

LANCE R. LEFLEUR
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

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Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

ROBERT J. BENTLEY
GOVERNOR

CERTIFIED MAIL 91 7108 2133 3935 2909 0779
RETURN RECEIPT REQUESTED

March 14, 2013

Mr. John Johnson, Chairman
Clay County Water Authority
87301 Highway 9
Lineville, Alabama 36266

RE: Clay County Water Authority
Consent Order NO. 13-074-CDW

Dear Mr. Johnson:

Please find enclosed ADEM Consent Order No. 13-074-CDW which requires Clay County Water 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 Clay County Water Authority and the Department.

If you have any questions, please do not hesitate to contact Mr. Tom Garrett at (334) 271-7931.

Sincerely,

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

Glenda L. Dean
Water Division, Chief

cc: ADEM-General Counsel
ADEM – Public Affairs Office

Enclosures

Birmingham Branch
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Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

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Decatur, AL 35603-1333
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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:)	
Clay County Water Authority)	CONSENT ORDER No.
Lineville, Clay County, Alabama)	13-074-CDW
PWSID No. 0000266)	
Permit No. 2010-641)	
)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, "Department") and Clay County Water Authority (hereinafter, "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Safe Drinking Water Act, Ala. Code §§ 22-23-30 to 22-23-53 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter, "ADEM Admin. Code r.") promulgated pursuant thereto, and the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26.

STIPULATIONS

1. The Permittee operates a "public water system" as defined at Ala. Code § 22-23-31 (2006 Rplc. Vol.), located in Lineville, Clay County, Alabama. The Permittee's public water system is a "Community Water System" as defined at Ala. Code § 22-23-31 (2006 Rplc. Vol.). The Permittee operates a surface water treatment plant and sells water to the Ashland Water Works and Sewer.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.).

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**



IN THE MATTER OF:)

Proposed

Clay County Water Authority)
Lineville, Clay County, Alabama)
PWSID No. 0000266)
Permit No. 2010-641)

CONSENT ORDER No.
13-XXX-CDW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, "Department") and Clay County Water Authority (hereinafter, "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Safe Drinking Water Act, Ala. Code §§ 22-23-30 to 22-23-53 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter, "ADEM Admin. Code r.") promulgated pursuant thereto, and the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26.

STIPULATIONS

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2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code §§ 22-22A-4(n) (2006 Rplc. Vol.), 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 § 22-23-49(2) (2006 Rplc. Vol.), 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 (2006 Rplc. Vol.).

4. On November 24, 2009, the Department issued Water Supply Permit No. 2010-641 (the "Permit") to the Permittee authorizing the operation of a "public water system."

5. ADEM Admin. Code r. 335-7-2-.06(2)(a) requires the Permittee to equip each filter with a continuous turbidity monitor and recorder analyzer, and to analyze filtered water for turbidity at least every 15 minutes.

6. Pursuant to ADEM Admin. Code r. 335-7-2-.06(2)(b), in the event of a failure in the continuous turbidity monitoring equipment, the Permittee is required to collect a grab sample from the filters once every two hours in lieu of continuous monitoring for no more than five working days following the equipment failure.

7. ADEM Admin. Code r. 335-7-2-.06(2)(b) further requires the Permittee to notify the Department within 48 hours of any failure in the turbidity monitoring equipment that lasts more than 8 hours.

8. ADEM Admin. Code r. 335-7-6-.10(1)(a) requires that the chlorine residual entering the distribution system from each plant shall not be less than 1.0 mg/L at any time.

9. Pursuant to ADEM Admin. Code r. 335-7-6-.10(3), failure to provide required disinfection constitutes a treatment technique violation requiring public notification within 14 days of occurrence.

CONTENTIONS

10. Based upon a records review, the Department has documented that on October 14, 2012, the turbidimeters for all filters failed for a period of at least five and one half hours, and that on October 26, 2012, the turbidimeters for all filters failed for a period of at least two and three quarter hours, in violation of ADEM Admin. Code r. 335-7-2-.06(2)(a). The Department has documented that the chief operator was on duty on October 14, 2012 and October 26, 2012.

11. October 26, 2012, during a site visit by the Department, the chief operator was asked where grab samples were taken in the event of a turbidimeter failure. The chief operator did not provide an answer as to the location where grab samples were collected. Turbidity data was recorded on the Daily Operation Log by the chief operator and reported to the Department on the Monthly Operating Report for those periods. Because of the failure of the turbidimeters and the chief operator's inability to locate where grab samples were to be collected, the turbidity data reported during those periods has been invalidated by the Department, resulting in a treatment technique violation requiring public notice.

12. The Department has documented that on October 1, 2012, October 5, 2012, October 12, 2012, October 14, 2012, October 19, 2012, October 27, 2012, and October 29, 2012 one or more turbidimeters were not operating for more than 8 hours at a time. The Permittee failed to notify the Department within 48 hours of the occurrences, in violation of ADEM Admin. Code r. 335-7-2-.06(2)(b).

