

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

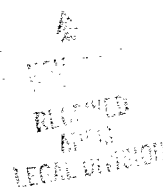
Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

NOV -7 2013

CERTIFIED MAIL 91 7199 9991 7030 3430 4327
RETURN RECEIPT REQUESTED

Kenneth Copeland, Mayor
Town of Littleville
Littleville WWTP
1810 George Wallace Highway
Russellville, Alabama 35654



RE: Consent Order No. 14-008-CWP
NPDES Permit AL0056278
Littleville WWTP
Colbert County (033)

Dear Mayor Copeland:

Please find the enclosed ADEM Consent Order No. 14-008-CWP which requires you to take certain actions at the Littleville WWTP at 1236 Peach Street in Russellville, AL in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of the Town of Littleville/Littleville WWTP.

Sincerely,

A handwritten signature in black ink that reads "Glenda L. Dean".

Glenda L. Dean, Chief
Water Division

GLD/kbj

File: ECO/14-008-CWP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel
Laura Eubank/ADEM, Office of General Counsel
Daphne Smart/ADEM, Industrial Municipal Branch/Water Division
Emily Anderson/ ADEM, Industrial Municipal Branch/Water Division
Stephanie Ammons/ADEM, Industrial Municipal Branch/Water Division

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

Town of Littleville)
Littleville WWTP)
Russellville, Colbert County, Alabama)
NPDES PERMIT NO. AL0056278)

Consent Order No. 14-008-CWP

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and the Town of Littleville (hereinafter “the Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter “AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14 (2006 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 Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).
2. Pursuant to Ala. Code § 22-22A-4(n) (2006 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 AWPCA, Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.).
3. The Permittee operates a wastewater treatment plant (hereinafter “WWTP”), known as the Littleville WWTP, located at 1236 Peach Street, in Russellville, Colbert County, Alabama.
4. The Department reissued National Pollutant Discharge Elimination System (hereinafter “NPDES”) Permit Number AL0056278 (hereinafter the “Permit”) to the Permittee on

January 27, 2006, effective February 1, 2006, establishing limits on the discharge of pollutants from a point source, designated therein as Outfall 0011, to Stinking Bear Creek, a water of the State. The Department reissued the Permit again on May 31, 2011, effective June 1, 2011, establishing limits on the discharge of pollutants from the same point source, Outfall 0011, to an unnamed tributary to Stinking Bear Creek. During the Department's Water Quality Branch Wasteload Allocation (WLA) model research, prior to issuance of the May 31, 2011 permit, it was determined that the discharge from Outfall 0011 did not go to Stinking Bear Creek, but to an unnamed tributary to Stinking Bear Creek.

5. Permit condition I.A of the Permit requires that discharges be limited and monitored as specified in the permit. The discharge monitoring reports (hereinafter "DMRs") listed in Attachment 1 indicate that discharges from Outfall 0011 did not comply with Fecal Coliform (hereinafter "FC"), *Escherichia coli* (hereinafter "E.coli"), Five Day Carbonaceous Biochemical Oxygen Demand (hereinafter "CBOD5"), Total Ammonia as Nitrogen (hereinafter "NH3-N"), and Total Suspended Solids (hereinafter "TSS") permit limitations.

6. Permit condition I.C.1 of the Permit requires the Permittee to submit E.coli monitoring on a monthly basis. The June and July 2011 DMRs indicate that the E.coli sampling results were not submitted. The noncompliance form submitted for the July 2011 monitoring period indicates analysis for FC, instead of E.coli, was conducted until August 2011 due to confusion regarding the newly reissued permit.

7. During the period of July 1, 2011, through June 30, 2013, the Permittee reported three sanitary sewer overflows (hereinafter "SSOs"). Attachment 2 includes the reported dates of the SSOs along with the locations and volumes.

8. The Department issued a Notice of Violation to the Permittee on March 26, 2012. The Notice of Violation addressed permit limitation violations, the above referenced missing June and July 2011 monitoring data, and one of the three above referenced SSOs. The Department received a response to the Notice of Violation on April 26, 2012, indicating that monitoring practice improvements, operational process control improvements, and a more extensive inflow/infiltration study would be implemented to achieve compliance with the permit.

9. The Permittee consents to abide by the terms of this Consent Order and to pay any civil penalty assessed herein.

10. 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 alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

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, as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this CONSENT ORDER with the following terms and conditions:

A. 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

B. The Permittee agrees to prepare and submit to the Department, an Engineering Report that addresses the need for changes in maintenance and operating procedures, the potential for infiltration and inflow, the need for modification of existing treatment and collection system works, and the need for new or additional treatment and collection system works. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan) and cost of equipment and/or repairs needed to achieve compliance, if known. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report will be submitted so that it is received by the Department no later than 90 days after the date of issuance of this Consent Order. If the

Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee must modify the Engineering Report. The Department must receive modifications to the Engineering Report, if required, no later than thirty days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations provided in the Engineering Report not later than December 31, 2015.

