

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
DARYL TERRY
LAWRENCE COUNTY, ALABAMA

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ORDER NO. 84-21-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975) §§22-22A-1 et seq. (1983 Cum. Supp.), and the Alabama Water Pollution Control Act, Code of Alabama (1975) §§22-22-1 et seq., the Alabama Department of Environmental Management (hereinafter "the Department") makes the following Findings of Fact:

1. Daryl Terry operates a chicken layer (egg production) facility in Lawrence County, Alabama. Associated with this facility is an animal waste lagoon into which chicken manure, a pollutant or other waste, is deposited.
2. Code of Alabama (1975) §22-22-9(j)(6) (1983 Cum. Supp.) requires that every person, prior to discharging any pollutants or other wastes to waters of the State, shall apply for and obtain a permit therefor from the Department.
3. Daryl Terry has neither applied for nor obtained a permit from the Department to discharge pollutants or other wastes to waters of the State.
4. On March 23, 1982, and November 11, 1983, there was a discharge containing chicken manure and other wastes from Daryl Terry's lagoon into an unnamed tributary of Big Nance Creek, a water of the State.
5. On January 29, 1984, an investigation by Department personnel revealed that a discharge of chicken manure and other wastes from Daryl Terry's lagoon into an unnamed tributary of Big Nance Creek had recently occurred. Sampling above and below the operation revealed the impact on the water quality where the discharge occurred:

<u>Sample Location</u>	<u>ph</u>	<u>BOD₅</u>	<u>TKN</u>	<u>NH₃-N</u>	<u>NO₃-N</u>	<u>NO₂-N</u>
Tributary above operation	5.3 s.u.	2.0 mg/l	2.0 mg/l	< 1 mg/l	1.0 mg/l	0.18 mg/l
Creek below operation	7.3 s.u.	3000.0 mg/l	440 mg/l	585,600 mg/l	1.2 mg/l	0.14 mg/l

Said data demonstrates that water quality standards for the unnamed tributary of Big Nance Creek have been violated due to the discharges of pollutants.

ORDER

Based on the foregoing Findings of Fact and pursuant to Code of Alabama (1975) §§22-22A-5(10), 22-22-9(j), and 22-22-9(1) (1983 Cum. Supp.) it is hereby ORDERED:

A. That Daryl Terry immediately cease and desist all unpermitted discharges of pollutants and other wastes from his chicken layer (egg production) facility to waters of the State;

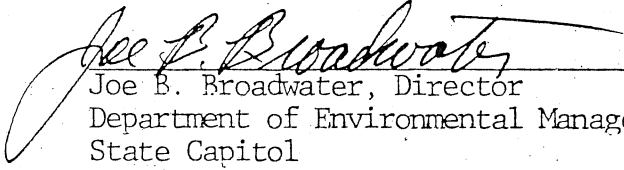
B. That not later than sixty days after receiving notice of this ORDER Daryl Terry shall submit to the Department a pollution abatement and/or prevention plan prepared by the U.S. Department of Agriculture Soil Conservation Service or a registered professional engineer, describing the methods by which all unpermitted discharges will be terminated at this facility.

C. That Daryl Terry maintain a minimum freeboard of two feet from the lowest point of the top of the lagoon dike to the design water level;

D. That Daryl Terry maintain in good working order and operate as efficiently as possible all animal waste treatment facilities at this operation including, but not limited to, any lagoons, ditches, pumps, pipes and other associated waste treatment or handling equipment; and

E. That the failure of Daryl Terry to comply with any of the preceding provisions shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against Daryl Terry.

ORDERED and ISSUED this 4th day of May, 1984.



Joe B. Broadwater, Director
Department of Environmental Management
State Capitol
Montgomery, Alabama 36130

Certificate of Service

I hereby certify that I have served Order no. 84-21-WP upon Daryl Terry by sending the same, postage paid, through the United States Mail, as Certified No. P216 122 976, with the instruction to forward and return receipt requested to:

Daryl Terry
Route 3
Town Creek, Alabama 35618

Done this 7th day of May, 1984.

P 216 122 976
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Olivia Hardy Hudgins
Olivia Hardy Hudgins
Associate General Counsel

SENT TO		<i>Daryl Terry</i>	
STREET AND NO.		<i>Town Creek, al</i>	
P.O., STATE AND ZIP CODE			
POSTAGE		\$	
CONSULT POSTMASTER FOR FEES	OPTIONAL SERVICES	CERTIFIED FEE	\$
		SPECIAL DELIVERY	\$
	RETURN RECEIPT SERVICE	RESTRICTED DELIVERY	\$
		SHOW TO WHOM AND DATE DELIVERED	\$
		SHOW TO WHOM, DATE, AND ADDRESS OF DELIVERY	\$
		SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	\$
TOTAL POSTAGE AND FEES		\$	
POSTMARK OR DATE			