

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

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IN THE MATTER OF )  
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H & M SEAFOOD )

CODEN, ALABAMA )  
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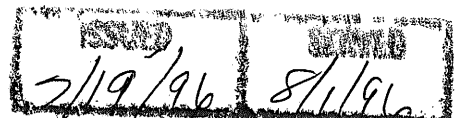
ORDER NO. 96-121-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 et seq., Code of Alabama 1975, as amended, the Alabama Water Pollution Control Act, §§22-22-1 et seq., Code of Alabama 1975, as amended, 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, 33 U.S.C. §1342, the Department makes the following FINDINGS OF FACT:

1. H & M Seafood (hereinafter, "H & M") operates a seafood processing plant in Coden, Mobile County, Alabama. The facility is located at 1476 E. A. Zirlott Road.

2. Section 22-22-9(j)(6), Code of Alabama 1975, as amended, provides that "every person, prior to discharging any new or increased pollution into any water of this state shall apply to the [Department] in writing for a permit and must obtain such permit before discharging such pollution."



3. Likewise, ADEM Admin. Code R. 335-6-6-.03 (the Department's Water Quality Program Rules) provides that "[n]o person shall discharge pollutants from a point source into water without first having obtained a valid NPDES [National Pollutant Discharge Elimination System] permit . . . ."

4. On January 9, 1992, H & M was issued NPDES Permit Number AL0063142 by the Department, which authorized the discharge of pollutants and other wastes into West Fowl River, a water of the State, subject to certain terms, conditions and limitations.

5. Among the terms and conditions of NPDES Permit Number AL0063142 is the requirement that H & M monitor its discharge on a monthly basis, as follows:

<u>PARAMETER</u>	<u>DAILY MAXIMUM</u>
BOD	0.45 lbs/day

6. Monthly discharge reports (DMRs) submitted by H & M indicate that the daily maximum (0.45 lbs/day) limitation for BOD was exceeded the following times at the indicated levels:

<u>DAYS</u>	<u>BOD</u>
July 21, 1994	0.61 lbs/day
August 24, 1994	0.78 lbs/day

7. On October 24, 1994, the Department sent H & M a Notice of Violation (NOV) for the permit limitation violations detailed above.

8. Part I.C.1.a. of H & M's permit requires that monthly discharge reports (DMRs) be submitted to the Department by the 28th day of every month detailing the aforementioned monitoring requirement (and other information) for the previous month.

9. H & M failed to submit timely DMRs as follows:

<u>Report Date</u>	<u>Due Date</u>	<u>Date Received</u>
Aug. 1994	Sept. 28, 1994	Oct. 3, 1994
Sept. 1994	Oct. 28, 1994	April 14, 1995
Jan. 1995	Feb. 28, 1995	March 10, 1995
Sept. 1995	Oct. 28, 1995	Nov. 9, 1995
Nov. 1995	Dec. 28, 1995	Jan. 19, 1996
Dec. 1995	Jan. 28, 1996	Not received
March 1996	April 28, 1996	Not received

10. Also, the Department sent warning letters to H & M on January 28, 1994, May 13, 1994, and November 8, 1995 for its failure to report or to submit timely DMRs.

11. On March 10, 1995 and February 7, 1996, the Department sent H & M Notices of Violation (NOV) for its continued reporting violations.

### ORDER

Based upon the foregoing FINDINGS OF FACTS and pursuant to §§22-22A-5(10) and 22-22-9, Code of Alabama 1975, as amended, 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 there is hereby assessed a civil penalty against H & M in the amount of Nine Hundred Dollars (\$900.00), for the violations detailed in this Order, to be paid to the Alabama Department of Environmental Management within 30 days of receipt of this Order.

B. That H & M will immediately and hereafter comply with the terms and conditions of NPDES Permit Number AL0063142 regarding the monitoring and reporting requirements of that permit.

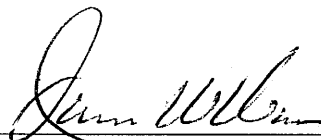
C. That immediately upon receipt of this Order, H & M will comply with its NPDES Permit Number AL0063142 permit limitations for all pollutants listed therein.

D. That the failure of H & M to comply with this Order will constitute cause for the revocation of NPDES Permit Number AL0063142.

E. That the failure of H & M to comply with this Order will constitute cause for the commencement of legal action for the recovery of additional civil penalties or criminal penalties.

F. That the issuance of this Order does not preclude the Department from seeking criminal fines, civil fines, or other appropriate relief for the violations stated herein against H & M.

ORDERED and ISSUED this 18<sup>th</sup> day of July, 1996.



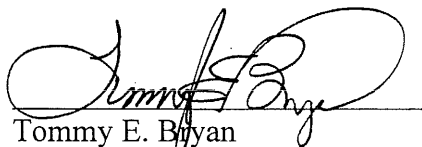
James W. Warr, Director  
Alabama Department of  
Environmental Management  
Post Office Box 301463  
Montgomery, AL 36130-1463  
(334) 271-7700

CERTIFICATE OF SERVICE

I, Tommy E. Bryan, hereby certify that I have served Administrative Order No. 96-121-WP upon H & M Seafood by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 841 389 277, with instructions to forward and return receipt requested to:

Ms. Marie Murray, Owner  
H & M Seafood  
1476 E. A. Zirlott Road  
Codon, Alabama 36523

DONE this 19<sup>th</sup> day of July, 1996.

  
Tommy E. Bryan