

LANCE R. LEFLEUR  
DIRECTOR



Alabama Department of Environmental Management  
adem.alabama.gov

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(334) 271-7700 ■ FAX (334) 271-7950

ROBERT J. BENTLEY  
GOVERNOR

JUL 16 2014

**CERTIFIED MAIL #91 7108 2133 3936 7223 9018**  
**RETURN RECEIPT REQUESTED**

Mr. William E. Latnam  
Chairman  
Lineville Waterworks & Sewer Board  
Lineville Lagoon  
Post Office Box 247  
Lineville, Alabama 36266

RE: Consent Order No. 14-079-CWP  
NPDES Permit AL0050644  
Lineville Lagoon  
Clay County (027)

Dear Mr. Latnam:

Please find the enclosed ADEM Consent Order No. 14-079-CWP which requires you to take certain actions at the Lineville Lagoon at 1000 S. Griffin Avenue, Lineville, AL in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of Lineville Waterworks & Sewer Board/Lineville Lagoon.

Sincerely,

*Glenda L. Dean*

Glenda L. Dean, Chief  
Water Division

GLD/kbj

File: ECO/14-079-CWP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel  
Schuyler Espy/ADEM, Office of General Counsel  
Daphne Smart/ADEM, Industrial Municipal Branch/Water Division  
Emily Anderson/ADEM, Industrial Municipal Branch/Water Division  
Dustin Stokes/ADEM, Industrial Municipal Branch/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)

Mobile-Coastal  
3664 Dauphin Street, Suite B  
Mobile, AL 36608  
(251) 304-1176  
(251) 304-1189 (FAX)

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF: )

**Lineville Waterworks & Sewer Board** )

**Lineville Lagoon** )

**Lineville, Clay County, Alabama** )

**NPDES PERMIT NO. AL0050644** )

Consent Order No. 14-079-CWP

***PREAMBLE***

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the Lineville Waterworks & Sewer Board (hereinafter "the 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 Water Pollution Control Act (hereinafter "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342.

***STIPULATIONS***

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

2. Pursuant to Ala. Code § 22-22A-4(n) (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 and 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.

3. The Permittee operates a wastewater treatment plant known as the Lineville Lagoon, located at 1000 S Griffin Avenue, in Lineville, Clay County, Alabama.

4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit No. AL0050644 (hereinafter "the Permit") to the Permittee on June 20, 2012, effective August 1, 2012, establishing limitations on the discharge of pollutants

from a point source, designated therein as outfall number 0011, to an Unnamed Tributary to Crooked 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. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

5. Permit condition I.A requires that discharges be limited and monitored as specified in the Permit. The DMRs for the monitoring periods of November 2012 through March 2014 indicate that discharges from outfall 0011 did not comply with the permit limitations for Total Ammonia as Nitrogen (hereinafter "NH<sub>3</sub>-N"). The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. The Department issued a Notice of Violation (hereinafter "NOV") to the Permittee on July 18, 2013 addressing permit limitation violations of NH<sub>3</sub>-N, Fecal Coliform, pH, Total Residual Chlorine, Carbonaceous Biochemical Oxygen Demand, and Total Kjeldahl Nitrogen, as well as a missing Noncompliance Notification Form. The Permittee responded to the NOV on August 9, 2013. According to the response, the facility is no longer using chlorine as a disinfectant and is now using an Ultra Violet system. The response also stated that the NH<sub>3</sub>-N violations were due to the Bio-Blocks becoming toxic and a failure occurring with the Bio-Block System. The Permittee indicated that it shipped the Bio-Blocks off-site for cleaning and refurbishment, and then had FBC Technologies Inc. replace all the diffusers and flotation material at the facility.

