

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)
)
)

AMOCO CHEMICAL CO., INC.)
DECATUR, ALABAMA)
NPDES PERMIT NO. AL 0000108)
_____)

ORDER NO. 98-004-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 to -16, Code of Alabama 1975, as amended, the Alabama Water Pollution Control Act, §§ 22-22-1 to -14, Code of Alabama 1975, as amended, and the National Pollutant Discharge Elimination System ("NPDES") 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 § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Department makes the following FINDINGS:

1. Amoco Chemical Co., Inc., (hereinafter, "**Amoco**") owns and operates an organic chemical manufacturing facility (hereinafter, "the facility") located in Decatur, Morgan County, Alabama.

2. The Alabama Department of Environmental Management is a duly constituted department of the State of Alabama pursuant to §§ 22-22-A-1 through 22-22A-16, Code of Alabama 1975, as amended.

3. On July 19, 1993, the Department issued to **Amoco** a permit under the NPDES program identified NPDES Permit No. AL 0000108. The NPDES permit authorizes **Amoco's**

executed mailed
11/28/98 11/28/98

discharge of pollutants to the Tennessee River, a water of the State, and imposes certain terms, limitations, conditions, and monitoring requirements for a variety of parameters. Among the parameters discharged by Amoco are total sulfates, total dissolved solids (TDS), chlorides, biochemical oxygen demand 5-day (BOD₅), benzene, ethylbenzene, toluene, and xylene (BTEX), total suspended solids (TSS), and toxicity.

4. In accordance with the requirement of **Amoco's** NPDES permit, **Amoco** submitted Discharge Monitoring Reports ("DMRs") to the Department on a monthly basis. Each DMR is required to contain information regarding the constituents, which must be reported to the Department under the permit. The following chart represents violations contained in **Amoco's** DMRs submitted to the Department for the past two years:

<u>Year/Period</u>	<u>Outfall</u>	<u>Parameter</u>	<u>Type of violation</u>	<u>No. Occurrences</u>
1996/ 02 Feb.	DSN001a	BETX	Incomplete DMR	05
1996/ 03 Mar.	DSN001	BOD ₅	Incomplete DMR	01
1996/ 03 Mar.	DSN001a	BETX	Incomplete DMR	01
1996/ 05 May	DSN001	BOD ₅	Incomplete DMR	02
1996/ 07 Jul.	DSN001a	BETX	Exceeded the Daily Max.	01
1996/ 11 Nov.	DSN002	TSS	Exceeded the Daily Max.	01
1996/ 12 Dec.	DSN001	Toxicity	Incomplete DMR	01
1996/ 12 Dec.	DSN001a	BETX	Exceeded the Daily Max.	01
1997/ 03 Mar.	DSN001	Toxicity	Incomplete DMR	01
1997/ June	DSN001	Toxicity	Exceeded the Daily Max.	02
1997/ Jul-Sept.	DSN001	Toxicity	Exceeded the Daily Max.	03
1997/ Jul-Sept.	DSN014	All Parameters	Failed to submit DMR	07
1997/ Jul-Sept.	DSN011	All Parameters	Failed to submit DMR	07
1997/ Jul-Sept.	DSN007	All Parameters	Failed to submit DMR	07
1997/ Jul-Sept.	DSN006	All Parameters	Failed to submit DMR	07
1997/ Jul-Sept.	DSN005	All Parameters	Failed to submit DMR	07

5. Over the past two (2) years **Amoco** has experienced nine release events at its Decatur facility including the following: August 14, 1995 (Sodium Hydroxide), December 10, 1995 (Unknown Material), January 11, 1996 (Xylene), February 23, 1996 (Xylene), October 15, 1996 (Xylene), July 17, 1996 (Methanol), July 30, 1996 (Xylene), May 29, 1997 (Dimethyl

Naphthalene), May 30, 1997 (Xylene).

6. **Amoco** understands that this Consent Order addresses only those violations of the Department's Water Program covered in ADEM Admin. Code Div. 335-6 and identified in these FINDINGS. Potential violations of other regulatory programs administered by the Department are reserved from this Consent Order.

7. Although **Amoco** does not agree with certain Findings in this Consent Order, it does agree in the spirit of cooperation and with the desire to amicably resolve this matter with ADEM, not to contest same, with no admission of liability. In view of the above and its desire to comply with the provisions of the Act, **Amoco** also agrees to the terms of this Consent Order.

