

ADEM



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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MONTGOMERY, ALABAMA

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JAMES W. WARR

DIRECTOR (Acting)

BOB RILEY

GOVERNOR

November 29, 2004

CERTIFIED MAIL NO. 7004 1160 0006 6053 5631
RETURN RECEIPT REQUESTED

Facsimiles: (334)
Administration: 271-7950
General Counsel: 304-4332
Air: 279-3044
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Water: 279-3051
Groundwater: 279-3631
Field Operations: 272-8131
Laboratory: 277-6718
Mining: 354-4328
Education/Outreach: 304-4383

Mr. Tim Douty
Assistant General Manager
Union Foundry Company
P O Box 309
Anniston, Alabama 36202

RE: Union Foundry Company
Consent Order 05-011-CAP

Dear Mr. Douty:

Please find enclosed ADEM Consent Order No. 05-011-CAP which requires Union Foundry Company to take certain actions in regard to alleged violations of the Alabama Air Pollution Control Act. This Order has been issued with the consent of Union Foundry Company and the Department. Please refer to Order Items A., C., and D. for the dates by which the monetary penalties must be paid.

If you have any questions concerning this matter, please contact Brad Williard at (334) 274-4157 in Montgomery.

Sincerely,

Ronald W. Gore, Chief
Air Division

Enclosure

cc: Olivia Rowell, Office of General Counsel



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

| | |
|-------------------------------------|----------------|
| _____) | |
| IN THE MATTER OF:) | |
|) | |
| UNION FOUNDRY COMPANY) | |
| ANNISTON, CALHOUN COUNTY, ALABAMA) | CONSENT ORDER |
|) | No. 05-011-CAP |
| AIR FACILITY I.D. NO. 301-0014) | |

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, and 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 hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. Union Foundry Company (hereinafter, Union Foundry) operates a gray and ductile iron foundry (Air Division Facility number 301-0014) in Anniston, Calhoun County, Alabama. The foundry is located at 1501 West 17th Street in Anniston, Alabama.

2. The Alabama Department of Environmental Management is a duly constituted agency 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), as amended, 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 6, 2002, the Department issued to Union Foundry Major Source Operating Permit (MSOP) No. 301-0014 which authorized operation of their gray and ductile iron foundry subject to certain conditions and limitations.

5. General Proviso No. 12 of the MSOP states:

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

a. The compliance certification shall include the following:

- i. The identification of each term or condition of this permit that is the basis of the certification;
- ii. The compliance status;
- iii. 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 Recordkeeping Requirements);
- iv. Whether compliance has been continuous or intermittent;
- v. Such other facts as the Department may require to determine the compliance status of the source;

6. General Proviso No. 21 of the MSOP states:

- a. Reports to the Department of any required monitoring shall be submitted at least every 6 months. All instances of deviations from permit requirements must be clearly identified in said

reports. All required reports must be certified by a responsible official consistent with Rule 335-3-16-.04(9).

- b. Deviations from permit requirements shall be reported within 48 hours or 2 working days of such deviations, including those attributable to upset conditions as defined in the permit. The report will include the probable cause of said deviations, and any corrective actions or preventive measures that were taken.

7. The Annual Compliance Certification for the period of March 6, 2002, to March 5, 2003, and the Semi-Annual Monitoring Report for the period of September 6, 2002, to March 5, 2003 were received by the Department on October 15, 2003. These reports were due within 60 days after the end of the reporting period, which was May 7, 2003.

8. In the MSOP, General Proviso No. 9 states that the responsible official must certify all required reports. Mr. Gary Vernon, Safety Manager, who is not the responsible official for Union Foundry, signed the reports.

9. In the MSOP, General Proviso No. 21 states that deviations from the permit requirements must be reported. This report should include the probable cause of any deviation(s), and any corrective actions or preventive measures that were taken. Deviations from the required Cupola Afterburner temperatures and exceedances in the Ductile Treatment periodic monitoring were noted, but no details as to the date, length of exceedence, and repair procedures were listed in either report.

10. Several events, such as cupola baghouse failures, cupola emergency shutdowns, and ductile treatment baghouse emergency shutdowns were reported to the Department by Union Foundry in a phone conversation. However, these events were not reported in either the Semi-Annual Monitoring Report or the Annual Compliance Certification.

11. On November 26, 2003, The Department received the Semi-Annual Monitoring Report for the period of March 6, 2003, to September 5, 2003. The deadline for receiving this report was November 6, 2003.

