



Alabama Department of Environmental Management
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July 16, 2014

Hon. Billy Driggers, Mayor
Edwardsville Water and Fire Protection Authority
P O Box 8
Edwardsville, AL 36261

RE: Edwardsville Water and Fire Protection Authority
Consent Order NO. 14-077-CDW

Dear Mayor Driggers:

Please find enclosed ADEM Consent Order No. 14-077-CDW which requires Edwardsville Water and Fire Protection Authority to take certain actions in regard to alleged violations of the Safe Drinking Water Act. This Consent Order has been issued with the consent of Edwardsville Water and Fire Protection Authority.

If you have any questions, please do not hesitate to contact Ms Laura Taylor at (334) 271-7820.

Sincerely,

A handwritten signature in black ink that reads "Glenda L. Dean". The signature is written in a cursive, flowing style.

Glenda L. Dean, Chief
Water Division

cc: Tom Johnston, ADEM-General Counsel
ADEM – Public Affairs Office

Enclosures

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

Edwardsville Water and Fire)
Protection Authority)
Edwardsville, Cleburne County, Alabama)

PWSID No. AL0000277)
Permit No. 2010-505)

CONSENT ORDER

No. 14-077-CDW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (Department) and Edwardsville Water and Fire Protection Authority (Permittee) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code § 22-22A-1 to 22-22A-16, as amended; the Alabama Safe Drinking Water Act, Ala. Code § 22-23-30 to 22-23-53, as amended; and the ADEM Administrative Code of Regulations (ADEM Admin. Code r.) promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a “public water system” as defined at Ala. Code § 22-23-31, as amended, located in Edwardsville, Cleburne County, Alabama. The public water system is a “Community Water System” as defined at Ala. Code § 22-23-31, as amended, that purchases water from another public water system.

2. The Department is a duly constituted agency of the State of Alabama pursuant to Ala. Code § 22-22A-1 through 22-22A-16, as amended.

3. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state agency responsible for the promulgation and enforcement of drinking water regulations in accordance with the federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26. Additionally, pursuant to Ala. Code § 22-22A-5(1), as amended, the Department is authorized to administer and enforce the provisions of the Alabama Safe Drinking Water Act, Ala. Code §§ 22-23-30 to 22-23-53, as amended.

4. On October 1, 2009, the Department issued Public Water Supply Permit No. 2010-505 (Permit) to the Permittee authorizing the operation of a “public water system” under certain terms, limitations, and conditions.

5. Pursuant to ADEM Admin Code r. 335-7-2-.12, community water systems that purchase water from another public water system are required to monitor for disinfection byproducts (DBPs) in the manner and according to the schedule set forth in the rule.

6. Pursuant to ADEM Admin Code r. 335-7-2-.12(a), beginning January 1, 2012, systems must comply with the maximum contaminant levels (MCLs) for total trihalomethane (TTHM) and total haloacetic acids (HAA5) set forth at ADEM Admin. Code r. 335-7-2-11(a).

7. ADEM Admin. Code r. 335-7-2-.12(a) further requires the Permittee to conduct DBP compliance monitoring at specific sites on a quarterly basis. The average for each sampling site is the summation of the sample results, divided by the number of quarterly samples for that particular sampling site. System compliance is based on a running annual average for each sampling site.

ADEM CONTENTIONS

8. Based upon an inspection and/or a file review, the Department has documented that the Permittee violated the Maximum Contaminant Level for HAA5 during the following quarters:

- a. April – June 2013
- b. July – September 2013
- c. October – December 2013
- d. January – March 2014
- e. April – June 2014

and violated the Maximum Contaminant Level for TTHM during the following quarters:

- f. July – September 2013
- g. October – December 2013

9. In accordance with ADEM Admin Code r. 335-7-2-.21(1)(b), the Permittee properly provided public notification for the cited HAA5 and TTHM violations.

PERMITTEE CONTENTIONS

10. The Permittee neither admits nor denies the alleged violations, but consents to abide by the terms of this Consent Order.

11. The Department agrees to the terms of this Consent Order in an effort to resolve the cited violations without the unwarranted expenditure of State resources. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

THEREFORE, without admitting that it has violated any statutes or regulations, 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 and believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to this Consent Order with the following terms and conditions:

A. That within sixty (60) days after the effective date of this Consent Order, the Permittee shall prepare and submit to the Department a written Corrective Action Plan (CAP) signed and stamped by a professional engineer licensed in the state of Alabama detailing the plan of action the Permittee will initiate to achieve and maintain compliance with its permit. An Operational Evaluation Level Report (hereinafter, "OEL") may be substituted for the CAP, provided it meets all the requirements of the CAP.

B. That upon review of the CAP by the Department, the Permittee shall begin immediately to implement the CAP.

C. That by June 30th and December 31st of each year, and continuing thereafter until compliance with all requirements of this Consent Order has been achieved, the Permittee shall prepare and submit to the Department a Biannual Progress Report, signed and stamped by a professional engineer licensed in the state of Alabama, detailing the progress the Permittee has made toward achieving compliance with this Consent Order.

D. That by no later than September 30, 2016, the Permittee shall comply with all provisions of ADEM Admin. Code r. 335-7-2-.12 with regard to the cited HAA5 and TTHM violations.

E. That except as provided above, the Permittee shall comply each and every day hereafter with the terms, limitations, and conditions of Water Supply Permit No. 2010-505.

F. That this Consent Order shall apply to and be binding upon both 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 this Consent Order on behalf of the party represented, and to legally bind such party.

G. 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 cited in this Consent Order.

H. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

I. That for purposes of this Consent Order only, the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *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 *Force Majeure*. 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.

J. 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 which would constitute possible violations not addressed in this Consent Order, then such future violations may 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 Consent Order if such future orders, litigation or other enforcement actions address new matters not raised in this Consent Order.

K. 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.

L. That this Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.


M. 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.

N. That any modifications of this Consent Order must be agreed to in writing signed by both parties.

O. That, except as 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.

EDWARDSVILLE WATER AND
FIRE PROTECTION AUTHORITY


Hon. ~~Wanda C. Smith~~
Mayor **BILLY DRIGGERS**

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


Lance R. LeFleur
Director

Date: 7-5-2014

Date: 7-16-2014