

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF )

WATER WORKS AND SEWER BOARD )

OF THE CITY OF GENEVA )

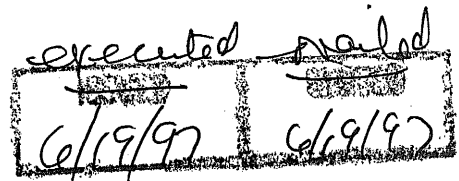
GENEVA WWTP )

NPDES PERMIT NO. AL0020273 )

CONSENT ORDER NO. 97-186-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 OF FACT:



1. The Water Works and Sewer Board of the City of Geneva (the Permittee) operates a waste treatment facility known as the Geneva Wastewater Treatment Plant which discharges pollutants from a point source into the Pea River, a water 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 March 18, 1992 the Department issued Permittee's NPDES Permit Number AL0020273 (the Permit) which established limitations on the discharge of pollutants from such point source, designated therein as outfall number 001, into the Pea River. 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. NPDES Permit Number AL0020273, Part II, E.1.a. requires the Permittee to file a complete permit application for reissuance of the permit at least 180 days prior to its expiration if the Permittee intends to discharge beyond the expiration date of the Permit.

6. As set forth in ADEM Admin. Code R. 335-6-6-.06, the terms and conditions of an expiring NPDES Permit are automatically extended pending issuance of a new permit if the Permittee has submitted a timely and complete application for reissuance of an NPDES Permit and the delay in permit issuance has not been caused by the actions of the Permittee.

7. NPDES Permit Number AL0020273, Part II, E.1.b. states that, "Failure of the Permittee to apply for reissuance at least 180 days prior to permit expiration will void the automatic continuation of the expiring permit provided by ADEM Administrative Code, Rule 335-6-6-.06, and should the permit not be reissued for any reason any discharge after expiration of this permit will be an unpermitted discharge".

8. The Department did not receive a complete permit application from the Permittee 180 days prior to March 31, 1997, the expiration date of the permit. A permit application was received on February 6, 1997; however, this application did not have the required permit fee. The Permittee was notified by letters dating February 18, 1997, and March 12, 1997, of the correct amount of the permit fee. During the 180 days prior to March 31, 1997, the expiration date of the permit, the Permittee fully complied with all pollutant discharge limitations in NPDES Permit Number AL0020273. The failure to submit a complete permit application appears to be an administrative error.

9. The Department was unable to reissue NPDES Permit Number AL0020273 prior to its expiration date due to the untimely submittal of the permit application by the Permittee thereby resulting in an unpermitted discharge by the Permittee.

10. The permittee has the ability to pay the civil penalty assessed herein.

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 within 30 days from the date of receipt of this notice of this Order, the Permittee shall pay to the Department a civil penalty in the amount of Two Thousand Dollars (\$2,000) for the violations stated herein.

B. That, commencing immediately after receiving notice of this Order, the Permittee shall comply with all the monitoring and reporting provisions of NPDES Permit Number AL0020273 and all other limitations, terms and conditions of NPDES Permit Number AL0020273 to the extent not inconsistent with this Order and its attachment and shall continue to comply with said monitoring and reporting provisions each and everyday thereafter until the reissuance of the permit by the Department.

C. That failure to comply with this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines or other appropriate relief by the Department or others against the Permittee.

D. That issuance of this Order does not preclude the Department or others from seeking civil penalties, criminal fines or other appropriate relief by the Department or others against the Permittee for the violations of its NPDES Permit Number AL0020273.

E. 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.

F. 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.

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

H. 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.

I. 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) achieve full compliance with it's NPDES permit, (2) achieve full compliance with the Clean Water Act, and (3) 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.

J. 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.

  
WATER WORKS AND SEWER BOARD  
OF THE CITY OF GENEVA

DATE

6-13-97

  
ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

DATE

6/12/97