C. The Permittee agrees to prepare and submit detailed Semiannual Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan, including the cost of equipment and/or repairs needed to achieve compliance. The Department must receive the Progress Reports no later than six months after the date of issuance of this Consent Order and continuing every six months thereafter that the Permittee's performance obligations under this Consent Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each applicable imposed requirement, if applicable. The Permittee shall submit the notice of noncompliance to the Department no later than fourteen days following each applicable due date contained in this Consent Order. Notices of noncompliance shall state the cause of noncompliance and the corrective action taken and shall also describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

D. The Permittee agrees to fully comply with the Permit limitations for E.coli, NH3-N, CBOD5, and TSS by April 30, 2014.

E. The Permittee agrees to implement all items in the Compliance Plan by December 31, 2015.

F. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the issuance date of this Consent Order.

G. The Permittee agrees to submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether or not the Permittee is in compliance with all requirements of this Consent Order. The Permittee shall submit certification to the Department no later than January 30, 2016.

H. The Permittee agrees that, after the issuance date of this Consent Order, it shall pay 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 by Paragraphs B, C, and G contained herein. The stipulated civil penalties for failure *to meet each* milestone or any requirement date, except for *Force Majeure* acts as hereinafter defined, shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$ 100.00
31st to 60th day	\$ 200.00
After 60 days	\$ 300.00

If the Permittee fails to meet any milestone or any assigned date ninety days after the required dates found in Paragraphs B, C, and G, the Department reserves the right to file a new action against the Defendant.

I. The Parties agree that the cumulative stipulated penalties described in Paragraph H above shall under no circumstances exceed \$18,000.00. Once stipulated penalties of \$18,000.00 are due to the Department and violations continue to occur, or, should violations continue to occur after the final compliance date specified in the approved Compliance Plan, 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.

J. The Permittee agrees that payment of stipulated penalties due for violations of milestone dates under this Consent Order shall be due not later than the 28th day of the month following the milestone date and each and every month thereafter until the milestone is completed or until the final compliance date of this Consent Order. The Department is not required to notify the Permittee of the assessment of any stipulated penalty.

K. 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.

L. 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.

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

N. 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, which could not be overcome by due diligence (i.e., causes which 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.

O. The Parties 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 other Orders as may be issued by the Director, by litigation initiated by the Department, or by 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.

P. The Parties 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.

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

R. The Parties 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.

S. The Parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

T. The Parties 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.

TOWN OF LITTLEVILLE

By: Kent H. Copeland
Its: Mayor
Date: 10-07-13

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

By: Marilyn Elliott
Its: Deputy Director
Date: NOV -7 2013

Attachment 1: Limitation Violations

<u>Monitoring Period</u>	<u>Outfall</u>	<u>Parameter</u>	<u>Average, Max, Min</u>	<u>Unit</u>	<u>Limit</u>	<u>Reported Value</u>
May 2011	0011	NH3-N	Weekly Avg	mg/L	3.7	4.58
May 2011	0011	FC	Daily Max	Col/100mL	2000	6000
September 2011	0011	NH3-N	Weekly Avg	mg/L	3.6	4.15
December 2011	0011	E.coli	Monthly Avg	Col/100mL	548	610
December 2011	0011	E.coli	Daily Max	Col/100mL	2507	2800
April 2012	0011	E.coli	Monthly Avg	Col/100mL	548	3647.5
April 2012	0011	E.coli	Daily Max	Col/100mL	2507	7600
May 2012	0011	NH3-N	Weekly Avg	mg/L	3.6	6.17
June 2012	0011	E.coli	Monthly Avg	Col/100mL	126	681.25
June 2012	0011	E.coli	Daily Max	Col/100mL	487	2900
July 2012	0011	E.coli	Monthly Avg	Col/100mL	126	385.55
July 2012	0011	E.coli	Daily Max	Col/100mL	487	2000
August 2012	0011	CBOD5	Monthly Avg	mg/L	12.0	20.9
August 2012	0011	CBOD5	Weekly Avg	mg/L	18.0	27.5
September 2012	0011	E.coli	Monthly Avg	Col/100mL	126	1507.5
September 2012	0011	E.coli	Daily Max	Col/100mL	487	6000
October 2012	0011	NH3-N	Weekly Avg	lbs/day	5.1	6.36
October 2012	0011	NH3-N	Monthly Avg	mg/L	2.4	4.03
October 2012	0011	NH3-N	Weekly Avg	mg/L	3.6	17.6
October 2012	0011	E.coli	Monthly Avg	Col/100mL	548	554
October 2012	0011	CBOD5	Monthly Avg	mg/L	12.0	13.12
October 2012	0011	CBOD5	Weekly Avg	mg/L	18.0	23.3
December 2012	0011	TSS	Weekly Avg	lbs/day	51.6	77.76
December 2012	0011	TSS	Weekly Avg	mg/L	36.0	57.66
December 2012	0011	E.coli	Monthly Avg	Col/100mL	548	1318
December 2012	0011	E.coli	Daily Max	Col/100mL	2507	6000
January 2013	0011	E.coli	Monthly Avg	Col/100mL	548	897
January 2013	0011	E.coli	Daily Max	Col/100mL	2507	6000
February 2013	0011	E.coli	Daily Max	Col/100mL	2507	2600
March 2013	0011	E.coli	Monthly Avg	Col/100mL	548	1507.5
March 2013	0011	E.coli	Daily Max	Col/100mL	2507	6000

Attachment 2: SSOs

Date	Location	Amount
May 15, 2012	Colbert Mill Road - #2 Pump Station	2500 gal
January 11, 2012	Colbert Mill Road - #2 Pump Station	5000 gal
May 5, 2013	580 Jackson Hwy	<= 1,000 gal