

**Alabama Department of
Environmental Management**

In The Matter Of:)
)
)

Madix, Inc.)

Air Facility ID No. 306-0010)

Goodwater, Coosa County, Alabama)
_____)

CONSENT ORDER No. 02-152-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. Madix, Inc. (hereinafter, "Madix") owns and operates a store fixture manufacturing facility located at 1537 South Main Street in Goodwater, Coosa County, Alabama, under the authority of ADEM Major Source Operating Permit No. 306-0010 (hereinafter, "the Permit"), issued November 6, 2000.

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.

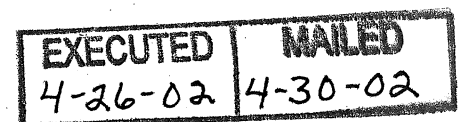
3. Pursuant to §22-22A-4(n), Code of Alabama (1975), as amended, the Department is the state air pollution control agency for purposes of the federal Clean Air Act, 12 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended.

4. Section No. 4 of the Permit for the wood working operation requires a daily visual observation of the wood waste cyclone for greater than normal visible emissions when the unit is operating.

5. Section No. 4 of the Permit also requires that the cyclone be inspected for proper operation at least annually, and whenever observed emissions are greater than normal.

6. Section No. 5 of the Permit requires that a logbook of the observations be kept for five years.

7. General Proviso No. 12 of the Permit requires an annual certification of compliance with all terms of the permit.



8. On December 10, 2001, the Department received the annual compliance statement for this facility, wherein Madix reported that records of the required daily visual observation of the wood waste cyclone had not been kept.

9. On January 16, 2002, the Department issued a notice of Violation (NOV) to Madix for failure to perform required monitoring and recording as required in the Permit.

10. The Department received a response to the NOV from Madix on January 31, 2002.

11. Madix 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, Madix has consented to the terms of this Consent Order.

12. 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 had 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 Madix, it is hereby ORDERED:

A. That not later than thirty (30) days after the effective date of this Consent Order, Madix shall pay to the Department a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) for the violations cited herein.

B. That immediately upon the effective date of this Consent Order, Madix shall be in compliance with all requirements of its Major Source Operating Permit and shall take all actions as are necessary to prevent the recurrence of such violations.

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, to execute the 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 which are cited in this Consent Order.

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

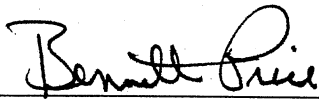
F. That, for purposes of this Consent Order only, Madix agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Madix also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Madix 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 Madix, 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 Madix) 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 Madix 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 of all parties. This Consent Order shall not be appealable, and Madix does hereby waive any hearing on the terms and conditions of same.

Madix, Inc.



(Signature of Authorized Representative)

BENNETT PRICE

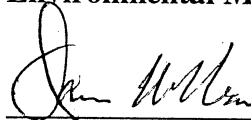
(Printed Name of Authorized Representative)

Vice-President

Title

Date Signed: April 17, 2002

**Alabama Department of
Environmental Management**



James W. Warr
Director

Date Signed: 26 APRIL 2002