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 March 5, 1985

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 Atlanta, Georgia 30365

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 1300 Gulf Life Drive
 Jacksonville, Florida 32207

RECEIVED

MAR 7 1985

Dept. of Environmental Regulation
 Office of General Counsel

Re: State and City v. Smurfit, d/b/a Austill

Dear Fellow Litigants:

Congratulations! Enclosed please find copies of Order of United States EPA, Final Judgment, and Stipulation and Motion for Entry of Consent Final Judgment as executed by all parties.

Please accept my best wishes for total compliance and the continued spirit of cooperation between the parties.

Sincerely,

STEVEN E. ROHAN
 Assistant Counsel

SER:rmc
 Enclosures

DER

MAR 12 1985

BAQM

Messrs. Parsons, Botcher, Harper
Friedmann, Cotney & Shafer
Page Two
March 5, 1984

cc: Dr. Pat Cowdery, Director
Department of Health, Welfare,
and Bio-Environmental Services

Don Bayley, Chief
Bio-Environmental Services

Khurshid Mehta
Bio-Environmental Services

John Brown,
Department of Environment Regulation
3426 Bills Road
Jacksonville, Florida 32207

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE REGIONAL ADMINISTRATOR


In Re:)
)
Austill Packaging Company,)
Division of Jefferson) CAA #120-84-001
Smurfit Corporation,)
)
Respondent.)

ORDER


The Regional Administrator of the United States Environmental Protection Agency, Region IV, hereby concurs in the foregoing Consent Agreement and ORDERS Respondent, Austill Packaging Company, Division of Jefferson Smurfit Corporation, to comply therewith.

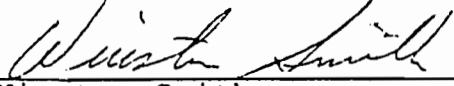
This Order represents final Agency action under Section 120 of the Clean Air Act, 42 U.S.C. Section 7420, and, as such, is reviewable under Section 307(b) of the Clean Air Act, 42 U.S.C. Section 7607(b) in the U.S. Court of Appeal for the Eleventh Circuit. Failure by Respondent to seek judicial review under Section 307(b) of the Clean Air Act shall preclude review in judicial enforcement of this Order of the validity, penalty amount and propriety of the terms and conditions of the foregoing Consent Agreement.

Feb 19, 1985
Date


Charles R. Jeter
Regional Administrator
Region IV

U.S. ENVIRONMENTAL PROTECTION
AGENCY - REGION IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365

By: 
Jewell A. Harper
Assistant Regional Counsel

By: 
Winston Smith
Director
Air, Pesticides & Toxics
Management Division

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION
and CITY OF JACKSONVILLE,
a municipal corporation, by
and through Donald C. Bayley,
Chief, Bio-Environmental
Services Division,

Plaintiffs,

vs.

SMURFIT INDUSTRIES, INC.
a Delaware corporation,
d/b/a AUSTILL PACKAGING,

Defendant.

RECEIVED

MAR 7 1985

Dept. of Environmental Regulation
Office of General Counsel

Case No.: 83-138-54 CA
Division D

OGC File No: 83-0374

FINAL JUDGEMENT

The above styled cause having been settled by stipulation of the parties as reflected in the attached Stipulation and Motion For Entry of Consent Final Judgement, this Court having duly reviewed and considered the Stipulation and Motion, and having found that the settlement is in the best interests of all parties and in the public interest, it is therefore

ORDERED AND ADJUDGED that:

1. The settlement of the above styled cause among the parties shall be and is hereby approved.
2. The Stipulation and Motion For Entry of Consent Final Judgement, executed by the parties shall become, and is hereby made a part of this Order by reference.
3. This Court hereby retains jurisdiction over this cause and over the parties pending compliance with the terms of the Stipulation and during its duration for enforcement of the same.

DONE AND ORDERED at Jacksonville, Duval County, Florida, this
22 day of Feb. 1985.

