

**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

**KAY IVEY**  
GOVERNOR

DECEMBER 6, 2017

**CERTIFIED MAIL 91 7108 2133 3936 7151 5724**  
**RETURN RECEIPT REQUESTED**

Honorable James B. Grant, Mayor  
Town of Louisville  
Post Office Box 125  
Louisville, AL 36048

RE: Consent Order 18-019-CWP  
NPDES Permit No. AL0070980  
Louisville WWTF  
Alabama Highway 51 North  
Louisville, AL 36048  
Barbour County (005)

Dear Mayor Grant:

Please find the enclosed ADEM Consent Order No. 18-019-CWP which requires you to take certain actions at the Louisville WWTF located off of Alabama Highway 51 North in Louisville, Alabama in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of the Town of Louisville.

Sincerely,

*Glenda L. Dean*

Glenda L. Dean, Chief  
Water Division

GLD/mfc

File: ECO/18-019-CWP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel  
Carrie Blanton/ADEM, Office of General Counsel  
Daphne Lutz/ADEM, Industrial/Municipal Branch  
Emily Anderson/ADEM, Industrial/Municipal Branch  
Shanda Torbert/ADEM, Industrial/Municipal Branch

**ISSUED - 12/06/2017**

**MAILED - 12/06/2017**

**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: )

**Town of Louisville** )

**Louisville WWTF** )

**Louisville, Barbour County, Alabama** )

**NPDES PERMIT NO. AL0070980** )

Consent Order No. 18-019-CWP

***PREAMBLE***

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the Town of Louisville (hereinafter "the Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, 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.

***STIPULATIONS***

1. The Permittee operates a wastewater treatment facility (hereinafter "WWTF") known as the Louisville WWTF, located on Alabama Highway 51 North, in Louisville, Barbour County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
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 water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit No. AL0070980 (hereinafter "the Permit") to the Permittee on October 1, 2012, effective October 1, 2012, establishing limitations on the discharge of pollutants from a point

source, designated therein as outfall number 0011, to Pea 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. For the monitoring periods listed in Attachment 1, the Permittee submitted DMRs to the Department indicating that the Permittee has discharged pollutants from Outfall 0011 into the Pea Creek, a water of the State, in violation of its Permit limitations for Dissolved Oxygen (hereinafter "DO") and E. coli.

6. Permit Condition I.C.1 requires that monitoring required more frequently than monthly and monthly shall be conducted during the first full month following the effective date of coverage under the Permit and every month thereafter, and that monitoring be submitted on a monthly basis. The DMRs submitted for the monitoring periods listed in Attachment 2 indicated that the Permittee failed to conduct monitoring as required by the Permit due to sampling equipment failure.

7. The Department issued a Warning Letter (hereinafter "WL") to the Permittee on November 19, 2015, for Permit limitation violations including DO and Total Ammonia Nitrogen, failure to submit noncompliance notification reports (hereinafter "NCF"), failure to monitor in accordance with the Permit, and deficiencies noted during the Department's June 4, 2014 inspection. The WL required the Permittee to submit to the Department the missing forms and a written report describing the steps that have been or will be taken to correct noncompliance with its Permit.

8. The Department issued a Notice of Violation (hereinafter "NOV") to the Permittee on October 3, 2016, for Permit limitation violations including DO, E. coli, and Total Ammonia Nitrogen; failure to monitor in accordance with the Permit; failure to include a written report describing the steps to correct the Permit limitation violations in the WL response letter; and

failure to include corrective actions for the DO and Total Ammonia Nitrogen Permit limitation violations for the NCFs submitted for the June 2015 and July 2015 monitoring periods.

