

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2059 ♦ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700
FAX (334) 271-7950

BOB RILEY
GOVERNOR

November 1, 2007

CERTIFIED MAIL 7005 1820 0003 1875 7327
RETURN RECEIPT REQUESTED

Mr. Scott Reid, President
Tensaw Island Land Owners Association
P O Box 276
Bay Minette, AL 36507

RE: Final Administrative Order No. 08-038-WP
Tensaw Shores WWTP
NPDES Permit No. AL0046761
Baldwin County



Dear Mr. Reid:

Please find enclosed ADEM Administrative Order No. 08-038-WP which requires you to take certain actions at the Tensaw Shores Wastewater Treatment Plant in regard to violations of the Alabama Water Pollution Control Act. Please also note that Administrative Order No. 07-172-WP is being revoked and replaced with the subject revised Administrative Order, which became effective on November 1, 2007.

This Administrative Order has been issued without the consent of Tensaw Island Land Owners Association. Please note that the assessed civil penalty is due within 45 days.

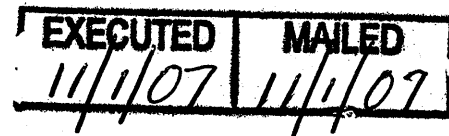
Sincerely,

James E. McIndoe, Chief
Water Division

JEM/cko

Enclosure

cc: Olivia Rowell, ADEM, Office of General Counsel
Glenda Dean, ADEM Water Division
ADEM – Public Affairs Office
Mr. Cesar Zapata/US EPA Region IV



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:)
Tensaw Island Land Owners Association)
)
Tensaw Shores WWTP)
NPDES Permit No. AL0046761)
)
Baldwin County, Alabama)

ORDER NO. 08-038-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), and the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (“hereinafter “ADEM Admin. Code r.”) 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. Tensaw Island Land Owners Association (hereinafter, “Permittee”) operates a wastewater treatment plant that discharges pollutants from a point source into Tensaw River, a water of the state.
2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 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 to 22-22-14, Ala. Code (2006 Rplc. Vol.)

4. On March 10, 2003, the Department issued NPDES Permit Number AL0046761 (hereinafter "the Permit") to the Permittee, establishing limitations on the discharge of pollutants from such point source, designated therein as outfall number 001, into the Tensaw River. 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 maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants from such a point source into the aforementioned Tensaw River in violation of the limits imposed by the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. The Permittee was issued a Consent Order (hereinafter "CO"), Number 04-068-CWP on May 10, 2004 for violating the established limitations of its Permit for the months of January 2003 through June 2003. The CO required that the Permittee pay a civil penalty of \$4,100, it established certain interim permit discharge limitations, and it required the Permittee to submit a Compliance Plan no later than 120 days after the effective date. The CO also required that the Permittee comply with all terms,

conditions, and limitations of the permit no later than 730 days after the effective date of the CO. The resulting compliance date was May 10, 2006.

7. The Permittee incurred 70 discharge violations in excess of the interim permit limitations established in Consent Order Number 04-068-CWP during the 730 day period addressed by the CO. Furthermore, the Permittee failed to pay the Department the stipulated penalty amount of One Hundred Dollars (\$100.00) per day for the first thirty (30) days of violation. Thereafter, the penalty increased to Two Hundred Dollars (\$200.00) per day for the 31st through the 60th days and Three Hundred Dollars (\$300.00) per day for the 61st through the 90th days, as part of the stipulated penalty clause in the subject CO. On September 11, 2006, the Permittee was requested to pay the maximum stipulated penalty allowable under the Consent Order 04-068-CWP (\$18,000). The payment of the stipulated penalties has been received by the Department.

8. On September 20, 2007, the Department issued Administrative Order Number 07-172-WP to the Permittee. Due to a clerical error, the Order that was issued was an incorrect version of the Order and was not the Order that was placed on public notice. Accordingly, Order Number 07-172-WP is due to be revoked and the correct order issued in its place.

9. 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 the weekly average and monthly average permit limits for Total Suspended Solids, Biochemical Oxygen Demand and Ammonia - Nitrogen. The violations also consisted of exceeding the daily maximum limits for Total Residual Chlorine and monthly average limits for percent removal of Total Suspended Solids and Biochemical Oxygen Demand. 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 these violations.

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 violations described herein.

E. HISTORY OF PREVIOUS VIOLATIONS: Consent Order Number 04-068-CWP was issued to the Permittee on May 10, 2004. Prior enforcement actions have been unsuccessful at resolving permit violations

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the 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 Administrative Order Number 07-172-WP is hereby revoked in its entirety.

