

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF  
GOLDEN FLAKE SNACK FOODS,  
INC.

ORDER NO. 90-013-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1975 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, ALA. CODE §§ 22-22-1 through 22-22-14 (1975 and 1988 Cum. Supp.), (the Act) and the National Pollutant Discharge Elimination System (NPDES) administered by the Alabama Department of Environmental Management (the Department) and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, §307, 33 U.S.C. §1317 the Department makes the following FINDINGS OF FACT:

1. Golden Flake Snack Foods, Inc. (the Permittee) operates a snack foods processing facility in Jefferson County, Alabama.

2. The Permittee was issued a State Indirect Discharge (SID) permit by the Department, authorizing the discharge of pollutants and other industrial wastes, subject to certain terms, conditions and limitations.

3. Among the limitations contained in the above SID permit are daily minimum and daily maximum limitations for Oil &

|                    |                    |
|--------------------|--------------------|
| ISSUED<br>10/27/89 | SERVED<br>10/20/89 |
|--------------------|--------------------|

Grease (O&G), five-day biochemical demand (BOD<sub>5</sub>), phosphates (PO<sub>4</sub>P) and Total Suspended Solids (TSS), as outlined below:

| PARAMETER         | DAILY<br>MINIMUM | DAILY<br>MAXIMUM | MONTHLY<br>AVERAGE |
|-------------------|------------------|------------------|--------------------|
| O&G               | N/A              | 150 mg/l         | 150 mg/l           |
| PO <sub>4</sub> P | N/A              | 30 mg/l          | 30 mg/l            |
| TSS               | N/A              | N/A              | N/A                |
| BOD <sub>5</sub>  | N/A              |                  |                    |

4. The Permittee has violated the discharge limitation of its SID permit as follows:

| DATE          | PARAMETER         | VIOLATION  |
|---------------|-------------------|------------|
| 1/6/88        | PO <sub>4</sub> P | 98.7 mg/l  |
| 1/22/88       | PO <sub>4</sub> P | 114 mg/l   |
| 1/29/88       | PO <sub>4</sub> P | 93.4 mg/l  |
| 1/88 Average  | PO <sub>4</sub> P | 102.4 mg/l |
| 10/23/87      | O&G               | 508 mg/l   |
| 10/87 Average | O&G               | 270.4 mg/l |
| 8/24/87       | O&G               | 160.7 mg/l |

5. Among the conditions of the Permittee's SID permit are the requirements that the Permittee monitor its discharges and that it submit to the Department Reports of its monitoring results (DMR).

6. The Permittee violated the reporting requirements of its SID permit with respect to DSN001 as follows:

| REPORTING<br>PERIOD | DUE<br>DATE | DATE<br>RECEIVED |
|---------------------|-------------|------------------|
| 1/88                | 2/28/88     | 3/1/88           |
| 11/87               | 12/28/87    | 12/29/87         |
| 10/87               | 11/28/87    | 12/2/87          |

7. The Permittee violated the monitoring requirements of its SID permit by failing to monitor at the required frequency for five-day biochemical oxygen demand (BOD<sub>5</sub>), Total Suspended Solids, chlorides, or phosphates during the month of October, 1987. Monitoring for these parameters was due two times during the course of that month, and monitoring reports which were due 11/28/87, were not submitted. (4 total violations)

8. On May 25, 1989 the Permittee bypassed its wastewater treatment system and discharged pollutants and other wastes directly to a storm drain in violation of Paragraph III.A.4. of its permit and ALA. CODE § 22-22-9(i)(3) (1988 Cum. Supp.) as shown by the following laboratory analysis results of a sample taken from that discharge.

| O&G       | BOD <sub>5</sub> | TSS  |
|-----------|------------------|------|
| 16.3 mg/l | 160              | 2080 |

9. On May 25, 1989 the Permittee discharged pollutants and other wastes directly into a drainage ditch from a drying bed through a breach in the dike in violation of Paragraph III.A.4. and III.A.5. of its permit, as demonstrated by the following laboratory analysis results of a sample taken from that discharge:

| O&G          | BOD <sub>5</sub> | TSS    |
|--------------|------------------|--------|
| 133,230 mg/l | 665              | 16,500 |

10. The Permittee is operating an unauthorized drying bed.

11. The violations referenced in paragraph 4 above, were more than minimal technical violations because:

- a. the Permittee was notified in May, 1987 that its waste treatment system was hydraulically overloaded; and
- b. the Permittee, therefore, knew or should have known that these violations were likely to occur; and
- c. The Permittee took insufficient efforts to avoid these violations.

