

# ADEM



## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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ONIS "TREY" GLENN, III, P.E.

DIRECTOR

BOB RILEY

GOVERNOR

MAY 9 2006

### CERTIFIED MAIL RETURN RECEIPT REQUESTED

The Honorable Lynn H. Watson, Mayor  
Water Works and Sewer Board of the City of Georgiana  
Post Office Box 310  
Georgiana, AL 36033

RE: Georgiana WWTP  
Butler County  
Consent Order No. 06-060-CWP

Dear Mayor Watson:

Please find enclosed ADEM Consent Order No. 06-060-CWP which requires you to take certain actions at the Georgiana WWTP in regard to alleged violations of the Alabama Water Pollution Control Act. This Consent Order has been issued with the consent of the Water Works and Sewer Board of the City of Georgiana and the Department. Please note that the assessed civil penalty is due within 45 days.

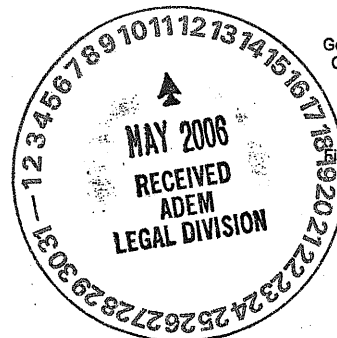
If you have any questions, please do not hesitate to contact Mr. James W. Grassiano at (334) 271-7801.

Sincerely,

James E. McIndoe, Chief  
Water Division

Enclosures

Cc: Glenda Dean, ADEM-Water Division  
Olivia H. Rowell, Office of General Counsel  
ADEM-Public Affairs Office  
Arthur Collins, US EPA Region IV



Facsimiles: (334)

Administration: 271-7950  
General Counsel: 394-4332  
Communication: 394-4383  
Air: 279-3044  
Land: 279-3050  
Water: 279-3051  
Groundwater: 270-5631  
Field Operations: 272-8131  
Laboratory: 277-6718  
Mining: 394-4326



**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF: )

Water Works & Sewer Board of )  
The City of Georgiana )

Georgiana WWTP )  
Georgiana, Butler County, AL )

NPDES Permit No. AL0043532 )

Consent Order No. 06-060-CWP

***PREAMBLE***

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter "the Department") and the Water Works & Sewer Board of the City of Georgiana (hereinafter the "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama, 1975, §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama, 1975, §§ 22-22-1 through 22-22-14, as amended, and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342.

***STIPULATIONS***

1. The Permittee operates a wastewater treatment facility known as the Georgiana WWTP located on HWY 31 South, in Georgiana, Butler County, Alabama.

The wastewater treatment facility discharges pollutants from a point source into an Unnamed Tributary of Rocky Creek, a water of the state.

2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama, 1975, as amended.

3. Pursuant to § 22-22A-4(n), Code of Alabama, 1975, 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. §§ 1342 *et seq.* In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code of Alabama, 1975, as amended.

4. On March 3, 2004, the Department issued the Permittee's NPDES Permit Number AL0043532 (hereinafter "the Permit") establishing limitations on the discharge of pollutants from such point source, designated therein as outfall number 0011, into an Unnamed Tributary of Rocky Creek. 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. The Permit also requires that the Permittee maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. The DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants from such point source into the aforementioned Unnamed Tributary of Rocky Creek in violation of the limitations established in the Permit. The months the violations occurred along with the parameters violated are listed in Attachment 1.

6. On May 23, 2005, a Compliance Sampling Inspection (CSI) was performed at the Georgiana WWTP by the staff from Department's Field Operations Division. The Department noted during the subject inspection that the receiving stream had excessive amounts of activated sludge deposits. A follow-up inspection was performed by the staff from the Department's Municipal Section on July 22, 2005. During this second inspection, ADEM recorded photographic evidence of the sludge deposits in the receiving stream.

7. The Permittee violated Code of Alabama, 1975, §22-22-9(i)(3) by the unpermitted discharge of activated sludge (i.e., solids) to an Unnamed Tributary of Rocky Creek.

8. During the Department's May 23, 2005 CSI inspection, the subject facility was also found to be operating its disinfection process without the use of any Bisulfite (SO<sub>2</sub>) dechlorination. The SO<sub>2</sub> tanks were found to be empty at the time of the inspection, whereupon the Department collected a TRC sample. The resulting TRC concentration was 0.42 mg/l, exceeding the daily maximum permit TRC limit of 0.01 mg/l.

9. The Permittee violated Provision II A.1 of the Permit by the failure to properly operate and maintain all treatment and control facilities and systems installed or used by the Permittee to achieve compliance with the conditions of the Permit.

