

LANCE R. LEFLEUR  
DIRECTOR



ROBERT J. BENTLEY  
GOVERNOR

Alabama Department of Environmental Management  
adem.alabama.gov

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Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

AUG 26 2013

**CERTIFIED MAIL 91 7199 9991 7030 3430 4358**  
**RETURN RECEIPT REQUESTED**

Mayor Kenneth Boswell  
City of Enterprise  
501 South Main  
Enterprise, Alabama 36331

RE: Consent Order No. 13-133-CWP  
NPDES Permit AL0020036  
Enterprise WWTP #2  
College Street  
Coffee County (031)

Dear Mayor Boswell:

Please find the enclosed ADEM Consent Order No. 13-133-CWP which requires you to take certain actions at the Enterprise WWTP #2 located on College Street in Enterprise, AL in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of the City of Enterprise/Enterprise WWTP #2.

Sincerely,

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

Glenda L. Dean, Chief  
Water Division

GLD/db

File: ECO/13-133-CWP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel  
James Wright/ADEM, Office of General Counsel  
Daphne Smart/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) 941-1803 (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: )

**City of Enterprise** )

**Enterprise WWTP #2 (College St.)** )

**Enterprise, Coffee County, Alabama** )

**NPDES PERMIT NO. AL0020036** )

Consent Order No. 13-133-CWP

***PREAMBLE***

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the City of Enterprise (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 Enterprise WWTP #2 (College St.), located at 1760 Pistol Road, in Enterprise, Coffee County, Alabama.

4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0020036 (hereinafter the "Permit") to the Permittee on September 23, 2010, effective October 1, 2010. The Permit establishes limitations on the discharge of pollutants from such point sources, designated therein as outfall numbers 0011, 002S, and 003S. Outfall 0011 discharges treated domestic wastewater into an unnamed tributary to Blanket Creek, a water of the State. Outfalls 002S and 003S discharge stormwater runoff to Blanket Creek, 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. The Permit also requires that the Permittee properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of the permit.

5. Permit Condition I.A of the Permit requires that discharges be limited and monitored as specified in the permit. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants from such point source into the aforementioned unnamed tributary to Blanket Creek in violation of the limitations established in Permit Condition I.A. of the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. The Permittee has indicated that all violations on Attachment 1, except for the violations during June 2011, November 2011, June 2012, and November 2012 were the result of part of the plant being out of service for modification and upgrades.

7. Permit condition I.B.7 requires the Permittee to calibrate flow measurement devices, at a minimum, once every 12 months.

8. Permit condition I.B.4.e requires the Permittee to record the analytical technique or method used for each measurement and sample.

9. The Department conducted a compliance inspection of the WWTP on March 7, 2011. During this inspection, the Department noted that the analytical methods were not being documented on the analysis sheets and the flow measurement device had not been calibrated

in the last twelve months.

10. Ala. Code § 22-22-9(i)(3) (2006 Rplc. Vol.) requires that a permit be obtained prior to discharging any new or increased pollution into any water of the State. The sanitary sewer overflow (hereinafter "SSO") reports submitted to the Department indicate that wastewater in the form of SSOs were discharged without a permit as listed in Attachment 2.

11. The Department issued a Notice of Violation (hereinafter "NOV") to the Permittee on October 25, 2012. The NOV addressed permit limitation violations and SSOs. The Department received a response to the NOV on November 28, 2012, indicating the Permittee had initiated a study to determine the source of mercury. The Permittee concluded that influent mercury was lower during periods of dry weather and higher during periods when flows to the WWTP increased from rainfall. The NOV response also stated that additional toxicity testing required in December 2011 did not exhibit chronic toxicity, that the activated sludge portion of the WWTP was upgraded to incorporate biological nutrient removal, and provided information regarding the Permittee's program to minimize sewer line blockages and breaks.

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

13. 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 to prepare and submit to the Department, an Engineering Report that includes a mercury minimization plan or other method to address the mercury violations and shall include a proposed compliance schedule to comply with the mercury requirements of the Permit. 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 180 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 Department will notify the Permittee of the required modifications and the Permittee will be given an opportunity to show good cause within thirty days of receipt of the proposed required modifications as to why it believes said modifications are unnecessary or otherwise propose alternative measures in said report to address the Department's concerns. If the parties cannot agree on the Permittee's mercury minimization plan or other method to address the mercury violations, the Department reserves the right to seek additional or different enforcement action than as contained in this Consent Order and the Permittee reserves all defenses and rights as to such in the event such action occurs. The Department must receive proposed modifications to the Engineering Report, if required, no later than thirty days after receipt of the Department's comments. Once an acceptable and agreed upon Report is complete, the Permittee agrees to complete implementation of the recommendations provided in the mercury plan not later than the date provided in the mercury plan as approved by the Department.