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

10. 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 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, as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee (hereinafter collectively "Parties") agree to enter into this CONSENT ORDER with the following terms and conditions:

A. If not already enrolled, the Permittee shall prepare a complete application for enrollment in the Department's Electronic Environmental SSO Reporting System Program (hereinafter "E2 Program") for all of its permitted facilities. The Permittee shall submit said application so that it is received by the Department not later than thirty days after issuance 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 E2 Program, then the Permittee shall 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 immediately begin the electronic submittals of SSO notifications and reports through the E2 Program. The Defendant shall fully implement all aspects of the E2 Program – including the cessation of immediate notification of SSOs through the Department's SSO Hotline and the cessation of ADEM Form 415 submittals, if applicable, immediately upon

acceptance into the E2 Program, unless an extension is granted in writing by the Department. The Defendant shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

B. 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 shall include a Compliance Plan with a schedule for implementation of necessary corrective actions and cost of such necessary corrective actions, if known. The Engineering Report shall 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 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 shall modify the Engineering Report. The Permittee shall submit modifications to the Engineering Report, if required, so that they are received by the Department no later than thirty days after Permittee's receipt of the Department's comments. The Permittee shall complete implementation of the recommendations provided in the Engineering Report not later than 365 days after issuance of this Consent Order.

C. The Permittee shall prepare and submit detailed quarterly 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 necessary corrective actions. The Permittee shall submit the Progress Reports so that they are received by the Department no later than one hundred eighty days after issuance of this Consent Order and continuing every ninety days thereafter that the Permittee's performance obligations under this Consent Order remain incomplete. In addition, no later than fourteen days following each due date herein, the Permittee shall submit to the Department a written notice of noncompliance, if applicable. Notices of



noncompliance shall state the cause(s) of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

D. The Permittee shall fully comply with the Permit limitations for Dissolved Oxygen and E. coli within 365 days from issuance of this Consent Order.

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

F. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether the Permittee is in compliance with all requirements of this Consent Order. The Permittee shall submit such certification so that it is received by the Department no later than 395 days after issuance of this Consent Order.

G. After issuance 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 A, B, C, and F 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 A, B, C, and F, the Department reserves the right to file a new action against the Permittee.

H. Cumulative stipulated penalties described in Paragraph G 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, the Department reserves the right 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.

I. 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

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 shall be accompanied by the reasons (including documentation) for each extension and the proposed extension time. The Permittee shall submit this information so that it is received by 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 Louisville WWTF 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. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if such future orders, litigation, or other enforcement action addresses 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 modification of this Consent Order shall be agreed to in writing and 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.

**TOWN OF LOUISVILLE**

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

**EXECUTED AND ISSUED:**

By:

James B. Grant

Its:

Mayor

Date:

11/15/2017

By:

Maureen Elliott

Its:

Deputy Director

Date:

DECEMBER 6, 2017

Attachment 1  
Permit Limitation Violations

<b>Monitoring Period*</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Limit</b>	<b>Reported Value</b>	<b>Unit</b>	<b>Average, Max, Min</b>	<b>Form 421</b>
November 2015	0011	E. coli	548	3100	col/100 mL	Monthly Avg.	Yes
November 2015	0011	E. coli	2507	3700	col/100 mL	Daily Max.	Yes
December 2015	0011	E. coli	548	3450	col/100 mL	Monthly Avg.	Yes
December 2015	0011	E. coli	2507	3700	col/100 mL	Daily Max.	Yes
January 2016	0011	DO	5.0	0.20	mg/L	Daily Min.	Yes
January 2016	0011	E. coli	548	3250	col/100 mL	Monthly Avg.	Yes
January 2016	0011	E. coli	2507	6000	col/100 mL	Daily Max.	Yes
February 2016	0011	DO	5.0	0.89	mg/L	Daily Min.	Yes
February 2016	0011	E. coli	548	9950	col/100 mL	Monthly Avg.	Yes
February 2016	0011	E. coli	2507	19000	col/100 mL	Daily Max.	Yes
January 2017	0011	DO	5.0	0.18	mg/L	Daily Min.	Yes
January 2017	0011	E. coli	548	51000	col/100 mL	Monthly Avg.	Yes
January 2017	0011	E. coli	2507	53000	col/100 mL	Daily Max.	Yes
February 2017	0011	E. coli	548	1800	col/100 mL	Monthly Avg.	Yes
March 2017	0011	DO	5.0	2.96	mg/L	Daily Min.	Yes
March 2017	0011	E. coli	548	1605	col/100 mL	Monthly Avg.	Yes**
March 2017	0011	E. coli	2507	3200	col/100 mL	Daily Max.	No

\*DMRs submitted to the Department by the Permittee for the March through December 2016 and April through September 2017 monitoring periods indicate discharges did not occur.

