

ONIS "TREY" GLENN, III.
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2059 ♦ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700
FAX (334) 271-7950

BOB RILEY
GOVERNOR

March 16, 2009

Certified Mail 91 7108 2133 3934 9238 6589

Ms Danette Nelson, Board Member
Millerville Water Authority
P O Box 105
Millerville, AL 36267



RE: Millerville Water Authority
Consent Order NO. 09-059-CDW

Dear Ms Nelson:

Please find enclosed ADEM Consent Order No. 09-059-CDW which requires Millerville Water Authority to take certain actions in regard to alleged violations of the Safe Drinking Water Act. This Consent Order has been issued with the consent of Millerville Water Authority and the Department.

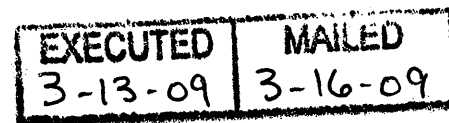
If you have any questions, please do not hesitate to contact Mr. Jeff Williams at (334) 271-7780.

Sincerely,

James E. McIndoe
Water Division, Chief

cc: Olivia H. Rowell, ADEM-General Counsel
ADEM - Public Affairs Office

Enclosures



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
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (Fax)

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)	
)	
Millerville Water Authority)	CONSENT ORDER No.
Millerville, Alabama)	09-059-CDW
)	
)	
PWSID No. 0000270)	
Permit No. 2005-595)	
)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, "Department") and Millerville Water Authority (hereinafter, "Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Safe Drinking Water Act, Ala. Code §§ 22-23-30 to 22-23-53, (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter, "ADEM Admin. Code r.") promulgated pursuant thereto, and the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26.

STIPULATIONS

1. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.).
2. Pursuant to Ala. Code §§ 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of drinking water

regulations in accordance with the federal Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26. Additionally, pursuant to Ala. Code § 22-23-49(2) (2006 Rplc. Vol.), the Department is authorized to administer and enforce the provisions of the Alabama Safe Drinking Water Act, Ala. Code §§ 22-23-30 to 22-23-53 (2006 Rplc. Vol.).

3. The Permittee was issued Water Supply Permit No. 2005-595 (hereinafter the "Permit") by the Department which authorizes the operation of a "public water system" as defined at Ala. Code §22-23-31 (2006 Rplc. Vol.). The Permittee's public water system is a "Community Water System" as defined at Ala. Code §22-23-31 (2006 Rplc. Vol.).

4. ADEM Admin Code r. 335-7-2-.11 requires the Permittee to monitor for disinfection byproducts (hereinafter, "DBP") and ADEM Admin. Code r. 335-7-2-.11(a) sets Maximum Contaminant Levels of 0.080mg/L for Total Trihalomethanes (hereinafter, "TTHM") and 0.060 mg/L for Haloacetic Acids (hereinafter, "HAA5").

5. ADEM Admin. Code r. 335-7-2-.11(i) requires the Permittee to conduct DBP compliance monitoring at specific sites on a quarterly basis. The average for each quarter is the summation of the sample results, divided by the number of sample sites. System compliance is based on a running annual average, which is calculated by the summation of four consecutive quarterly averages, divided by four.

6. The Permittee violated the Maximum Contaminant Levels for TTHM and HAA5. The months the violations occurred are July thru September 2008.

7. In accordance with ADEM Admin Code r. 335-7-2-.21(1)(b), the Permittee properly provided public notification for the TTHM and HAA5 violations that occurred.

8. The Permittee consents to abide by the terms of the following Order, and reserves its right to contest the alleged violations as against the Department or any third party in any proceedings, except as provided in Ala. Code § 22-22A-7(c) (2006 Rplc. Vol.).

9. 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 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, without admitting that it has violated any statutes or regulations, 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 believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to prepare and submit to the Department within sixty days after the effective date of this Consent Order a written Corrective Action Plan (hereinafter, "CAP") that details the plan of action the Permittee will initiate to achieve and maintain compliance with its permit. Implementation of the CAP shall begin immediately after the Permittee submits the plan to the Department.

B. The Permittee agrees to achieve compliance with all provisions of ADEM Admin. Code r. 335-7-2-.11(a), with regards to the TTHM and HAA5 violations for four consecutive quarters no later than June 30, 2011.

C. The Permittee agrees to comply with the terms, limitations, and conditions of the Permit each and every day hereafter until such time as all requirements of this Consent Order are satisfied.

D. 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.

E. Subject to the terms of these presents and subject to provisions otherwise provided by statute, the parties agree that this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

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

G. 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 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.

H. 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.

I. 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.

J. 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.

K. 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.

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

N. The Department and the Permittee agree that, except as 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.

MILLERVILLE WATER AUTHORITY

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Mrs. Danette Nelson

Marilyn Elliott

Ms Danette Nelson
Board Member

Onis "Trey" Glenn, III
Director

Date: 2-24-09

Date: 3-13-09