

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF: )

REDWING CARRIERS, INC. )  
CREOLA, ALABAMA )

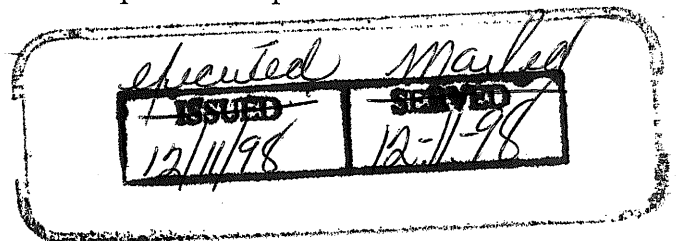
EPA ID # 021 257 951 )

ORDER NO. 99-027-CHW

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act of 1978, Code of Alabama 1975, §§22-30-1 through 22-30-24, as amended, and with the consent of Redwing Carriers, Inc., the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") makes the following **FINDINGS**:

1. Redwing Carriers, Inc. (hereinafter "Redwing Carriers") operates a truck terminal and a tanker truck washing facility. During the course of its operation, and prior to the Minimum Technological Requirements (MTR) of the Resource Conservation and Recovery Act, Redwing Carriers created three (3) surface impoundments. These impoundments were constructed without a liner which was not required at the time, but is currently required by the MTR. The impoundments were removed from service in February of 1985 and closed pursuant to an ADEM and EPA approved closure plan in September of



1986. Redwing Carriers received a Post-Closure Care Permit in September of 1989 which was revoked pursuant to the request of Redwing Carriers and reissued in December of 1997 to DSI/Redwing Carriers.

2. Due to the types of chemicals which were transported and disposed by Redwing Carriers, and to the unlined construction of the impoundments, groundwater at the site has become contaminated with listed hazardous waste constituents.

3. Redwing Carriers currently manages the closed surface impoundments and is conducting pump and treat remediation of the contaminated groundwater. The treated groundwater is reinjected upgradient of the contaminant plume pursuant to an Underground Injection Control permit (hereinafter "UIC Permit") issued by the Department in October 1989. The UIC Permit was revised and reissued by the Department on January 15, 1998.

4. The Alabama Department of Environmental Management is a duly constituted department of the State of Alabama pursuant to §§22-22A-1 through 22-22A-16 of the Code of Alabama 1975, as amended.

5. On February 27, 1998, a Notice of Violation was sent to Redwing Carriers for the alleged violations of the following permit conditions:

- a. Permit Condition I.C.12.a. requires Redwing Carriers to notify the Department before altering or making additions to the site. Redwing Carrier's 1997 annual groundwater report dated November 18, 1997 and received by the Department on December 2, 1997, indicated that three monitoring wells, TW-15, TW-20, and TW-21U had been

abandoned and a replacement well for TW-21U had been installed without prior notification to the Department. This is a direct violation of Redwing Carrier's Hazardous Waste permit.

- b. Permit Condition II.B.1.a. requires Redwing Carriers to maintain, in accordance with the detailed plans and specifications presented in the permit application, the groundwater monitoring wells identified in Table II.1. Redwing Carriers' removal of monitoring wells TW-15, TW-20 and TW-21U without prior review by and approval from the Department is a violation of said permit condition.
- c. Permit Condition II.B.1.d. requires Redwing Carriers to submit a plan with a permit modification at least 90 days prior to the installation of any wells. In violation of said permit condition, Redwing Carriers failed to submit documentation prior to the installation of monitoring well TW-21U-R, which was installed as a replacement for monitoring well TW-21U.

6. Pursuant to Permit Condition II.B.1.c Redwing Carriers was required to install monitoring well cluster TW-28 to the southeast of the facility in order to delineate the plume of contamination in that area. In a letter dated May 18, 1998, following the receipt of the February 27, 1998 Notice of Violation concerning Redwing Carrier's failure to adhere to the terms and conditions of its Hazardous Waste Permit, Redwing Carriers notified the Department that the required well cluster had been installed. On June 15, 1998 the

Department requested and later received from Redwing Carriers a map showing the location of these wells. A review of this map and Redwing Carrier's August 19, 1998 letter indicated that well cluster TW-28 had been installed in an area approximately 200 feet further to the southeast, where the contaminant plume had already been delineated, rather than in the area prescribed by the permit because the original permit location was inaccessible. Prior to installing these wells, Redwing Carrier neither requested nor received a modification to the permit to locate these wells in an alternate area.

7. On July 31, 1998, following the February 27, 1998 Notice of Violation, receipt of a Draft Consent Order on April 10, 1998, and an informal conference at the ADEM office on June 24, 1998 Redwing Carriers submitted a well abandonment plan for the abandonment of TW-15, TW-20 and TW-21U.

8. On July 31, 1998, following the February 27, 1998 Notice of Violation, receipt of a Draft Consent Order on April 10, 1998 and an informal conference at the ADEM office on June 24, 1998, Redwing Carriers submitted a permit modification and the applicable plans and fees for (1) the abandonment of monitoring wells TW-15, TW-20, and TW-21U; (2) the installation of TW-21U-R to replace the previously abandoned and replaced TW-21U; and (3) the installation of a replacement well for the previously abandoned TW-15.

