

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

JAMES RIVER PENNINGTON, INC.  
Choctaw County, Alabama

ADEM Air Facility I.D. No. 101-0001

Consent No. 96- 098 -CAP

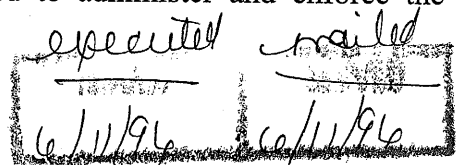
**FINDINGS OF FACT**

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. JAMES RIVER PENNINGTON, INC. - Naheola Mill (hereinafter, "James River"), is the permitted owner and/or operator of an integrated pulp and paper mill located in west central Alabama along the Tombigbee River, approximately 6.5 kilometers (4 miles) north east of Pennington, Choctaw County, Alabama.

2. The Department 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, 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. The James River chemiwasher system, including the secondary knotters, chemiwasher feed end seals, shower water collection tank and the form zone filtrate tank of the hardwood line, was not required to obtain an Air Permit when it was installed in the mid-1980's because James River indicated at that time that the unit was designed to be a sealed unit with no process vent to atmosphere.

5. 40 CFR 60, Subpart BB, §60.283(a)(1)(v), states that a brown stock washer system shall not discharge any gases to the atmosphere which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream.

6. On or about November 4-5, 1994, total reduced sulfur emission testing conducted on the hardwood knotters, chemiwasher feed end seals, shower water collection tank, and form zone filtrate tank of the hardwood line indicated total reduced sulfur emission concentrations were in excess of the limit of 5 ppm by volume on a dry basis corrected to the actual oxygen content of the untreated gas stream for brown stock washer systems as found in the New Source Performance Standard for Kraft Pulp Mills.

7. Therefore, 40 CFR 60, Subpart BB applies to James River's hardwood knotter, chemiwasher feed end seals, shower water collection tank and form zone filtrate tank of the hardwood line.

8. On February 15, 1995, a Notice of Violation (NOV) was issued to James River citing ADEM Admin. Code R. 335-3-10-.02(28) and 40 CFR 60, Subpart BB §60.283(a)(1)(v), since test results submitted in James River's correspondence dated January 18, 1995 indicated the hardwood chemiwasher line components evidenced TRS concentrations in excess of 5 ppmv and the gas streams were being emitted to the atmosphere.

9. On March 13, 1995, James River responded to the February 15, 1995 NOV by outlining several measures the facility might utilize in order to resolve the issue of unpermitted TRS emissions from the chemiwasher system.

10. On or about April 4-7, 1995, total reduced sulfur emission testing conducted for the chemiwasher system indicated emission concentrations greater than the limits in the New Source Performance Standard, Subpart BB of the discharge of gases to the atmosphere which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream.

11. In an August 16, 1995 meeting between ADEM - Air Division and James River personnel, James River submitted a compliance schedule stating that within 90 days of the meeting they would submit a proposed control system for the hardwood brown stock washer system and the proposed plan would be submitted to ADEM by November 7, 1995 for approval. Ninety days after ADEM approval, James River will submit the schedule for installation, start up and compliance.

12. On November 9, 1995, James River personnel submitted proposed plans to bring the chemiwasher system into compliance with the TRS NSPS regulations.

13. On December 22, 1995, the Department sent a letter to James River acknowledging its plan to install a wet scrubber to control TRS emissions from the chemiwasher and associated equipment.

14. James River agrees with the above findings and, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Air Pollution Control Act, has consented to the terms of this Order.

15. The Department agrees to this Consent Order upon a determination that the terms are in the best interests of the citizens of Alabama in resolving the violations alleged hereinabove.

### **ORDER**

Based on 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 each party hereto, it is hereby ORDERED:

A. That there is assessed a civil penalty against James River Pennington, Inc. in the amount of Twenty Thousand Dollars (\$20,000.00) to be paid to the Alabama Department of Environmental Management within thirty (30) days of issuance of this Order.

B. That a schedule will be submitted to the Department for the final design plans, construction and operation of the chemiwasher wet scrubber by May 30, 1996.

C. That the final design plans for the chemiwasher wet scrubber will be submitted for the Department's approval by June 21, 1996.

D. That James River will submit interim reports of construction status to the Department by September 20, 1996 and November 8, 1996.

E. That James River will install and operate a wet scrubber and an approved monitoring system designed to comply with the requirements of NSPS Subpart BB on the chemiwasher system by January 15, 1997.

F. That James River is not relieved from any liability if it fails to comply with any provision 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. That subject to the terms contained herein and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations alleged hereinabove.

I. That for purposes of this Order only, James River agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Montgomery County Circuit Court. James River also agrees that in any action brought by the Department to compel compliance with the terms of this Order, James River shall be limited to the defenses of Force Majeure, compliance with this Order and physical impossibility.

J. That this 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 James River which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and James River shall not object to such future orders, litigation or enforcement actions based on the issuance of this Consent Order.

K. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and James River does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 10<sup>th</sup> day of June, 1996.

J.J. Manchester  
(Signature)

J.J. MANCHESTER VP/RESIDENT  
(Please Print Name and Title of Authorized Officer) MANAGER

James Warr  
James Warr, Director  
Alabama Department of  
Environmental Management  
10 June 96

James River Pennington, Inc.