\*\* Result reported incorrectly as 1800 col/100 mL on Form 421.

Attachment 2  
Failure to Monitor

<b>Monitoring Period</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Average, Max, Min</b>
November 2015	0011	Solids, Total Suspended	Monthly Average (Influent, lbs/day)
November 2015	0011	Solids, Total Suspended	Weekly Average (Influent, lbs/day)
November 2015	0011	Solids, Total Suspended	Monthly Average (Effluent, lbs/day)
November 2015	0011	Solids, Total Suspended	Weekly Average (Effluent, lbs/day)
November 2015	0011	Nitrogen, Ammonia Total	Monthly Average (lbs/day)
November 2015	0011	Nitrogen, Ammonia Total	Weekly Average (lbs/day)
November 2015	0011	Flow, In Conduit or Thru Treatment Plant	Monthly Average (MGD)
November 2015	0011	Flow, In Conduit or Thru Treatment Plant	Daily Maximum (MGD)
November 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Monthly Average (Influent, lbs/day)
November 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Influent, lbs/day)
November 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Monthly Average (Effluent, lbs/day)
November 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Effluent, lbs/day)
December 2015	0011	Solids, Total Suspended	Monthly Average (Influent, lbs/day)
December 2015	0011	Solids, Total Suspended	Weekly Average (Influent, lbs/day)
December 2015	0011	Solids, Total Suspended	Monthly Average (Effluent, lbs/day)
December 2015	0011	Solids, Total Suspended	Weekly Average (Effluent, lbs/day)
December 2015	0011	Nitrogen, Ammonia Total	Monthly Average (lbs/day)
December 2015	0011	Nitrogen, Ammonia Total	Weekly Average (lbs/day)
December 2015	0011	Flow, In Conduit or Thru Treatment Plant	Monthly Average (MGD)
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December 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Influent, lbs/day)
December 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Monthly Average (Effluent, lbs/day)
December 2015	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Effluent, lbs/day)
January 2016	0011	Solids, Total Suspended	Monthly Average (Influent, lbs/day)
January 2016	0011	Solids, Total Suspended	Weekly Average (Influent, lbs/day)
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January 2016	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Effluent, lbs/day)
February 2016	0011	Solids, Total Suspended	Monthly Average (Influent, lbs/day)
February 2016	0011	Solids, Total Suspended	Weekly Average (Influent, lbs/day)
February 2016	0011	Solids, Total Suspended	Monthly Average (Effluent, lbs/day)
February 2016	0011	Solids, Total Suspended	Weekly Average (Effluent, lbs/day)
February 2016	0011	Nitrogen, Ammonia Total	Monthly Average (lbs/day)
February 2016	0011	Nitrogen, Ammonia Total	Weekly Average (lbs/day)
February 2016	0011	Flow, In Conduit or Thru Treatment Plant	Monthly Average (MGD)
February 2016	0011	Flow, In Conduit or Thru Treatment Plant	Daily Maximum (MGD)
February 2016	0011	BOD, Carbonaceous 5 Day, 20°C	Monthly Average (Influent, lbs/day)
February 2016	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Influent, lbs/day)
February 2016	0011	BOD, Carbonaceous 5 Day, 20°C	Monthly Average (Effluent, lbs/day)
February 2016	0011	BOD, Carbonaceous 5 Day, 20°C	Weekly Average (Effluent, lbs/day)