

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)
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Universal Compression, Inc.)

Whitson Compressor Station)

Air Facility ID No. 413-0086)

Tuscaloosa, Tuscaloosa County, Alabama)
_____)

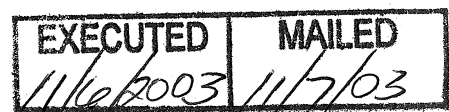
CONSENT ORDER NO. 04-009-CAP

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

1. **Universal Compression, Inc.** (hereinafter, "Universal") operates a natural gas compressor station located ½ mile east of the town of Whitson, near Highway 69, Tuscaloosa, Tuscaloosa County, Alabama, which includes five natural gas-fired reciprocating engines and two glycol dehydrators.

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 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. Pursuant to ADEM Admin. Code R. 335-3-16-.01(q)(2), a major source of air pollutants, as defined in Section 302 of the Act, is a source that directly emits, or has the potential to emit, 100 tons per year (TPY) or more of any regulated air pollutant.

5. Pursuant to ADEM Admin. Code R. 335-3-16-.04(1), a source must submit a Major Source Operating Permit (MSOP) application within 12 months of becoming a major source.

6. On March 22, 2002, the Whitson compressor station was issued Air Permit No. 413-0086-X004 for a 1,680 Hp Waukesha natural gas-fired reciprocating engine with a catalytic converter. The addition of this engine increased the facility's potential to emit above the 100 TPY major source threshold.

7. On July 16, 2002, during a phone conference with Universal, Department personnel explained that Universal would be responsible for submitting a complete MSOP application for the Whitson compressor station no later than March 22, 2003.

8. On March 21, 2003, Universal requested in writing from the Department an extension of time to submit the MSOP application for the Whitson compressor station.

9. On March 27, 2003, the Department informed Universal via telephone that the regulations do not provide a mechanism under which an extension could be granted.

10. On April 7, 2003, Universal again requested in writing an extension of time from the Department to submit the Major Source Operating Permit application for the Whitson compressor station and again the Department informed Universal via telephone that the regulations do not give the Air Division of the Department the authority to grant extensions for MSOP applications.

11. On May 29, 2003, Universal submitted an incomplete MSOP application to the Department

12. On June 25, 2003, Universal submitted to the Department information to complete the MSOP application.

13. On July 11, 2003, the Department issued Notice of Violation (NOV) to Universal for failing to submit a complete the MSOP application by March 22, 2003 and a response to the NOV from Universal was due to be received by the Department no later than August 5, 2003.

14. On August 5, 2003, the Department received a response to the July 11, 2003 NOV from Universal.

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 22-28-16(d) Code of Alabama (1975), as amended, and with the consent of Universal, it is hereby ORDERED:

A. That, not later than forty-five (45) days after the effective date of this Consent Order, Universal shall pay to the Department a civil penalty in the amount of \$5,000.00 for the violations cited herein.

B. That, immediately upon the effective date of this Consent Order, Universal shall operate the facility in compliance with ADEM Admin. Code 335-3 and all applicable Air Permits issued to it by the Department.

C. 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 on behalf of the party represented, and to legally bind such party.

D. 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 this Consent Order.

E. That, Universal 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, Universal 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. Universal also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Universal 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 Universal, 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

Universal) 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 Universal 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 signature of all parties. This Consent Order shall not be appealable, and Universal does hereby waive any hearing on the terms and conditions of same.


Universal Compression, Inc.

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(Signature of Authorized Representative)

Kirk Tomaszewski, President, US Division
(Printed Name and Title)

Date Signed: Sept 25, 2003

**Alabama Department of
Environmental Management**


James W. Warr
Director

Date Signed: 6 Nov 2003