/s/ LOUIS C. CORBIN
Circuit Judge

cc: Counsel of Record

January 25, 1985

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION
and CITY OF JACKSONVILLE,
a municipal corporation, by
and through Donald C. Bayley,
Chief, Bio-Environmental
Services Division,

Plaintiffs,

vs.

Case No.: 83-138-54 CA
Division D

SMURFIT INDUSTRIES, INC.
a Delaware corporation,
d/b/a AUSTILL PACKAGING,

OGC File No: 83-0374

Defendant.

STIPULATION AND MOTION FOR ENTRY
OF CONSENT FINAL JUDGEMENT

This stipulation is made and entered into between Plaintiffs, State of Florida Department of Environmental Regulation ("Department") and the City of Jacksonville ("City") and Defendant Jefferson Smurfit Corporation. In addition, the United States Environmental Protection Agency ("E.P.A.") joins in this stipulation to resolve its claim against Austill for non-compliance penalties under Section 120 of the Clean Air Act (CCA). While EPA consents to the terms of this document, the primary instrument governing the resolution of the CCA Section 120 action against Austill is the Consent Agreement and Final Settlement Order between EPA and Austill, which document is attached as Appendix C. In the event of any inconsistency between this document and attached Appendix C, the latter shall in all cases govern the CCA 120 action between EPA and Austill.

The parties to this stipulation agree to the following findings and conditions for entry of a final judgement in the above-styled case, upon being approved and adopted by the Court.

FINDINGS OF FACT

1. The Department is the agency of the State of Florida authorized and required by Chapter 403, Florida Statutes, to control and prohibit air pollution in accordance with state laws and the rules promulgated thereunder.
2. The City of Jacksonville is a municipal corporation of the state of Florida. Through its agent, Bio-Environmental Services Division ("BES"), the City is charged with the implementation and enforcement of City ordinances regarding control and regulation of environmental quality within the City.
3. Jefferson Smurfit Corporation, a Delaware corporation, is successor by merger to Smurfit Industries, Inc., the named Defendant. Jefferson Smurfit Corporation stipulates that it is a proper party to this action.
4. Through a division known as Austill Packaging ("Austill"), Jefferson Smurfit Corporation owns and operates a facility located at 3389 Powers Avenue in Jacksonville, Florida. The Austill facility converts rotogravure printed roll label stock using four rotogravure presses and one laminating press. The printing process utilizes inks and adhesives which contain solvents, resulting in the emission of volatile organic compounds (VOCs) into the atmosphere. The actual VOC emissions from the facility have exceeded 100 tons per year.
5. VOCs react in the atmosphere with other compounds to form the air pollutant ozone. The facility is located in an area which has been designated by the Department and the United States Environmental Protection Agency as nonattainment for ozone.
6. Of the five presses utilized by Austill, four presses (Press No. 1, the laminating press and Presses Nos. 2, 3 and 4, rotogravure presses) are subject to the Department's VOC rules for existing sources in a nonattainment area. Press No. 1 is subject to Rule 17-2.650(1)(f)3., Florida Administrative Code ("F.A.C."), and presses Nos. 2, 3 and 4 are subject to Rule 17-2.650(1)(f)16., F.A.C. These rules required existing sources to use either low solvent inks or an incineration system to control VOC emissions by October 1, 1982 (for Press No. 1) or

December 31, 1982 (for Presses Nos. 2, 3, and 4).

7. In conjunction with its ink and adhesive supplier, Austill has tested numerous low solvent or water-based inks over the past several years, but has still not achieved compliance with the limits set forth in the Department rules noted above. On March 31, 1983, Austill applied with the Department for a variance from the requirements of Rule 17-2.16(6)p., F.A.C. (renumbered Rule 17-2.650(1)(f)16.). The variance application was withdrawn by Austill after discussions with the Department on the appropriateness of a variance.

