inspection of Wellborn. A visible emission observation was taken and the cyclone showed an exceedance of the aforementioned 20% opacity standard of 31%.

14. During the August 29, 1994 inspection, Jody East of Wellborn stated that Wellborn had a purchase agreement with Foust Metal Works, Inc., and that a new baghouse would be connected to the cyclone and operational by November 1, 1994.

15. On September 14, 1994, Wellborn responded to the Department's August 12, 1994 letter. In its response, Wellborn asked for an extension until November 30, 1994 to complete the installation of the baghouse connection due to weather delays.

16. Shortly thereafter, Wellborn submitted a letter on October 15, 1994 stating that the facility wanted to install an additional dust silo to increase capacity and possibly install another wood waste boiler. It stated that these new changes would modify the design of the dust system and delay completion until December 31, 1994.

17. On October 21, 1994 the Department sent Wellborn an NOV for the visible emission observation that was taken during the August 29, 1994 inspection.

18. Department representatives made inspections of Wellborn on November 22, 1994 and January 30, 1995. During both inspections the baghouse was still not connected and the inspector noted that the cyclone silo was emitting approximately 50% opacity on both occasions.

19. On March 20, 1995, the Department sent Wellborn an NOV for its failure to meet the compliance schedule that had earlier been submitted to the Department.

20. On March 28, 1995, Wellborn responded to the Department's NOV. In it, Wellborn stated that the baghouse installation was completed on March 26, 1995.

III. BOILER PROBLEMS

21. On March 1, 1994, Wellborn was issued a permit for the 15.0 MMBtu/hr Wood Gasification Boiler with Multiclone (304-S008-X010). In the Department's letter that accompanied the Wellborn's permit, it cautioned Wellborn that wood waste boilers with Multiclone for particulate control historically have found it difficult to consistently maintain

compliance with the particulate emission standard of 0.17 grains per standard dry cubic foot (gr./dscf) adjusted to fifty percent (50%) excess air.

22. ADEM Admin. Code R. 335-3-4-.08(2)(a) states that combination gas and wood waste boilers are limited to 0.17 gr./dscf, adjusted to fifty percent (50%) excess air.

23. On August 29, 1994, a Departmental representative made an inspection of Wellborn cabinets. The boiler showed that the aforementioned opacity standard of 20% opacity was exceeded with the highest six minute average being 27% opacity.

24. The Department sent Wellborn an NOV for violating ADEM Admin. Code R. 335-3-4-.01 (i.e., the 20% opacity standard) on October 21, 1994. In that NOV, the Department requested that Wellborn test for particulates according to EPA Method 5 and opacity in accordance with EPA Method 9 within 60 days of the date of the letter.

25. On January 30, 1995, Department representatives attended the Method 5 and Method 9 test at Wellborn.

26. The Department sent Wellborn an NOV on March 20, 1995 for its failure to test the boiler by the required date. This NOV also cited that the results of this test, which were required to be submitted within 15 days of the test as stated in proviso No. 16 of the applicable air permit, had not been received by the Department.

27. On March 30, 1995, the Department received the results of the January 30, 1995 test. This test showed that the boiler emitted particulate matter at the rate of 0.1766 gr./dscf adjusted to 50% excess air.

28. The Department sent Wellborn an NOV for exceeding the allowable particulate emission limit for the boiler on April 13, 1995.

IV.
PSD PROBLEMS

29. Wellborn submitted an incomplete application for a preconstruction Prevention of Significant Deterioration (PSD) permit for several coating lines on July 29, 1994.

30. On June 15, 1995, Department personnel made an inspection of Wellborn and discovered that construction of the coating lines had commenced. The building has been constructed and sheet metal installed for its proposed overhead line (Line No. 8) and its Flat line (Line No. 9). The sprinkler system for these lines was being installed during the inspection. Wellborn was warned not to continue construction until it received a PSD permit.

31. ADEM Admin. Code R. 335-3-14-.04(8)(a) states that actual construction for a major stationary source or a major modification to major stationary source is prohibited unless the provisions requiring a PSD permit have been complied with by the facility.

32. On June 28, 1995, the Department sent Wellborn an NOV for construction without a PSD permit.

33. Wellborn agrees with the Findings presented in this consent order, and, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Air Pollution Control Act, Wellborn has consented to the terms of this Order.

34. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

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 Wellborn it is hereby ORDERED:

A. That Wellborn will operate its facility in such a manner so as to ensure that the facility is in compliance with ADEM Admin. Code 335-3 and all applicable air permits.

B. That there is hereby assessed a civil penalty against Wellborn in the amount of \$20,000 for the violations detailed in this Order, to be paid to the Alabama Department of Environmental Management within 30 days of receipt of this Order.

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, to execute the Consent Order on behalf of the party represented and to legally bind such party.

D. That subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Order.

E. That Wellborn is not relieved from any liability if it fails to comply with any provision of the Consent Order.

F. That for purposes of this Order only, Wellborn 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, Montgomery County Circuit Court. Wellborn also agrees that in any action brought by the Department to compel compliance with the


terms of this Agreement, Wellborn shall be limited to the defenses of Force Majeure, compliance with this Agreement and physical impossibility.

G. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Order, 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 Wellborn shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

H. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 6th day of November, 1995.

WELLBORN CABINET, INC.


(Signature)

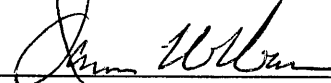
PAUL WELLBORN

Please Print Name

PRESIDENT

Title of Authorized Officer

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


James W. Warr, Acting Director