

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF)
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)

MOBILE ROSIN OIL COMPANY, INC.)
NPDES PERMIT NUMBER AL0027502)
_____)

ORDER NO. 00-202-CWP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama 1975, §22-22-1 through 22-22-14, as amended, and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter, "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, § 402, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. Mobile Rosin Oil Company, Inc. (hereinafter "the Permittee") operates a facility which utilizes products derived from the pine tree in the form of rosin, rosin oil and derivatives thereof. These products are blended and mixed to meet customer's specifications. Materials are brought into the plant by tank cars, tank wagons, or in drums. The materials are then pumped from storage tanks into process vessels where they are mixed and blended.

2. On July 20, 1998, the Department issued NPDES Permit Number AL0027502 to the Permittee authorizing the discharge of pollutants to Three Mile Creek, a water of the state, subject to certain terms, limitations and conditions. Three Mile Creek is classified as an Agricultural and Industrial Water Supply ("A&I") and is on the 303(d) list as being non-attainment for pH, dissolved oxygen, and nutrients.



3. The Permittee has an indirect discharge of process wastewaters to the Mobile Water Service System's Wright Smith (Three Mile Creek) POTW. This discharge has been determined by the Department to be insignificant in accordance with ADEM Administrative Rule 335-6-5-.04 and 335-6-5-.02(oo).

4. Part II A.2.c., Part II A.3., and Part IV B.1. of the permit requires that the Permittee implement Best Management Practices ("BMPs") to include spill prevention, control, and management for containment of process liquids or solids, in a manner such that these materials do not present a significant potential for discharge.

5. Part II A.2.b. of the permit requires Permittee to prepare, implement, and maintain a Spill Prevention, Control and Countermeasures ("SPCC") Plan in accordance with 40 C.F.R. Section 112 if required thereby.

6. On May 10, 2000, during a Compliance Evaluation Inspection ("CEI"), Department personnel observed that Permittee has failed to provide adequate BMPs in violation of its permit. Department personnel also observed that the Permittee has failed to implement an adequate SPCC in violation of its permit.

7. On May 30, 2000, a Notice of Violation was issued by the Department to the Permittee citing the violations discovered during the May 10, 2000 inspection.

8. Permittee's failure to provide adequate containment for "oil", as defined by EPA, by implementing an adequate SPCC plan is also a violation of 40 C.F.R. Part 112. The Permittee has previously violated these conditions as observed by Department personnel during inspections conducted on May 30, 1990 and September 25, 1991. Further, on June 29, 1992, the Department issued Administrative Order No. 92-135-WP to Permittee for similar violations. Part B of Administrative Order No. 92-135-WP requires the Permittee to take measures to clean up any

leaks or spills of process liquids and/or solids, either within process containment areas or elsewhere on the plant property immediately upon discovery of such leaks or spills. Part B of said order further provides that in no event should the clean-up of such materials commence more than 24 hours after discovery.

9. The Permittee has violated Administrative Order No. 92-135-WP by failing to take timely and appropriate measures to clean up leaks and spills of process liquids and/or solids.

10. During a meeting with Department personnel on July 26, 2000, the Permittee indicated that it had failed to obtain an NPDES Permit for boiler blowdown discharges in violation of ADEM Administrative Code R. 335-6-6-.03.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(c), 22-22-9(k), as amended, it is hereby ORDERED:

A. That within sixty (60) days after receipt of this Order, the Permittee shall submit a BMP Plan and an SPCC plan prepared by an Alabama Registered Professional Engineer. These plans shall include a schedule for implementation with the final implementation not to exceed 180 days.

B. That each and every day after the implementation of the plans, the Permittee shall maintain BMPs and SPCCs sufficient to prevent the potential for adverse impacts to the POTW as a result of process leaks or spills and to surface water and/or groundwater as a result of contaminated stormwater runoff or spills. That in no event should the clean up of leaks or spills commence more than 24 hours after discovery.

C. That within sixty (60) days after receipt of this Order, the Permittee shall have connected all boiler blowdown discharges to the sanitary sewer or shall submit a complete application for modification of the NPDES permit to include boiler blowdown discharges.

D. That within thirty (30) days after receipt of this Order, the Permittee shall pay to the Department a civil penalty in the amount of Four Thousand Dollars (\$4,000.00).

E. That this Consent Order shall apply to and be binding upon all 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.

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

G. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.


H. That for purposes of this Consent Order only, the Permittee agrees that the Department may properly bring action to compel compliance with the terms and conditions contained herein in the Circuit Court for Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms and conditions of this Consent Order, the Permittee shall be limited to the defenses of Force Majeure, compliance with this Consent Order, and physical impossibility.

I. That this Consent Order does not preclude the Department from taking other enforcement actions based on the facts contained herein regarding violations of other regulatory

programs. Should additional facts and circumstances be discovered in the future concerning the Permittee which would constitute possible violations not addressed in this Consent 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 the Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.


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

ORDERED and ISSUED this 11th day of September, 2000.


(Signature)

Thomas J. Taylor IV
(Please Print Name and Title of Authorized Officer)

Mobile Rosin Oil Company, Inc.


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