

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

F & M GRAVEL, INC.
Route 3, Box 461
Deatsville, AL 36022

ORDER NO. 88-031-WP

FINDING OF FACTS

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 through 22-22-14 (1984 and 1986 Cum. Supp.), 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 FINDING OF FACTS:

1. F & M Gravel, Inc. (hereinafter "the operator") has operated a sand and gravel surface mine and washer facility known as the Pine Flat facility in Elmore County, Alabama since July 1986.

2. Code of Alabama 1975, §22-22-9(i)(3) provides that "[e]very person, prior to discharging any new or increased pollution into any waters of this state, shall apply to the [Department] in writing for a permit and must obtain such permit before discharging such pollution."



ADEM Admin. Code R. 6-6-.03 provides that "[n]o person shall discharge pollutants from a point source into waters without first having obtained a valid NPDES (National Pollutant Discharge Elimination System) permit. . . ."

3. The Operator has neither applied to the Department for a permit to discharge pollutants nor obtained a permit to discharge pollutants.

4. An inspection of the facility on February 6, 1987, revealed a discharge of pollutants from the facility. Samples of the discharge revealed a concentration of Total Suspended Solids of 3195 mg/l. The inspection also revealed that the dam on the sediment basin had been breached causing extensive deposition of sediment to an unnamed tributary of Mortar Creek and Mortar Creek, waters of the State, and the discharge of pollutants to the above named waters.

5. An inspection of the facility on May 1, 1987, revealed a discharge of pollutants from the facility. Samples of the discharge revealed a concentration of Total Suspended Solids of 22 mg/l.

6. ADEM Admin. Code R. 6-9-.03 requires that all surface mine operators shall submit to the Department a pollution abatement and/or prevention plan.

7. The Operator has failed to submit a pollution abatement and/or prevention plan to the Department.

8. ADEM Admin. Code R. 6-9-.05 requires that all surface mining operations must have a NPDES permit.

9. F & M Gravel, Inc. was issued a written Notice of Violation on September 25, 1987, for continued operation of a surface mining facility without a valid NPDES permit. At that time F & M Gravel,

Inc. was required to submit completed NPDES applications and pollution abatement plans within 14 days.

10. On the following dates the Operator conducted surface mining operations without having obtained a NPDES permit: 2 February 1987, and 1 May 1987.

11. ADEM Admin. Code R.6-9-.06(2) provides that "[n]o untreated wastewater from a mineral preparation plant, washing operation or contaminated surface runoff from mineral storage piles or refuse piles shall be discharged into any stream."

12. The Operator has violated this regulation by discharging into an unnamed tributary of Mortar Creek untreated drainage from its mineral preparation plant, its washing operation, and/or associated areas on the following dates: 2 February 1987, and 1 May 1987.

13. ADEM Admin. Code R. 6-9-08(1) requires that all applicants who wish to begin a new surface mining operation must comply with the surface mining regulations prior to the commencement of the operation.

14. The Operator violated this regulation by commencing a new sand and gravel mining operation and a new sand and gravel washing operation prior to complying with the provisions of the surface mining regulations.

CERTIFICATE OF SERVICE

I hereby certify that I have served Order No. 88-031-WP upon D. C. Mercer by sending the same, postage paid, through the United States Mail, as Certified Mail No. P-625 500 749 with instructions to forward and return receipt requested to:

Mr. D. C. Mercer
Rt 3, Box 461
Deatsville, Alabama 36022

Done this 24th day of February 1988.


Steven O. Jenkins

SENDER: Complete items 1 and 2 when additional services are desired, and attach to the envelope.

1. ☒ Show to whom delivered, date, and addressee's address.

2. ☐ Insured (attach label).

3. Article Addressed to:
 Mr. D. C. Mercer
 F & M Gravel, Inc.
 Rt 3 Box 461
 Deatsville, AL 35022

4. Article Number:
 P-625 500 749

Type of Service:
☐ Registered
☒ Certified
☐ Express Mail
☐ Insured (add)

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature - Addressee
 X

6. Signature - Agent
 X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

P-625 500 749

RECEIPT FOR CERTIFIED MAIL

For use by the addressee only. Do not use for return receipt.

PS Form 3800, June 1985

Received by
 D. C. Mercer
 Rt 3 Box 461
 Deatsville 35022

Signature of Addressee or Agent

Date of Delivery

Postmark or Date

PS Form 3800, June 1985

Fold at line over top of envelope to the right of the return address.

CERTIFIED

P-625 500 749

MAIL