12. The violations referenced in paragraph 7, above, were more than minimal technical violations because:

- a. the Permittee was aware of its monitoring duties, and;
- b. the Permittee should have known that it was in violation of its permit duties when it failed to monitor.

13. The violations referenced in paragraph 8, above, were serious violations because:

- a. the Permittee was informed in May, 1987 that its waste treatment system was hydraulically overloaded;
- b. the Permittee had previous unpermitted discharges caused by the hydraulic overloading of its waste treatment system;
- c. this discharge was, therefore, an avoidable bypass of its waste treatment system in violation

of Paragraphs III.A.4. and III.A.6. of the Permittee's permit; and

- d. the Permittee is not permitted to discharge directly to waters of the State.

14. The discharge referenced in paragraph 9, above, was serious because:

- a. this discharge was unpermitted;
- b. the Permittee took few, if any, efforts to abate or prevent the discharge.
- c. the volume of pollutants in this discharge had the potential to cause severe environmental harm.
- d. the permittee took few, if any, efforts to prevent this discharge, or to abate this discharge.

15. The Permittee has realized an economic benefit by its failure to take measures sufficient to prevent the above violations.

16. The Permittee has the ability to pay a civil penalty.

#### ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(e) and 22-22-9(k) (1988 Cum. Supp.), it is hereby ORDERED:

A. That the Permittee pay to the Department a civil penalty of Twelve Thousand Three Hundred (\$12,300) Dollars within 30 days from the date this Order becomes final, to consist of the following:

) unpermitted discharges - \$10,000

permit limit violations - 1,200

late submission of discharge  
monitoring reports - 300

failure to monitor according  
to prescribed frequency - 800

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TOTAL \$12,300

B. That the Permittee immediately cease all unpermitted discharges to waters of the State.

C. That the Permittee immediately eliminate any wastewater treatment by-passes.

) D. The Permittee immediately direct all wastewaters resulting from any of its operations, including waste haulage, to its treatment system.

E. That the Permittee remove all remaining sludge, pollutants, and other residue from the effected areas resulting from the spill discharge referenced in Paragraph 9 of the Departments FINDINGS OF FACT, within 10 days from the date of service of this Order.

F. That the Permittee will immediately and hereafter comply with the monitoring and reporting requirements of its permit.

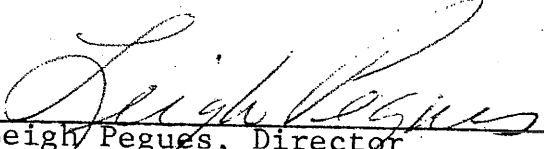
G. That the Permittee will close out its unauthorized drying bed within 60 days from the date of this Order.

) H. That failure to comply with the provisions of this Order shall constitute cause for the revocation of its SID

permit and/or the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department or others against the Permittee.

I. That the issuance of this Order does not preclude the Department from seeking criminal fines, or other appropriate sanctions or relief against the Permittee for the violations stated herein.

ORDERED and ISSUED this 23<sup>rd</sup> day of October, 1989.

  
Leigh Pegues, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W.L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7855

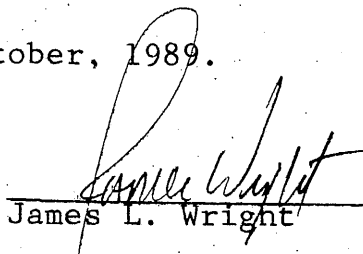
CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 90-013-WP upon Golden Flake Snack Foods, Inc. by sending the same, postage paid, through the United States Mail, as Certified Mail Nos. P 873 074 762 and P 873 074 763, with instructions to forward and return receipt requested to:

Mr. F. W. Pate, Executive Vice-President  
Golden Flake Snack Foods, Inc.  
110 South Sixth Street  
Birmingham, AL 35233

Wayne Hughes  
Jefferson County Industrial Pretreatment Authority  
1290 Oak Grove Road  
Homewood, Alabama 35209

Done this 23<sup>rd</sup> day of October, 1989.

  
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James L. Wright