

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

JUL 22 2015

CERTIFIED MAIL 91 7199 9991 7032 3171 5438
RETURN RECEIPT REQUESTED

Honorable Charles Dismukes, Mayor
Town of Gordon
Post Office Box 46
Gordon, Alabama 36343

RE: Unilateral Order No. 15-081-WP
NPDES Permit AL0073202
Town of Gordon
Curtis Mixon Road
Houston County (069)

Dear Mayor Dismukes:

Please find the enclosed ADEM Unilateral Order No. 15-081-WP which requires you to take certain actions at the Town of Gordon WWTP, located on Curtis Mixon Road, in Gordon, AL in regard to alleged violations of the Alabama Water Pollution Control Act. This Unilateral Order has been issued without the consent of Town of Gordon.

Sincerely,

Glenda L. Dean

Glenda L. Dean, Chief
Water Division

GLD/mfc

File: EUO/15-081-WP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel
Schuyler Espy/ADEM, Office of General Counsel
Daphne Lutz/ADEM, Industrial Municipal Branch/Water Division
Emily Anderson/ADEM, Industrial Municipal Branch/Water Division
Donald Brown/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 Gordon)
Town of Gordon WWTP)
Gordon, Houston County, Alabama)
)
NPDES Permit No. AL0073202)

ORDER NO. 15-081-WP

FINDINGS

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, the Alabama Department of Environmental Management (hereinafter “the Department”) makes the following FINDINGS:

1. The Department is a duly constituted department of the State of Alabama pursuant to §§ 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 and 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
3. The Town of Gordon (hereinafter “the Permittee”) operates a wastewater treatment plant (hereinafter “WWTP”) known as the Town of Gordon WWTP, located on Curtis Mixon Road in Gordon, Houston County, Alabama.

4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0073202 (hereinafter "the Permit") to the Permittee on August 24, 2010, effective September 1, 2010, establishing limitations on the discharge of pollutants from a point source, designated therein as outfall number 0011, to the Chattahoochee River, a water of the State. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter "DMRs") to the Department describing the results of the monitoring. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

5. Part I.A. of the Permit requires that discharges be limited and monitored as specified in the Permit. The Permit limitation violations listed in Attachment 1 indicate that discharges from outfall 0011 did not comply with the Total Suspended Solids (hereinafter "TSS") Percent Removal, Carbonaceous Biochemical Oxygen Demand (hereinafter "CBOD") Percent Removal, CBOD, Dissolved Oxygen (hereinafter "DO"), and pH Permit limitations.

6. Permit Condition I.C.2.b requires that a noncompliance notification form (hereinafter "NCF") be submitted to the Department should a discharge not comply with any limitation of the permit. NCFs are to be submitted to the Department with the next DMR after becoming aware of the noncompliance. The Department received NCFs for the July 2013 and October 2013 monitoring periods; however, the NCFs did not include all violations during the monitoring period. As of the date of this order, the Department has not received completed NCFs for the July 2013 and October 2013 monitoring periods.

7. The Department issued a Warning Letter (hereinafter "WL") to the Permittee on April 15, 2013. The WL cited discharge limitation violations, failure to submit Noncompliance

Forms (hereinafter “NCFs”), and failure to calibrate the flow meter within the permit specifications. A response was required to be submitted to the Department within 30 days of the WL to address the violations.

8. The Permittee’s response to the WL was received on May 16, 2013. The response indicated that the CBOD and TSS percent removals violations were due to drought conditions and Inflow and Infiltration (hereinafter “I&I”) problems. The response also indicated that the flow meter was calibrated on April 18, 2013. A second response to the WL was received on May 28, 2013 that included the missing NCFs that were noted in the WL.

9. The Department issued a Notice of Violation (hereinafter “NOV”) to the Permittee on January 16, 2014. The NOV cited discharge limitation violations and failure to submit DMRs in a timely manner. A response by a professional engineer was required within 30 days of receipt of the NOV to address the violations.

10. The Permittee’s response to the NOV was received on February 14, 2014. The response included several options the Permittee was reviewing to return to compliance; however, there was no definitive solution identified with the necessary steps that would be taken to correct the violations addressed in the NOV. A second response was received on February 27, 2014 that indicated DMRs would be submitted in a timely manner.

