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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

POST OFFICE BOX 301463 36130-1463 ♦ 1400 COLISEUM BLVD. 36110-2059

MONTGOMERY, ALABAMA

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(334) 271-7700

ONIS "TREY" GLENN, III, P.E.

DIRECTOR

DEC 7 2006

BOB RILEY

GOVERNOR

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Evelyn Huff
Chairperson
Dallas County Water and Sewer Authority
P.O. Box 1413
Selma, Alabama 36702

RE: Dallas County Water and Sewer Authority
Consent Order No. 07-024-CWP
NPDES Permit No. AL0043176
Dallas County W&S WWTP
Dallas County



Facsimiles: (334)

Administration: 271-7950
General Counsel: 394-4332
Communication: 394-4383
Air: 279-3044
Land: 279-3050
Water: 279-3051
Groundwater: 270-5631
Field Operations: 272-8131
Laboratory: 277-6718
Mining: 394-4326

Dear Ms. Huff:

Please find enclosed ADEM Consent Order No. 07-024-CWP which requires you to take certain actions at the Dallas County W&S WWTP in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of the Dallas County Water and Sewer Authority and the Department. Please note that the assessed civil penalty is due within 45 days.

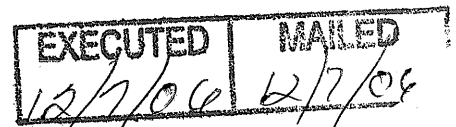
If you have any questions, please contact Wayne Rogers at (334) 271-7816.

Sincerely,

James McIndoe, Chief
Water Division

Enclosures

CC: Glenda Dean, ADEM-Water Division (e-mail)
Olivia Rowell, Office of General Counsel
ADEM-Public Affairs Office (e-mail)
Chetan Gala, US EPA Region IV



Birmingham Branch
110 Vulcan Road
Birmingham, Alabama 35209-4702
(205) 942-6168
(205) 941-1603 [Fax]

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, Alabama 35603-1333
(256) 353-1713
(256) 340-9359 [Fax]

Mobile Branch
2204 Perimeter Road
Mobile, Alabama 36615-1131
(251) 450-3400
(251) 479-2593 [Fax]

Mobile - Coastal
4171 Commanders Drive
Mobile, Alabama 36615-1421
(251) 432-6533
(251) 432-6598 [Fax]



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**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

Dallas County Water and Sewer Authority)

Dallas County W&S WWTP)

Selma (Dallas County), AL)

NPDES Permit No. AL0043176)

Consent Order No: 07-024-CWP

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the Dallas County Water and Sewer Authority (hereinafter the "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-16 (1997 Rplc. Vol. and 2006 Cum. Supp.), the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (1997 Rplc. Vol.), and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342.

STIPULATIONS

1. The Permittee operates a wastewater treatment facility known as the Dallas County Water and Sewer Authority Wastewater Treatment Plant (hereinafter "WWTP") located at the Craig Airport Authority, Building 278 in Selma, Dallas County,

Alabama. The wastewater treatment facility discharges pollutants from a point source into Six Mile Creek, a water of the state.

2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Ala. Code (1997 Rplc. Vol. and 2006 Cum. Supp.).

3. Pursuant to § 22-22A-4(n), Ala. Code (1997 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 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, Ala. Code (1997 Rplc. Vol.).

4. On December 14, 2004, the Department issued the Permittee's NPDES Permit Number AL0043176 (hereinafter "the Permit"), establishing limitations on the discharge of pollutants into Six Mile Creek, a water of the state, from a point source at the WWTP, designated therein as outfall number 001. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter "DMRs") to the Department describing the monitoring results. The Permit also requires that the Permittee maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants from Outfall 001 into the aforementioned Six Mile Creek in violation of the limitations established in the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. The Permittee consents to abide by the terms of the following Consent Order and to pay the civil penalty assessed herein.

7. The Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

CONTENTIONS OF THE DEPARTMENT

8. Pursuant to Ala. Code § 22-22A-5(18)c. (2006 Cum. Supp.) , in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall be a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Violations consisted of exceeding weekly average and/or monthly average permit limitations for fecal coliform, total

suspended solids (hereinafter "TSS"), TSS percent removal, carbonaceous biochemical oxygen demand (herein after "CBOD"), CBOD percent removal, and total ammonia-nitrogen. The violations also included exceeding the daily maximum permit limitations for fecal coliform, total residual chlorine, and pH. In addition, violations also included exceeding the daily minimum permit limitations for dissolved oxygen and pH. The Department has no evidence of irreparable harm to the environment or to the health and safety of the public as a result of these violations.