8. On August 13, 1981, Austill applied to the Department for a permit to construct Press No. 5 and advised the Department that Press No. 5 would operate solely on water-based (as opposed to solvent-based) inks. Press No. 5, a rotogravure printing press, was installed at the Austill facility in the first quarter of 1982.

9. Permit No. AC16-46844 was issued to Austill on January 7, 1982 for the construction of Press No. 5 using water-based inks. Specific Condition No. 1 of the permit states that maximum allowable VOC emissions from Press No. 5 shall be limited to 15 tons a year. Austill has failed to comply with this condition and has continuously operated Press No. 5 using solvent-based inks. Emissions of VOCs from Press No. 5 are in excess of 100 tons a year.

10. Permit No. AC16-46844 expired on April 30, 1982. Austill did not apply for or receive an extension of the construction permit or a permit to operate Press No. 5.

11. Press No. 5 is a new source of VOCs which is subject to Department Rules 17-2.640 (Lowest Achievable Emission Rate) and 17-2.510 (New Source Review for Nonattainment Areas), F.A.C. Under these rules, Austill was and is required to apply to Press No. 5 the lowest achievable emission rate ("LAER"), as determined by the Department in conjunction with an adequate construction permit application.

12. Austill has operated Press No. 5 without controlling VOC

emissions through the use of either low solvent inks or an incinerator system to capture and combust the VOCs.

13. On July 2, 1984, Austill applied with the Department for a permit to construct an incinerator and capture system to control VOC emissions from Press No. 5.

CONDITIONS

In order to resolve this matter without the necessity of litigation, the Department, the City, EPA and the Defendent agree to the following conditions:

A. Defendent Jefferson Smurfit Corporation agrees to pay the sum of \$62,000 in settlement of the Department's and the City's claims for damages, costs and expenses and \$38,130.34 in settlement of E.P.A.'s claims for non-compliance penalties. The said amount for payment of the E.P.A. Claims is the subject of a separate consent agreement and Final Settlement Order. (copy attached). Of this \$38,130.34 the E.P.A. has agreed to credit \$19,065.17 to the State of Florida for the environmental enhancement and VOC awareness and reduction program for Duval County described in Paragraph A(1) below. The total amount, shall be paid within 15 days of Court approval of this stipulation in three amounts, \$62,000 made payable to the Florida Department of Environmental Regulation for deposit in Department's Pollution Recovery Fund which shall be utilized for air quality restoration, preservation, and enhancement purposes as specified in Paragraph A(1), \$19,065.17 made payable to the State of Florida, Department of Environmental Regulation for the use by the state of Florida to help fund a VOC pollution awareness and reduction program as specified in paragraph A(2), and \$19,065.17 payable to the United States Treasury.

(1) The \$19,065.17 credited to the State of Florida shall be utilized for the following environmental enhancement and VOC pollution awareness and reduction program for Duval County. The purpose of the program will be to show the public how tampering or misfueling motor vehicles contributes to VOC emissions into the

atmosphere and hence their contribution to ozone standard attainment problems in Duval County. The funds will be budgeted as follows:

\$10,000 - procurement of tail pipe analyzers

\$ 9,065.17 - conduct of program including public awareness announcement so as to ensure maximum effectiveness.

The Department and the City agree to solicit assistance and support from health, environmental, and civic organizations and to use the \$9,065.17 for such organizations to conduct the program including a portion of the funds for public announcements so as to ensure maximum effectiveness of the program, and further agree not to use these funds for agency salary or to subplant costs of ongoing operations.

(2) The \$62,000 shall be utilized for a joint Department/City effort in monitoring air pollution and sources of air pollution in order to further reduce or encourage the reduction of air pollution or enforce the restoration of air quality. These funds will be budgeted as follows:

\$10,000 - Procurement of Portable Gas Chromatograph (GC) unit by the City

\$31,000 - Operation of the existing Finnagen GC/MS unit by the City

\$ 6,000 - Procurement of an Olfactometer - City

\$ 7,500 - Source inspections or equipment - Department for use in N.E. District.

