

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

BEVERLY ENTERPRISES
NPDES PERMIT NO. AL0057541

ORDER NO. 89-119-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1976 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, ALA. CODE §§ 22-22-1 through 22-22-14 (1975 and 1988 Cum. Supp.), (the Act) and the National Pollutant Discharge Elimination System (NPDES) administered by the Alabama Department of Environmental Management (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. Beverly Enterprises (the Permittee) operates a wastewater treatment facility known as Double Springs Health Care wastewater treatment plant, which discharges pollutants from a point source into Curtis Mill creek, a water of the State.

2. The Permittee has a valid NPDES Permit No. AL0057541, which authorizes the discharge of pollutants from that point source into Curtis Mill creek.

ISSUED	SERVED
9/22/89	9/23/89

3. Part II, A., 4 of NPDES Permit No. AL0057541 prohibits the intentional diversion of any waste stream from any portion of the treatment facility, except upon certain conditions.

4. Between February 15, 1989 and June 7, 1989 the Permittee diverted laundry waste from the treatment facility.

5. This laundry waste was directed to a system of underground field lines in an effort to eliminate some of the wastewaters flowing to the treatment facility.

6. The system of field lines failed and resulted in direct discharges of untreated wastewater into waters of the State.

7. These discharges into waters of the State were unpermitted.

8. The diversion of wastewaters from the treatment plant was intentional.

9. The above unpermitted discharges were committed with knowledge of the illegality thereof, and with indifference to the consequences.

10. The Permittee failed to take immediate steps to eliminate the discharge of untreated wastewaters.

11. The Permittee has been the subject of previous enforcement efforts, including Administrative Order No. 89-045-WP, which was issued to the Permittee by the Department on February 7, 1989.

12. The Permittee realized an economic benefit from the intentional diversion of untreated wastewaters from the treatment facility.

13. The Permittee has the ability to pay a civil penalty.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(c), 22-22-9(i), and 22-22-9(k) (1988 Cum. Supp.) and the Federal Water Pollution Control Act §402, 33 U.S.C. §1342, it is hereby ORDERED:

(A) That the Permittee pay to the Department a civil penalty in the amount of \$11,200 within 30 days of the date this Order becomes final.

(B) That the Permittee will not intentionally divert any waste stream from its treatment facility except in compliance with the terms of its NPDES permit.


(C) That the Permittee will immediately comply with all terms, conditions, and limitations of its NPDES permit and will maintain compliance each and every day thereafter.

(D) That the Permittee will cease and desist from further unpermitted discharges of wastewater into waters of the State.

(E) That the Permittee's failure to comply with the terms of this Order will constitute cause for the revocation of NPDES Permit No. AL0057541 and/or the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief.

(F) That the issuance of this Order does not preclude the Department from seeking appropriate sanctions or relief against the Permittee for violations stated herein.

ORDERED and ISSUED this 22nd day of September, 1989.



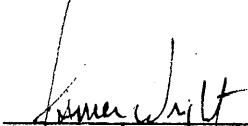
Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7855

CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 89-119-WP upon Beverly Enterprises by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 873 074 748, with instructions to forward and return receipt requested to:

Mr. Ross M. Taylor, Administrator
Beverly Enterprises
Route 1, Box 286
Double Springs, AL 35553

Done this 22nd day of September, 1989.



James L. Wright