9. Although Redwing Carriers does not agree with certain Findings presented in this Consent Order, it does agree, in the spirit of cooperation and with the desire to amicably resolve this matter with the Department, not to contest this Order. In view of the aforementioned and its desire to comply with the provisions of the Alabama Hazardous

Waste Management and Minimization Act and its implementing regulations, Redwing Carriers also agrees to all of the terms of this Consent Order.

10. Likewise, the Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

### **ORDER**

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22A-5(18), 22-30-20 and 22-30-19(a) and (b), as amended, and with the consent of Redwing Carriers, it is hereby ORDERED:

A. That within 15 days of the issuance of this Order, Redwing Carriers shall submit to the Department an interim final report of the geo-punch investigation in the area to the south-southwest of well cluster TW-23 which was completed on October 30, 1998 and required by Permit Condition II.B.1.d. Said report shall describe the work performed, set forth the results accomplished and describe the process by which the results were accomplished. Said report and the work completed by Redwing Carrier's on October 30, 1998 is subject to review and approval by the Department.

B. That within 45 days of the issuance of this Order, Redwing Carriers and ADEM will meet to discuss the possible submission of a permit modification with applicable fees and a work plan. Redwing Carriers shall, if agreed upon or as directed by ADEM, install a monitoring well cluster due east of existing monitoring well cluster TW-21, along the edge of the wooded area, to delineate the horizontal extent of the carbon tetrachloride

plume, as required by Permit Condition II.B.1.d. If agreed upon or as directed by ADEM, Redwing Carriers shall install two monitoring wells in this area: one well screened throughout the uppermost aquifer and one well screened in the confined (Miocene) aquifer). If agreed upon or as directed by ADEM, Redwing Carriers shall complete field mobilization, sample collection and analysis, and submit the data to the Department within 90 days of receipt of written notification from the Department.

C. That within 30 days of receipt of this Order, Redwing Carriers shall pay to the Department a civil penalty in the amount of Twenty Five Thousand Dollars (\$25,000.00) for violations set forth herein.

D. That unless there has been a written modification by ADEM of a compliance date or a permit condition, a written modification of an approved workplan, or excusable delay by Force Majeure, if Redwing Carriers fails to comply with any term or condition set forth in this Consent Order in time or manner specified herein, it shall pay stipulated penalties as set forth below upon written demand from ADEM:

1. For failure to commence, perform, and/or complete field work in a manner acceptable to ADEM or at the time required pursuant to this Consent Order, or for failure to complete and submit any workplans or reports in a manner acceptable to ADEM or at the time required pursuant to this Consent Order, or for failure to comply with any other provisions of this Consent Order,: one-hundred dollars (\$100) per day for the first seven days of such violation, two-hundred dollars (\$200) per day for the eighth through the twenty-first day, five-hundred dollars (\$500) per day for the twenty-second through the sixtieth day,

and no limit in any way except by statute or regulation for any violations that continue for longer than sixty days.

2. Penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the day of correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order. Penalties shall continue to accrue regardless of whether ADEM has notified Redwing Carriers of a violation.

3. All penalties shall be made payable by certified or cashier's check to ADEM and shall be remitted to:

**Office of General Counsel  
Alabama Department of Environmental Management  
Post Office Box 301463  
Montgomery, AL 36130-1463**

4. All checks shall reference Redwing Carrier's name and address, and the ADEM Consent Order number of this action.

E. That this Consent Order shall apply to and be binding upon all 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.

F. That subject to the terms of these presents and subject to the provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of violations which are cited in this Order.

G. That Redwing Carriers is not relieved from any liability if it fails to comply with any provision of this Consent Order.

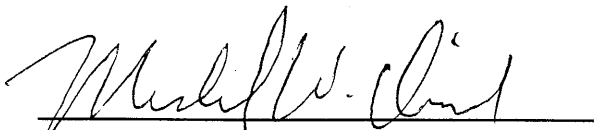
H. That for purposes of this Order only, Redwing Carriers agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Redwing Carriers also agrees that in any action brought by the Department to compel compliance with the terms of this Order, Redwing Carriers shall be limited to the defenses of Force Majeure, compliance with this Order and physical impossibility.

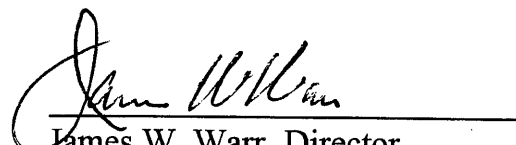
I. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. This Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning Redwing Carriers, which would constitute possible violations not addressed in this Consent 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 Redwing Carriers shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.



J. 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 Redwing Carriers does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 11<sup>th</sup> day of December, 1998.

  
(Signature)

  
James W. Warr, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W.L. Dickinson Drive  
Montgomery, Alabama 36109-2608  
(334) 271-7700

Michael W. ORRICK, President  
(Please Print Name and Title of Authorized Officer)

Redwing Carriers, Inc.