

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

THE CITY OF ORANGE BEACH dba)

CITY OF ORANGE BEACH WATER)

RECLAMATION SYSTEM)

ALABAMA HIGHWAY 180 WATER)

RECLAMATION PLANT)

NPDES PERMIT NO. AL0052515)

CONSENT ORDER NO. 95-106-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 through 22-22-14, as amended, the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342 and without the adjudication of any issues of fact or law and upon the

executed *mailed*
9/29/95 10/2/95

consent of the parties concerned hereto, the Department makes the following FINDINGS:

1. The City of Orange Beach dba the City of Orange Beach Water Reclamation System (the Permittee) operates a waste treatment facility known as the Alabama Highway 180 Water Reclamation Plant which discharges pollutants from a point source into the Gulf Intracoastal Waterway and Groundwater, waters of the State.

2. The Alabama Department of Environmental Management (the Department) is a duly constituted department 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 water pollution control agency for the purposes of the federal Clean Water Act, 33 U.S.C. §§ 1251 through 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code of Alabama 1975, as amended.

4. On September 15, 1993 the Department issued Permittee's NPDES Permit Number AL0052515 (the Permit) which established limitations on the discharge of pollutants from such point source, designated therein as outfall number 001, into the Gulf Intracoastal Waterway. The Permit also requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports to the Department describing the results of its monitoring.

5. Discharge Monitoring Reports submitted to the Department by the Permittee for the month of July 1995, indicate that the Permittee has discharged pollutants from

such point source into Intracoastal Waterway in violation of the limitations established in NPDES Permit Number AL0052515.

6. On June 18, 1995, the Department received notice that the Permittee's sewer system had experienced an overflow of raw sewage on June 17, 1995 at a pump station located at Sea Chase Condominiums.

7. On July 5, 1995, the Department received notice that the Permittee's sewer system had experienced an overflow of raw sewage on July 4, 1995 at Romar House pump station located on Alabama Highway 182.

8. The Permittee's 1995 Municipal Water Pollution Prevention (MWPP) Annual Report submitted to the Department indicated that there had been approximately 26 similar overflows in the system in the past year.

9. The numerous overflows of raw sewage from the sewer system pose a potential health hazard and represent a failure of the Permittee to properly operate and maintain its system in good working order to achieve compliance with the terms and conditions of the permit.

10. The Permittee has prepared and submitted to the Department a preliminary engineering report which investigated the need for new or additional treatment works necessary for the Permittee to achieve compliance with the discharge limitations in NPDES Permit Number AL0052515 and which meets the content requirements of 40 C.F.R. § 35.2030 (1986). The report also addressed the City's plans to reduce and eliminate sewer system overflows during peak flow situations through pump station modifications and rehabilitation. The report also included interim solutions to present

and future wastewater collection and treatment needs through agreements with The Utilities Board of the City of Gulf Shores and South Alabama Sewer Services along with plans for upgrading and expanding existing facilities..

11. The Permittee agrees with the Findings presented in this Consent Order, and in an effort to cooperate with the Department and to comply with the provisions of the Alabama Water Pollution Control Act, the Permittee 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 has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

13. The permittee waives the right to an informal conference prior to the issuance of this Consent Order and waives the right to a hearing before the Environmental Management Commission upon issuance of this Consent Order.

ORDER

Based upon the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-22-9(I), and 22-22-9(k), as amended, and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, it is hereby Ordered:

A. That commencing immediately after execution of this Consent Order, the Permittee shall not discharge pollutants from the above-mentioned point source (outfall

001) at the Alabama Highway 180 Water Reclamation Plant into Intracoastal Waterway in excess of the following discharge limitations:

DISCHARGE LIMITATIONS

Pollutant Parameter	Monthly Average lbs/day	Weekly Average lbs/day	Monthly Average mg/l	Weekly Average mg/l
NH3-N	70.1	117	3	5

B. That, except as set forth in this Order, the Permittee will comply with all other provisions of NPDES Permit Number AL0052515, including but not limited to the monitoring and reporting requirements of the Permit..

