

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

In The Matter Of:

Vintage Petroleum Inc.

Flomaton/Fanny Church Oil & Gas

Production and Treating Facility

Air Facility ID No. 502-0005

Wolf Log Road

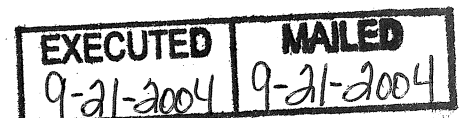
Flomaton, Escambia County, Alabama

CONSENT ORDER NO. 04-100-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 hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. **Vintage Petroleum Inc.** (hereinafter, "Vintage") operates Flomaton/Fanny Church Oil & Gas Production and Treating Facility, an oil and gas production and treating facility, Air Facility ID No. 502-0005, located on Wolf Log Road in Flomaton, Escambia County, 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. Vintage operates under the authority of the Major Source Operating Permit 502-0005 (hereinafter, the "Permit").

5. General Proviso 29 of the Permit states:

Visible Emissions

Unless otherwise specified in the Unit Specific provisos of this permit, any source of particulate emissions shall not discharge more than one 6-minute average opacity greater than 20% in any 60-minute period. At no time shall any source discharge a 6-minute average opacity of particulate emissions greater than 40%. Opacity will be determined by 40 CFR Part 60, Appendix A, Method 9, unless otherwise specified in the Unit Specific provisos of this permit.

6. On January 28, 2004, Department personnel performed a visible emissions observation, as prescribed by USEPA Reference Method 9, on the emissions from the flare at Vintage. This visible emissions observation indicated 6-minute average opacities of 27% and 29%.

7. General Proviso 15(b) of the Permit states:

Equipment Maintenance or Breakdown

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, increased emissions of air contaminants which are above an applicable standard, the person responsible for such equipment shall notify the Director within 24 hours or the next working day and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The Director will be notified when the breakdown has been corrected.

8. General Proviso 16 of the Permit states:

Operation of Capture and Control Devices

All air pollution control devices and capture systems for which this permit is issued shall be maintained and operated at all times in a manner so as to minimize the emissions of air contaminants. Procedures for ensuring that the above equipment is properly operated and maintained so as to minimize the emission of air contaminants shall be established.

9. General Proviso 21(b) of the Permit states:

Reporting Requirements

Deviations from permit requirements shall be reported within 24 hours or 1 working day 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 preventative measures that were taken.

10. During the inspection on January 28, 2004, Vintage informed Department personnel that the Sulfur Recovery Unit (SRU) had been taken offline on Monday, January 26, 2004, so that maintenance and repairs could be performed on the boiler associated with the SRU. Because the Sulfur Recovery Unit was not in operation, acid gas from the sweetening unit and some sweet gas were being diverted to the flare. According to Vintage, the Sulfur Recovery Unit was not placed back in operation until the afternoon of Wednesday, January 28, 2004. The Department was not notified of the shutdown of the SRU. By not operating the Sulfur Recovery Unit and failing to notify the Department of its shutdown, Vintage violated General Provisos 15(b), 16, and 21(b) of the Permit.

11. On March 26, 2004, the Department issued a Notice of Violation (NOV) to Vintage for violations of General Provisos 15(b), 16, 21(b), and 29 of the Permit on March 3, 2004.

12. Vintage responded to the March 26, 2004, NOV by letter, dated May 7, 2004.

13. ADEM Admin. Code R. 335-3-5-.03(3) states that no person shall cause or permit the sulfur oxide emission from any facility designed to dispose of or process natural gas or refinery gas

with an available sulfur between 10 and 50 long tons per day and a hydrogen sulfide concentration between 20% and 30% to exceed 560 lbs SO₂ per hour plus an additional 0.10 lbs SO₂ per lb of sulfur processed.

14. According to the response dated May 7, 2004, Vintage emitted an average of 2,049 lb/hr of SO₂ throughout the duration of the Sulfur Recovery Unit shutdown (approximately 78.75 hours). During this period, the average available sulfur was 10.98 long tons per day. Therefore, Vintage violated ADEM Admin. Code R. 335-3-5-.03(3).

15. Vintage 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, Vintage consents to the terms of this Consent Order.

16. 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 Vintage it is hereby ORDERED:

A. That, not later than forty-five (45) days after the effective date of this Consent Order, Vintage shall pay to the Department a civil penalty in the amount of Fifty Thousand Dollars (\$50,000) for the violations cited herein.

B. That, immediately upon the effective date of this Consent Order and continuing thereafter, Vintage shall comply with all requirements of the Permit issued to it by the Department.

C. That, not later than thirty (30) days after the effective date of this Consent Order, Vintage shall develop and submit to the Department a shutdown plan for the Sulfur Recovery Unit.

D. 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.

E. 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.

F. That Vintage is not relieved from any liability if it fails to comply with any provision of the Consent Order.

G. That, for purposes of this Consent Order only, Vintage 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. Vintage also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Vintage 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 Vintage, 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 Vintage) 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*.

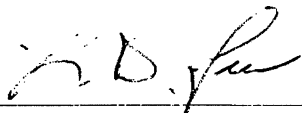
H. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should

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 Vintage 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.

I. 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 Vintage does hereby waive any hearing on the terms and conditions of same.

Executed in duplicate with each part being an original.

Vintage Petroleum Inc.



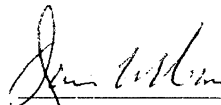
(Signature of Authorized Representative)

Lynn D. Fees
Manager, Gathering & Facilities

(Printed Name and Title)

Date Signed: _____

**Alabama Department of
Environmental Management**



James W. Warr
Director

Date Signed: 21 SEP 2004