12. On January 7, 2004, the Department issued a Notice of Violation ("NOV") to Union Foundry for violating Proviso No. 12 and Proviso No. 21 of the Major Source Operating Permit.

13. Union Foundry responded to the January 7, 2004, NOV by letter, dated January 29, 2004, and explained that Union Foundry had taken measures to assure the Department that the future Semi-Annual Monitoring report and Annual Compliance Certification would be submitted in a timely manner. It was further stated that when Union Foundry prepared the Semi-Annual Monitoring Report, they were under the impression that "deviations from the permit requirements" should be reported when the deviation arose to the level of an exceedance under the terms of the permit. Union Foundry stated that, at the time of when the reports were due, Union Foundry was

restructuring its corporate personnel and the Environmental, Safety, and Health Manager signed the reports.

14. General Proviso No. 20(b) of the MSOP states:

Retention of records of all required monitoring data and support information of the source for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.

15. Union Foundry's MSOP requires that the facility shall monitor and record continuously the afterburner combustion zone temperature and combustion tuyere airflow for the Cupola.

16. During an inspection on February 3, 2004, Department Personnel inspected Union Foundry's Title V records. Union Foundry could not produce afterburner temperature records or combustion tuyere airflow records for the period of March 6, 2002 through March 6, 2003. Therefore, Union Foundry violated General Proviso No. 20(b) of the MSOP.

17. General Proviso No. 15(b) of the MSOP states:

In the event that there is a breakdown of equipment or upset of process in such a manner as to cause, or is expected to cause, increase of air contaminants which are above an applicable standard, the person responsible for such equipment shall notify the Director within 24 hours of the next working day and provide a statement giving all pertinent facts, including the estimated duration of breakdown. The director shall be notified when the breakdown has been corrected.

18. In the MSOP, Proviso No. 2 of the emissions standards for the 90" Cupola Furnace with Afterburner and Baghouse states:

Union Foundry shall not emit the carbon monoxide gases generated during the operation of a gray iron cupola unless they are burned at 1300°F for 0.3 seconds in a direct flame afterburner.

19. In the MSOP, Proviso No. 3 of the emissions monitoring for the DisaMatic Mold Line states:

Union Foundry Company shall perform a weekly inspection of the baghouse to verify proper operation. The following activities shall be performed.

- (a) Once per week check hopper, fan and cleaning cycle for proper operation.
- (b) Once per week a visual check of all hoods and ductwork.

20. A review of records obtained during the February 3, 2004, inspection revealed the afterburner temperatures for the month of April and May of 2003 were below 1300°F a significant amount of the operating time. Therefore, Union Foundry was in violation of Proviso No. 2 of the emission standards for the cupola. The Department was never notified of any of these deviations. Therefore, Union Foundry violated General Proviso 15(b) and 21(b) of the MSOP.

21. A review of the records obtained during the inspection on February 3, 2004, also indicated that several of the weekly inspection work orders were canceled for the Disamatic Mold Line from March 7, 2002 through December 19, 2003. The Department was not notified that these inspections were cancelled. Therefore Union violated General Proviso No. 21(b) and Proviso No. 3 of the emission monitoring for the Disamatic Mold Line of the MSOP.

22. The Annual Compliance Certification for March 6, 2002 through March 5, 2003, received by the Department on February 4, 2004, stated that some daily baghouse differential pressures were not documented on daily inspection reports. The Department was not notified of these deviations. Therefore, Union Foundry violated General Proviso 21(b) of the MSOP.

23. In the MSOP, Proviso No. 2 of the emissions monitoring for the cupola states:

Union Foundry Company shall perform a daily visual check of the 90" Cupola Charge Door. This check shall be performed by a person familiar with Method 9. If instantaneous visible emissions estimated in excess of 15% opacity are observed and are not corrected within a period of 1 hour, then Method 9 must be performed within 4 hours of the observations. Maintenance shall be performed as needed. Any repairs or observed problems shall be recorded.

24. The Annual Compliance Certification for March 6, 2002 through March 5, 2003, received by the Department on February 4, 2004, stated that visual checks of the charge door were not documented on daily inspections reports. Since there is no documentation of any observations of the charge door, the Department has no way of knowing that the observations were performed on the charge door of the cupola. Therefore, Union Foundry violated Proviso No. 2 of the emission monitoring for the cupola charge door.

25. In the MSOP, Proviso No. 3 of the emissions monitoring for the ductile treatment process states:

Once per day Union Foundry shall check the ductile capture hood for fugitive emissions capture. Any repairs or observed problems shall be recorded.

