

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)
)

FALCON HEAD MOBILE HOME PARK)
_____))

CONSENT ORDER NO. 98-033-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 through 22-22-14, as amended, the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, 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 and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Department makes the following FINDINGS OF FACT:

1. Falcon Head Mobile Home Park operates and maintains a sanitary sewer system which includes two pump stations which pump wastewater to the City of Florence's sewer system for treatment at Florence's wastewater treatment plant. For the purpose of this Consent Order, the pump stations are referred to as pump stations 1 and 2, with number 1 being closest to County Road 21.

2. The Alabama Department of Environmental Management (the Department) is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through

executed *nailed*
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22-22A-16, Code of Alabama 1975, as amended.

3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, the Department is the state water pollution control agency for the purposes of the federal Clean Water Act, 33 U.S.C. §§ 1251 through 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code of Alabama 1975, as amended.

4. On August 14 and September 10, 1997, the Department received complaints concerning ongoing raw sewage discharges at Falcon Head Mobile Home Park. The complainant also notified the Lauderdale County Health Department.

5. On August 28, 1997, an inspection by the Department revealed evidence of chronic overflows at pump station number 1.

6. On September 8, 1997, the Department notified Falcon Head Mobile Home Park of the raw sewage overflows. Falcon Head Mobile Home Park was given thirty (30) days to respond.

7. On September 18, 1997, Falcon Head Mobile Home Park notified the Department that new pumps had been installed in both pump stations and that both stations were fully operational.

8. On September 24, 1997, an inspection by the Lauderdale County Health Department revealed overflows from both pump stations.

9. On September 26, 1997, an inspection by the Department verified evidence of recent overflows from both pump stations.

10. Falcon Head Mobile Home Park has discharged raw sewage from its sewer lines to waters of the State without a permit, and these discharges represent a failure of the Park to

maintain its sewer system in good working order. These unpermitted discharges are in violation of the Federal Water Pollution Control Act (FWPCA) and the Alabama Water Pollution Control Act (AWPCA).

11. Falcon Head Mobile Home Park agrees with the Findings presented in this Consent Order, and in an effort to cooperate with the Department and to comply with the provisions of the AWPCA, Falcon Head Mobile Home Park has consented to the terms of this Consent Order.

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

ORDER

Based upon the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-22-9(I), and 22-22-9(k), as amended, and the National Pollutant Discharge Elimination System administered by 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, it is hereby Ordered:

A. That within thirty (30) days from the date of receipt of this Consent Order, Falcon Head Mobile Home Park shall pay to the Department a civil penalty in the amount of One Thousand Dollars (\$1,000) for the violations stated herein.

B. That Falcon Head Trailer Park shall prepare and submit to the Department no later than February 2, 1998, a Compliance Plan which evaluates the overflows at the cited pump stations and makes recommendations on how to eliminate the overflows and achieve compliance

with FWPCA and the AWPCA. The Compliance Plan shall:

1. Identify, to the extent possible, the causes of the said overflow discharges;
2. Describe the corrective actions required to eliminate the discharges, including estimated costs, and;
3. Provide an expeditious schedule subject to the Department's concurrence.

Upon receiving the Department's concurrence, said schedule, including the dates for implementation of corrective actions necessary to achieve compliance with the FWPCA and the AWPCA, will automatically become part of this Order and subject to the stipulated penalties listed in paragraph E below.

C. A professional engineer licensed to practice in the State of Alabama, in accordance with ADEM Administrative Code, Chapter 335-6-3, shall prepare and seal the compliance plan referred to in paragraph B above.

D. That Falcon Head Trailer Park will take all reasonably feasible interim measures or steps to minimize overflow violations and to mitigate the health and environmental effects of such violations during the interim period between the date of this Order and the completion of all scheduled corrective actions as required by this Consent Order.

E. That Falcon Head Mobile Home Park shall pay to the Department, upon demand, stipulated penalties for each day it fails to meet any of the milestones established in this Consent Order. The stipulated penalties for failure to meet each milestone date or any requirement date shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$50
31st to 60th day	\$100

After 60 days

\$150

If after 90 days, Falcon Head Mobile Home Park has yet to meet any milestone dates set in this Order, the Department may, at its discretion, proceed either to a unilateral order revoking this Consent Order and/or imposing additional fines, or may proceed direct to litigation to seek additional fines and/or injunctive relief.

F. This Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

G. 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 which are cited in this Consent Order.

H. That, Falcon Head Mobile Home Park is not relieved from any liability if it fails to comply with any provision of this Consent Order.

I. For purposes of this Consent Order only, Falcon Head Mobile Home Park 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. Falcon Head Mobile Home Park also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, Falcon Head Mobile Home Park shall be limited to the defenses of Force Majeure, compliance with this Agreement, and physical impossibility.

J. It is the express purpose of the parties entering into this Consent Order to further the

objectives set forth in the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code Of Alabama 1975, as amended, and the Clean Water Act. In light of these objectives, Falcon Head Mobile Home Park agrees to, inter alia, cause the expeditious implementation of the remedial measures as herein set forth and in accordance with the schedules approved by the Alabama Department of Environmental Management, take all steps necessary to: (1) achieve full compliance with it's NPDES permit, (2) achieve full compliance with the Clean Water Act, and (3) comply with all other conditions of this Consent Order. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations shall 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 Falcon Head Mobile Home Park shall not object to such future Orders, litigation or enforcement action based on the issuance of this Consent Order if future Orders, litigation or other enforcement action address new matters not raised in any previous Order.

K. 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 Respondent hereby waives any hearing on the terms and conditions of same.

FALCON HEAD MOBILE HOME PARK

By: W. D. [Signature]

DATE: 11-18-97

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: [Signature]

DATE: 2 Dec 97