B. 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 \$29,400 for the violations cited in Attachment 1.

C. That the Permittee shall make all penalties due pursuant to this Administrative Order payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

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

D. That the Permittee shall prepare and submit to the Department, not later than ninety days after issuance of this Administrative Order, an Engineering Report that identifies the potential causes of noncompliance and that presents the results of the Permittee's investigation of the changes necessary for the Permittee to implement to achieve compliance with the Permit. The Engineering Report shall include a schedule for implementation (i.e., Compliance Plan). At minimum, the Permittee's Engineering Report shall address the following: the need for changes in maintenance and operating

procedures, the need for modification of the existing treatment works, and the need for new or additional treatment 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 report is not sufficient to accomplish compliance with the Permit, then the report shall be modified 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 480 days after the effective date of this Order.

E. That the Permittee shall prepare and submit quarterly progress reports to the Department describing in detail the Permittee's progress towards achieving compliance with items in the Compliance Plan beginning three months after the issuance of this Order and continuing every three 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 requirements of that paragraph, if applicable. Notices of noncompliance shall state the cause of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Order.

F. That, no later than 540 days after issuance of this Order, the Permittee shall comply with the Ammonia as N, Total Suspended Solids, Biochemical Oxygen Demand, and Total Residual Chlorine limitations of NPDES Permit Number AL0046761.

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

G. 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.

H. 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.

I. 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.

J. 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 1st day of Nov., 2007



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

CERTIFICATE OF SERVICE

I, Carolyn K Overman hereby certify that I
have this date served the foregoing Administrative Order on
Scott Reid by regular United States Mail, properly addressed
and postage prepaid to:

**Mr. Scott Reid, President
Tensaw Island Land Owners Association
P O Box 276
Bay Minette, AL 36507**

Done this 1st day of November, 2007.

Carolyn K Overman
Name

Attachment 1

AL0046761 TENSAW SHORES

DMR Value Limit Units Averaging Time
Outfall ID: 0011

July, 2006

BOD5 5 DAY 20 DEG C
1 41.6 15 mg/l Monthly Average
2 49 22.5 mg/l Weekly Average

NITROGEN AMMONIA TOTAL N
3 1.33 0.37 lbs/day Monthly Average
4 1.33 0.56 lbs/day Weekly Average
5 31.8 3 mg/l Monthly Average
6 39.3 4.5 mg/l Weekly Average

SOLIDS SUSP PERCENT
7 44.7 85 Percent Monthly Average
TSS
8 5.44 3.8 lbs/day Monthly Average
9 130.5 30 mg/l Monthly Average
10 155 45 mg/l Weekly Average

August, 2006

BOD5 5 DAY 20 DEG C
11 2.08 1.87 lbs/day Monthly Average
12 50 15 mg/l Monthly Average
13 50 22.5 mg/l Weekly Average

CHLORINE TOTAL RESIDUAL
14 2.2 1 mg/l Daily Maximum

NITROGEN AMMONIA TOTAL N
15 0.63 0.37 lbs/day Monthly Average
16 0.63 0.56 lbs/day Weekly Average

17 15.2 3 mg/l Monthly Average
18 15.2 4.5 mg/l Weekly Average

SOLIDS SUSP PERCENT
19 36.4 85 Percent Monthly Average
TSS
20 4.58 3.8 lbs/day Monthly Average
21 110 30 mg/l Monthly Average
22 110 45 mg/l Weekly Average

September, 2006

BOD 5-DAY PERCENT
23 79 85 Percent Monthly Average

CHLORINE TOTAL RESIDUAL
24 2.2 1 mg/l Daily Maximum

NITROGEN AMMONIA TOTAL N
25 0.54 0.37 lbs/day Monthly Average
26 6.49 3 mg/l Monthly Average
27 6.49 4.5 mg/l Weekly Average

SOLIDS SUSP PERCENT
28 79.4 85 Percent Monthly Average

October, 2006

BOD5 5 DAY 20 DEG C

29 42 15 mg/l Monthly Average
30 42 22.5 mg/l Weekly Average
NITROGEN AMMONIA TOTAL N
31 8.17 3 mg/l Monthly Average
32 8.17 4.5 mg/l Weekly Average

November, 2006

BOD 5-DAY PERCENT
33 72.1 85 Percent Monthly Average

BOD5 5 DAY 20 DEG C
34 4.17 1.87 lbs/day Monthly Average

35 4.17 2.81 lbs/day Weekly Average

36 100 15 mg/l Monthly Average
37 100 22.5 mg/l Weekly Average

NITROGEN AMMONIA TOTAL N
38 1.17 0.37 lbs/day Monthly Average
39 1.17 0.56 lbs/day Weekly Average
40 28 3 mg/l Monthly Average
41 28 4.5 mg/l Weekly Average

SOLIDS SUSP PERCENT
42 45.6 85 Percent Monthly Average
TSS
43 37 30 mg/l Monthly Average

February, 2007

CHLORINE TOTAL RESIDUAL
44 1.4 1 mg/l Daily Maximum

SOLIDS SUSP PERCENT
45 46.9 85 Percent Monthly Average

TSS
46 35 30 mg/l Monthly Average