13. On the morning of October 29, 2012 the chlorine residual in the distribution system of the Ashland water system was measured at less than 0.2 mg/L. An investigation determined the cause(s) of the chlorine residual in the Ashville water system being less than 0.2 mg/l was an error on the part of the Permittee's water treatment plant operator. The error

resulted in a chlorine residual leaving the plant less than 1.0 mg/L for an extended period of time. The Department was informed of the cause within 48 hours as required, but the Permittee failed to provide public notification within 14 days of occurrence, in violation of ADEM Admin. Code r. 335-7-6-10(3).

14. The Permittee neither admits nor denies the Department's contentions, but in an effort to cooperate with the Department consents to abide by the terms of this Consent Order.

15. The Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above alleged violations. The Department has determined that the terms of 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 has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee shall notify the public of the October 14, 2012 and October 26, 2012 treatment technique violations within 24 hours of execution of this Order.

B. The Permittee shall notify the public of the disinfection treatment technique violation which occurred on October 29, 2012 within 14 days of execution of this Order.

C. The Permittee shall comply with the terms, limitations, and conditions of Water Supply Permit No. 2010-641 each and every day hereafter.

D. 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 the Consent Order on behalf of the party represented, and to legally bind such party.

E. 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.

F. The Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. The Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. 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.

H. The sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions based upon the facts stated herein. Should additional facts and circumstances be discovered in the future concerning the facility 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 future orders, litigation or other enforcement action address new matters not cited in this Consent Order.

I. 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.

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

K. 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

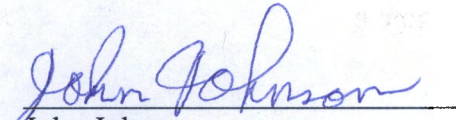
State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

L. Any modifications of this Order must be agreed to in writing signed by both parties.

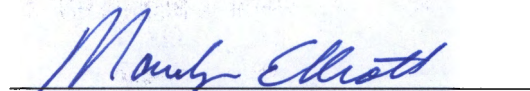
M. Except as set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

CLAY COUNTY WATER AUTHORITY


John Johnson
Chair

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT


Lance R. LeFleur
Director

Date: 2-28-2013

Date: 3/14/2013

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



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Proposed

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CONSENT ORDER No.
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LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

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February 5, 2013

91 7108 2133 3935 2909 0755

Mr. John Johnson, Chairman
Clay County Water Authority
87301 Highway 9
Lineville, Alabama 36266

RE: CONSENT ORDER

Facility Name: Clay County Water Authority
Permit Number: 2010-641
PWSID #AL0000266
Clay County



Dear Mr. Johnson:

Please be advised that based upon an investigation by the Department, the above public water system is in violation of the Alabama Safe Drinking Water Act, Code of Alabama (1975), §§ 22- 23-30 through 22-23-53, as amended, and the ADEM Administrative Code of Regulations promulgated pursuant thereto.

The Department has determined that the alleged violations are appropriate for resolution by Consent Order, a mechanism by which you may agree to certain terms and conditions to resolve the violations. We have enclosed two copies of a proposed Consent Order containing terms and conditions acceptable to the Department.

If you are agreeable to entry into this Consent Order, please sign both copies of the document where indicated and return them to the Department in the enclosed envelope no later than March 8, 2013. Upon receipt of the signed copies, the Department will finalize the order and return one signed original to you. If you do not agree to this expedited enforcement approach, the Department may institute a unilateral enforcement action with penalties commensurate with the additional expenditure of agency resources.

You have the option to schedule an informal conference with the Department to discuss the alleged violations. However, you must respond to this letter no later than March 8, 2013. If a response is not received by the above date, the Department will institute a unilateral enforcement action with penalties.

Should you have any questions concerning this matter, please contact Tom Garrett at 334/271-7931.

Sincerely,

Dennis D. Harrison, Chief
Drinking Water Branch
Water Division

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

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2715 Sandlin Road, S. W.
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Dennis D. Harrison, Chief
Drinking Water Branch
Water Division

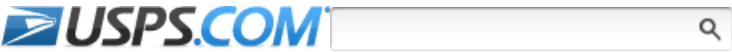
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		Notice Left	March 18, 2013, 1:34 pm	LINEVILLE, AL 36266	
		Arrival at Unit	March 18, 2013, 8:23 am	LINEVILLE, AL 36266	
		Depart USPS Sort Facility	March 17, 2013	BIRMINGHAM, AL 35222	
		Processed through USPS Sort Facility	March 16, 2013, 3:45 pm	BIRMINGHAM, AL 35222	
		Depart USPS Sort Facility	March 16, 2013	MONTGOMERY, AL 36119	
		Processed through USPS Sort Facility	March 15, 2013, 8:37 pm	MONTGOMERY, AL 36119	

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