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, 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 such person; the economic benefit that delayed compliance may have conferred upon such person; the nature, extent and degree of success of such person’s efforts to minimize or mitigate the effects of such violation upon the environment; such person’s history of

previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not 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 that such violation continues shall constitute a separate violation. In arriving at this civil penalty (summarized in Attachment II), the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY: Based on the information available to the Department, violations of the Permit, ADEM Admin. Code div. 335-6, and the AWPCA were noted. Considering the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, their effects, if any, on impaired waters, and any available evidence of irreparable harm to the environment or threat to the public, the Department determined the base penalty to be \$8,500.00.

B. THE STANDARD OF CARE: In consideration of the standard of care provided by the Permittee, the Department believes the civil penalty sought in this matter is sufficient and has not enhanced the penalty based on this factor.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has not been able to determine if there has been a significant economic benefit associated with the violations cited above.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT: The Department is unaware of any efforts to minimize or mitigate the effects of the violations upon the environment.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of violations prior to the two-year period addressed by this Order. In consideration of the history of previous violations, the Department has enhanced the penalty by an additional \$2,850.00.

F. THE ABILITY TO PAY: The Permittee completed the EPA's MUNIPAY model regarding their ability to pay a civil penalty. Per the MUNIPAY Model results, the Department has determined that the Permittee has an inability to pay the civil penalty. In consideration of the Permittee's inability to pay, the Department has decreased the penalty by \$11,350.00.

G. The civil penalty is summarized in Attachment II.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. If not already enrolled, the Permittee shall prepare and submit to the Department a complete application for enrollment in the Department's Electronic Environmental DMR Reporting System Program (hereinafter "E2 Program") for all of its permitted facilities, so that it is received by the Department not later than thirty days after the issuance date of this Order. If the Department determines through its review of the submitted application that the submittal is not sufficient for the Permittee to participate in the E2 Program, then the Permittee must modify the application so that it is sufficient. The Permittee shall submit modifications to the application, if required, so that they are received by the Department no later than fourteen days after receipt of the Department's comments. Upon acceptance by the Department into the E2 Program, the Permittee shall begin the electronic submittals of DMRs through the E2 Program no later than the 28th day of the month following the first complete monitoring period. The Permittee shall fully implement all aspects of the E2 Program including the cessation of federal paper DMR submittals, if applicable, no later than 180 days after acceptance into the E2 Program, unless an extension is granted in writing by the

Department. The Permittee shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

B. The Permittee shall 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 as necessary to achieve compliance with applicable rules and regulations and permit conditions. 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 include a plan for continued maintenance and assessment of the collection system to minimize future infiltration and inflow. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after the date of issuance of this 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 shall complete implementation of the recommendations provided in the Engineering Report not later than October 31, 2017.

C. The Permittee shall prepare and submit detailed quarterly 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 ninety days after the date of issuance of this Order and continuing every ninety days thereafter that the Permittee's

performance obligations under this Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each 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 Order. Notices of noncompliance shall state the cause of noncompliance, the corrective action taken, and shall also describe the Permittee's ability to comply with any remaining requirements of this Order.

D. The Permittee shall submit updated NCFs for the July 2013 and October 2013 monitoring periods within 30 days of the issuance date of this Order.

E. The Permittee shall fully comply with the Permit limitations for pH, TSS percent removal, CBOD, CBOD percent removal, and DO by October 31, 2017.

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

G. The Permittee shall 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 Order. The Permittee shall submit such certification to the Department no later than November 30, 2017.

H. This Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

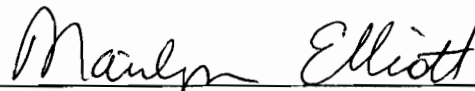
I. Final approval and issuance of this Order are subject to the requirement that the Department provide notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

J. Should any provision of this 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.

K. Except as otherwise set forth herein, this 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.

L. Failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 21 day of JULY, 2015.

A handwritten signature in black ink, appearing to read "Lance R. LeFleur", is written over a horizontal line.

Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

Attachment 1

Town of Gordon
Gordon, Houston County, Alabama
NPDES Permit No. AL0073202

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
April 2013	0011	CBOD % Removal	85.0	58.7	Monthly Average Minimum	%
May 2013	0011	pH	9.0	9.3	Maximum Daily	S.U.
May 2013	0011	CBOD % Removal	85.0	79.2	Monthly Average Minimum	%
June 2013	0011	pH	9.0	10.2	Maximum Daily	S.U.
July 2013	0011	pH	9.0	9.2	Maximum Daily	S.U.
July 2013	0011	CBOD % Removal	85.0	66.8	Monthly Average Minimum	%
July 2013	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
August 2013	0011	TSS % Removal	65.0	51.7	Monthly Average Minimum	%
September 2013	0011	CBOD % Removal	85.0	78.6	Monthly Average Minimum	%
September 2013	0011	TSS % Removal	65.0	60.1	Monthly Average Minimum	%
October 2013	0011	DO	5.0	3.9	Minimum Daily	mg/l
October 2013	0011	CBOD % Removal	85.0	82.9	Monthly Average Minimum	%
November 2013	0011	CBOD % Removal	85.0	66.3	Monthly Average Minimum	%
November 2013	0011	TSS % Removal	65.0	58.4	Monthly Average Minimum	%
January 2014	0011	CBOD % Removal	85.0	76.3	Monthly Average Minimum	%

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
February 2014	0011	CBOD % Removal	85.0	68.9	Monthly Average Minimum	%
March 2014	0011	pH	9.0	9.8	Maximum Daily	S.U.
March 2014	0011	CBOD	25.0	27.4	Monthly Average	mg/l
March 2014	0011	CBOD	37.5	39.3	Weekly Average	mg/l
March 2014	0011	CBOD % Removal	85.0	66.4	Monthly Average Minimum	%
March 2014	0011	TSS % Removal	65.0	33.9	Monthly Average Minimum	%
April 2014	0011	pH	9.0	10.3	Maximum Daily	S.U.
April 2014	0011	CBOD % Removal	85.0	55.3	Monthly Average Minimum	%
April 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
May 2014	0011	CBOD % Removal	85.0	84.3	Monthly Average Minimum	%
May 2014	0011	TSS % Removal	65.0	58.3	Monthly Average Minimum	%
June 2014	0011	CBOD % Removal	85.0	65.4	Monthly Average Minimum	%
June 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
July 2014	0011	CBOD % Removal	85.0	58.5	Monthly Average Minimum	%
July 2014	0011	TSS % Removal	65.0	9.9	Monthly Average Minimum	%

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
August 2014	0011	TSS % Removal	65.0	53.6	Monthly Average Minimum	%
September 2014	0011	CBOD % Removal	85.0	82.2	Monthly Average Minimum	%
September 2014	0011	TSS % Removal	65.0	20.9	Monthly Average Minimum	%
October 2014	0011	pH	9.0	9.9	Maximum Daily	S.U.
October 2014	0011	CBOD % Removal	85.0	64.8	Monthly Average Minimum	%
October 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
November 2014	0011	CBOD % Removal	85.0	79.6	Monthly Average Minimum	%
November 2014	0011	TSS % Removal	65.0	30.7	Monthly Average Minimum	%

Attachment II

Town of Gordon WWTP Gordon, Houston County, Alabama NPDES Permit No. AL0073202

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Permit Limitation Violations	38	\$ 8,500.00	\$ -	\$ 2,850.00

Additional Adjustments due to negotiations, receipt of additional information, or public comment

Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	\$11,350.00
Other Factors (+/-)	
Total Adjustments (+/-)	-\$11,350.00



\$8,500.00	\$0.00	\$2,850.00
Total (A)	Total (B)	Total (C)
Base Penalty Total [Total (A) + Total (B) + Total (C)]		\$11,350.00
Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	
INITIAL PENALTY		\$11,350.00
Total Adjustments (+/-)		-\$11,350.00
FINAL PENALTY		\$0.00

Footnotes

*See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors