

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management
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Montgomery, Alabama 36130-1463
(334) 271-7700
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BOB RILEY
GOVERNOR

May 1, 2007

Mr. Frank Smith, Chairman
Arab Sewer Board
526 Cullman Road
Arab, AL 35016

Re: Administrative Correction – Administrative Order No. 07-104-WP
Arab Riley Maze Creek WWTP
NPDES Permit No. AL0020303
Marshall County

Dear Mr. Smith,

On April 27, 2007, the Alabama Department of Environmental Management executed and transmitted the final version of the subject administrative order. However, the Department made a typographical error on the cover sheet of the order. This error affected only the designated number of the Administrative Order. Enclosed is a revised cover sheet with the correct Order number. Please replace the first page of Administrative Order No. 07-104-WP with the attached corrected page.

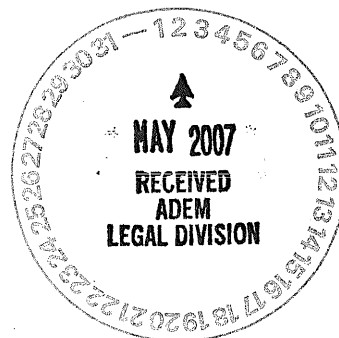
If you have any questions, please call me at 334-271-7801.

Sincerely,

James W. Grassiano, Chief
Municipal Section
Water Division

Enclosure

cc: Olivia Rowell, ADEM, Office of General Counsel
Glenda Dean, ADEM 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)

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

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)	
)	
Arab Sewer Board)	
Arab Riley Maze WWTP)	ORDER NO. 07-104-WP
Arab, AL)	
)	
NPDES AL0020303)	

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.), and the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of 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. Arab Sewer Board (hereinafter, “Permittee”) operates the Arab Riley Maze Creek Waste Water Treatment Plant (hereinafter "WWTP"). The Arab Riley Maze Creek WWTP is located in Arab, Cullman County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Ala. Code (2006 Rplc. Vol.).
3. Pursuant to § 22-22A-4(n), Ala. Code (2006 Rplc. Vol.), the Department

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

Arab Sewer Board)

Arab Riley Maze WWTP)

Arab, AL)

NPDES AL0020303)

ORDER NO. 07-104-~~C~~WP

FINDINGS

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1. Arab Sewer Board (hereinafter, "Permittee") operates the Arab Riley Maze Creek Waste Water Treatment Plant (hereinafter "WWTP"). The Arab Riley Maze Creek WWTP is located in Arab, Cullman County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Ala. Code (2006 Rplc. Vol.).
3. Pursuant to § 22-22A-4(n), Ala. Code (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 Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Ala. Code (2006 Rplc. Vol.).

4. The Department issued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0020303 to the Permittee on March 8, 2005, establishing limits on the discharge of pollutants from such point source, designated therein as outfall number 0011 from the Arab Riley Maze Creek WWTP to Riley Maze 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 conduct short-term chronic toxicity testing on its effluent on an annual basis. The Permit imposes testing with two species of test organism: *Pimephales promelas* (i.e., fathead minnow) and *Ceriodaphnia dubia* (i.e., cladoceran). In addition, the Permit requires that the Permittee maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The receiving stream, Riley Maze Creek, is listed on the Draft 2006 §303(d) list as being impaired due to both toxicity and siltation. The Draft 2006 §303(d) list has not been approved by EPA. Although not officially designated an impaired stream at this time, the Department anticipates it will be so designated by EPA.

6. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants from such point source into the aforementioned Riley

Maze Creek in violation of the limitations established in the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

7. On July 1, 2005, the Department issued a Warning Letter to the Permittee for failure to submit the 2004 Municipal Water Pollution Prevention (MWPP) Annual Report for the Arab Riley Maze Creek WWT. On July 14, 2005, the Department received the Permittee's 2004 MWPP submittal. The report indicated that the Permittee had experienced sewage bypass or overflow events of untreated wastewater in 2004. The MWPP Annual Report indicated that there was one sewage bypass at the Wastewater Treatment plant (WWTP) due to heavy rain, six sanitary sewer overflow (hereinafter "SSO") events prior to the headworks due to equipment failure, and three SSO events at the WWTP due to equipment failure. Nine of these events, in total, were reportedly corrected such that future events at the same location are not anticipated.

8. On May 22, 2006, the Department received Arab Riley Maze Creek's 2005 MWPP Annual Report. The report indicated that the Permittee had experienced bypass or overflows of untreated wastewater in 2005 as follows: one at the WWTP due to heavy rain and two SSO events prior to the headworks due to equipment failure. Corrective action reportedly resolved these discharge events such that future events at the same location are not anticipated.

9. The Permittee was issued Consent Order (hereinafter "CO") Number 00-113-CWP on April 28, 2000 for violating the NPDES Permit. Violations consisted of reported bypasses and/or overflows of sewage due to infiltration and inflow (hereinafter "I/I") into sewer lines conveying sewage to the Riley Maze Creek WWTP.