7. The Permittee consents to abide by the terms of this Consent Order and to pay any civil penalty assessed herein.

8. 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 alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

**ORDER**

THEREFORE, the Department and the Permittee agree to enter into this CONSENT ORDER with the following terms and conditions:

A. All penalties due pursuant to this Consent Order shall be made 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

B. If not already enrolled, the Permittee shall prepare and submit to the Department a complete application for enrollment in the Department's Electronic Environmental DMR and SSO Reporting System Program (hereinafter "E2 Program") for all of its permitted facilities, so that it is received by the Department not later than thirty days after the issuance date of this Consent Order. If the Department determines through its review of the submitted application that the submittal is not sufficient for the Permittee to participate in the complete E2 Program, then the Permittee must modify the application so that it is sufficient. The Permittee shall submit modifications to the application, if required, so that they are received by the Department no later than fourteen days after receipt of the Department's comments. Upon acceptance by the Department into the E2 Program, the Permittee shall begin the electronic submittals no later than the 28<sup>th</sup> day of the month following the first complete monitoring period for DMRs and within 24-hours of becoming aware of any notifiable SSO for SSOs through the E2 Program. The Permittee shall fully implement all aspects of the E2 Program including the cessation of federal paper DMR submittals, reporting to the Department's SSO hotline, and paper SSO report submittals, if applicable, no later than 180 days after acceptance into the E2 Program, unless an extension is granted in writing by the Department. The Permittee shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

C. The Permittee shall prepare and submit to the Department an Engineering Report that addresses the need for changes in maintenance and operating procedures, the potential for infiltration and inflow, the need for modification of existing treatment and collection system works, and the need for new or additional treatment and collection system works as necessary to achieve compliance with applicable rules and regulations and permit conditions. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan) and cost of equipment and/or repairs needed to achieve compliance, if known. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after the date of issuance of this Consent Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee must modify the Engineering Report. The Department must receive modifications to the Engineering Report, if required, no later than thirty days after receipt of the Department's comments. The Permittee shall complete implementation of the recommendations provided in the Engineering Report not later than 730 days after the date of issuance of this Consent Order.

D. The Permittee shall prepare and submit detailed Semi-Annual Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan, including the cost of equipment and/or repairs needed to achieve compliance. The Department must receive the Progress Reports no later than 180 days after the date of issuance of this Consent Order and continuing every 180 days thereafter that the Permittee's performance obligations under this Consent Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each imposed requirement, if applicable. The Permittee shall submit the notice of noncompliance to the Department no later than fourteen days following each applicable due date contained in this Consent Order. Notices of noncompliance shall state the cause of noncompliance and the corrective action taken and shall also describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

E. The Permittee shall fully comply with the Permit limitations for NH<sub>3</sub>-N within 730 days from the issuance date of this Consent Order.

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

G. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether or not the Permittee is in compliance with all requirements of this Consent Order. The Permittee shall submit such certification to the Department no later than 760 days after the date of issuance of this Consent Order.

H. After the issuance date of this Consent Order, the Permittee shall pay stipulated penalties for each day it fails to meet any of the milestone dates or satisfy any of the requirements set forth in or established by Paragraphs B, C, D, and G contained herein. The stipulated civil penalties for failure to meet each milestone or any requirement date, except for *Force Majeure* acts as hereinafter defined, shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$ 100.00
31st to 60th day	\$ 200.00
After 60 days	\$ 300.00

If the Permittee fails to meet any milestone or any assigned date ninety days after the required dates found in Paragraphs B, C, D, and G, the Department reserves the right to file a new action against the Permittee.

I. Cumulative stipulated penalties described in Paragraph H above shall under no circumstances exceed \$18,000.00. Once stipulated penalties of \$18,000.00 are due to the Department, or should violations continue to occur after the final compliance date specified in the accepted Compliance Plan, then the Department shall be free to issue additional orders or file suit against the Permittee in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance with this Consent Order.

J. Payment of stipulated penalties are due for violations of milestone dates under this Consent Order not later than the 28<sup>th</sup> day of the month following the month a milestone date was not achieved. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

K. 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.

L. 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 which are cited in this Consent Order.

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

N. 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. 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.

O. 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 concerning the Lineville Lagoon which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in other Orders as may be issued by the Director, by litigation initiated by the Department, or by 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 raised in this Consent Order.