B. The Permittee agrees to prepare and submit detailed Quarterly Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the mercury plan, including the cost of equipment and/or repairs needed to achieve compliance, if applicable. The Department must receive the Progress Reports no later than three months after the date of issuance of this Consent Order and continuing every three 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 in paragraphs A and B contained in this Consent Order and the final compliance date as specified in the compliance schedule. 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.

C. Upon issuance of the Order the Permittee shall begin quarterly toxicity testing during the months of February, May, August, and November, or as otherwise provided in the Permit. The samples shall be diluted using appropriate control water to the Instream Waste Concentration (IWC) as required by the NPDES Permit. If the results from four consecutive testing periods do not indicate chronic toxicity, the Permittee may submit a request to the Department to reduce the testing frequency from quarterly to annually during the month as specified in the Permit.

D. The Permittee agrees to fully comply with the Permit limitations for Total Recoverable Mercury no later than the compliance date provided in the mercury plan as approved by the Department.

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

F. 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 the mercury plan, no later than 30 days after the compliance date as approved by the Department.

G. 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 A, 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 A, B, C, and G, the Department reserves the right to file a new action against the Defendant.

H. The Parties agree that the cumulative stipulated penalties described in Paragraph I 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 and mercury plan, as approved by the Department, then the Department shall be free to issue additional orders or file suit against the Permittee in the Circuit Court of Montgomery County or the Circuit Court in the Enterprise Division of Coffee County to enforce compliance of this Consent Order. If civil penalties are imposed as set out above, the Department will not unreasonably withhold consent to allowance of a monthly payment plan.

I. 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 casher's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

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 28<sup>th</sup> 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 successors and/or assigns. 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 or in the Circuit Court of the Enterprise Division of Coffee 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 not be foreclosed from asserting any defense available at law or equity, including but not limited to, *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 adequate defenses. 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.

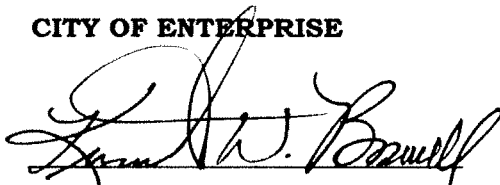
T. The Parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal,

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.

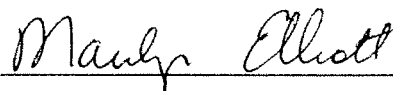
**CITY OF ENTERPRISE**

By:

  
\_\_\_\_\_  
Its: Mayor  
Date: 8-7-13

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

By:

  
\_\_\_\_\_  
Its: Deputy Director  
Date: AUG 26 2013

## Attachment 1: Violations

Facility: Enterprise WWTP #2 College St. (AL0020036)