\$ 7,500 - Source inspections or equipment - City

\$62,000

B. (1) For the control of VOCs from Presses Nos. 4 and 5, Austill commits to the installation of a system to capture and incinerate the VOCs through the use of either a catalytic or fume incinerator.

(2) The efficiency of the system for total removal of VOCs

(including capture efficiency and other elements of control) from Press No. 5 shall be determined in accordance with Rule 17-2.640("LAER"), F.A.C., as part of the Department's determination on the construction permit application currently pending before the Department. The efficiency of the system for total removal of VOCs from Press No. 4 has been determined in accordance with Rule 17-2.650(1)(f)16., F.A.C., also as part of 296.513 the Department's determination on a construction permit application filed by Austill.

(3) Austill has submitted to the Department's Central Air Permitting Section and to the City's Bio-Environmental Services Division a detailed description and manufacturer's analysis of the type and brand of incinerator(s) which Austill proposes to use for Presses Nos. 4 and 5.

(4) Austill shall commit to the purchase of the incinerator(s) within 15 days of date of Court approval of this stipulation.

(5) Construction of the incinerator(s) shall be completed as soon as practicable, but no later than October 1, 1985.

(6) Austill shall respond to requests from the Department for further information with regard to the Presses Nos. 4 and 5 within 15 days of receipt of any such request or within 10 days of entry of this Order for those requests preceeding this Order.

C. Austill shall demonstrate final compliance with Rules 17-2.640 and 17-2.650(1)(f)16., F.A.C. for Presses Nos. 5 and 4, respectively, no later than December 31, 1985. The demonstration of final compliance shall be performed in accordance with paragraph 2 of Appendix A to this Stipulation, and shall be submitted to the Department, BES and EPA.

D. For the control of VOCs from Presses Nos. 1, 2, and 3, Austill shall abide by the schedule set forth in Appendix B for development of low solvent inks and adhesives and, if necessary, for installation of appropriate add-on control equipment.

E. Austill shall demonstrate final compliance with Rule 17-2.650(1)(f)3. F.A.C., for Press No. 1 no later than July 1, 1985. Austill shall demonstrate final compliance with Rule 17-2.650(1)(f)16., F.A.C., for Presses Nos. 2 and 3 no later than December 31, 1985. If low solvent technology (or similar technology, such as use of inks with high solids content) is utilized, final compliance shall be demonstrated using the methods described in paragraph 1 of Appendix A. If an incineration system is employed to achieve compliance, the demonstration shall be made using the methods described in paragraph 2 of Appendix A.

F. Failure to meet the incremental compliance deadlines set forth in subparagraph B (6) and paragraph I, shall result in a stipulated penalty of \$50 per day for each day of non-compliance. Failure to meet the incremental compliance deadlines set forth in subparagraph B (4) shall result in a stipulated penalty of \$1,000 per day for each day of non-compliance. Failure to meet the incremental compliance deadlines set forth in Appendix B shall result in a stipulated penalty of \$250 per day for each day of non-compliance. All stipulated penalties shall be paid by money order or certified check on a weekly basis, 50% to be paid to the Department's Pollution Recovery Trust Fund and 50% to the Air Pollution Control Trust Fund of the City of Jacksonville, Florida.

interim compliance as set forth in paragraph B(4) above or
G. If Austill fails to achieve and demonstrate/final compliance as set forth in paragraphs C and E above for any of the presses, Austill shall cease all operations on any non-complying presses until such time as the Department is assured that operation will not result in a violation of permit conditions or Department rules, or operation while out of compliance shall result in a civil penalty of \$5,000/per each day of operation of Presses No. 4 and 5, and \$2,500 per day for Presses Nos. 1, 2, and 3. The penalties are payable by cashier's check or money order on a weekly basis, 50 percent to be paid to the Department's Pollution Recovery Fund and 50 percent to the Air Pollution Control Trust

Fund of the City of Jacksonville. Payment of the penalty shall not preclude the enforcement of the requirement to cease future operation of the press through appropriate action by the Court. Any penalty not voluntarily submitted in a timely manner shall be doubled if compliance is effected through the seeking of an Order of the Court.

H. Austill shall submit monthly progress reports beginning 15 days after entry of this Stipulation by the Court and continuing every month until final compliance on all presses is achieved. The reports shall identify all efforts to comply with the terms of this Stipulation, including (1) research and development of LST, and (2) efforts to install, test and operate incineration equipment. The reports shall detail pounds of VOC/gallon of coating, excluding water, delivered to the coating applicator for Press No. 1, the percentage by volume of organic solvent in the volatile fraction of ink as it is applied to the substrate for Presses Nos. 2 and 3. The reports shall explain the method used for calculating these numbers using EPA Method 24. The reports shall be submitted no later than fifteen days after the beginning of the month in which they are due. Austill shall provide any raw data used in these calculations within 10 days of receipt of a written request by the Department.

I. All submissions of test results, reports, and other information required by this Stipulation shall be sent to the Department's Central Air Permitting Section, 2600 Blair Stone Road, Twin Towers Office Building, Tallahassee, Florida, 32301; and Northeast District Office, 3426 Bills Road, Jacksonville, Florida, 32207; the BES, 515 West Sixth Street, Jacksonville, Florida 32206; and the U.S.E.P.A., Region IV, Director, Air, Pesticides and Toxics Management Division, 345 Courtland Street N.E., Atlanta, Georgia, 30308.

J. This Court shall retain jurisdiction over this cause pending compliance with the terms of this Stipulation. The Department and

the City agree to entry of a final Judgement and Order incorporating the aforementioned in settlement of their claims in this case. The Department and the City retain the right, however, to move the Court for enforcement of the terms of this Stipulation through the Court's use of contempt, an award of penalties, or other appropriate relief.

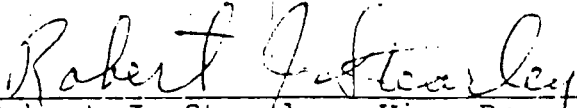
K. In addition to all other sanctions and penalties that may be imposed upon Austill for non compliance with the terms hereof, Austill agrees to pay reasonable attorneys fees and costs including appellate fees and costs necessarily incurred by the Department or BES in any successful enforcement action brought before this Court. The terms of this Judgment may be enforced by any signatory to the Consent Judgment.

L. It is the intent of the parties that there be strict compliance with construction and compliance deadlines. The parties understand that construction and compliance deadlines are to be met and enforced despite non-extraordinary contract, labor, transportation or similar problems affecting Austill. The parties likewise understand that extraordinary circumstances may arise that would compel agreement to modify this stipulation or that would justify judicial relief from the time limitations and penalties as set forth. These circumstances must be extraordinary, beyond Austill's reasonable control and not reasonably foreseeable by Austill. This stipulation shall not preclude Austill from seeking such judicial relief if the parties cannot agree upon appropriate modifications. If judicial relief is sought, Austill, shall have the burden of proof that the circumstances described above exist. If demonstrated by Austill, relief shall only be granted to the extent reasonably necessary to abate, avoid or remedy the extraordinary circumstances shown to exist.

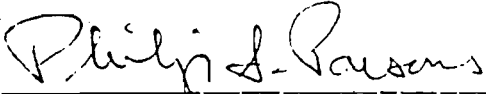
M. Jefferson Smurfit Corporation neither admits nor denies herein

any violation, noncompliance or liability based upon the allegations of the complaint or the facts found in this stipulation.


N. The parties agree to the dismissal of pending criminal litigation upon approval of this stipulation by the court.


Robert J. Stearley, Vice President
Jefferson Smurfit Corporation
P.O. Box 276
Alton, Illinois 62002

2/4/85
Date

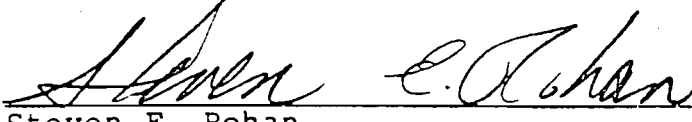

Phillip Parsons, Attorney
for Jefferson Smurfit Corporation
227 S Calhoun
Tallahassee, Florida 32301

2/15/85
Date

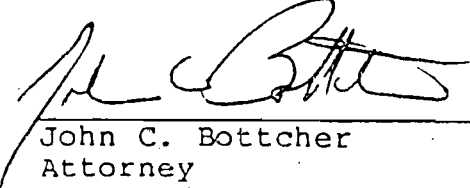

Donald C. Bayley
Bio-Environmental Services Division
City of Jacksonville, Florida
515 West 6th Street
Jacksonville, Florida 32206

2/25/85
Date

GERALD A. SCHNEIDER
GENERAL COUNSEL


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(904) 633-2460 Attorneys for City of Jacksonville
Bio-Environmental Services Division

2/25/85
Date


John C. Bottcher
Attorney
State of Florida Department
of Environmental Regulation
2600 Blair Stone Road
Tallahassee, FL 32301

2/21/85
Date

Jewell Harper *2/19/85*

Jewell Harper
Attorney
U.S. Environmental Protection
Agency Region IV
345 Courtland
Atlanta, GA 30365

Date

APPENDIX A

COMPLIANCE VERIFICATION

1. If compliance is to be achieved by using LST, then Austill shall demonstrate compliance using the following procedures:

(a) The volatile matter content, the water content, the density, the volume of solids and the weight of solids for each ink and lacquer shall be determined by EPA Method #24. The Method #24 results shall be compared to the manufacturer's specifications for that particular coating and both shall be submitted as part of the compliance verification package. Testing shall continue until such a time that the Department determines that there is an acceptable correlation between the Method #24 results and the manufacturer's specifications.

(b) The transfer efficiency shall be assumed to be 100 percent until demonstrated to the Department's satisfaction otherwise, thus no credit can be given for improved transfer efficiency.

(c) Any solvent used for make-up or dilution shall be included in the actual emissions. It will be assumed that 100 percent of this solvent is evaporated unless demonstrated to the Department's satisfaction that this is not the case.

(d) The solvent content of inks or adhesives may be averaged within the same RACT category (paper coating or graphic arts) for those presses utilizing LST. Compliance must be determined on a daily basis. This Order may be modified, however, to reflect any changes in EPA national policy that would allow averaging for time periods greater than daily.

2. If compliance using LST is deemed unlikely, then Austill shall demonstrate compliance using the following procedure:

(a) The efficiency of any add-on control equipment shall be established by a materials balance. The capture efficiency of the control equipment shall be based on the July 7, 1980 EPA memorandum entitled "Determination of Capture Efficiency", from James Berry to Doug Cook. The VOCs emitted from the control equipment shall be determined by an EPA method #25 test. The measured emissions and fugitive emissions, which were not captured by the control equipment, shall make up the actual emissions for a particular operation. Therefore, the efficiency of a piece of control equipment shall be one minus the actual emissions divided by the VOCs into the operation.

(b) Once the efficiency of the control equipment is established, the actual emissions from that operation on any given day shall be the penetration (one minus the efficiency) times the VOCs into the operation on that given day.

(c) The Department, BES and EPA shall be notified 15 days in advance of the Method #25 test and the notification shall be in writing.

(d) Where a single add-on control system (e.g. incineration) is utilized to control emissions for two operations having different emission standards, the most restrictive emission standard applies, unless demonstrated to the satisfaction of the respective agencies that compliance with separate standards can be adequately demonstrated without averaging or pro-rating the emissions.

