

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

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IND/MUN BRANCH
WATER DIVISION

IN THE MATTER OF:

The Water Works and Sewer Board of
the City of Luverne
Luverne WWTP
Luverne, Crenshaw County, Alabama

Consent Order No. XX-XXX-CWP

NPDES PERMIT NO. AL0060534

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("the Department") and The Water Works and Sewer Board of the City of Luverne ("the Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act ("AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a wastewater treatment plant ("WWTP") known as the Luverne WWTP, located at the West end of West 9th Street, in Luverne, Crenshaw County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
4. The Department reissued National Pollutant Discharge Elimination System ("NPDES") Permit No. AL0060534 ("the Permit") to the Permittee on August 27, 2020, effective September 1, 2020, and again on October 30, 2025, effective November 1, 2025, establishing limitations on

the discharge of pollutants from a point source, designated therein as outfall number 0011, to Patsaliga Creek, a water of the state. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports ("DMRs") to the Department describing the results of the monitoring. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

5. Permit Condition I.A. requires that discharges be limited and monitored as specified in the Permit. For the monitoring periods listed in Attachment I, the Permittee submitted DMRs to the Department indicating that the Permittee has discharged pollutants from Outfall 0011 into the Patsaliga Creek, a water of the State, in violation of its Permit limitations for Five Day Carbonaceous Biochemical Oxygen Demand ("CBOD5"), Escherichia Coli ("E. Coli"), Nitrogen as Ammonia ("NH3-N"), and CBOD5 Percent Removal.

6. Part I.C.1 of the Permit requires that DMRs be submitted to the Department no later than the 28th day of the month following the monitoring period. The Department received the untimely DMRs as specified in Attachment II.

7. The Department issued a Warning Letter ("WL") to the Permittee on August 8, 2024, for permit limitation noncompliances including NH3-N, CBOD5, and E. Coli, failure to inform ADEM of adverse impacts caused by an industrial user, failure to report an industrial user on ADEM Form 188 – Section D, and late DMRs. The WL required the Permittee to submit to the Department an updated ADEM Form 188 – Section D including the industrial discharger and a written report describing the steps that have been or will be taken to correct noncompliances with the Permit. The Department received the Permittee's WL response on September 7, 2024.

8. The Department issued a Notice of Violation ("NOV") to the Permittee on September 16, 2025 for permit limitation violations including E. Coli, CBOD5, NH3-N, and Total Suspended Solids ("TSS"), late DMRs, and a late MWPP Annual Report. The NOV required the Permittee to submit to the Department an Engineering Report describing the steps that have been or will be taken to correct noncompliances with its Permit. The Department received the Permittee's NOV response on December 1, 2025.

9. The Permittee consents to abide by the terms of this Consent Order and to pay any civil penalty assessed herein.

10. The Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty (summarized in Attachment III), the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY:** Based on the information available to the Department, violations of the Permit, ADEM Admin. Code chap. 335-6-6, and the AWPCA were noted. The Department considered the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, the condition of the receiving waters, the violations' effects, if any, on the receiving waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. THE STANDARD OF CARE: In consideration of the standard of care manifested by the Permittee, the Department believes the civil penalty sought in this matter is sufficient and has not enhanced the penalty based on this factor.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has considered that delayed compliance may have conferred an economic benefit upon the Permittee but is unable to estimate the economic benefit associated with the violations cited above, as the costs for compliance are not available.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT: The Department is unaware of any efforts by the Permittee to minimize or mitigate the effects of the violations upon the environment.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department is unaware of any previous violations.

F. THE ABILITY TO PAY: The Department has determined that the Permittee has an inability to pay some civil penalty. In consideration of the Permittee's inability to pay, the Department has decreased the penalty.

