

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
WIREGRASS CONSTRUCTION
COMPANY, INC.
FACILITY NO. 604-0010

ORDER NO. 90-084-AP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, §22-22A-1 et seq., Code of Alabama 1975, as amended, and the Alabama Air Pollution Control Act, §22-28-1 et seq., Code of Alabama 1975, as amended, the Alabama Department of Environmental Management (hereinafter, the "Department") makes the following FINDINGS OF FACT:

1. Wiregrass Construction Company operates an asphaltic concrete plant in Dale County, Alabama. Under the authority of §22-28-16(a), Code of Alabama 1975, the Department issued Air Permit No. 604-0010-2001 to Wiregrass Construction Company on August 28, 1979. This permit authorized operation of an asphalt plant (150 TPH) with baghouse.

2. On March 15, 1988, Wiregrass Construction Company violated ADEM Admin. Code R. 335-3-14-.01(1)(a) [formerly Section 16.1.1(a) (AACRR.) and Proviso No. 5 of its permit by allowing fugitive emissions to escape from the screen housing and from the area between the hot bins and the weigh box. On March 21, 1988, Wiregrass Construction Company was sent a letter requesting measures to eliminate the fugitive emissions immediately.

ISSUED	SERVED
3/8/90	3/9/90

3. On February 2, 1989, Wiregrass Construction Company violated ADEM Admin. Code R. 335-3-14-.01(1)(a) [formerly Section 16.1.1(a) (AACRR)] and Proviso No. 5 by allowing fugitive emissions to escape from the base of the weigh box. The plant operator stated that repairs would be made at the end of the day.

4. On August 16, 1989, Wiregrass Construction Company violated ADEM Admin. Code R. 335-3-4-.01(1) (a) and (b) [formerly Section 4.1.1 (a) and (b) (AACRR)], by discharging into the atmosphere from the baghouse stack gases which exhibited an opacity greater than 40 percent. The highest six (6) minute average was 69.5 percent opacity.

5. Also, on August 16, 1989, Wiregrass Construction Company violated ADEM Admin. Code R. 335-3-14-.01(1)(a) [formerly Section 16.1.1(a)(AACRR)] and Proviso No. 5 of its permit by allowing fugitive emissions to escape into the atmosphere from the top of the shaker screen, the weigh box, holes in the rotary dryer and seals from the burner end, and duct work above the fan housing.

6. On August 29, 1989, a Notice of Violation was issued for the violations that occurred on August 16, 1989. The NOV requested that a stack test be conducted by September 27, 1989 to determine compliance with the mass emission standard.

7. A response to the August 29, 1989 NOV was provided on September 20, 1989. The response indicated that repairs were being made to eliminate the emission problems. The letter requested that the stack test be waived if a Department

inspection subsequent to the completion of the repair program determined that the visible emission problem had been corrected.

8. On September 27, 1989, the Department responded by letter to Wiregrass' request by agreeing to conduct a subsequent inspection. The Department stated that if no visible emissions were observed, a stack test would not be necessary.

9. During an inspection on September 28, 1989, visible emissions were observed coming from the baghouse stack. A Wiregrass plant supervisor was present and confirmed that visible emissions were coming from the baghouse stack.

10. The Department requested in a letter dated October 3, 1989, that Wiregrass Construction Company perform a stack emissions test no later than October 31, 1989.

11. On October 25-26, 1989, Wiregrass Construction Company conducted a particulate emission test. Test results were submitted to the Department on November 8, 1989. An evaluation of the test results by the Department on December 5, 1989 revealed that the particulate emissions from the baghouse stack exceeded the allowable emission limit. An evaluation of the Visible Emission Observation Report conducted on October 26, 1989 revealed opacities of 26.46 percent and 26.40 percent, respectively for two six minute averages, which exceeded the applicable standard.

12. On December 12, 1989, a Notice of Violation was issued to Wiregrass Construction Company for violating ADEM Admin. Code R. 335-3-4-.04(1) [formerly Section 4.4.1 (AACRR)], on

October 25 and 26, 1989, by allowing the discharge of particulate emissions in excess of the 39.18 lb/hr emission limit, and for violating ADEM Admin. Code R. 335-3-4-.01(1)(a) [formerly Section 4.1.1(a) (AACRR)] by discharging into the atmosphere from the baghouse stack gases which exhibited an opacity of greater than 20 percent. The Notice of Violation requested that repairs to the baghouse be completed by December 15, 1989, that a subsequent stack test be conducted by December 31, 1989, and that the test results be submitted to the Department by January 15, 1990.

13. In response to a letter from Wiregrass Construction Company dated December 21, 1989, the Department granted an extension to the test date from December 31, 1989 to January 31, 1990. Also, another subsequent extension was granted and Wiregrass agreed to perform the aforementioned test on February 14, 1990.

14. The assessment of civil penalties for violations of the Department's Rules and Regulations, and for violations of any order, permit condition, license, certification or variance issued by the Department is authorized by §22-22A-5(18), Code of Alabama 1975, as amended. The statute also authorizes that the penalty amount may range from \$100.00 to \$25,000.00 for each violation, as long as the penalty amount does not exceed \$250,000.00 in any given Order. Each day a violation continues constitutes a separate violation. In addition to the foregoing "Findings of Fact" the Department has considered the factors detailed in the aforementioned penalty amount in this particular instance. Those factors are listed as follows:

(a) the seriousness of the violation, including any irreparable harm to the environment and any threat to the health and safety of the public;

(b) the standard of care manifested by Wiregrass;

(c) the economic benefit which delayed compliance may confer upon Wiregrass;

(d) the nature, extent and degree of success of Wiregrass' efforts to prevent the violation;

(e) Wiregrass' history of previous violations; and

(f) Wiregrass' ability to pay the assessed penalty.

ORDER

Based upon the foregoing FINDINGS OF FACT 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, it is hereby ORDERED:

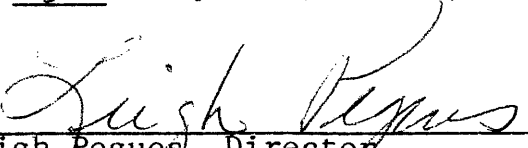
A. That, Wiregrass Construction Company shall maintain and operate its facilities in such a manner as to ensure compliance with all the Department's Air Division Rules and Regulations.

B. That there is hereby assessed a civil penalty against Wiregrass Construction Company in the amount of \$5,000.00, 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 the failure of Wiregrass Construction Company to comply with any of the provisions of this Order shall constitute cause for the commencement of legal or other appropriate enforcement action for the recovery of civil

penalties, criminal fines, or other appropriate relief by the Department or others against Wiregrass Construction Company.

ORDERED and ISSUED this 8th day of March, 1990.



Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7855

CERTIFICATE OF SERVICE

I, Tommy E. Bryan, hereby certify that I have served the foregoing proposed Administrative Order No. 90-084-AP upon Wiregrass Construction Company by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 873 074 699, with instructions to forward and return receipt requested to:

Henry J. Harper, President
Wiregrass Construction Company
1107 Rucker Boulevard, Suite 10
Post Office Box 1657
Enterprise, Alabama 36331-1657

DONE this 8th day of March, 1990.


Tommy E. Bryan