10. The Permittee did not conduct its Five-day Biochemical Oxygen Demand (BOD<sub>5</sub>) test in accordance with EPA approved protocol, as noted in the subject May 23, 2005 CSI inspection report. Specifically, BOD<sub>5</sub> samples are required to be seeded prior

to setup if the samples are collected after chlorination. The facility presently does not seed the BOD5 samples of its treated effluent.

11. The Permittee violated Provision I B.3 of the Permit by the failure to use EPA approved analytical methods.

12. The Permittee consents to abide by the terms of the following Consent Order and to pay the civil penalty assessed herein.

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

### ***CONTENTIONS***

14. Pursuant to Code of Alabama, 1975, § 22-22A-5(18)c., in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by the Permittee; the economic benefit which delayed compliance may confer upon the Permittee; the nature, extent and degree of success of the Permittee's efforts to minimize or mitigate the effects of such violation upon the environment; the Permittee's history of previous violations; and the ability of the Permittee to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not

exceed \$250,000.00. Each day such violation continues shall be a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Violations consisted of exceeding weekly average and monthly average permit limitations for Percent Removal of Total Suspended Solids, Ammonia as Nitrogen, and Total Suspended Solids (TSS). The violations also included exceeding the daily minimum permit limitations for Total Residual Chlorine (TRC) and Dissolved Oxygen (DO) and daily maximum permit limitations for Fecal Coliform and TRC. The Department has no evidence of irreparable harm to the environment or to the health and safety of the public as a result of these violations.

B. THE STANDARD OF CARE: The Permittee failed to maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit. The Permittee also failed to notify the Department of the unpermitted discharges of sludge to the receiving stream.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if there has been a significant economic benefit conferred by the delay of compliance with permit limitations.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects as a result of the violations.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has a history of permit violations prior to the period cited in this Consent Order.

F. THE ABILITY TO PAY: Based upon information available to the Department, the Department believes the Permittee has a limited ability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

### ***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 and has considered the six penalty factors enumerated in Code of Alabama, 1975, § 22-22A-5(18)c., as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations cited herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of dollars Eleven Thousand (\$11,000) in settlement of the violations alleged herein within 45 days from the effective date of this Consent Order. Failure to pay the civil penalty within 45 days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that 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

C. The Permittee agrees to prepare and submit to the Department, not later than ninety (90) days after the effective date of this Consent Order, an Engineering Report, to include a schedule for implementation (i.e., a Compliance Plan) that identifies the potential causes of noncompliance and investigates the need for changes necessary for the Permittee to achieve compliance with NPDES Permit Number AL0043532. At a minimum, the Permittee shall consider each of the following in the Engineering Report: the potential for infiltration and inflow, the need for changes in maintenance and operating procedures, the need for modification of existing treatment and collection works, and the need for new or additional treatment and collection works. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the report is not sufficient to accomplish compliance with the NPDES permit, then the Permittee shall modify the report so that it does accomplish compliance. Modifications to the Engineering Report, if required, shall be submitted to ADEM no later than 30 days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations made in the Engineering Report within 670 days after the effective date of this Consent Order.



D. The Permittee agrees to prepare and submit to the Department semi-annual progress reports describing in detail the Permittee's progress towards compliance with items in the Compliance Plan beginning six months after the effective date of this Consent Order and continuing every six months thereafter that the Permittee's performance of the obligations under this Consent Order remain incomplete. In addition, not later than fourteen (14) days following each applicable due date that is contained in this Consent Order, the Permittee shall submit a written notice of noncompliance with the requirements of that paragraph, if applicable. Notices of noncompliance shall state the cause of noncompliance, corrective action taken, and the Permittee's ability to comply with any remaining requirements of this Consent Order.

E. No later than 730 days after the date of entry of this Consent Order, the Permittee agrees to comply with the Total Residual Chlorine (TRC), Percent Removal of Solids, Fecal Coliform (FC), Dissolved Oxygen (DO), and Total Suspended Solids (TSS) limitations of NPDES Permit Number AL0043532. The Permittee also agrees to immediately cease the unpermitted discharge of sludge into the receiving stream. The Permittee further agrees to comply with all other terms, conditions, and limitations of its NPDES Permit immediately upon the effective date of this Consent Order.

F. The Permittee agrees that, after the effective date of this Consent Order, for every violation of the NPDES Permit effluent limitations, except for upsets that have been properly documented and substantiated as required by Part II.C.2 of NPDES Permit Number AL0043532, the Permittee shall pay to the Department the sum of two hundred dollars (\$200.00) for each and every daily maximum, daily minimum, weekly average, and minimum percent removal violation and four hundred dollars (\$400.00) for each and

every monthly average violation.