G. This Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty the Department believes is warranted in this matter in the spirit of cooperation and desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

H. The civil penalty is summarized in Attachment III.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement, and the Department has determined that the penalty assessed below and the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee (collectively "Parties") agree to enter into this CONSENT ORDER with the following terms and conditions:

A. The Permittee shall pay to the Department a civil penalty in the amount of \$6,400 in settlement of the violations alleged herein within forty-five days from issuance of this Consent Order. Failure to pay the civil penalty within forty-five days from issuance may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. All penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee shall prepare and submit to the Department an Engineering Report that addresses the need for changes in maintenance and operating procedures, the potential for infiltration and inflow, the need for modification of existing treatment and collection system works, and the need for new or additional treatment and collection system works as necessary to achieve compliance with applicable rules and regulations and Permit conditions. The Engineering Report shall include a Compliance Plan with a schedule for implementation of necessary corrective actions and cost of such necessary corrective actions, if known. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after issuance of this Consent Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee shall modify the Engineering Report. The Permittee shall submit modifications to the Engineering Report, if required, so that they are received by the Department no later than thirty days after Permittee's receipt of the Department's comments. The Permittee shall complete implementation of the recommendations provided in the Engineering Report not later than 730 days after issuance of this Consent Order.

D. The Permittee shall prepare and submit detailed quarterly Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items

presented in the Compliance Plan, including the cost of necessary corrective actions. The Permittee shall submit the Progress Reports so that they are received by the Department no later than one hundred eighty days after issuance of this Consent Order and continuing every ninety days thereafter that the Permittee's performance obligations under this Consent Order remain incomplete. In addition, no later than fourteen days following each due date herein, the Permittee shall submit to the Department a written notice of noncompliance, if applicable. Notices of noncompliance shall state the cause(s) of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

E. The Permittee shall fully comply with the Permit limitations for CBOD5, NH3-N, E. Coli, and CBOD5 Percent Removal within 730 days from issuance of this Consent Order. Until said date, Permittee shall take all reasonable measures to minimize discharges of these pollutants to the maximum extent practicable.

F. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon issuance of this Consent Order.

G. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether the Permittee is in compliance with all requirements of this Consent Order. The Permittee shall submit such certification so that it is received by the Department no later than 760 days after issuance of this Consent Order.

H. After issuance of this Consent Order, the Permittee shall pay stipulated penalties for each day it fails to meet any of the milestone dates or satisfy any of the requirements set forth in or established by Paragraphs C, D, and G contained herein. The stipulated civil penalties for failure to meet each milestone or any requirement date, except for *Force Majeure* acts as hereinafter defined, shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$ 50.00
31st to 60th day	\$ 100.00
After 60 days	\$ 150.00

If the Permittee fails to meet any milestone or any assigned date ninety days after the required dates found in Paragraphs C, D, and G, the Department reserves the right to file a new action against the Permittee.

I. Cumulative stipulated penalties described in Paragraph H above shall under no circumstances exceed \$7,500.00. Once stipulated penalties of \$7,500.00 are due to the Department, or should violations continue to occur after the final compliance date specified in the accepted Compliance Plan, the Department reserves the right to issue additional orders or file suit against the Permittee in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance with this Consent Order.

J. Payment of stipulated penalties are due for violations of milestone dates under this Consent Order not later than the 28th day of the month following the month a milestone date was not achieved. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

K. 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.

L. 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.

M. The Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

N. For purposes of this Consent Order only, the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. In any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*,

compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline shall be accompanied by the reasons (including documentation) for each extension and the proposed extension time. The Permittee shall submit this information so that it is received by the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

O. The sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Luverne WWTP which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in other orders as may be issued by the Director, by litigation initiated by the Department, or by such other enforcement action as may be appropriate. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if such future orders, litigation, or other enforcement action addresses new matters not raised in this Consent Order.

P. This Consent Order shall be considered final and effective immediately upon signature of all Parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

Q. This Consent Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

R. Final approval and entry into this Consent Order are subject to the requirements that the Department provide notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the proposed Consent Order.