10. As of December 31 2006, the Permittee has reported 11 SSO events at system-wide lift stations, mainly at the influent lift station of the Riley Maze WWTP. The events occurred between August 23, 2005 and December 22, 2006. All but two of the events were reportedly caused by pump failures at the headworks lift station. One event reportedly occurred as a result of a sewer line repair. . The amount of sewage discharged from all aforementioned bypass or SSO events was reported as 'unknown'. The list of reported SSO events is provided as Attachment 2.

11. Through August 2006, the Permittee incorrectly reported Fecal Coliform analytical test results on monthly DMRs. This reporting error has been corrected beginning in September 2006.

12. The Permittee conducted its annual toxicity test in November 2005, indicating a test failure based on life-cycle inhibition. (The test was initiated on November 8, 2005). Specifically, toxicity was evident to Ceriodaphnia reproduction. The Permittee initiated accelerated testing in December 2005. Two follow-up tests did not indicate toxicity, as outlined in a December 20, 2005 submittal to ADEM.

13. The Permittee conducted its annual toxicity test in November 2006, once again indicating a test failure based on life-cycle inhibition. This test was initiated on November 7, 2006. Toxicity was again evident to Ceriodaphnia reproduction. The Permittee initiated two accelerated testing in December 2006. Both follow-up tests indicated a repeat or continuance of toxicity with regard to Ceriodaphnia reproduction.

14. Pursuant to Ala. Code § 22-22A-5(18) (2006 Rplc. Vol.), 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 the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Violations consisted of exceeding weekly average permit limitations for Five-day Carbonaceous Biochemical Oxygen Demand and Ammonia-nitrogen. The violations also included exceeding daily maximum permit limitations for Fecal Coliform (hereinafter "FC") and incorrectly reporting monitoring results for FC. There were eleven reported SSOs from January 2005 through December 2006. The SSOs occurred on the following dates August 23, 2005; January 14, January 21, January 27, February 17, March 21, April 8, April 21, 2006, October 16, 2006, October 20, 2006, December 21-22, 2006. The sanitary sewer overflows (SSOs) were confined primarily to the wastewater treatment plant (WWTP) and the WWTP headworks. In addition, the permit was violated due to repeated failure of chronic toxicity tests with *Ceriodaphnia* reproduction.

The receiving stream is listed on the Draft 2006 §303(d) list as being impaired due to both toxicity and siltation. Although not officially designated an impaired stream at this time, the Department anticipates it will be so designated by EPA and has considered this factor.

The Department has no evidence of irreparable harm to the environment or any threat to the health and safety of the public as a result of the violations stated herein.

B. THE STANDARD OF CARE: The Permittee failed to maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if there has been a significant economic benefit conferred by the delay of compliance with permit limitations.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects as a result of the violation.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a significant history of prior violations of a similar nature. The issuance of Consent Order No. 00-113-CWP was unsuccessful in resolving permit violations.

F. THE ABILITY TO PAY: Based on available information the Department believes the Permittee has a limited ability to pay a civil penalty.

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. That, not later than forty-five days after issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of \$27,000 for the violations cited in Attachment 1 and those listed above.

B. That the Permittee shall prepare and submit to the Department, not later than ninety days after issuance of this Order, an Engineering Report that identifies the potential causes of noncompliance, including I&I, and that identifies the changes necessary for the Permittee to achieve compliance with the Permit. The Engineering Report shall include a schedule for implementation (i.e., a Compliance Plan). At a minimum, the Permittee's Engineering Report shall address the need for changes in maintenance and operating procedures, 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 shall be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient to accomplish compliance with the NPDES permit, then the Permittee shall modify the Engineering Report so that it does accomplish compliance. Modifications to the Engineering Report, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations made in the Engineering Report within 365 days after issuance of this Order.

C. That the Permittee shall complete a Toxicity Identification and Reduction Evaluation (TIE/TRE) to reduce the potentially toxic affects of the discharge on aquatic habitat. The TIE/TRE must meet the requirements The TIE/TRE shall be performed in accordance with the most recent protocols/guidance outlined by EPA including, but not limited to EPA/600/2-88/062, EPA/600/R-92/080, EPA/600/R-91-003, EPA/600/R-92/081, EPA/833/B-99/022 and EPA/600/6-91/005F. The Permittee shall submit a

proposed TIE/TRE test plan to ADEM within 30 days after issuance of this Order. The test plan is to be prepared by an Engineer licensed to practice in the state of Alabama. The plan shall outline the Permittee's approach to identify potential causes of toxicity, leading to any changes necessary for the Permittee to implement to achieve compliance with the Permit. If the Department determines through its review of the submitted TIE/TRE Test Plan that the submittal is not sufficient to accomplish compliance with the NPDES permit, then the Permittee shall modify the Plan so that it does accomplish compliance. Modifications to the Test Plan, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments. The Permittee agrees to initiate the Test Plan within 30 days after receipt of Plan approval by the Department.