P. 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.

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

R. 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.

S. Any modifications of this Consent Order must be agreed to in writing signed by both Parties.

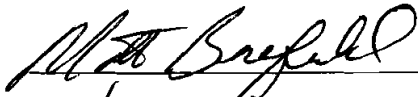
T. Except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local



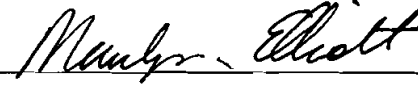
law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

**LINEVILLE WATERWORKS  
& SEWER BOARD**

By:   
Its: CHAIRMAN  
Date: 7-8-2014

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

By:   
Its: Deputy Director  
JUL 16 2014  
Date: \_\_\_\_\_

**Attachment 1: Limitation Violations**

<b><u>Monitoring Period</u></b>	<b><u>Outfall</u></b>	<b><u>Parameter</u></b>	<b><u>Average, Max, Min</u></b>	<b><u>Unit</u></b>	<b><u>Limit</u></b>	<b><u>Reported Value</u></b>
November 2012	001-1	NH3-N	Monthly Average	mg/l	2.5	2.74
December 2012	001-1	NH3-N	Monthly Average	mg/l	4.0	15.9
December 2012	001-1	NH3-N	Weekly Average	mg/l	6.0	16.1
January 2013	001-1	NH3-N	Monthly Average	ppd	16.6	38.0
January 2013	001-1	NH3-N	Weekly Average	ppd	25.0	53.4
January 2013	001-1	NH3-N	Monthly Average	mg/l	4.0	14.1
January 2013	001-1	NH3-N	Weekly Average	mg/l	6.0	15.3
February 2013	001-1	NH3-N	Monthly Average	mg/l	4.0	6.39
February 2013	001-1	NH3-N	Weekly Average	mg/l	6.0	7.35
July 2013	001-1	NH3-N	Monthly Average	mg/l	2.5	3.38
July 2013	001-1	NH3-N	Weekly Average	mg/l	3.7	5.87
December 2013	001-1	NH3-N	Monthly Average	mg/l	4.0	5.63
December 2013	001-1	NH3-N	Weekly Average	mg/l	6.0	8.55
January 2014	001-1	NH3-N	Monthly Average	mg/l	4.0	6.66
January 2014	001-1	NH3-N	Weekly Average	mg/l	6.0	7.14
February 2014	001-1	NH3-N	Monthly Average	mg/l	4.0	5.68
February 2014	001-1	NH3-N	Weekly Average	mg/l	6.0	6.35
March 2014	001-1	NH3-N	Monthly Average	mg/l	4.0	5.14

**From:** [US\\_Postal\\_Service@usps.com](mailto:US_Postal_Service@usps.com)  
**To:** [Jackson, Valerie](#)  
**Subject:** USPS Shipment Info for 9171082133393672239018  
**Date:** Friday, July 18, 2014 11:01:29 AM

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This is a post-only message. Please do not respond.

Valerie Jackson has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: [9171082133393672239018](#)

Service Type: Certified Mail™

Shipment Activity	Location	Date & Time
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Delivered	LINEVILLE, AL 36266	July 18, 2014 10:18 am
Available for Pickup	LINEVILLE, AL 36266	July 18, 2014 8:12 am
Sorting Complete	LINEVILLE, AL 36266	July 18, 2014 8:04 am
Arrival at Unit	LINEVILLE, AL 36266	July 18, 2014 7:48 am
Depart USPS Sort Facility	BIRMINGHAM, AL 35222	July 18, 2014 1:51 am
Processed through USPS Sort Facility	BIRMINGHAM, AL 35222	July 17, 2014 3:22 pm
Depart USPS Sort Facility	MONTGOMERY, AL 36119	July 16, 2014 10:34 pm
Processed at USPS Origin Sort Facility	MONTGOMERY, AL 36119	July 16, 2014 8:05 pm
Accepted at USPS Origin Sort Facility	MONTGOMERY, AL 36104	July 16, 2014 6:50 pm
Electronic Shipping Info Received		July 16, 2014

Reminder: Track & Confirm by email

Date of email request: July 18, 2014

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at <http://www.usps.com/shipping/trackandconfirm.htm>