

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
HARRY HARPER

ORDER NO. 90-034-WP

FINDINGS OF FACT

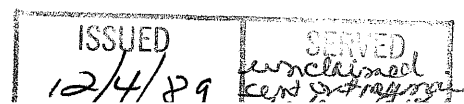
Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1975 and 1989 Cum. Supp.), the Alabama Water Pollution Control Act, ALA. CODE §§ 22-22-1 through 22-22-14 (1975 and 1989 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (the Department), the Department makes the following FINDINGS OF FACT:

1. On August 1, 1989 the Department issued a proposed administrative order to Mr. Ricky Bell, d/b/a Winn Construction Co., for unpermitted discharges of pollutants and mining spoil into Splunge Creek, a water of the State.

2. In response, Mr. Bell claimed these discharges resulted from contruction work he performed at the direction of the landowner, Mr. Harry Harper.

3. Mr. Harper (the landowner) was contacted by phone and admitted that the work was performed at his direction.

4. On June 13, 1989, the landowner by and through his agent, Ricky Bell, discharged pollutants into surface waters of the State



as shown by the following laboratory analysis of a sample taken from that discharge:

Acidity/Alkalinity (pH)	Iron (Fe)	Manganese (Mn)
5.6 s.u.	1.046 mg/l	1.072 mg/l

5. On July 6, 1989 the landowner, by and through his agent, Ricky Bell, discharged pollutants into waters of the State, as shown by the following laboratory analysis of a sample taken from that discharge:

pH	Fe	Mn
4.0 s.u.	2.40 mg/l	.92 mg/l

6. The landowner, by and through his agent, Ricky Bell, pushed construction spoil directly into Splunge Creek.

7. The construction site continues to discharge unpermitted pollutants with every substantial rainstorm.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5 and 22-22-9 (1975 and 1989 Cum. Supp.), it is hereby ORDERED:

A. That upon receipt of this Order Mr. Harry Harper will cease all unpermitted discharges of pollutants into waters of the State.

B. That within 14 days of receipt of this Order, in accordance with ADEM Admin. Code R. 6-9-.03 and 6-9-.05, Mr. Harper will submit to the Department a pollution abatement plan certified

by a licensed professional engineer registered in the State of Alabama, subject to the following conditions:

1. This plan must include and address the reclamation and stabilization of all disturbed areas and the removal of all construction spoil deposited into Splunge Creek.

2. This plan must include a schedule for the implementation of the above plan, not to exceed 30 days in length.

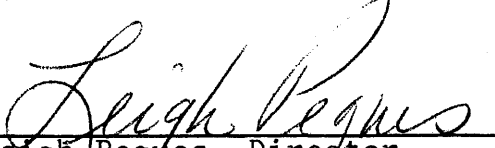
D. That the landowner will begin implementation of the above plan within 7 days after the receipt of an acceptance letter from the Department following the submission of the above plan, and must fully implement the above plan within 30 days thereafter.

E. That the full implementation of the above plan must be certified to the Department by a professional engineer licensed in the State of Alabama.

F. That the failure of the landowner to comply with any of 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.

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

ORDERED and ISSUED this 4th day of December, 1989.

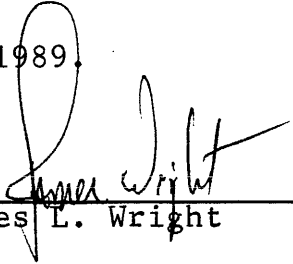

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Dr.
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 90-034-WP, upon Harry Harper by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 070 963 651, with instructions to forward and return receipt requested to:

Mr. Harry Harper
Route 3
Nauvoo, Alabama 35578

Done this 24th day of December, 1989.



James L. Wright