Monitoring Period	Outfall	Parameter Code	Parameter	Permit Value	Unit	Sample Value	Unit	Limit Basis (i.e. Average, Max., Min.)
June 2011	001Q	71901	Mercury, Total Recoverable	0.014	µg/L	0.04	µg/L	Monthly Average
November 2011	001T	61428	Toxicity, Pimephales Chronic	0	Pass = 0 Fail =1	1	Pass = 0 Fail =1	Single Sample
February 2012 *	0011	00530	Solids, Total Suspended	45.0	mg/L	51.0	mg/L	Weekly Average
February 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	31.2	lbs/day	34	lbs/day	Monthly Average
February 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	46.9	lbs/day	85	lbs/day	Weekly Average
February 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	2.5	mg/L	6.60	mg/L	Monthly Average
February 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	3.7	mg/L	20.55	mg/L	Weekly Average
March 2012*	0011	00530	Solids, Total Suspended	375	lbs/day	456	lbs/day	Monthly Average
March 2012*	0011	00530	Solids, Total Suspended	562	lbs/day	684	lbs/day	Weekly Average
March 2012*	0011	00530	Solids, Total Suspended	30.0	mg/L	89	mg/L	Monthly Average
March 2012*	0011	00530	Solids, Total Suspended	45.0	mg/L	127	mg/L	Weekly Average
March 2012*	0011	00610	Nitrogen, Ammonia Total (As N)	31.2	lbs/day	80	lbs/day	Monthly Average
March 2012*	0011	00610	Nitrogen, Ammonia Total (As N)	46.9	lbs/day	84	lbs/day	Weekly Average
March 2012*	0011	00610	Nitrogen, Ammonia Total (As N)	2.5	mg/l	15.6	mg/l	Monthly Average
March 2012*	0011	00610	Nitrogen, Ammonia Total (As N)	3.7	mg/l	17.7	mg/l	Weekly Average
March 2012*	0011	01119	Copper, Total Recoverable	14.8	µg/L	31.2	µg/L	Monthly Average
March 2012*	0011	01119	Copper, Total Recoverable	20.2	µg/L	31.2	µg/L	Maximum Daily
March 2012*	0011	80082	BOD, Carbonaceous 05 Day 20C	150	lbs/day	269	lbs/day	Monthly Average
March 2012*	0011	80082	BOD, Carbonaceous 05 Day 20C	225	lbs/day	397	lbs/day	Weekly Average
March 2012*	0011	80082	BOD, Carbonaceous 05 Day 20C	12.0	mg/l	54	mg/l	Monthly Average
March 2012*	0011	80082	BOD, Carbonaceous 05 Day 20C	18.0	mg/l	90	mg/l	Weekly Average
March 2012*	0011	81011	Solids, Suspended Percent Removal	85	Percent	53	Percent	Monthly Average Minimum
March 2012*	001Q	71901	Mercury, Total Recoverable	0.014	µg/L	0.0391	µg/L	Monthly Average
April 2012 *	0011	00530	Solids, Total Suspended	30.0	mg/L	53	mg/L	Monthly Average
April 2012 *	0011	00530	Solids, Total Suspended	45.0	mg/L	89	mg/L	Weekly Average
April 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	31.2	lbs/day	41	lbs/day	Monthly Average
April 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	46.9	lbs/day	83	lbs/day	Weekly Average
April 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	2.5	mg/L	9.24	mg/L	Monthly Average
April 2012 *	0011	00610	Nitrogen, Ammonia Total (As N)	3.7	mg/L	17.73	mg/L	Weekly Average
April 2012 *	0011	01119	Copper, Total Recoverable	14.8	µg/L	53.1	µg/L	Monthly Average
April 2012 *	0011	01119	Copper, Total Recoverable	20.2	µg/L	53.1	µg/L	Maximum Daily
April 2012 *	0011	80082	BOD, Carbonaceous 05 Day 20C	12.0	mg/l	20.76	mg/l	Monthly Average
April 2012 *	0011	80082	BOD, Carbonaceous 05 Day 20C	18.0	mg/l	34.18	mg/l	Weekly Average
April 2012 *	0011	81011	Solids, Suspended Percent Removal	85	Percent	69	Percent	Monthly Average Minimum
June 2012	001Q	71901	Mercury, Total Recoverable	0.014	µg/L	0.0207	µg/L	Monthly Average
November 2012	001T	61426	Toxicity, Ceriodaphnia Chronic	0	Pass = 0 Fail =1	1	Pass = 0 Fail =1	Single Sample
November 2012	001T	61428	Toxicity, Pimephales Chronic	0	Pass = 0 Fail =1	1	Pass = 0 Fail =1	Single Sample

\* The Permittee has indicated these violations are the result of the WWTP being out of service for modification and upgrades.

# Attachment 2: SSO Reports

Facility Name: Enterprise WWTP #2 (College) Permit Number: AL0020036 Facility Type: Major County: Coffee

Caller	Caller Phone #	Caller Report Date and Time	Overflow Date and Time	Written Report Date	Volume SSO	Length of SSO	Location	Destination SSO	Cause	Corrective Actions Taken	Others Notified
Lonnie Motley	(334) 348-2662	3/15/2011 8:00 AM	3/17/2011 8:00 AM		2,000	1.5 hrs.	501 E. Lee	Harrand Creek	Clogged sewer main with grease	Flushed out sewer main to clear blockage	Press release, Health Dept.
Lonnie Motley	(334) 348-2662	4/28/2011 7:58 AM	4/27/2011 8:00 AM		2,000	2 hours	100 Block of So. Hill St.	Blanket Creek	Clogged sewer main	Flushed out sewer main which was clogged with grease and debris.	Press release and Co. Health Dept.
Lonnie Motley	(334) 348-2662	5/11/2011 5:10 PM	5/10/2011 1:00 PM	5/13/2011	2,000	1 hour 30 min.	503 W. Adams	Blanket Creek	Clogged sewer main	Flushed out sewer main which was clogged grease and debris	
Curtis Lewis	(334) 726-5595	10/3/2011 3:15 PM	10/3/2011 7:25 AM		6,000	75 mins.	119 Hillcrest Loop	Drainage ditch	Clogged line	Cleared line with flusher and cleaned line.	Health Dept. & Coffee Co. EMA
Clay Fleming	(334) 348-2661	12/5/2011 2:35 PM	12/5/2011 7:45 AM		8,000	1 hour 15 minutes	529 Glover Ave.	Storm drain	Tripped breaker	Investigated and reset breaker	Newspaper, Health Dept. & EMA
Carl	(334) 726-5595	12/15/2011 1:20 PM	12/14/2011 4:00 PM		15,000	Stopped 12/15/2011 @ 10:00 am	Outfall at Pistol Dr	Blanket Creek	Contractor was clearing right of way and hit main line.	Point repair was made on the main	Press release, Health Dept. & EMA
Clay Fleming	(334) 348-2661	2/24/2012 2:09 PM	2/24/2012 7:00 AM		7,500	20 mins.	1760 Pistol Drive	Blanket Creek	Plant is under construction, line got stopped up with trash	Cleared the tricking filter arms out.	Newspaper, Health Dept. & EMA