

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
JAMES MOTES

ORDER NO. 89-101-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1984 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, (the Act) ALA. CODE §§ 22-22-1 through 22-22-14 (1984 and 1988 Cum. Supp.) the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. James Motes is a property owner and resident of Clarke County, Alabama.

2. Section 22-22-9(i)(3) of the Act states that "every person, prior to discharging any new or increased pollution into any waters of the state, shall apply to the Department in writing for a permit and must obtain such permit before discharging such pollution."

3. On occasions prior and subsequent to January 11, 1988 Mr. Motes dumped solid wastes consisting of household garbage, discarded large appliances, discarded motor vehicles, discarded

ISSUED 7/13/89	SERVED returned - unclaimed
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Hand-delivered 8/10/89

car batteries, and other solid and animal wastes into the watercourse of an unnamed tributary of Salt Creek, a water of the State.

4. On November 2, 1988 Mr. Motes discharged oil and grease from the refuse into the unnamed tributary of Salt Creek, a water of the State, as demonstrated by the following laboratory analysis of a water sample from the site taken on that date:

	sample taken upstream from dump	sample taken downstream from dump
oil & grease	< 1.0 mg/l	100 mg/l

5. On January 12, 1989 the Department issued a Notice of Violation to Mr. Motes. He refused service.

6. On March 15, 1989 the Notice of Violation was hand delivered to Mr. Motes. This Notice of Violation required the submission of a report on corrective measures within seven days of the day the report was served.

7. Mr. Motes did not respond to that Notice of Violation.

8. Mr. Motes was issued a previous Notice of Violation with the same requirements on May 9, 1988. This Notice, too, was ignored.

9. On April 3, 1989 the Department mailed Mr. Motes copies of information from his file, along with an invoice for four dollars and eighty cents (\$4.80) for duplication costs. This bill is yet unpaid.

-10. The violation referenced in paragraph 3 is continuing and is a public nuisance within the meaning of the Act.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5(10), 22-22-5(18), 22-22-9(c), 22-22-9(i) and 22-22-9(k) (1984 and 1988 Cum. Supp.), it is hereby ORDERED:

A. That Mr. Motes immediately cease all unpermitted discharges into waters of the State.

B. That Mr. Motes remove all solid refuse from waters of the State, and that these wastes be deposited in an approved landfill within 60 days of the date of receipt of this Order.


C. That the completion of removal of these wastes and the proper disposal of the wastes be substantiated by a report filed with the Department by a professional engineer licensed by the State of Alabama.

D. That Mr. Motes immediately reimburse the Department for those costs referenced in paragraph 9, above.

E. That failure to comply with any provision of this Order shall constitute cause for the assessment of civil penalties, by the Department against the Mr. Motes, or for the commencement of other legal action including the recovery of civil penalties, criminal fines, and/or other appropriate relief.

F. That the issuance of this Order does not preclude the Department or others from instituting legal action for the assessment of criminal fines or other appropriate relief.

ORDERED and ISSUED this 13th day of June, 1989.


Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, Lt. Dale Coulter, of the Jackson Police Department hereby certify that I have served Order No. 89-101-WP upon James Motes by Hand Delivering a copy to:

Mr. James Motes
Route 1, Box 176-G
Jackson, Alabama 36545

Done this 10 day of August, 1989.

Dale Coulter
Officer, Jackson Police Department
Francis Fleming