

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

In the Matter Of:

COUNTRY EXPRESSIONS, INC.

Double Springs, Winston County, Alabama)

Air Division Facility ID No. 713-0022

) **CONSENT ORDER NO. 03-108-CAP**

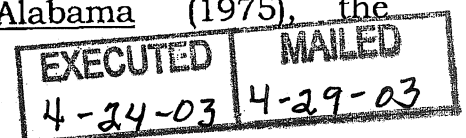
FINDINGS

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. **Country Expressions, Inc.** (hereinafter "Country Expressions") operates a wooden furniture manufacturing facility, Air Division Facility ID No. 713-0022, located at 28581 Highway 195, Double Springs, 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 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.

4. On March 20, 2001, the Department issued a Major Source Operating Permit (MSOP) to Country Expressions.

5. General Permit Proviso 12 of the MSOP states:

Compliance Certification

A compliance certification shall be submitted annually within 60 days of the date of issuance of this permit.

(a) The compliance certification shall include the following:

(1) The identification of each term or condition of this permit that is the basis of the certification:

(2) The compliance status:

(3) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with Rule 335-3-16-.05(c) (Monitoring and Record Keeping Requirements):

(4) Whether compliance has been continuous or intermittent:

(5) Such other facts as the Department may require to determine the compliance status of the source:

(b) The compliance certification shall be submitted to:

Alabama Department of
Environmental Management
Air Division

P.O. Box 301463
Montgomery, AL 36130-1463

And to:
Air and EPCRA Enforcement Branch

EPA Region IV
61 Forsyth Street, SW
Atlanta, GA 30303

6. On July 2, 2002, this Department received an Annual Compliance Statement, which certified that all sources were in compliance with its Major Source Operating Permit for the period from April 1, 2001, to March 31, 2002.

7. Section 4 of the MSOP states:

- 1) When operating, the cyclones shall be visually observed a minimum of once daily for greater than normal visible emissions as determined by previous observations.
- 2) Whenever observed visible emissions are greater than normal, corrective action to minimize emissions shall be taken within 24 hours followed by an additional observation to confirm that emissions are reduced to normal.
- 3) The cyclone shall be inspected for proper operation and cleaned at least annually and whenever observed emissions are greater than normal.

8. Section 5 of the MSOP states:

A log book of the daily visible observations required in Proviso 4.1 shall be retained for at least five years and available for inspection upon request. This log book should also include the nature and date of any maintenance actions taken to correct excess opacity episodes.

9. On November 28, 2002, an unannounced inspection was conducted by Department Personnel at Country Expressions and it was

discovered that the logbooks of the daily visible observations had not been kept or maintained.

10. On December 5, 2002, the Department issued a Notice of Violation (NOV) to Country Expressions for failure to perform required observations recordkeeping

11. The Department received a response to the December 5, 2002 NOV on December 16, 2002 from Country Expressions and it affirmed that the certification of annual compliance met the requirements of its MSOP. However, the response specifically noted that no logbooks were being maintained prior to its submission of the MSOP Annual Compliance Certification Statement on July 2, 2002.

12. Country Expressions neither agrees nor disagrees with the Findings presented in this Consent Order, but, in an effort to cooperate with the Department and to comply with the provisions of the Air Pollution Control Act, Country Expressions has consented to the terms of this Consent Order.

13. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Consent 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 Country Expressions, it is hereby ORDERED:

A. That not later than thirty (30) days after the effective date of this Consent Order, Country Expressions shall pay to the Department a civil penalty in the amount of Eighteen Thousand Dollars (\$18,000.00) for the violations cited herein.

B. That, immediately upon the effective date of this Consent Order and continuing thereafter, Country Expressions shall comply with all requirements of its MSOP and all Air Permits that have been issued to it by the Department.

C. 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 these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations cited herein.

E. That Country Expressions is not relieved from any liability if it fails to comply with any provision of this Consent Order.

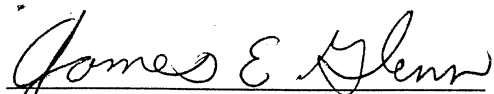
F. That, for purposes of this Consent Order only, Country Expressions agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Country Expressions also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Country Expressions shall be limited to the defenses of *Force Majeure*, compliance with this Agreement, and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of Country Expressions, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to be beyond the reasonable control of Country Expressions) and which delays or prevents performances by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state or local permits shall not constitute *Force Majeure*.

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 Consent Order, then such future violations shall be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Country Expressions shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future Orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

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

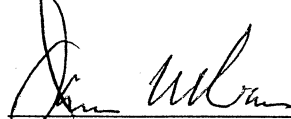
Country Expressions, Inc.


(Signature of Authorized Representative)

JAMES E GLENN, Pres.
(Printed Name and Title)

Date Signed: 4-17-03

**Alabama Department of
Environmental Management**


James W. Warr
Director

Date Signed: 24 April 2003