S. Should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

T. Any modification of this Consent Order shall be agreed to in writing and signed by both Parties.

U. Except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

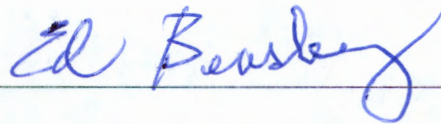
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**THE WATER WORKS AND SEWER
BOARD OF THE CITY OF LUVERNE**

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

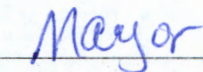
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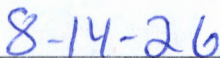
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Attachment I
 Permit Limitation Violations

Monitoring Period	Outfall	Parameter	Limit	Reported	Unit	Violation Type	NCF Submitted?
June 2026	0011	BOD, Carb-5 Day, 20 Deg C, Percent Remvl	85.0	84.9	%	Monthly Average Minimum	Yes
June 2026	0011	BOD, Carbonaceous 05 Day, 20C	18.0	26.7	mg/l	Monthly Average	Yes
June 2026	0011	BOD, Carbonaceous 05 Day, 20C	27.0	30.7	mg/l	Weekly Average	Yes
April 2026	0011	Nitrogen, Ammonia Total (As N)	8.0	12.69	mg/l	Monthly Average	Yes
April 2026	0011	Nitrogen, Ammonia Total (As N)	12.0	17.1	mg/l	Weekly Average	Yes
March 2026	0011	BOD, Carbonaceous 05 Day, 20C	25.0	48.8	mg/l	Monthly Average	Yes
March 2026	0011	BOD, Carbonaceous 05 Day, 20C	37.5	70.5	mg/l	Weekly Average	Yes
March 2026	0011	BOD, Carb-5 Day, 20 Deg C, Percent Remvl	85.0	84.6	%	Monthly Average Minimum	Yes
February 2026	0011	BOD, Carbonaceous 05 Day, 20C	25.0	37.2	mg/l	Monthly Average	Yes
February 2026	0011	BOD, Carbonaceous 05 Day, 20C	37.5	59.1	mg/l	Weekly Average	Yes
February 2026	0011	E. Coli	548	890	col/10 OmL	Monthly Average	Yes
December 2025	0011	BOD, Carb-5 Day, 20 Deg C, Percent Remvl	85.0	82.8	%	Monthly Average Minimum	Yes
December 2025	0011	BOD, Carbonaceous 05 Day, 20C	25.0	28.9	mg/l	Monthly Average	Yes
December 2025	0011	BOD, Carbonaceous 05 Day, 20C	37.5	44.6	mg/l	Weekly Average	Yes

Monitoring Period	Outfall	Parameter	Limit	Reported	Unit	Violation Type	NCF Submitted?
October 2025	001-1	Nitrogen, Ammonia Total (As N)	8.0	12.4	mg/l	Monthly Average	Yes
October 2025	001-1	Nitrogen, Ammonia Total (As N)	12.0	16.4	mg/l	Weekly Average	Yes
June 2025	001-1	E. Coli	298	310	col/100mL	Maximum Daily	Yes
June 2025	001-1	E. Coli	126	149	col/100mL	Monthly Average	Yes
June 2025	001-1	Nitrogen, Ammonia Total (As N)	8.0	10.1	mg/l	Monthly Average	Yes
May 2025	001-1	E. Coli	298	2300	col/100mL	Maximum Daily	Yes
May 2025	001-1	E. Coli	126	630	col/100mL	Monthly Average	Yes
May 2025	001-1	Nitrogen, Ammonia Total (As N)	8.0	10.3	mg/l	Monthly Average	Yes
May 2025	001-1	Nitrogen, Ammonia Total (As N)	12.0	15.3	mg/l	Weekly Average	Yes
April 2025	001-1	BOD, Carbonaceous 05 Day, 20C	18.0	21	mg/l	Monthly Average	Yes
April 2025	001-1	BOD, Carbonaceous 05 Day, 20C	27.0	28.8	mg/l	Weekly Average	Yes
April 2025	001-1	BOD, Carbonaceous 05 Day, 20C	180	189.6	lbs/day	Weekly Average	Yes
April 2025	001-1	E. Coli	2507	6000	col/100mL	Maximum Daily	Yes
April 2025	001-1	E. Coli	548	2144	col/100mL	Monthly Average	Yes
April 2025	001-1	Nitrogen, Ammonia Total (As N)	8.0	10.99	mg/l	Monthly Average	Yes
April 2025	001-1	Nitrogen, Ammonia Total (As N)	80.0	82.9	lbs/day	Weekly Average	Yes
April 2025	001-1	Nitrogen, Ammonia Total (As N)	12.0	14.4	mg/l	Weekly Average	Yes
March 2025	001-1	E. Coli	2507	5800	col/100mL	Maximum Daily	Yes
March 2025	001-1	E. Coli	548	3300	col/100mL	Monthly Average	Yes