APPENDIX B
INTERIM COMPLIANCE FOR PRESSES NOS, 1, 2 and 3

Press No. 1

1. Within ten days of entry of the consent order, Austill shall evaluate the likelihood of successfully meeting the July 1, 1985 deadline using LST and submit a report stating whether it intends to proceed with LST or whether it intends to rely on add-on controls as the method of compliance.

2. If compliance using LST or exempt solvents is deemed to be unlikely, Austill shall meet the following interim compliance deadlines:

(a) Within thirty days of entry of the consent order, Austill shall submit to the Department a complete application for installation on Press No. 1 of add-on VOC control equipment (e.g. incineration or carbon absorption) including the method of VOC capture to be utilized.

(b) Unless informed within 30 days after the application required by 2. (a) above of the unacceptability of the equipment proposed, Austill shall obtain a purchase order and a contract for installation of the equipment no later than 45 days after submission of the application. Proof of compliance with this provision shall be submitted to the Department within 60 days of submission of the application.

(c) Austill shall verify that construction of the VOC control and capture system is complete and submit the results of compliance tests no later than June 15, 1985.

Presses Nos. 2 and 3

3. By June 1, 1985, Austill shall evaluate the likelihood of successfully meeting the December 31, 1985, deadline for final compliance using LST and submit a report stating whether it intends to proceed with LST or whether it intends to rely on add-on controls as the method of compliance.

(a) If compliance using LST is deemed to be likely, Austill shall meet the following interim compliance deadlines:

(1) As expeditiously as practical but not later than July 31, 1985, Austill shall implement the commercial application of at least one low solvent coating material. Certification of implementation shall be provided in the following monthly report.

(b) If compliance using LST is deemed to be unlikely, Austill shall meet the following interim compliance deadlines:

(1) By June 15, 1985, Austill shall submit to the Department a complete application for installation of add-on VOC control equipment (e.g. afterburner, carbon absorption), including the method of VOC capture to be utilized.

(2) Unless informed by the Department by July 15, 1985, of the unacceptability of the equipment proposed, Austill shall obtain a purchase order and a contract for installation of the equipment no later than July 25, 1985. Proof of compliance with this provision shall be submitted to the Department by August 1, 1985.

(3) Austill shall verify that construction of the VOC control and capture system has been completed by October 1, 1985, and that the test reports demonstrating compliance shall be submitted by December 31, 1985.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE REGIONAL ADMINISTRATOR

In Re:)
)
Austill Packaging Company) CAA #120-84-001
Division of Jefferson Smurfit)
Corporation) CONSENT AGREEMENT AND
) FINAL SETTLEMENT ORDER
Respondent)

PRELIMINARY STATEMENT

Austill Packaging Company, Division of Jefferson Smurfit Corporation (Austill), owns and operates a flexographic and rotogravure printing facility in Jacksonville, Florida. On December 1, 1983, the Regional Administrator of the U.S. Environmental Protection Agency (EPA), Region IV, issued a Notice of Noncompliance to Austill pursuant to Section 120 of the Clean Air Act (C.A.A.), 42 U.S.C. §7420, as implemented by 40 C.F.R. Part 66. The Notice cited Austill for violation of Rule 17-2.650(1)(f)16, Florida Administrative Code (F.A.C.) and for possible violation of Rule 17-2.650(1)(f)3, F.A.C. (pending evaluation of certain coating material specifications). The Notice also cited Austill for violation of the volatile organic compound emission limitation set out in Construction Permit No. AC-16-46844, Specific Condition No. 1 and for violation of New Source Review requirements set out in Rule 17-2.17, F.A.C. Finally, Austill was cited for violation of

APPENDIX C

Rule 17-2.510(2)(d)4.a, F.A.C. and Rule 17-2.510(4)(a), F.A.C. Said regulations are part of the federally-approved Florida State Implementation Plan, Rule 17-2.640 and 17-2.510(1)(b), F.A.C. The Notice advised Austill of its liability for payment of a noncompliance penalty pursuant to C.A.A. Section 120.