D. That the Permittee shall submit a TIE/TRE Report to the Department within 180 days after notice of Plan approval. The TIE/TRE Report shall describe the Permittee's findings of the TIE/TRE, and it must describe the changes the Permittee will implement to reduce toxicity and attain permit compliance. If the Department determines through its review of the submitted TIE/TRE Report that the submittal is not sufficient to accomplish compliance with the NPDES permit, then the Permittee shall modify the Report so that it does accomplish compliance. Modifications to the Report, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments. The Permittee agrees to initiate the recommendations provided in the report within 365 days from issuance of this Order.

E. That the Permittee shall conduct toxicity monitoring in accordance with the Permit requirements at an increased frequency of once per month beginning on the date of issuance of this Order and continuing until after the completion of the requirements in

paragraph D above and demonstration of six consecutive months of compliance with the toxicity requirements of the Permit.

F. That the Permittee shall prepare and submit Semi-Annual Progress Reports to the Department describing in detail the Permittee's progress towards achieving compliance with items in the Compliance Plan. Semi-Annual Progress Reports are to be submitted to ADEM beginning six months after issuance of this Consent Order and continuing every six months thereafter that the Permittee's performance of the obligations under this Order remains incomplete. In addition, not later than fourteen days following each applicable due date that is contained in this Order, the Permittee shall submit a written notice of noncompliance with the applicable deadline. Notices of noncompliance shall state the cause of noncompliance, corrective action taken, and the Permittee's ability to comply with any remaining requirements of this Order.

G. That, no later than 365 days after issuance of this Order, the Permittee shall comply with the five-day carbonaceous biochemical oxygen demand (CBOD), ammonia as nitrogen (NH₃-N), Fecal Coliform (FC), and chronic toxicity limitations of NPDES Permit Number AL0020303. The Permittee shall comply with all other terms, conditions, and limitations of its NPDES Permit immediately upon issuance of this Order.

H.. That, 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.

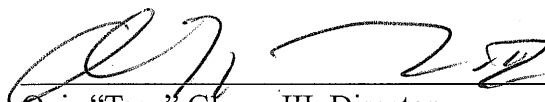
I. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or

local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

J. That the issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Permittee for the violations cited herein.

K. That 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 27th day of April, 2007.


Onis "Trey" Glenn, III, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

CERTIFICATE OF SERVICE

Attachment 1

AL0020303 Arab Riley Maze Creek WWTP

DMR Value	Limit	Units	Averaging Time
Outfall ID: 0011			

July, 2005

	<u>BOD CARBONACEOUS</u>			
1	36	18	mg/l	Weekly Average
	<u>NITROGEN AMMONIA TOTAL N</u>			
2	8.6	3	mg/l	Weekly Average
3	30	20	lbs/day	Weekly Average

September, 2006

	<u>FECAL COLIFORM SUMMER</u>			
4	3520	2000	#/100 ml	Daily Maximum

October, 2006

	<u>FECAL COLIFORM WINTER</u>			
5	13500	2000	#/100 ml	Daily Maximum

November, 2006

	<u>FECAL COLIFORM WINTER</u>			
6	6300	2000	#/100 ml	Daily Maximum

Attachment 2 - SSO and Lift Station Overflow Events- Riley Maze WWTP
AL0020303

Overflow Date	Location of SSO	Volume of SSO	Destination SSO	Duration	Cause of SSO	Corrective Actions Taken
8/23/2005	Hayden Copland Lift Station	unknown	Shoal Creek	10 hrs	Pump Float Switch Failed	Replaced Floats
1/14/2006	lift station	unknown	Riley Maze Creek	60 hrs	pump bearings went out in #1 influent pump	replaced influent pump with spare
1/21/2006	at headworks of plant	unknown	Riley Maze Creek	3 days	i/l and pump down in raw lift station	pulled pump to repair
1/27/2006	at headworks of plant	unknown	Riley Maze Creek	2 days	Not Stated	continous line repairs
2/17/2006	wwtp, new canaan rd arab 35016	unknown	Riley Maze Creek	288 hours	pump malfunction....at headworks of plant	pulled pump and had it repaired
3/21/2006	at headworks of plant	unknown	Riley Maze Creek	48 hrs	pump malfunction	pulled pump to have repaired
4/8/2006	at headworks of plant	unknown	Riley Maze Creek	48 hrs	pump malfunction	pulled pump to have it repaired
4/21/2006	at headworks of plant	unknown	Riley Maze Creek	72 hrs	pump malfunction	pump malfunction, pulled pump having it repaired
10/16/2006	at headworks of plant	unknown	Riley Maze Creek	5 hrs	Pump Stopped up	Unstopped Pump
10/20/2006	at headworks of plant	unknown	Riley Maze Creek	2 hrs	Lift Station Pump Cut Off tripped	Re-set Pump
12/21-12/22/06	at headworks of plant	unknown	Riley Maze Creek	unknown	Piece of wood clogged pump	Removed pump and serviced it.