

ADEM



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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

MONTGOMERY, ALABAMA

WWW.ADEM.STATE.AL.US

(334) 271-7700

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

DIRECTOR

BOB RILEY

GOVERNOR

March 22, 2005

MS DIANE MARTIN
OWNER
M & M AUTOMOTIVE
PO BOX 568
SUMITON AL 35148

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. Martin:

Re: M & M Automotive
6630 Hwy 78 West – Cordova, AL
Consent Order 05-060-CWP

Please find enclosed ADEM Consent Order No. 05-060-CWP which requires M & M Automotive to take certain actions in regard to alleged violations of the Alabama Water Pollution Control Act. This Order has been issued with the consent of M & M Automotive and the Department. Please note that the assessed civil penalty is due within 45 days.

If you have any questions, please do not hesitate to contact me at (334) 270-5602.

Sincerely,

James E. McIndoe
Chief
Water Division

Enclosure

Cc: Olivia Rowell - Office of General Counsel
Eric Sanderson, ADEM - Water Division
Keith Girdner, ADEM – Water Division
Arthur Collins, US EPA Region IV
ADEM – Public Affairs Office
Darlene Gregory, ADEM – Office of the Director



ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

M & M AUTOMOTIVE)
6630 HWY 78 WEST)
CORDOVA, ALABAMA)

CONSENT ORDER NO. 05-060-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 consent of the parties concerned hereto, the Department makes the following FINDINGS:

1. M & M Automotive ("the facility") is an Alabama business operating an automotive salvage and recycling facility in Cordova, Alabama.

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.

§§ 251 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. M & M Automotive's General NPDES Permit coverage under ALG18-0587 expired on September 30, 2002.

5. On December 10, 2003, the Department conducted an inspection of M & M Automotive. During this inspection, it was noted M & M was operating without a permit, in violation of Code of Alabama 1975, §§ 22-22-9(i)(3) by discharging storm water to an unnamed tributary to Mathis Creek.

6. The Department mailed to the facility a Warning Letter dated December 24, 2003, and Notices of Violation dated February 4, 2002, and July 11, 2003, concerning the unpermitted discharge. The Notices of Violation required a response from the facility no later than March 6, 2002, and August 11, 2003, respectively. As of November 23, 2004, no response has been received by the Department.

7. M & M Automotive neither admits nor denies the Department's contentions. Nevertheless, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Water Pollution Control Act, M & M Automotive has agreed to the terms of this Consent Order.

8. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

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, within 45 days from the effective date of this Consent Order, M & M Automotive will pay to the Department a civil penalty in the amount of four thousand dollars (\$4,000.00).

B. That, within 30 days from the effective date of this Consent Order, the facility will submit to the Department a completed application and application fee for coverage under the General Permit for the Salvage and Recycling Industry, ALG180000.

C. That, immediately upon the effective date of permit coverage and thereafter, the facility will comply with all terms, conditions and limitations of the Permit, including the discharge limitations and best management practices requirements, until either the expiration of that Permit or the expiration of the facility's coverage by that Permit, whichever comes first.

D. If, after 60 days from the effective date of this Consent Order, the facility continues to have violations, the Department reserves the right to proceed unilaterally to address those violations through subsequent orders, litigation and/or suspension or revocation of the Permit.

E. All penalties 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

PO Box 301463

Montgomery, AL 36130-1463

All such checks shall reference the facility's name, address, and the docket number of this Consent Order.

F. 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.

G. 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 Order.

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

I. For purposes of this Order only, the facility 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 facility also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the facility shall be limited to the defenses of Force Majeure, compliance with this Agreement and physical impossibility.

J. 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 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 facility shall not object to such future orders, litigation or enforcement action based on the issuance of this Order if future Orders, litigation or other enforcement action address new matters not raised in this Order.

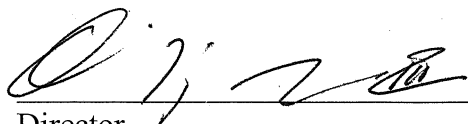
K. By agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent does hereby waive any hearing on the terms and conditions of same.

M & M AUTOMOTIVE

By: Diane Martin

DATE: 1-24-05

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



Director
Alabama Department of
Environmental Management
Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700

DATE: 3-22-05