G. The parties agree that the cumulative stipulated penalties described in paragraphs F. above shall under no circumstances exceed twenty-four thousand dollars (\$24,000). Once stipulated penalties of twenty-four thousand dollars (\$24,000) are due to the Department and violations continue to occur, or, should violations continue to occur after 730 days after the effective date of this Consent Order, 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 of this Consent Order.

H. The Permittee agrees that payment of stipulated penalties due for violations of effluent limitations under this Consent Order shall be due not later than the 28<sup>th</sup> day of the month following the monitoring period in which there were violations. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

I. The parties agree that 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.

J. The parties agree that, 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.

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

L. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that 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 10 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.

M. The Department and the Permittee agree that 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 facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or 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.

N. The Department and the Permittee agree that 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.

O. The Department and the Permittee agree that this Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

P. The Department and the Permittee agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty (30) days within which to comment on the Consent Order.

Q. The Department and the Permittee agree that, 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.

R. The Department and the Permittee agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

S. The Department and the Permittee agree that, 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.

WATER WORKS AND SEWER BOARD  
OF THE CITY OF GEORGIANA

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

By: Lynn H. Watson

By: [Signature]

Its: Mayor / Superintendent

Its: Director

Date: 3-20-06

Date: 5/8/06

# Attachment 1

AL0043532 Georgiana WWTP

DMR Value Limit Units Averaging Time

Outfall ID: 0011

May, 2004

<u>BOD5 5 DAY 20 DEG C</u>				
1	15.9	15	mg/l	Weekly Average
<u>CHLORINE TOTAL RESIDUAL</u>				
2	77.4	37.5	lbs/day	Weekly Average
<u>DISSOLVED OXYGEN</u>				
3	0.45	0.5	mg/l	Daily Minimum
<u>SOLIDS SUSP PERCENT</u>				
4	5.4	6	mg/l	Daily Minimum
5	75.2	85	Percent	Monthly Average
<u>TSS</u>				
6	59.4	30	mg/l	Monthly Average
7	424	45	mg/l	Weekly Average
8	248	75	lbs/day	Monthly Average
9	2064	112	lbs/day	Weekly Average

June, 2004

<u>SOLIDS SUSP PERCENT</u>				
10	62	85	Percent	Monthly Average

July, 2004

<u>FECAL COLIFORM</u>				
11	3000	2000	#/100 ml	Daily Maximum
<u>SOLIDS SUSP PERCENT</u>				
12	42	85	Percent	Monthly Average

TSS

13	69	45	mg/l	Weekly Average
14	219	112	lbs/day	Weekly Average

August, 2004

DISSOLVED OXYGEN

15	5.4	6	mg/l	Daily Minimum
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FECAL COLIFORM

16	4000	2000	#/100 ml	Daily Maximum
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SOLIDS SUSP PERCENT

17	66	85	Percent	Monthly Average
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September, 2004

DISSOLVED OXYGEN

18	5.8	6	mg/l	Daily Minimum
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October, 2004

NITROGEN AMMONIA TOTAL N

19	41	2.5	lbs/day	Monthly Average
20	63	3.75	lbs/day	Weekly Average

SOLIDS SUSP PERCENT

21	51	85	Percent	Monthly Average
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TSS

22	48	30	mg/l	Monthly Average
23	186	112	lbs/day	Weekly Average

November, 2004

CHLORINE TOTAL RESIDUAL

24	0.02	0.01	mg/l	Daily Maximum
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DISSOLVED OXYGEN

25	4.7	6	mg/l	Daily Minimum
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December, 2004

BOD 5-DAY PERCENT

26	81	85	Percent	Monthly Average
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CHLORINE TOTAL RESIDUAL

27	0.03	0.01	mg/l	Daily Maximum
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SOLIDS SUSP PERCENT

28	60	85	Percent	Monthly Average
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TSS

29	90	30	mg/l	Monthly Average
30	113	112	lbs/day	Weekly Average

January, 2005

BOD5 5 DAY 20 DEG C

31	46	37.5	lbs/day	Weekly Average
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CHLORINE TOTAL RESIDUAL

32	0.03	0.01	mg/l	Daily Maximum
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DISSOLVED OXYGEN

33	5.8	6	mg/l	Daily Minimum
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TSS

34	46	30	mg/l	Monthly Average
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35	359.5	45	mg/l	Weekly Average
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36	247	75	lbs/day	Monthly Average
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37	2125	112	lbs/day	Weekly Average
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February, 2005

CHLORINE TOTAL RESIDUAL

38	0.02	0.01	mg/l	Daily Maximum
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TSS

