

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

MCKENZIE METHANE CORPORATION
NPDES PERMIT NO. AL0056936

ORDER NO. 89-115-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1975 and 1988 Cum. Supp.), the Alabama Water Pollution Control Act, (the Act) ALA. CODE §§ 22-22-1 through 22-22-14 (1975 and 1988 Cum. Supp.), and the National Pollutant Discharge Elimination System (NPDES) administered by the Alabama Department of Environmental Management (the Department) and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 403, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. McKenzie Methane Corporation (the Operator) operates a coal bed methane production operation located at Township 24 North, Range 5 East, Section 1 in Tuscaloosa 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 for a permit and must obtain such permit before discharging such pollution.

ISSUED ✓ 10/1/89	SERVED gk/129
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3. On June 21, 1989 the Operator discharged pollutants and other wastes directly into an unnamed tributary of Wright Creek, a water of the state, as shown by a laboratory analysis of a sample taken from that discharge:

PARAMETER	VIOLATION
Iron (Fe)	9.39 mg/l
Manganese (Mn)	7.4 mg/l
Five-day Biochemical Oxygen Demand (BOD ₅)	8.8 mg/l
Chlorides (Cl ⁻) ₅	7.5 mg/l
Total Suspended Solids (TSS)	90 mg/l
Total Dissolved Solids (TDS)	301 mg/l
Acidity/Alkalinity (pH)	5.4 s.u.

4. The Operator did not have a permit for this discharge.

5. This discharge was preventable and was caused by the Operator's failure to exercise due care in the construction of a fluids containment pit on a coal bed methane drill pad.

6. The Operator made no efforts to abate this discharge when alternatives to this discharge were immediately available.

7. The Operator realized an economic benefit by virtue of its failure to take adequate care in the construction of the fluids containment pit referenced in paragraph 5, above.

8. The Operator has the ability to pay a civil penalty.

9. On or about September 29, 1988 the Operator was issued NPDES Permit Number AL0056936.

10. Part 4.C. of the Best Management Practices Plan for this facility states that erosion control measures and reclamation efforts will be implemented immediately after any disturbance.

11. The Operator is in violation of Part 4.C. of its NPDES Permit.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5 and 22-22-9 (1975 and 1988 Cum. Supp.) and 33 U.S.C. § 1342 it is hereby ORDERED:

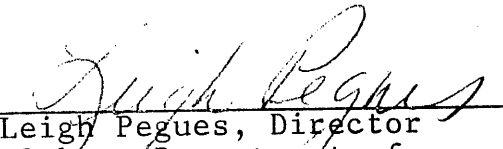
A. That the Operator pay to the Department a civil penalty in the amount of Five Thousand (\$5,000) Dollars within 30 days from the date of receipt of this Order.

B. That the Operator immediately implement the Best Management Practices provision of its NPDES permit.

C. That failure to comply with the provisions of this Order may constitute cause for the revocation of NPDES Permit Number AL0056936 and/or the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief.

D. That the issuance of this Order does not preclude the Department or others from seeking criminal fines or other appropriate sanctions or relief against the Operator for the violations stated herein.

ORDERED and ISSUED this 29th day of August, 1989.

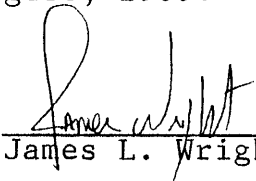

Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 89-115-WP upon McKenzie Methane Corporation by sending the same, postage paid, through the U.S. Mail, as Certified Mail No. P-873 074 736, with instructions to forward and return receipt requested to:

Mr. Mike McKenzie
McKenzie Methane Corporation
5847 San Felipe Road, Suite 4300
Houston, Texas 77057

Done this 29th day of August, 1989.



James L. Wright