C. That the Permittee will utilize the land application system to the extent possible to reduce permit violations.

D. That the Permittee shall prepare, and submit to the Department no later than October 30, 1995, an engineering report which investigates the need for new or additional treatment works or modification of existing treatment works necessary for the Permittee to achieve compliance with the discharge limitations in NPDES Permit Number AL0052515 and which meets the content requirements of 40 C.F.R. §35.2030 (1986).

E. That the Permittee shall prepare, and submit to the Department no later than May 1, 1996, final design drawings and specifications for new or additional treatment works or modification of existing treatment works necessary for the Permittee to achieve compliance with the discharge limitations in NPDES Permit Number AL0052515.

F. That the Permittee shall prepare, and submit to the Department no later than May 1, 1996, a financial plan describing in detail the sources and methods which the Permittee will utilize in financing construction of new or additional treatment works or modification of existing treatment works and any rehabilitation of the sewer system necessary for the Permittee to achieve compliance with the discharge limitations and all other conditions in NPDES Permit Number AL0052515.

G. That the Permittee shall execute the necessary contracts for the construction of new or additional treatment works or modification of existing treatment works or rehabilitation of the sewer system necessary for the Permittee to achieve compliance with the discharge limitations and all other conditions in NPDES Permit Number AL0052515 and issue a notice to proceed with construction to the contractor no later than August 31, 1996.

H. That the Permittee shall complete construction of new or additional treatment works or complete modification of existing treatment works or rehabilitation of the sewer system necessary for the Permittee to achieve compliance with the discharge limitations and all other conditions in NPDES Permit Number AL0052515 no later than June 30, 1997.

I. That the Permittee shall comply with all discharge limitations and all other conditions contained in NPDES Permit Number AL0052515 no later than June 30, 1997, and shall continue to comply with said discharge limitations and all other conditions each and every day thereafter until the expiration date of NPDES Permit Number AL0052515.

J. That the Permittee shall prepare and submit to the Department during the months of January, April, July and October, a progress report describing in detail the Permittee's progress toward compliance with each provision of this Consent Order. In addition, not later than 14 days following each applicable date in paragraphs F, G, and H hereof, the Permittee shall submit a written notice of compliance or noncompliance with the requirements of that paragraph. Notices of noncompliance shall state the cause of noncompliance, corrective actions taken, and a prediction of the Permittee's ability to comply with any remaining requirements of this Consent Order. Notices and progress reports shall be mailed to:

Alabama Department of Environmental Management
Water Division
Municipal Branch
P. O. Box 301463
Montgomery, Alabama 36130-1463

K. The Permittee shall pay to the Department, upon demand, stipulated penalties for each day it fails to meet any of the milestone dates or satisfy any of the requirements set forth in or established in this Consent Order. The stipulated penalties for failure to meet each milestone or any requirement date shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$100
31st to 60th day	\$200
After 60 days	\$300

L. 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.

M. 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.

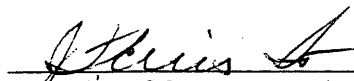
N. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

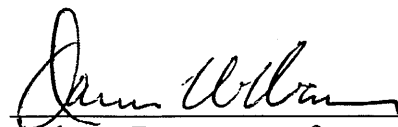
O. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. The Permittee also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

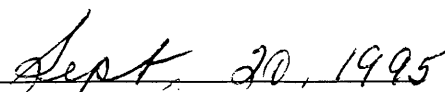
P. It is the express purpose of the parties entering into this Consent Order to further the objectives set forth in the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code Of Alabama 1975, as amended, and the Clean Water Act. In light of these objectives, the Permittee agrees to, inter alia, cause the expeditious implementation of the remedial measures as herein set forth and in accordance with the schedules approved by the Alabama Department of Environmental Management, take all steps necessary to: (1) eliminate further bypasses and unpermitted discharges of

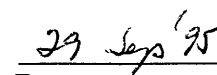
untreated wastewater containing raw sewage, (2) eliminate sewer system overflows during dry weather and peak flow situations and minimize or otherwise control sewer system overflows during wet weather events, (3) achieve full compliance with it's NPDES permit, (4) achieve full compliance with the Clean Water Act, and (5) comply with all other conditions of this Consent Order. 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 the Permittee 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 any previous Order.

Q. By agreement of the parties, this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent hereby waives any hearing on the terms and conditions of same.


The City of Orange Beach


Alabama Department of
Environmental Management


Date


Date