

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

THE CITY OF ALEXANDER CITY

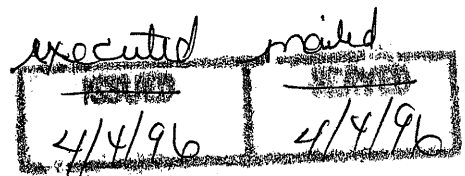
SUGAR CREEK WWTP

NPDES PERMIT NO. AL0048861

CONSENT ORDER NO. 96-067-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 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. The City of Alexander City operates a wastewater treatment plant (WWTP) known as the Sugar Creek WWTP which discharges pollutants from a point source into Sugar Creek, 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 September 23, 1992 the Department issued Alexander City's NPDES Permit Number AL0048861 (the Permit) which established limitations on the discharge of pollutants from such point source, designated therein as outfall number 001, into Sugar Creek. The Permit also requires that Alexander City monitor its discharges and submit periodic Discharge Monitoring Reports to the Department describing the results of its monitoring.

5. In accordance with paragraph B., of Administrative Order 94-250-WP, Alexander City submitted to the Department on October 24, 1994, a draft Toxicity Reduction Evaluation (TRE) work plan to determine the cause or causes of the continued failure of the water flea (*Ceriodaphnia dubia*) reproduction portion of the toxicity test.

6. In accordance with paragraph C., of Administrative Order 94-250-WP, Alexander City submitted to the Department on October 2, 1995, an engineering report which investigated the various options, estimated costs and economic impact of complying with Fish and Wildlife criteria in Sugar Creek. The engineering investigation included options for meeting the differential instream color requirements for aesthetic purposes of 80 ADMI units above established background color levels at the edge of the mixing zone for the existing Sugar Creek discharge.

7. In accordance with paragraph D., of Administrative Order 94-250-WP, all reports, plans, and/or studies referred to in paragraphs 5. and 6. above, relating to corrective measures required to achieve compliance with Administrative Order 94-250-WP were prepared by a registered professional engineer.

8. In accordance with paragraph E., of Administrative Order 94-250-WP, Alexander City did complete construction of the sludge handling improvements at the Sugar Creek WWTP on October 15, 1995 as scheduled.

9. In accordance with paragraph F., of Administrative Order 94-250-WP, Alexander City has submitted with its Municipal Water Pollution Prevention (MWPP) Report the required information relating to unpermitted discharges that have occurred prior to the headworks of the wastewater treatment plant. Alexander City has repaired or rehabilitated many sanitary sewer collection lines upstream of the Young Lift Station. The Young Lift Station has been repaired and is fully functional.

10. In accordance with paragraph G., of Administrative Order 94-250-WP, Alexander City submitted to the Department on a quarterly schedule, a progress report

describing in detail Alexander City's progress toward compliance with each provision of the Order.

11. Alexander City has conducted a Toxicity Reduction Evaluation (TRE) to determine the cause or causes of the continued failure of the water flea reproduction portion of the whole effluent toxicity (WET) test. Chronic toxicity investigations addressed in the Engineering Report conclude that chloride is the principal toxic agent, but another unidentified organic substance appears to also contribute to the measured toxicity.

12. The City of Alexander City 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 City of Alexander City has consented to the terms of this Order.

13. 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.

14. The City of Alexander City waives the right to an informal conference prior to the issuance of this Consent Order and waive 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 33 U.S.C. § 1342; it is hereby Ordered:

A. That, commencing immediately after receiving notice of this Consent Order, the City of Alexander City shall comply with all the monitoring and reporting provisions of NPDES Permit Number AL0048861 to the extent not inconsistent with this Order.

B. That the City of Alexander City shall submit to the Department no later than June 28, 1996 an engineering report which outlines the measures needed to meet the chronic effluent toxicity requirements of the NPDES permit. The engineering report shall include a detailed compliance plan which outlines the measures necessary to achieve compliance with NPDES permit AL0048861.

The engineering report shall:

1. Include a description of the corrective measures required to achieve compliance .
2. Provide an expeditious schedule for implementation of the measures required to achieve compliance.

The Department will approve, disapprove, or suggest modifications to the engineering report within 30 days of receipt.

C. That the City of Alexander City shall comply with the chronic toxicity effluent limitations of NPDES permit AL0048861 no later than December 28, 1997.

D. That the City of Alexander shall pay to the Department, upon demand, stipulated penalties for each day it fails to meet any of the milestone dates set forth in or established in this Consent Order. The stipulated penalties for failure to meet each milestone or any requirement date shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$100
31st to 60th day	\$200
After 60 days	\$300

E. That this Consent Order shall apply to and be binding upon all 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. 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 Order.

G. That the City of Alexander City is not relieved from any liability if they fail to comply with any provision of this Consent Order.

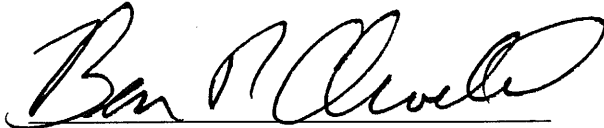
H. That, for purposes of this Order only, the City of Alexander City agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction. These parties also

agree that in any action brought by the Department to compel compliance with the terms of this Agreement, these parties shall be limited to the defenses of Force Majeure, compliance with this Agreement, and physical impossibility.

I. That, 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 Federal Water Pollution Clean Water Control Act. In light of these objectives, the City of Alexander City 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 its NPDES permit, thus achieving full compliance with the Alabama Water Pollution Control Act, and thereby compliance with all other conditions of this Consent Order. Should additional facts and circumstances be discovered in the future concerning the Sugar Creek WWTP 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 Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Order if such future Orders, litigation or other enforcement action address new matters not raised in any previous Order.

J. That 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 hereby waives any hearing on the terms and conditions of same.



Mayor, City of Alexander City



James W. Warr, Acting Director
Alabama Department of
Environmental Management

Date: 4/3/96

Date: 4 APRIL 96