39	95	30	mg/l	Monthly Average
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40	663.5	45	mg/l	Weekly Average
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41	515	75	lbs/day	Monthly Average
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42	3695.6	112	lbs/day	Weekly Average
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March, 2005

TSS

43	171	30	mg/l	Monthly Average
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44	268	45	mg/l	Weekly Average
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45	328	75	lbs/day	Monthly Average
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46	638	112	lbs/day	Weekly Average
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April, 2005

BOD5 5 DAY 20 DEG C

47	96	37.5	lbs/day	Weekly Average
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DISSOLVED OXYGEN

48	4.8	6	mg/l	Daily Minimum
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SOLIDS SUSP PERCENT

AL0043532 Georgiana WWTP

	DMR Value	Limit	Units	Averaging Time
49	66	85	Percent	Monthly Average
	<u>TSS</u>			
50	34	30	mg/l	Monthly Average
51	191	45	mg/l	Weekly Average
52	221	75	lbs/day	Monthly Average
53	1535	112	lbs/day	Weekly Average

May, 2005

	<u>DISSOLVED OXYGEN</u>			
54	5.9	6	mg/l	Daily Minimum

June, 2005

	<u>DISSOLVED OXYGEN</u>			
55	5.5	6	mg/l	Daily Minimum

July, 2005

	<u>DISSOLVED OXYGEN</u>			
56	4.9	6	mg/l	Daily Minimum

August, 2005

	<u>DISSOLVED OXYGEN</u>			
57	5.9	6	mg/l	Daily Minimum

September, 2005

	<u>DISSOLVED OXYGEN</u>			
58	5.5	6	mg/l	Daily Minimum

October, 2005

	<u>DISSOLVED OXYGEN</u>			
59	5.9	6	mg/l	Daily Minimum

## Attachment 2



Figure (1)

This photo shows the full length of the receiving stream before it enters into an Un-named Tributary to Rocky Creek. The length of the receiving stream is approximately 70 yards.



Figure (2)

This photo shows the location of the outfall in relation to the receiving stream, and sludge was observed to be present from the outfall point down the entirety of the receiving stream.





Figure (3)

The sludge blanket covers the width of the receiving stream. From the surface of the water level to the sludge blanket is approximately 8 inches. The actual depth of the receiving stream to the bottom was reported to be approximately 5 feet

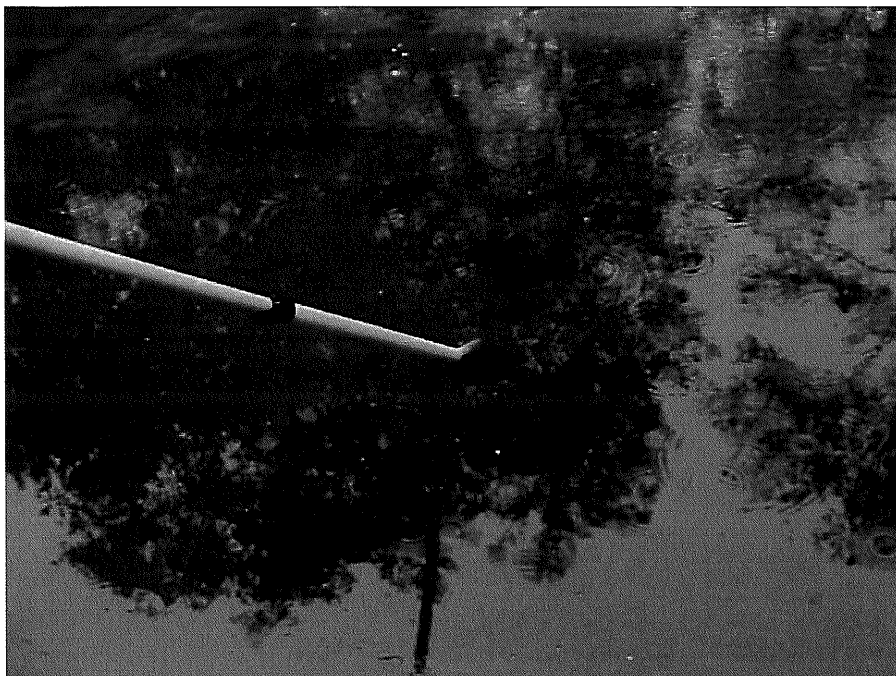


Figure (4)

A pole is descending through the sludge blanket to show the actual depth of sludge in the receiving stream. There is approximately four feet of the pole descended through the sludge layer



Figure (5)

Trapped air and dark sludge breaks free from the sludge blanket when the pole is raised and lowered to confirm the actual depth to the bottom of the receiving stream