26. The Annual Compliance Certification for March 6, 2002 through March 5, 2003, received by the Department on February 4, 2004, stated that visual checks of the ductile treatment capture hood were not documented on daily inspections reports. Since there is no documentation of any observations of the capture hood, the Department has no way of knowing that the observations were performed on the capture hood of the ductile treatment. Therefore, Union Foundry violated Proviso No. 3 of the emission monitoring for the ductile treatment.

27. In the MSOP, General Proviso No. 19 states:

Any modifications to this source shall comply with the modification procedures in Rules 335-3-16-.13 or 335-3-16-.14.

28. Temporary Authorization to Operate for Air Permits 301-0014-X015, 301-0014-X017, 301-0014-X027 and 301-0014-X028 was issued on August 12, 2002. A request for the modification to the MSOP to include or revise the requirements for these sources should have been submitted to the Department before August 12, 2003. The Department received a revised Title V Operating Permit application from Union Foundry on February 20, 2004. Therefore, Union Foundry violated General Proviso No. 19 of the MSOP.

29. On April 5, 2004, the Department issued a Notice of Violation ("NOV") to Union Foundry for violating General Proviso No. 15(b), General Proviso No. 20(b),

General Proviso No. 21(b), General Proviso No. 19, Proviso No. 2 of the emission standards for the cupola, Proviso No. 3 of the emission monitoring for the ductile treatment process, and Proviso No. 3 of the emission monitoring for the Disamatic Mold Line of the MSOP.

30. Union Foundry responded to the April 5, 2004, NOV by letter, dated April 30, 2004. Union Foundry explained that it had taken measures to ensure the Department that the Afterburner temperature for the cupola will stay above the 1300°F requirement. These measures include an automatic feedback loop, along with necessary warning signals. In the event the temperature falls below 1300°F, the facility has taken measures to ensure that such an event is identified and properly reported to the Department. With respect to weekly baghouse inspections, Union Foundry explained that on some occasions, duplicate work orders for the same inspection were incidentally submitted, and one would subsequently be cancelled. Union Foundry readily acknowledges that a review of the work order documentation was confusing. Union Foundry has since implemented a new work order form for efficient inspection documentation, along with a checklist for the daily and weekly inspections to ensure all inspections are performed and documented. Union Foundry assured the Department that in the future, when modifying the existing Title V, the facility would submit the necessary applications to the Department in a timely manner. According to Union Foundry, facility personnel have since been trained concerning proper permitting procedures to follow for modifications to the existing source.

31. The Annual Compliance Certification for the period of March 6, 2003, to March 5, 2004, and Semi-Annual Monitoring Report for the period of September 6, 2003, to March 5, 2004 were received by the Department on May 5, 2004.

32. In the Annual Compliance Certification, Union Foundry reported "intermittent compliance", however, Union Foundry inconsistently certified "in compliance" with General Proviso No. 4. Compliance with this proviso should have been certified as "in compliance with exceptions".

33. In the Annual Compliance Certification, Union Foundry certified compliance with General Proviso No. 15. The compliance status with regard to General Proviso No. 15 should have been marked "in compliance with exceptions".

34. In the Annual Compliance Certification, Union Foundry also reported "in compliance with exceptions" with the requirement to perform daily visual observation of the cupola charge door and ductile treatment capture hood. The Semi-Annual Monitoring Report for the period of March 6, 2003 to September 5, 2003, showed no evidence that these tasks were performed. The Semi-Annual Monitoring Report for the period of September 6, 2003 to March 5, 2004, also stated there were no records to show that these tasks were performed. However, since that time, Union Foundry has found inspection records relating to the time period of February 6, 2004, through March 5, 2004, showing visual observation of the cupola charge door and ductile treatment capture hood. Union

Foundry should have reported "out of compliance" with the requirement to perform daily visual observations of the cupola charge door and ductile treatment capture hood.

35. In the Annual Compliance Certification, Union Foundry reported "in compliance" with the Emission Standard requirements for particulate matter for the ductile treatment. Since Union Foundry did not perform all the monitoring required, Union Foundry should have reported "in compliance with exceptions" with the Emission Standard requirements for particulate matter for the ductile treatment.

36. In the Annual Compliance Certification, Union Foundry reported "in compliance" with the Emission Standard requirements for EP003, EP005-EP008, and EP010-EP012. Union Foundry did not perform all the monitoring required; therefore, Union Foundry should have reported "in compliance with exceptions" with the Emission Standard requirements for those units.

