

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF  
LEXINGTON FABRICS, INC.

ORDER NO. 89-111-WP

FINDINGS OF FACT

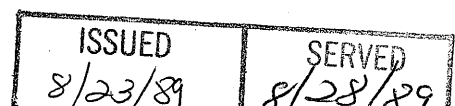
Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1984 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, ALA. CODE §§ 22-22-1 through 22-22-14 (1975 and 1988 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (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 the Department makes the following FINDINGS OF FACT:

1. Lexington Fabrics, Inc., (the Permittee) was issued NPDES Permit No. AL0026352 which authorized the discharge of pollutants and other industrial wastes into certain waters of the State.

2. The above permit expired August 20, 1989.

3. The Permittee submitted an application for reissuance of the above permit on July 3, 1989.

4. ADEM Admin. Code R. 335-6-6-.20(1) requires the submittal of an application for reissuance 180 days prior to expiration.



5. The above application was not submitted 180 days prior to the expiration of NPDES Permit No. AL0026352.

6. This delay was due to the Permittee's good faith but mistaken assumption that permit reissuance was subject to ongoing litigation between the State of Alabama and the Permittee.

7. This delay was not due to any action or inaction on the part of the Department.

#### ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5, and 22-22-9 (1984 and 1988 Cum. Supp.) and § 307 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, it is hereby ORDERED:

A. That the Permittee will comply with the terms, conditions and limitations of NPDES Permit No. AL0026352 pending the Department's decision on its application for reissuance, except as follows.

B. That after the Permittee will comply with the following limits for copper (Cu) and Zinc (Zn) biochemical oxygen demand (BOD<sub>5</sub>), Ammonia (NH<sub>3</sub>N), Dissolved Oxygen (D.O.) and flow, pending the above decision.

<u>PARAMETER</u>	<u>DAILY MAXIMUM</u>	<u>DAILY AVERAGE</u>	<u>FREQUENCY</u>
Cu	0.034 mg/l	0.023 mg/l	1/2 mo. 24 hr. composite
Zn	0.22 mg/l	0.2 mg/l	1/2 mo. 24 hr. composite

PARAMETER	DAILY MAXIMUM	DAILY AVERAGE	REF. PERMIT
BOD <sub>5</sub>	10 mg/l		AL0026352
NH <sub>3</sub> N	2 mg/l		AL0026352
D.O.		6 mg/l	AL0026352
Flow		.25 MGD	AL0026352
TKN	N/A	N/A	N/A

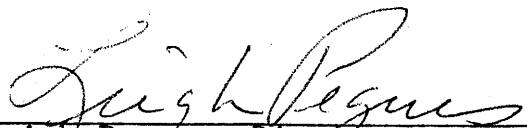
C. That the Permittee will submit any additional information for consideration in the above decision on or before October 1, 1989.

D. That failure to comply with any provisions of this Order may constitute cause for the revocation of NPDES Permit No. AL0026352, or the denial of the Permittee's application for the reissuance of Permit No. AL0026352.

E. That the failure to comply with any provisions of this Order or the terms, conditions, and limitations of NPDES Permit No. AL 0026352 shall constitute cause for the commencement of legal or other appropriate enforcement action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department or others against the Permittee.

F. That the issuance of this Order does not preclude the Department or others from seeking criminal fines or other appropriate sanctions of relief against the operator for violations stated herein.

ORDERED and ISSUED this 22<sup>nd</sup> day of August, 1989.

  
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Leigh Pegues, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W.L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7855

CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served the foregoing proposed Administrative Order No. 89-111-WP upon Lexington Fabrics, Inc. by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 873 074 729, with instructions to forward and return receipt requested to:

Alfred J. Smith, Jr.  
Maynard, Cooper, Frierson & Gale, P.C.  
2008 3rd Avenue North  
12th Floor, Watts Building  
Birmingham, Alabama 35203

Done this 23<sup>rd</sup> day of August, 1989.

Oliver D. Gerb for  
James L. Wright