

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

LINCOLN MINING COMPANY, INC.
NPDES NUMBER AL0048445
WINSTON COUNTY, ALABAMA

ORDER NO. 88-001-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16 (1984 and 1986 Cum. Supp.), the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 to 22-22-14, 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. Lincoln Mining Company, Inc. (hereinafter, "the Permittee") owns a coal washer facility in Winston County, Alabama.

2. The Permittee was issued NPDES Permit Number AL0048445 by the Department authorizing the discharge of pollutants and other industrial wastes from outfall serial number 001 to Blackwater Creek, a water of the State, subject to certain limitations, terms and conditions.

ISSUED
10/16/87

3. Among the limitations contained in NPDES Permit Number AL0048445 is a daily minimum of 6.0 standard units for pH.

4. The Permittee has violated the daily minimum limitation for pH as follows:

<u>DATE</u>	<u>MEASUREMENT (s.u.)</u>
6/12/86	5.6
3/5/87	4.8

5. Among the terms and conditions of NPDES Permit Number AL0048445 is the following requirement: "The Permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this permit."

6. An inspection by Department staff on June 12, 1986, revealed that the Permittee had violated this term of NPDES Permit Number AL0048445 by allowing leakage around the discharge pipe, serious erosion to the dam, and maintenance of inadequate freeboard, causing water to flow over the top of the dam.

7. Another inspection by Department staff on July 30, 1986, revealed that the Permittee had violated this term of NPDES Permit Number AL0048445 by allowing the discharge pipe to become buried so that discharges could not occur except at unpermitted point sources. Additionally, not all treatment units were in service at the time of the inspection.

8. An inspection by Department staff on March 5, 1987 revealed that the Permittee had also violated this condition

of NPDES Permit Number AL0048445 by allowing the spillway to erode and the discharge pipe to leak around the last joint.

9. Among the terms and conditions of NPDES Permit Number AL0048445 is the requirement that the Permittee shall submit to the Department no later than the 28th day of January, April, July and October of each year quarterly Discharge Monitoring Reports.

10. The Permittee has violated this condition of NPDES Permit Number AL0048445 by failing to submit timely Discharge Monitoring Reports for the following quarters: fourth quarter of 1986 and first quarter of 1987.

11. Among the terms and conditions of NPDES Permit Number AL0048445 is the following requirement:

For each measurement of sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

(a) the facility name and location, point source, number, date, time and exact place of sampling;

(b) the name(s) of person(s) who obtained the samples or measurements;

(c) the dates and times the analyses were performed;

(d) the name(s) of the person(s) who performed the analyses;

(e) the analytical techniques or methods used; and

(f) the results of all required analyses.

12. An inspection by Department staff on March 5, 1987. revealed that the Permittee was unable to produce such records.

13. Among the terms and conditions of NPDES Permit Number AL0048445 is the following requirement:

All records and information resulting from the monitoring activities required by this permit, including but not limited to all records of analyses performed and calibration and maintenance of instrumentation and recordings from continuous monitoring instrumentation, and all other records required to be maintained pursuant to the terms and conditions of this permit, the Federal Act and the State Act, shall be retained for a minimum of three (3) years after their creation or longer if requested by the Director or his designee.

14. An inspection by Department staff on March 5, 1987, revealed that the Permittee has failed to comply with this requirement of NPDES Permit Number AL0048445.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22-9(c), 22-22-9(g), and 22-22-9(k) (1984 and 1986 Cum. Supp.) and the National Pollutant Discharge Elimination System administered by the Department and approved by 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 immediately upon receipt of notice of this Order the Permittee shall cease all unpermitted discharges of pollutants to waters of the State.

B. That not later than October 23, 1987, the Permittee shall submit to the Department a complete pollution abatement plan prepared by a registered professional engineer licensed to practice in the State of Alabama which conforms with the

requirements of ADEM Admin. Code R. 6-9-.03, including Appendices A and B. Said plan shall include a timetable and engineering plans describing the methods to be used to achieve compliance with NPDES Permit Number AL0048445. The Permittee shall respond to any comments from the Department within seven days of receipt of said comments.

C. That not later than the date agreed upon by the Department and contained in the final pollution abatement plan, the corrective measures shall be fully implemented and the Permittee shall have corrected any non-compliant discharge associated with the facility. Upon completion of the project, the responsible company official must certify in writing that the plan has been fully implemented and that the facility is in compliance with the limitations, terms and conditions of NPDES Permit Number AL0048445.

D. That immediately upon receipt of notice of this Order, the Permittee shall commence monitoring its effluent for pH, manganese, iron, and total suspended solids on a weekly basis and shall submit the results of said monitoring to the Department on the first day of each month. Said weekly monitoring shall continue until the Permittee is released from this requirement in writing by the Department.

E. That immediately upon receipt of notice of this Order, the Permittee shall submit to the Department the following information for each sample collected and analyzed pursuant to the conditions of NPDES Permit Number AL0048445 from the

date of permit issuance and for each sample collected and analyzed pursuant to paragraph D above and shall continue to provide said information on a monthly basis each time the results of monitoring required in paragraph D above are submitted to the Department and until such time as the Permittee is released from this requirement in writing by the Department:

1. The name of the person responsible for sampling each outfall;
2. The dates and times each analyses was performed;
3. The name(s) of the person(s) who performed the analyses;
4. The analytical techniques or methods used;
5. The names of any commercial laboratory used to perform analyses.

F. That immediately upon receipt of notice of this Order, the Permittee shall commence and continue at all times thereafter making timely submissions of Discharge Monitoring Report forms in accordance with Section I.B.8 of NPDES Permit Number AL0048445.


G. That immediately upon receipt of notice of this Order, the Permittee shall commence submitting to the Department written reports of non-compliant discharges within five days after becoming aware of the occurrence of such discharge in accordance with I.B.9.b. of NPDES Permit Number AL0048445.

H. That the failure of the Permittee to comply with any of the provisions of this Order or of NPDES Permit Number AL0048445 shall constitute cause for the revocation of NPDES Permit Number AL0048445 and/or the commencement of legal action by the Department

or others for the recovery of civil penalties, criminal fines, or other appropriate relief.

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

ORDERED and ISSUED this 16th day of October, 1987.



Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, Olivia Hardy Hudgins, hereby certify that I have served Order Nos. 88-001-WP and 88-002-WP upon the Lincoln Mining Company, Inc. by sending the same, postage paid, through the U.S. Mail, as Certified Mail No. P-625-511-229, with instructions to forward and return receipt requested to:

Mr. Gary Vickery
Lincoln Mining Company, Inc.
1625 9th Avenue
Haleyville, Alabama 35565

Done this 16th day of October 1987.


Olivia Hardy Hudgins