

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

SOUTHLAND FOODS, INC.  
NPDES PERMIT NUMBER AL0028860

CONSENT ORDER  
NO. 94-274 CWP

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama, 1975, §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), the Alabama Water Pollution Control Act, Code of Alabama, 1975, §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.) (the "Act"), and the National Pollutant Discharge Elimination System ("NPDES") 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 any admission of violation or adjudication of any issues of fact or law, but upon the consent of the parties, the Alabama Department of Environmental Management and Southland Foods, Inc., hereby covenant and agree as follows:

FINDINGS OF FACT

The parties agree that these findings of fact are made and agreed to specifically for the purposes of settlement and are not admissions of Southland:

1. Southland Foods, Inc. ("Southland" or "Permittee") operates a poultry processing facility located in Jack, Alabama.
2. The Alabama Department of Environmental Management is a duly constituted Department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama, 1975 (1990 Rplc. Vol.).
3. On October 2, 1989, the Department issued to Southland Broilers, Inc. (a predecessor to Southland Foods), a permit under the National Pollutant Discharge Elimination System identified as NPDES Permit Number AL0028860. The NPDES Permit regulates Southland's wastewater discharge to the Pea River by imposing limitations and monitoring requirements for a variety of parameters. These parameters and their corresponding limitations are set out in the listing of permit limitations attached as Exhibit A and incorporated herein by reference.



4. On July 14, 1994, the Department transferred NPDES Permit AL0028860 from Southland Broilers, Inc. to Southland Foods, Inc. For a 24 month period prior to the transfer, Southland Broiler's self-monitoring reports identified apparent permit excursions. A listing of said permit limit violations is attached as Exhibit B.
5. As a part of its effort to ensure compliance with permit requirements after its acquisition, Southland representatives met with ADEM officials on June 22, 1994. At that time, Southland outlined a plan to install additional wastewater treatment equipment. A proposed schedule for completion of this work was also discussed. ADEM and Southland agreed that during the construction period, existing permit limits could not be met and that interim limitations would be established in this Order based on levels achievable with the existing treatment technology.
6. The parties hereto have agreed to the terms of this Order, and the Department has determined that the terms of this Order are in the best interests of the citizens of Alabama.
7. Southland waives both an informal conference prior to the issuance of the following Order and waives any right to request a hearing before the Environmental Management Commission on the terms of the following Order.

#### ORDER

Based upon the foregoing FINDINGS OF FACTS and pursuant to Code of Alabama, (1975), §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(c), 22-22-9(i), and 22-22-9(k) (1990 Rplc. Vol.) and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act, §402, 33 U.S.C. §1342, and with the consent of Southland, it is hereby ORDERED:

- A. That not later than 30 days following the date of execution of this Order, Southland shall pay to the Department SIX THOUSAND ONE HUNDRED DOLLARS (\$6100) for any and all violations occurring prior to the effective date of this Order.
- B. That Southland will complete construction of improvements to the wastewater treatment system and attain compliance with all permit limitations not later than May 1, 1995.

- C. That in addition to the fixed penalties assessed in A. above, Southland shall pay stipulated penalties to the Department for each violation of interim limits which occurs prior to May 1, 1995, and each permit limit violation which occurs after May 1, 1995 in accordance with the following schedule:

Limits violations - \$200 per violation for each violation occurring during the interim period and for the first month following the compliance date as disclosed on the DMR covering that reporting period; \$400 per violation for each limits violation disclosed on the next DMR; and \$800 per violation disclosed on any DMR submitted thereafter.

That during the period between the date of this order and May 1, 1995, the Permittee shall comply with the interim effluent limits listed below:

<u>Parameter</u>	<u>Unit</u>	<u>Daily Max</u>	<u>Daily Avg</u>
BOD <sub>5</sub>	PPD	441	407
BOD <sub>5</sub>	mg/l	77	44
TKN	PPD	793	639
TKN	mg/l	85.8	83.3
NH <sub>3</sub> -N	mg/l	56.1	49.3
TSS	PPD	715	406
Fecal Coliform	col/100 ml	Monitor	Monitor

The parties agree that the foregoing schedule of stipulated penalties will govern any violations occurring until December 31, 1995 at which time the stipulated penalty provisions shall automatically expire.

- D. Nothing in the foregoing schedule shall relieve Southland from the obligation to comply with other provisions of its permits, or the Act and the regulations. Nothing in this Consent Order shall operate to relieve Southland of any liability for any other violations occurring at the facility following issuance of this Order.
- E. That all stipulated penalties identified herein are to be paid not later than ten days following the date such stipulated penalties become due. Penalties shall be due the 28th day of the month following the month the violation occurred. The Department is under no obligation to notify Southland of the existence of any violations which prompt stipulated penalties or to demand payment of the same.

- F. That 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 covered herein.
- H. That Southland is not relieved from liability if it fails to comply with any provision of this Consent Order.
- I. That for purposes of this Order only, Southland agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court for Montgomery County. Southland also agrees that in any action brought by the Department to compel compliance with the terms of this Order, Southland shall be limited to the defenses of Force Majeure, compliance with this Order and physical impossibility.
- J. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein, none of which constitutes any admission of violation by Southland concerning the factual circumstances referenced in the FINDINGS OF FACT. These allegations relate solely to the requirements of ADEM Admin. Code Div. 335-6. This Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs, or should additional facts and circumstances be discovered in the future concerning Southland which would constitute possible violations not addressed in this Order, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Southland shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

K. By agreement of the parties, this Consent Order shall be considered final and effective upon the signature of all parties.

Southland Foods, Inc.

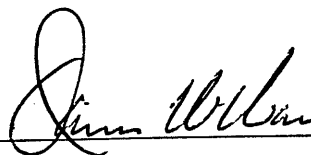
By: 

Jack Sherwood

Its: V.P. Operations

Southland Foods, Inc.

Date: 9/12/94



James W. Warr, Director  
Alabama Department of  
Environmental Management

Date: 20 Sep 94

## EXHIBIT A

## DISCHARGE LIMITATIONS

<u>Parameter</u>	<u>Unit</u>	<u>Daily Max</u>	<u>Daily Avg</u>
BOD <sub>5</sub>	PPD	292	146
BOD <sub>5</sub>	mg/l	70	35
TKN	PPD	250	125
TKN	mg/l	70	35
NH <sub>3</sub> -N	mg/l	30	15
TSS	PPD	360	180
Fecal Coliform	col/100 ml	400	200