

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)
)

THE CITY OF ORANGE BEACH)
)

d/b/a THE CITY OF ORANGE BEACH)
WATER RECLAMATION SYSTEM)
ALABAMA HIGHWAY 180)
WATER RECLAMATION PLANT)
)

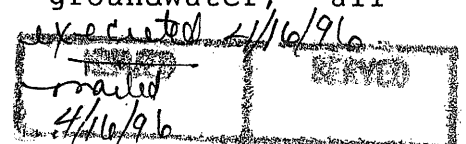
NPDES PERMIT NO. AL0052515)
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CONSENT ORDER NO.
96-073 -CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 et seq., Code of Alabama 1975, as amended, the Alabama Water Pollution Control Act, §§22-22-1 et seq., Code of Alabama 1975, as amended, the ADEM Administrative Code of Regulations (ADEM Admin. Code R.) promulgated pursuant thereto, and the National Pollutant Discharge Elimination System (NPDES) 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 consent of the parties concerned hereto, the Department makes the following FINDINGS:

1. The City of Orange Beach, d/b/a 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, all



considered waters of the state of Alabama.

2. 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, Code of Alabama 1975, as amended.

3. Pursuant to § 22-22-9(4)(n), Code of Alabama 1975, as amended, 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 29, 1995 the Department executed Consent Order No. 95-106-CWP which was entered into by the City of Orange Beach and the Department to address violations of its NPDES permit that the City of Orange Beach had been experiencing for several months.

5. The Order portion of the Consent Order outlined measures the City of Orange Beach would initiate to improve the system and facilitate future compliance with the permit conditions. The Order also detailed a compliance schedule for completing work on the System and remedial measures that the Permittee should take to reduce the possibility of permit violations until the plant could be in full compliance.

6. Not due to any Act or omission of the Permittee, and since issuance of Consent Order No. 95-106-CWP, the Department has determined that additional remedial measures will provide supplementary assurance in the reduction of permit violations.

7. 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.

8. The Department has agreed to the terms of this Consent Order. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

9. 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 regarding the issuance of this Consent Order.

ORDER

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

A. That Consent Order No. 95-106-CWP is amended by adding paragraph R which shall read as follows:

That during the time specific itemized improvements in the wastewater collection system are being completed by the City of Orange Beach under Consent Order No. 95-106-CWP, the Permittee shall not issue any certificates of occupancy for new multi-unit residential

developments without first receiving the Department's written approval. The Department shall issue said written approval upon receiving from the Permittee written certification signed by an Alabama licensed professional engineer selected by Permittee that the Permittee's wastewater collection system is hydraulically adequate to handle the proposed additional wastewater flow generated by the new residential units. For purposes of this Consent Order, new multi-unit residential developments shall mean any development consisting of two or more residential units which has not been issued a building permit from the Permittee prior to the effective date of this Consent Order which amends Consent Order No. 95-106-CWP.

B. That the remainder of Consent Order No. 95-106-CWP shall remain in full force and effect as executed on September 29, 1995.

C. 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.

D. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. The City of Orange Beach waives the right to a hearing before the Environmental Management Commission regarding the issuance of this Consent Order.

E. That once the Permittee Orange Beach has certified (through an Alabama licensed professional engineer) that its wastewater collection system is hydraulically adequate to handle the proposed additional wastewater flow generated by new

residential units and demonstrates compliance with all discharge limitations and all other conditions contained in NPDES permit No. AL0052515, the Department will immediately initiate another administrative action to rescind this Consent Order and Consent Order No. 95-106-CWP.

ORDERED and ISSUED this 16th day of April, 1996.

By:

Frank Ellis
The City of Orange Beach

Frank Ellis, Mayor
(Please print name and
title of authorized officer)

James W. Warr
James W. Warr, Acting Director
Alabama Department of
Environmental Management