

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)
)
THE CITY OF GUNTERSVILLE)
GUNTERSVILLE, ALABAMA)

ORDER NO. 02-012-CSW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, and the Solid Waste Disposal Act, Code of Alabama 1975, §§ 22-27-1 through 22-27-7, and without the adjudication of any issues of fact or law and with the consent of The City of Guntersville, the Alabama Department of Environmental Management (hereinafter "the Department") makes the following FINDINGS:

1. The City of Guntersville (hereinafter "the City") operates the Guntersville Landfill in Guntersville, Alabama.
2. The Department is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-4(n), *Code of Alabama* 1975, as amended.
3. Pursuant to Code of Alabama (1975), § 22-22A-4(n), as amended, the Department is the state agency authorized to administer and enforce the provisions of the Solid Wastes Disposal Act, Code of Alabama (1975), §§ 22-27-1 through 22-27-7, as amended.
4. The Guntersville Landfill is classified as a Construction/Demolition Inert Landfill Unit, as defined by ADEM Admin. Code R. 335-13-1-.03 (30).



5. The City of Guntersville received Permit Number 48-09 on December 6, 1995, allowing it to dispose of solid waste and construction and demolition wastes, as defined by ADEM Admin. Code R. 335-13-1-.03 (31).

6. That permit expired, by its own terms, on December 5, 2000.

7. ADEM Admin Code R. 335-13-5-.01 mandates that “[a]ll solid waste shall be disposed of in a landfill unit *permitted by the Department*.”[emphasis added].

8. ADEM Admin Code R. 335-13-5-.02 (3) requires; “Request for extension, renewal, or a new permit for any landfill unit shall be filed with the Department by the operating agency at least 180 days prior to expiration date for existing permits or proposed construction date for new facilities.”

9. On June 14, 2000, the Department sent a certified letter to the City notifying them to submit a renewal application within the 180-day time frame.

10. On November 29, 2000, a Notice of Violation letter was sent to the City citing the City for failure to submit a renewal application within the 180-day time frame.

11. On April 12, 2001, a Notice of Violation letter was sent to the City of Guntersville again citing the City for failure to submit a renewal application within the 180-day time frame.

12. That subsequently, the City responded by submitting an application for permit renewal and has subsequently responded to the Department’s request for additional information. However, at present, the City is continuing to operate without a permit in violation of ADEM Admin Code R. 335-13-5-.01 *et seq.*

13. The Operator neither admits nor denies the allegations herein, but in a continuing effort to cooperate with the Department and to comply with the provisions of

the Alabama Water Pollution Control Act, the Operator has agreed to the terms of this Consent Order.

14. The Department has agreed to the terms of this Consent Order in order to resolve the violations alleged in this Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22A-5(18), and 22-27-7, it is hereby ORDERED:

A. That immediately upon the effective date of this Consent Order and each and every day hereafter, the City shall comply with all applicable provisions of ADEM Admin. Code Chap. 335-13.

B. That immediately upon the effective date of this Consent Order, the City shall complete and file a request for the extension, renewal or a new permit for the Guntersville Landfill as shall be appropriate.

C. That not later than 30 days after the effective date of this Consent Order, the City shall pay to the Department a civil penalty in the amount of \$5,000 for the violations cited herein.

D. That not later than 30 days after the effective date of this Consent Order, the City shall employ or designate a person or entity to be responsible for the City's compliance with applicable environmental laws and regulations especially as it pertains to permitting and reporting requirements.

E. 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 that are alleged in this Consent Order.

F. That the City is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. That, for purposes of this Consent Order only, the City agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. 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 City which would constitute possible violations not addressed in this Consent Order, then such 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 City shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if further Orders, litigation or other enforcement action address matters not raised in this Consent Order.

H. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the parties do hereby waive any hearing on the terms and conditions of same.

City of Guntersville

Alabama Department of Environmental Management

By: James D. Jensen

James W. Warr

By: Mayor

James W. Warr
Director

Date 10/22/01

Date 1 Nov 2001