Monitoring Period	Outfall	Parameter	Limit	Reported	Unit	Violation Type	NCF Submitted?
February 2025	001-1	E. Coli	548	1013	col/100mL	Monthly Average	Yes
November 2024	001-1	E. Coli	2507	4800	col/100mL	Maximum Daily	Yes
November 2024	001-1	E. Coli	548	1786	col/100mL	Monthly Average	Yes
October 2024	001-1	E. Coli	298	4800	col/100mL	Maximum Daily	Yes
October 2024	001-1	E. Coli	126	1315	col/100mL	Monthly Average	Yes
October 2024	001-1	Nitrogen, Ammonia Total (As N)	8.0	8.8	mg/l	Monthly Average	Yes
October 2024	001-1	Nitrogen, Ammonia Total (As N)	12.0	12.2	mg/l	Weekly Average	Yes
September 2024	001-1	E. Coli	298	700	col/100mL	Maximum Daily	Yes
September 2024	001-1	E. Coli	126	200	col/100mL	Monthly Average	Yes
September 2024	001-1	Nitrogen, Ammonia Total (As N)	8.0	11.8	mg/l	Monthly Average	Yes
September 2024	001-1	Nitrogen, Ammonia Total (As N)	12.0	14.7	mg/l	Weekly Average	Yes
August 2024	001-1	Nitrogen, Ammonia Total (As N)	12.0	12.8	mg/l	Weekly Average	Yes

Attachment II
Late DMRs

Monitoring Period	Outfall	Due Date	Received Date	# Days Late
February 2026	001-1	03/28/2026	03/30/2026	2
January 2026	001-1	02/28/2026	03/09/2026	9
December 2025	001-1	01/28/2026	02/10/2026	13
October 2025	001-1	11/28/2025	11/30/2025	2
July 2025	001-1	08/28/2025	09/04/2025	7
May 2025	001-1	6/28/2025	6/30/2025	2
April 2025	001-1	5/28/2025	5/29/2025	1
February 2025	001-1	03/28/2025	03/30/2025	2
January 2025	001-1	02/28/2025	03/02/2025	2
November 2024	001-1	12/28/2024	12/29/2024	1
October 2024	001-1	11/28/2024	11/30/2024	2
August 2024	001-1	09/28/2024	09/29/2024	1

Attachment III

**The Water Works and Sewer Board of the City of Luverne
Luverne WWTP
Luverne, Crenshaw County, Alabama
NPDES Permit No. AL0060534**

Violation*	Number of Violations*	(A) Seriousness of Violation*	(B) Standard of Care*	(C) History of Previous Violations*
Permit Limitation Violations	45	\$ 7,482.00	\$ -	\$ -
		\$7,482.00	\$0.00	\$0.00
		Total (A)	Total (B)	Total (C)
Base Penalty Total [Total (A) + Total (B) + Total (C)]				\$7,482.00
Mitigating Factors (-)				
Economic Benefit (+)				
Ability to Pay (-)				-\$1,082.00
Other Factors (+/-)				
INITIAL PENALTY				\$6,400.00
Total Adjustments (+/-)				\$0.00
FINAL PENALTY				\$6,400.00

Additional Adjustments due to negotiations, receipt of additional information, or public comment

Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-)	\$0.00

Footnotes

*See the "Stipulations" portion of the Order for a detailed description of each violation and the penalty factors