37. On July 9, 2004, the Department issued a Notice of Violation ("NOV") to Union Foundry for Violating General Proviso No. 12.

38. Union Foundry responded to the July 9, 2004, NOV by letter, dated August 5, 2004, and explained that Union Foundry had found records showing that visual observations of the cupola charge door and ductile treatment capture hood had been performed during the time period of February 6, 2004, through March 5, 2004. Union Foundry submitted these inspection records to the Department under cover of the August

5, 2004, letter. Union Foundry stated that the facility has hired a consulting firm to provide oversight assistance in preparing the Major Source Operating Permits reports in the future, as necessary, to ensure that the problems will not persist.

39. Union Foundry 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 Alabama Air Pollution Control Act, Union Foundry agrees to the terms of this Consent Order.

40. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in the 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 Union Foundry, it is hereby ORDERED:

A. That not later than 45 days after the effective date of this Consent Order, Union Foundry shall pay to the Department a civil penalty in the amount of \$105,000 (One Hundred and Five Thousand Dollars) for the violations cited herein. In determining the penalty amount set forth herein, the Department considered the statutorily prescribed factors set forth at Code of Alabama (1975), §22-22A-5(18)(c), as amended. All penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashiers check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

B. 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.

C. That Union Foundry may avail itself of the opportunity to reduce the amount of the penalty referenced in Paragraph A above by receiving a credit of Thirty

Thousand Dollars (\$30,000) for appropriate expenditures related to a Supplemental Environmental Project ("SEP") which would include the following:

Union Foundry agrees to spend a minimum of Ninety Thousand Dollars (\$90,000) for a vacuum truck. The vacuum truck shall be purchased and shall be operating on site within six (6) months of the effective date of this Consent Order.

D. That, should Union Foundry perform the SEP referenced in Paragraph C above, Union Foundry shall submit to the Department certification of the cost of the vacuum truck within six (6) months of the effective date of this Consent Order. Within 45 days of the effective date of this Consent Order, Union Foundry shall submit payment of Seventy-Five Thousand Dollars (\$75,000) to the Department.

E. That if this documentation shows that Union Foundry has expended at least \$90,000 to complete the SEP, the Department will then offset the penalty assessed in Paragraph A of this Consent Order by \$30,000. Should the expenditures be less than \$90,000, the Department will notify Union Foundry of the remaining penalty due, and Union Foundry shall then pay the remaining penalty not later than 30 days after receipt of the notice of the amount due from the Department.

F. That, immediately upon implementation of the SEP, Union Foundry must operate the vacuum truck on production days and maintain the records of operation. The records must include the date of operation, time of operation, operator's name, and the parts of the plant where the vacuum truck was operated. These records must be kept for a minimum of five years following the date of generation.

G. That, immediately upon the effective date of this Consent Order, Union Foundry shall determine the cause of the violations cited herein and shall take all actions as are necessary to prevent reoccurrence of such violations.

H. That, Union Foundry shall comply with all provisions of the MSOP.

I. 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.

J. 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 or referenced in this Consent Order.

K. That Union Foundry is not relieved from any liability if it fails to comply with any provision of the Consent Order.

L. That, for purposes of this Consent Order only, Union Foundry 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. Union Foundry also agrees that, in any action brought by the Department to compel compliance with the terms of this Agreement, Union Foundry shall be limited to the defenses of *Force Majeure*, compliance with this Agreement, and physical impossibility.

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

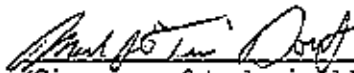
programs. Should additional facts and circumstances be discovered in the future concerning Union Foundry which would constitute possible violations not addressed in this Consent Order, or if the violations noted herein continue, then such future violations shall be addressed in orders or litigation initiated by the Department, or such other enforcement action as may be appropriate, and Union Foundry shall not object to such future orders, litigation or enforcement action based upon the issuance of this Consent Order.

N. That, by agreement of the parties, this Consent 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.

Executed in duplicate with each part being an original.

ORDERED and ISSUED this 29th day of Nov, 2004.

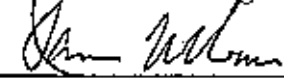
Union Foundry Company


(Signature of Authorized Representative)

Tim Doudy Assistant General Manager
(Printed Name and Title)

Date Signed: 11/17/2004

**Alabama Department of
Environmental Management**


James W. Warr
Agency Director

Date Signed: 29 Nov 2004