

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

BESSEMER CITY-CONCORD LANDFILL
CITY OF BESSEMER

BESSEMER, AL 35555

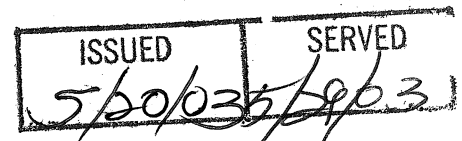
ADMINISTRATIVE
ORDER NO. 03-120-SW

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 to 22-22A-16, as amended, and the Solid Waste Disposal Act, Code of Alabama 1975, §§ 22-27-1 to 22-27-7, as amended, the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") makes the following FINDINGS OF FACT:

1. On September 13, 2002, May 10, 2002, April 10, 2002, December 12, 2001, June 10, 1999, June 20, 1996, and July 25, 1995, Department personnel inspected the Concord Landfill, located at Section 13, Range 5 West, and Township 18 South Jefferson County, Alabama, for compliance with the ADEM Administrative Code. During these inspection the following violations were found:

A. ADEM Admin. Code R. 335-13-4-.17(3) requires owners or operators of all facilities to design, construct and maintain on site drainage structures to carry incident precipitation from the disposal site so as to minimize the generation of lechate, erosion and sedimentation. Run-off from the active and/or closed portions of the landfill unit must be handled



in accordance with ADEM Admin. Code R. 335-13-4-.01(2)(a) and (b) and shall be routed to a settling basin or other sedimentation control structure to remove sediment prior to release onto adjacent properties or waters. The Concord Landfill was found to be in violation of ADEM Admin. Code R. 335-13-4-.17(3), during the above-cited inspections it was observed that the sedimentation control structures were inadequate. The sedimentation control structures were not properly maintained. The sedimentation basin failed to meet standards set forth in the *EPA Guidance Manual*. These violations were cited in Notices of Violations ("NOVs") on September 19, 2002, May 20, 2002, April 19, 2002, December 17, 2001, May 20, 1996, December 5, 1995.

B. ADEM Admin. Code R. 335-13-4-.23(1)(c) requires all waste to be confined to as small an area as possible and placed onto an appropriate slope not to exceed 4 to 1 (25%) or as approved by the Department. During the numerous inspections, it was observed that waste is being deposited over an area that is much larger than necessary. Prior to the date of this Administrative Order the active face/disposal area was excessive, and vector control was inadequate (ie. putrescible waste on site, ponded water in disposal area, excessive litter), in violation of ADEM Admin. Code R. 335-13-4-.23(1)(c). These violations were cited in Notices of Violation ("NOVs") on May 20, 2002, May 20, 1996, December 5, 1995.

2. On July 25, 1995, June 20, 1996, November 4, 1996, June 14, 1999, May 24, 2001, July 1, 2002, and December 5, 2002, Notices of Violation (hereinafter "NOV") were sent to the Concord Landfill c/o the Department of Public Improvements, City of Bessemer for the violations at the aforementioned site. As of the date of this Administrative Order, the City of Bessemer has not properly responded to many of the NOVs.

3. The assessment of civil penalties for violations of the Department's Rules and Regulations, and for violations of any order, permit conditions, license, certification, or variance

issued by the Department is authorized by Code of Alabama 1975, § 22-22A-5(18), as amended. The statute also authorizes that the penalty amount may range from \$100.00 to \$25,000.00 for each violation, so long as the penalty amount does not exceed \$250,000.00 in any given order. Each day a violation continues constitutes a separate violation. In addition to the foregoing "Findings", the Department has considered the factors detailed in the aforementioned statute in determining the appropriate penalty amount in this particular instance. Those factors are listed as follows:

- (a) The seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public;
- (b) The standard of care manifested by the City of Bessemer;
- (c) The economic benefit, which delayed compliance, may confer upon the City of Bessemer ;
- (d) The nature, extent and degree of success of the City of Bessemer's efforts to minimize or mitigate the effects of such violation upon the environment;
- (e) The City of Bessemer's history of previous violations; and
- (f) The City of Bessemer's ability to pay the assessed penalty.

ORDER

Based on the foregoing FINDINGS OF FACT and pursuant to Code of Alabama 1975 §§ 22-22A-1 to 22-22A-16, and 22-27-1 to 22-27-7, as amended, it is hereby ORDERED:

A. That within thirty (30) days from the receipt of notice of this Administrative Order, the City of Bessemer shall pay to the Department a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).

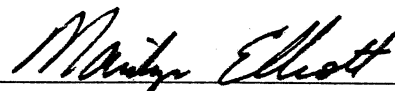
B. That the City of Bessemer will immediately upon receipt of notice of this Administrative Order, and continuing thereafter cease and desist from accepting waste at the facility until it becomes in compliance with this Administrative Order.

C. That the City of Bessemer will immediately upon receipt of notice of this Administrative Order, and continuing thereafter comply with applicable ADEM regulations and permit requirements at the above-referenced site.

D. That the issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the City of Bessemer for the violations cited herein.

E. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the City of Bessemer for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 20 day of May, 2003.


James W. Warr, Director
Alabama Department of
Environmental Management
1400 Coliseum Blvd.
Montgomery, AL 36110-2059
(334) 271-7700

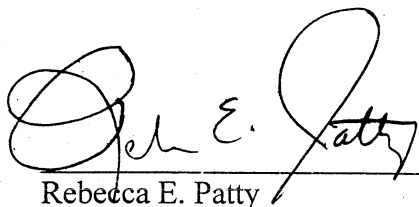
CERTIFICATE OF SERVICE

I, Rebecca E. Patty, hereby certify that I have served Administrative Order No. 03-120-SW, upon the Bessemer City Concord Landfill, Department of Public Improvements c/o Mr. James Eades, Superintendent by sending the same through the United States Mail, as Certified Mail, postage prepaid and addressed as follows:

CERTIFIED MAIL NO. 7002 2030 0000 9488 8029

Concord Landfill
C/o Mr. James Eades, Superintendent
Department of Public Improvements
City of Bessemer
105 15th Avenue North
Bessemer, AL 35020

DONE this 20TH day of May, 2003.


Rebecca E. Patty