

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF  
MONSANTO CHEMICAL COMPANY  
DECATUR, ALABAMA  
FACILITY NO. 712-0010

ORDER NO. 90-048-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, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Monsanto Chemical Company (hereinafter "Monsanto") was issued an air permit for a 290 million BTU/Hr coal-fired boiler with electrostatic precipitator, Permit No. 712-0010-Z005 (#5 Boiler) on September 15, 1977, and another permit for a 320 million BTU/Hr coal-fired boiler with electrostatic urecipitator, Permit No. 712-0010-Z006 (#6 Boiler) on January 25, 1978.

2. On February 2, 1989, the Department reissued the aforementioned air permits (712-0010-Z005 and 712-0010-Z006) to include a provision for annual compliance testing for particulate emissions.

3. On April 4, 5 and 13, 1989, Monsanto conducted stack tests on the #5 and #6 Boilers. On May 13, 1989, the

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) Department evaluated Monsanto's stack test results and found that the #5 and #6 Boilers exceeded the particulate emissions limits during the testing.

4. On June 28, 1989, the Department issued a Notice of Violation based on the stack test results. Exceeding the particulate emissions limit is a violation of ADEM Admin. Code R. 335-3-4-.03(1) [formerly Section 4.3.1 (AACRR)].

5. On July 13, 1989, Monsanto submitted a schedule for boiler repairs and retesting of #5 Boiler and derating and retesting #6 Boiler. On August 10, 1989, in accordance with Monsanto's schedule, #5 Boiler was retested.

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) 6. On September 10, 1989, the Department evaluated Monsanto's stack test results and determined that the #5 Boiler had exceeded the particulate emissions limit during the August 10 testing.

7. After the stack test revealed the particulate emission limit violation, Monsanto furnished the Department with reasons the #5 Boiler exceeded the emission limit. Monsanto retested the boiler on September 14, 1989.

8. On October 12, 1989, the Department evaluated Monsanto's stack test results and found that the #5 Boiler exceeded the particulate emissions limit during the September 14 testing.

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) 9. On October 13, 1989, Monsanto proposed changing to a higher grade coal for the #5 Boiler and retesting the boiler within 30 days.

10. On September 19 and 20, 1989, Monsanto retested the #6 Boiler at reduced loads. On October 20, 1989, the Department evaluated Monsanto's stack test results and found the #6 Boiler to be in compliance at reduced loads.

11. On October 13, 1989 Monsanto proposed installing physical limitations on the #6 Boiler to reduce its capacity so that the #6 Boiler could meet applicable emission limits.

12. On November 9, 1989, Monsanto conducted an additional stack test on the #5 Boiler. On December 15, 1989, the Department evaluated the results of Monsanto's stack test and found the #5 Boiler to be in compliance.

13. On December 8, 1989, Monsanto completed the installation of physical limitations on the #6 Boiler, in accordance with the plan it submitted to the Department to limit the capacity of the #6 Boiler to 180,000 lb/hr of steam (calculated on a two hour average).

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 to \$25,000 for each violation, so long as the penalty amount does not exceed \$250,000 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 statute in determining the

) appropriate penalty amount in this particular instance. Those factors are listed as follows:

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

(b) the standard of care manifested by Monsanto;

(c) The economic benefit which delayed compliance may confer upon Monsanto;

(d) the nature, extent and degree of success of Monsanto's efforts to prevent violations;

(e) Monsanto's history of previous violations; and

(f) Monsanto's 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 a continuous opacity monitoring system shall be installed, calibrated, maintained, and operated as required by 40 CFR 60.13, within 240 days of the date of issuance of this Order on each of Boilers #4 (712-0010-Z004), #5 (712-0010-Z005) and #6 (712-0010-Z006). The location of each monitor shall receive approval from the Department before installation. Following installation, reporting of data gathered by these monitors shall be as required for the monitor presently installed on the common stack.  
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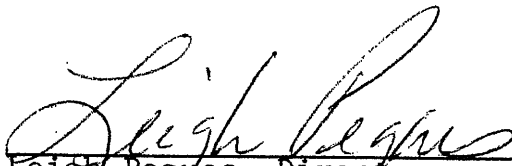
B. That the #6 Boiler shall comply with ADEM Admin. Code R. 335-3-4-.03(1) in accordance with the provisions of Permit No. 712-0010-Z006.

C. That Monsanto shall insure that the coal supply to the #5 Boiler is of a quality so that the #5 Boiler shall comply with ADEM Admin. Code R. 335-3-4-.03(1), in accordance with the provisions of Permit No. 712-0010-Z005.

D. That there is hereby assessed a civil penalty against Monsanto in the amount of \$40,000 to be paid to the Alabama Department of Environmental Management within 30 days of receipt of this ORDER.

E. That the failure of Monsanto Chemical 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 Monsanto Chemical Company.

ORDERED and ISSUED this 5th day of January, 1990.

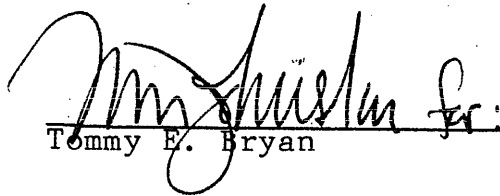
  
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Leigh Pegues, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W.L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7855

CERTIFICATE OF SERVICE

I, Tommy E. Bryan, hereby certify that I have served the foregoing Administrative Order No. 90-048-AP upon Monsanto Chemical Company by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 873 074 680, with instructions to forward and return receipt requested to:

Monsanto Chemical Company  
c/o The Corporation Company  
60 Commerce Street  
Montgomery, Alabama 36103

DONE this 5th day of January, 1990.

  
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Tommy E. Bryan