B. THE STANDARD OF CARE: The Permittee failed to properly maintain the wastewater collection system to ensure compliance with permit limitations.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if there has been a significant economic benefit conferred by the delay of compliance with permit limitations.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects as a result of the violations described in this Order.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department issued two Notices of Violation (hereinafter "NOVs") to the Permittee for the violations referenced herein. The first NOV was issued on March 2, 2006. A second NOV was issued on September 5, 2006. These prior enforcement actions have been unsuccessful at resolving ongoing permit violations.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c. (2006 Cum. Supp.), as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations cited herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$17,100 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management

P.O. Box 301463
Montgomery, Alabama 36130-1463

C. Not later than ninety days after the effective date of this Consent Order, the Permittee agrees to prepare and submit an Engineering Report to the Department. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan) and must identify the potential causes of noncompliance. The Engineering Report must also summarize the Permittee's investigation into the changes necessary for the Permittee to implement to achieve compliance with NPDES Permit Number AL0043176. At a minimum, the Permittee shall consider each of the following in making its determination: the need for changes in maintenance and operating procedures, the need for modification of existing treatment works, and the need for new or additional treatment works. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient to accomplish compliance with the NPDES permit, then the Permittee shall modify the report so that it does accomplish compliance. Modifications to the Engineering Report, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations made in the Engineering Report within 670 days after the effective date of this Consent Order.

D. The Permittee agrees to prepare and submit Semi-Annual Progress Reports to the Department describing in detail the Permittee's progress towards achieving compliance with items in the Compliance Plan beginning six months after the effective

date of this Consent Order and continuing every six months thereafter that the Permittee's performance of the obligations under this Consent Order remain incomplete. In addition, not later than fourteen days following each applicable due date contained in this Consent Order, the Permittee shall submit a written notice of noncompliance with the requirements of that paragraph, if applicable. Notices of noncompliance shall state the cause of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

E. No later than 730 days after the date of entry of this Consent Decree, the Permittee agrees to comply with the fecal coliform, TSS, TSS percent removal, CBOD, CBOD percent removal, pH, total residual chlorine, dissolved oxygen, and total ammonia-nitrogen limitations of NPDES Permit Number AL0043176. The Permittee further agrees to comply with all other terms, conditions, and limitations of its NPDES Permit immediately upon the effective date of this Consent Order.

F. The Permittee agrees that, after the effective date of this Consent Order, for every violation of the NPDES Permit effluent limitations, except for upsets that have been properly documented and substantiated as required by Part II.C.2. of NPDES Permit Number AL0043176, the Permittee shall pay to the Department the sum of \$100.00 for each and every daily maximum, daily minimum, weekly average, and minimum percent removal violation and \$200.00 for each and every monthly average violation.

G. The parties agree that the cumulative stipulated penalties described in paragraphs F. above shall under no circumstances exceed \$24,000. Once stipulated penalties of \$24,000 are due to the Department and violations continue to occur, or, should violations continue to occur after 730 days after the effective date of this Consent

Order, then the Department shall be free to issue additional orders or file suit against the Permittee in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance of this Consent Order.

H. The Permittee agrees that payment of stipulated penalties due for violations of effluent limitations under this Consent Order shall be due not later than the 28th day of the month following the monitoring period in which there were violations. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

I. The parties agree 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.

J. The parties agree that, 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.

K. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

L. 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 the Circuit Court of Montgomery County. 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. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, that could not be overcome by due diligence (i.e., causes that could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

M. The Department and the Permittee agree 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. 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 may

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 this Consent Order.

N. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

O. The Department and the Permittee agree that this Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

P. The Department and the Permittee agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.

Q. The Department and the Permittee agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

R. The Department and the Permittee agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

S. The Department and the Permittee agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

DALLAS COUNTY
WATER AND SEWER AUTHORITY

By: Janelyn Kipp

Its: Chairperson

Date: 10/24/06

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: [Signature]

Its: Director

Date: 12/7/06

Attachment 1

AL0043176 DALLAS COUNTY W&S WWTP

DMR Value Limit Units Averaging Time
Outfall ID: 0011

March, 2005

<u>NITROGEN AMMONIA TOTAL N</u>			
1	2.6	2.2	mg/l

Weekly Average

June, 2005

<u>BOD CARBONACEOUS 5DAY 20C</u>			
2	10.9	8	mg/l
3	16.4	12	mg/l

Monthly Average
Weekly Average

<u>NITROGEN AMMONIA TOTAL N</u>			
4	5.9	1.5	mg/l
5	8	2.2	mg/l
6	35.3	25	lbs/day
7	49.5	37.5	lbs/day

