

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

HICKORY BEND FARMS, INC.)

LINE CREEK SAND AND GRAVEL MINE)

MACON COUNTY, ALABAMA)

ORDER NO. 88-045-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§22-22A-1 through 22-22A-16 (1984 and 1987 Cum. Supp.), the Alabama Water Pollution Control Act, Code of Alabama 1975 §§22-22-1 through 22-22-14 (1984 and 1987 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act §402, 22 U.S.C., §1342, the Department makes the following FINDINGS OF FACT:

1. Hickory Bend Farms, Inc., (hereinafter "the Operator"), operates a sand and gravel surface mine along and in Line Creek in Township 16N, Range 20E, Section 12 in Macon County, Alabama.

2. Code of Alabama 1975, §22-22-9(i)(3) (1987 Cum. Supp.) provides that "[e]very person, prior to discharging any new or increased pollution into any waters of this state, shall apply to the [Department] in writing for a permit and must obtain such permit before discharging

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such pollution." ADEM Admin. Code Rule 6-6-.03 provides that "[n]o person shall discharge pollutants from a point source into waters without first having obtained a valid NPDES [National Pollutant Discharge Elimination System] permit"

3. The Operator has not obtained a permit to discharge pollutants.

4. On March 9, 1988, an inspection by Department staff revealed discharges of wastewater, spoil drainage and other pollutants from a excavation basin to Line Creek, a water of the state. A sample of the discharge was taken and revealed the following results:

Sample Point	TSS(mg/l)	pH(s.u.)	Turbidity (NTU's)
Drainage ditch from excavation area to Line Creek	902	5.6	40.0

5. ADEM Admin. Code Rule 6-9-.03 requires that all surface mine operators shall submit to the Department a pollution abatement and/or prevention plan.

6. The Operator has failed to submit a pollution abatement and/or prevention plan to the Department.

7. ADEM Admin. Code Rule 6-9-.05 requires that all surface mining operations must have a NPDES permit.

8. On the following dates the Operator conducted surface mining operations without having obtained a NPDES permit: July 14, 1987, October 6, 1987.

9. ADEM Admin. Code Rule 6-9-.06 (1) prohibits the placing of soil, rock, trees, overburden or any other debris or material associated with mining operations into a stream.

10. The Operator has violated this regulation by placing sediment or other debris associated with its mining operation into Line Creek on March 7, 1988 and March 9, 1988.

11. ADEM Admin. Code Rule 6-9-.06(2) provides that "[n]o untreated wastewater from a mineral preparation plant, washing operation or contaminated surface runoff from mineral storage piles or refuse piles shall be discharged into any stream."

12. The Operator has violated this regulation by discharging into Line Creek untreated wastewater resulting from surface runoff from mineral storage piles or refuse piles on the following dates: March 7, 1988 and March 9, 1988.

13. ADEM Admin. Code Rule 6-9-08(1) requires that all applicants who wish to begin a new surface mining operation must comply with the surface mining regulations prior to the commencement of the operation.

14. The Operator violated this regulation by commencing a new sand and gravel mining operation prior to complying with the provisions of the surface mining regulations.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama 1975, §§22-22A-5(10), 22-22-9(c), 22-22-9(i), and 22-22-9(k) (1984 and 1987 Cum. Supp.) and the National Pollutant Discharge Elimination System Administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act §402, 33 U.S.C. §1342, it is hereby ORDERED:

A. That immediately upon receipt of notice of this Order the Operator shall cease all unpermitted discharges.

B. That not later than July 1, 1988, the Operator shall submit to the Department a complete reclamation plan for areas which have been previously disturbed by surface mining which will ensure that water quality standards established for Line Creek will not be impaired by nonpoint pollution sources. Said plan shall include: (1) the return to its original contour of all areas within 100 feet of the creek bank along the entire length of Line Creek which have been previously disturbed by the Operator's sand and gravel mining operations; (2) reseeding of the disturbed area no later than October 15, 1988; (3) establishment of at least 80% vegetative cover no later than May 1, 1989; and (4) timetables for completing all phases of work under this plan. All phases of the plan shall be completed no later than May 1, 1989.

C. That not later than July 1, 1988, the Operator shall submit to the Department a complete pollution abatement plan prepared by a registered professional engineer licensed to practice in the State of Alabama which conforms with the requirements of ADEM Admin. Code Rule 6-9-.03 and Appendices A and B. Said plan shall include provisions for removal of all spoil material and bottom sediments placed in Line Creek as a result of the Operator's surface mining operations, sealing of the excavation pit, and cessation of all discharges until a valid NPDES permit has been obtained, and implementation of a setback of sand and gravel mining from the banks of Line Creek, all of which must be adequate to ensure protection of the creek from non-point source and point source pollution resulting from the mining operation and associated disturbed areas. Said setback shall meet the approval of the Department. The Operator shall respond to any comments from the Department within seven days of receipt of said comments.

D. That not later than July 1, 1988, the Operator shall submit to the Department a construction and compliance schedule for implementing the pollution abatement plans. Said plans shall be implemented not later than May 1, 1989.

E. That not later than July 1, 1988, the Operator shall prepare a Spill Prevention Control and Countermeasure Plan for all fuel storage tanks at the Line Creek Sand and Gravel facility in accordance with 40 C.F.R. §112.

F. That not later than 7 days after the Operator has complied with each of the provisions of paragraphs A, B, C, D and E above, the Operator shall certify to the Department in writing that compliance with said provisions has been achieved.

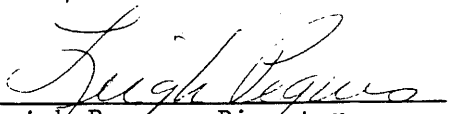
G. That not later than May 1, 1989, the design engineer shall certify to the Department in writing that all treatment facilities, including those used for the spill prevention control and countermeasure plan, were constructed in accordance with the plans submitted to the Department.

H. The Operator is prohibited from conducting surface mining operations at this facility until such time as the Operator obtains a valid NPDES Permit issued by the Department.

I. That the failure to comply with the provisions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department or others against the Operator.

J. That the issuance of this Order does not preclude the Department or others from seeking civil penalties, criminal fines, or other appropriate sanctions or relief against the Operator for the violations stated herein.

DONE and ISSUED this 15th day of April, 1988.



Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I hereby certify that I have served Order No. 88-045-WP upon Mike Phillips, Line Creek Sand & Gravel Mine, Macon County, Alabama, by sending the same, postage paid, through the United States Mail, as Certified Mail No. P-625 500 811, which instructions to forward and return receipt requested to:

Mike Phillips
Hickory Bend Farms, Inc.
P. O. Box 17551
Montgomery, Alabama 36117-0551

Done this 15th day of April, 1988.


Steven O. Jenkins