Austill filed a Petition for Reconsideration on January 20, 1984, and a Supplemental Petition for Reconsideration on March 15, 1984. Austill requested a formal hearing on May 18, 1984, and the Regional Administrator granted that request on June 18, 1984, pursuant to 40 C.F.R. Section 66.41 (45 F.R. 50114). However, in lieu of adjudication of the issues raised, the parties have agreed that settlement of this proceeding and execution of this Consent Agreement without adjudication and further delay is appropriate and in the public interest.

Austill has agreed to carry out a schedule for the attainment of compliance so as to prevent any further accrual of noncompliance penalties beyond those contemplated by this document. This schedule is set out in Paragraph 2 of the Consent Agreement below.

Without adjudication of any issue of fact or law, the parties by their attorneys and authorized officials, therefore consent to the following:

CONSENT AGREEMENT

1. Austill admits the jurisdictional allegations set forth in the Notice of Noncompliance issued to it by EPA on December 1, 1983.

2. Austill commits to meeting the following compliance schedule:

Press No. 1

- a. Using low solvent technology, final compliance by July 1, 1985 or
- b. Using add-on VOC control equipment, final compliance by June 15, 1985.

Presses Nos. 2 and 3

- a. Using low solvent technology, final compliance by December 31, 1985, or
- b. Using add-on VOC control equipment, final compliance by December 31, 1985.

Presses Nos. 4 and 5

Final compliance by December 31, 1985.

Details of Austill's compliance program with regard to Presses 1, 2, and 3 are set out in Appendix B of the attached Stipulation and Motion for Entry of Consent Final Judgment (Stipulation and Motion) between Austill and the Florida Department of Environmental Regulation and the City of Jacksonville the details of which are incorporated herein by reference.

Details of Austill's compliance strategy with regard to Presses 4 and 5 are set out in Condition B of the Stipulation and Motion, the details of which are incorporated herein by reference.

3. Austill neither admits nor denies that it is liable for payment of a noncompliance penalty pursuant to Section 120 of the Clean Air Act, as implemented by 40 C.F.R., Part 66 (45 F.R. 50114 et seq.), as asserted in the above-referenced Notice.

4. The full amount of the noncompliance penalty due and payable by Austill is \$38,130.34.

5. In payment of said noncompliance penalty, within fifteen (15) days of court approval of the attached Stipulation and Motion, Austill shall:

- a. remit to the Regional Hearing Clerk, EPA, Region IV, by cashier's or certified check made payable to the United States Treasury, one-half of the noncompliance penalty, \$19,065.17, and
- b. remit by cashier's or certified check made payable to the State of Florida, Department of Environmental Regulation the balance of the noncompliance penalty, \$19,065.17, for use by the State of Florida as partial funding for a VOC pollution awareness and reduction program for Duval County, Florida. Said program, as referenced in the attached Stipulation and Motion for Entry of Consent Final Judgment filed by the State of Florida, Department of Environmental Regulation and

the City of Jacksonville, Case #83-138-54CA, Division D, will educate the public with respect to the environmentally detrimental effects of tampering with or misfueling motor vehicles.

6. The U.S. Environmental Protection Agency, Region IV, agrees to accept payment pursuant to the terms set out in Paragraph 4 above, in full and final settlement of all liability, obligation or duty of any kind on the part of Austill under C.A.A. Section 120 arising out of or connected with the operation by Austill of Presses 1-5 which gave rise to the Clean Air Act Section 120 action herein.

7. Austill will not treat the noncompliance penalty payments it makes pursuant to Paragraphs 3 and 4 herein as deductible expenses for federal, state or total tax purposes, nor will it treat these payments in any other way for the purpose of realizing favorable tax consequences therefrom.

AUSTILL PACKAGING COMPANY,
DIVISION OF JEFFERSON SMURFIT
CORPORATION
401 Alton Street
P. O. Box 276
Alton, Illinois 62002

By: Robert G. Stearley
Vice Pres.