Monthly Average
Weekly Average

July, 2005

<u>BOD CARBONACEOUS 5DAY 20C</u>			
8	8.2	8	mg/l

Monthly Average

<u>NITROGEN AMMONIA TOTAL N</u>			
9	4.2	1.5	mg/l
10	9.3	2.2	mg/l
11	32.8	25	lbs/day
12	78.2	37.5	lbs/day

Monthly Average
Weekly Average

August, 2005

<u>NITROGEN AMMONIA TOTAL N</u>			
13	3.1	2.2	mg/l

Weekly Average

February, 2006

<u>CHLORINE TOTAL RESIDUAL</u>			
14	0.06	0.01	mg/l

Daily Maximum

<u>PH</u>			
15	8.8	8.5	SU

Daily Maximum

March, 2006

<u>BOD CARBONACEOUS 5DAY 20C</u>			
16	17.5	12	mg/l

Weekly Average

<u>CHLORINE TOTAL RESIDUAL</u>			
17	0.89	0.01	mg/l

Daily Maximum

<u>DISSOLVED OXYGEN</u>			
18	5.6	6	mg/l

Daily Minimum

<u>FECAL COLIFORM WINTER</u>			
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Page 1 of 2

19	1830	1000	#/100 ml	Monthly Geo Mean
<u>NITROGEN AMMONIA TOTAL N</u>				
20	1.8	1.5	mg/l	Monthly Average
21	74.3	37.5	lbs/day	Weekly Average

April, 2006

<u>BOD CARBONACEOUS 5DAY 20C</u>			
22	17.1	8	mg/l
23	27.9	12	mg/l

Monthly Average
Weekly Average

<u>CBOD 5 Day Percent Removal</u>			
24	83.5	85	Percent

Monthly Average

CHLORINE TOTAL RESIDUAL

25	0.65	0.01	mg/l	Daily Maximum
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DISSOLVED OXYGEN

26	4.2	6	mg/l	Daily Minimum
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FECAL COLIFORM WINTER

27	7400	1000	#/100 ml	Monthly Geo Mean
28	82000	2000	#/100 ml	Daily Maximum

NITROGEN AMMONIA TOTAL N

29	7.7	1.5	mg/l	Monthly Average
30	11.8	2.2	mg/l	Weekly Average
31	41.8	25	lbs/day	Monthly Average
32	66.9	37.5	lbs/day	Weekly Average

SOLIDS SUSP PERCENT

33	84.2	85	Percent	Monthly Average
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May, 2006

BOD CARBONACEOUS 5DAY 20C

34	14.7	8	mg/l	Monthly Average
35	18.1	12	mg/l	Weekly Average

CHLORINE TOTAL RESIDUAL

36	0.04	0.01	mg/l	Daily Maximum
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DISSOLVED OXYGEN

37	3.4	6	mg/l	Daily Minimum
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FECAL COLIFORM WINTER

38	9200	2000	#/100 ml	Daily Maximum
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NITROGEN AMMONIA TOTAL N

39	11.1	1.5	mg/l	Monthly Average
40	16.2	2.2	mg/l	Weekly Average
41	55	25	lbs/day	Monthly Average
42	77.8	37.5	lbs/day	Weekly Average

SOLIDS SUSP PERCENT

43	63.4	85	Percent	Monthly Average
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TSS

44	33	30	mg/l	Monthly Average
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45	162	45	mg/l	Weekly Average
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June, 2006

BOD CARBONACEOUS 5DAY 20C

46	11.1	8	mg/l	Monthly Average
47	16.3	12	mg/l	Weekly Average

CHLORINE TOTAL RESIDUAL

AL0043176 DALLAS COUNTY W&S WWTP

	DMR Value	Limit	Units	Averaging Time
48	0.5	0.01	mg/l	Daily Maximum
	<u>DISSOLVED OXYGEN</u>			
49	5.1	6	mg/l	Daily Minimum
	<u>FECAL COLIFORM SUMMER</u>			
50	17200	2000	#/100 ml	Daily Maximum
	<u>NITROGEN AMMONIA TOTAL N</u>			
51	11.6	1.5	mg/l	Monthly Average
52	18.3	2.2	mg/l	Weekly Average
53	49.7	25	lbs/day	Monthly Average
54	86.1	37.5	lbs/day	Weekly Average
	<u>PH</u>			
55	3.22	6	SU	Daily Minimum
	<u>SOLIDS SUSP PERCENT</u>			
56	78.2	85	Percent	Monthly Average