8. Likewise, the Department has agreed to the terms of this Consent Order in an effort to resolve the matters cited herein. 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) and 22-22-9, Code of Alabama 1975, as amended, and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under § 402 Federal Water Pollution Control Act, 33 U.S.C. § 1342, it is hereby ORDERED:

A. That not later than thirty (30) days following the date of execution of this Consent Order, **Amoco** shall pay to the Department SEVEN THOUSAND NINE HUNDRED DOLLARS (\$7,900.00) in full and final settlement for the past violations cited herein.

B. That immediately upon execution of this Consent Order, **Amoco** shall evaluate and, if

necessary, amend Best Management Practices ("BMP") and Spill Prevention Control Countermeasure ("SPCC") plans to ensure adherence to required: sample collection, DMR submittal, and spill prevention, and within thirty (30) days from the date of execution of this Consent order **Amoco** shall submit to the Department a report outlining its corrective action.

C. That **Amoco** must submit within fourteen (14) days from the date of execution of this Consent Order a plan for the completion of a Toxicity Identification Evaluation ("TIE"). The plan shall include identified milestones with attached dates. **Amoco** shall begin to implement the TIE immediately following its submission to the Department. **Amoco** shall follow the agreed upon TIE and shall take all reasonable measures to identify and eliminate the toxicity in **Amoco's** discharges. If **Amoco** fails to comply with any milestone in the TIE then the additional penalties and related conditions which **Amoco** acknowledges and consents to by signing this Order are as follows:

(1) There shall be a Five Hundred Dollar (\$500.00) penalty for each day of each violation of TIE (including any delay in performing, plan, report, or other submission accepted pursuant to the TIE) which continues for up to forty-five (45) days.

(2) There shall be a One Thousand Dollar (\$1000.00) penalty for each day of each violation of the TIE (including any delay in performing, plan, report, or other submission accepted pursuant to the TIE) which continues for longer than forty-five (45) days and up to one hundred and twenty (120) days.

(3) Penalties for violations of the TIE that continue for longer than one hundred and twenty (120) days shall not be limited in any way except by statute or regulation. Penalties for violations shall accrue through the final day of correction of non-compliance. Any penalties owed to the Department pursuant to this Consent Order/TIE shall be paid by certified or cashier's check within thirty (30) days after **Amoco's** receipt of written demand for such in the form of a certified

letter from the Department.

D. That **Amoco** must within fourteen (14) days from the date of execution of this Consent Order and continuing thereafter, comply with all permit conditions and limitations.

E. That **Amoco** must within fourteen (14) days from the date of execution of this Consent Order and continuing thereafter, take all necessary and appropriate measures, following good engineering practices, to prevent spills.

F. Nothing in the foregoing Consent Order shall relieve **Amoco** from the obligation to comply with the provisions of its permits, or the Act(s) and the regulations except as addressed by stipulated penalties. Nothing in this Consent Order shall operate to relieve **Amoco** of any liability for any violations occurring at the facility following issuance of this Consent Order.

G. 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.

H. 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 this Consent Order. However, the issuance of this Consent Order does not preclude others from seeking fines or relief or sanctions against **Amoco** for the violations identified herein.

I. That **Amoco** is not relieved from any liability if it fails to comply with any provision of this Consent Order.

J. That for purposes of this Consent Order only, **Amoco** acknowledges that the Department may properly bring an action to compel compliance with the terms and conditions

contained herein in the Circuit Court for Montgomery County. **Amoco** also acknowledges that in any action brought by the Department to compel compliance with the terms of this Consent Order, **Amoco** shall be limited to the defense of force majeure.

K. That **Amoco** shall perform the requirements under this Consent Order within the time limits set forth or approved or established herein unless the performance is prevented or delayed by events which constitute a force majeure. A force majeure is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of **Amoco**, including its consultants and contractors, 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 **Amoco**) and which delays or prevents performances by a date required by this 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.

L. 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 in the above "FINDINGS". These allegations relate solely to the requirements of ADEM Admin. Code Div. 335-6. This Consent Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs, or, should additional facts and circumstances be discovered in the future concerning **Amoco** 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 other Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and **Amoco** shall not object to such future orders, litigation or enforcement action based on the issuance

of this Consent Order.

M. By 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 **Amoco** does hereby waive any administrative hearing on terms and conditions of same.

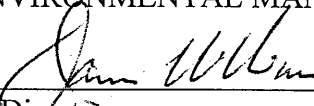
ORDERED and ISSUED executed in duplicate, each part being an original this the 28th day of January, 1998.

AMOCO CHEMICAL CO., INC.

By: 

DATE: 1/22/98

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: 
Director

DATE: 28 Jan 98