

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)	
)	
Masland Carpets Inc)	Consent Order No. XX-XXX-CWP
209 Carpet Drive)	
Atmore, Escambia County, Alabama)	
)	
NPDES Permit No. AL0021997)	
SID PERMIT No. IU332700022 (terminated))	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and Masland Carpets, Inc. (hereinafter the “Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter the “AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342.

STIPULATIONS

1. The Permittee operates a processing facility (hereinafter “the Facility”) that primarily produces SBR (Styrene-Butadiene) Broadloom carpets. The Facility is located at 209 Carpet Drive, in the city of Atmore, Escambia 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-16 (2006 Rplc. Vol.).
3. Pursuant to § 22-22A-4(n), Ala. Code (2006 Rplc. Vol.), 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 1387. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.

4. In accordance with ADEM Admin. Code chap. 335-6-6 and the AWPCA, the Department issued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0021997 (hereinafter "the NPDES Permit") to the Permittee on July 29, 2013, effective August 1, 2013, establishing limitations on the discharges of pollutants from point sources, designated therein as outfall numbers DSN001 and DSN002 into Boggy Branch, and DSN003 and DSN004 into Brushy Creek, both waters of the state. The NPDES Permit requires that the Permittee monitor its discharge and submit periodic Discharge Monitoring Reports (hereinafter "DMRs") to the Department describing the results of the monitoring. In addition, the NPDES 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 terms and conditions of the NPDES Permit.

5. For the period from June 2013 through May 2015, certain DMRs submitted to the Department by the Permittee indicate that the Permittee has discharged pollutants in violation of the limits imposed by Part I.A of the NPDES Permit. The effluent violations noted are listed in Attachment #1.

6. Permit Condition I.C.2.b of the NPDES Permit requires that, "[i]f for any reason, the the permittee's discharge does not comply with any limitation of this permit, the permittee shall submit to the Director or Designee a written report" with the next DMR required to be submitted. Permit condition I.C.2.c. requires such reports to be submitted using a copy of the Noncompliance Notification Form provided with the NPDES Permit. As indicated in Attachment #1, the Permittee has not submitted Non-compliance forms for the discharge violations listed, in violation of the NPDES Permit.

7. Permit Condition I.C.1.b of the NPDES Permit requires that DMRs be submitted as specified in the Permit. DMRs are due to the Department no later than the 28th day of the month following a respective reporting period. A review of the DMRs associated with the NPDES Permit indicates that some of the DMRs were submitted late during the period from June 2013 through May 2015, in violation of the NPDES Permit. Attachment #2 includes a list of late DMRs for the

NPDES Permit during the evaluation period.

8. The Department issued State Indirect Discharge (hereinafter "SID") Permit IU 33-27-00022 to the Permittee on June 23, 2005, effective date August 1, 2005, establishing limitations on the discharge of pollutants from one discharge point, outfall number DSN001S, at the Facility to the Utilities Board of the City of Atmore Waste Water Treatment Plant (hereinafter the "WWTP"). The WWTP is a "publicly owned treatment works" as defined in ADEM Admin. Code r. 335-6-5-.02(jj). The SID Permit required that the Permittee monitor its discharges and submit periodic DMRs to the Department describing the results of the monitoring. The SID Permit also required that the Permittee at all times properly operate and maintain all facilities and systems of treatment and control installed or used by the Permittee to achieve compliance with the conditions of the SID Permit. The SID Permit was terminated on April 21, 2015.

9. Permit Condition I.E.1.b of the SID Permit required that DMRs be submitted by the 28th day of the month following a respective reporting period. A review of the DMRs associated with the SID Permit indicates that some of the DMRs were submitted late, in violation of the SID Permit. Attachment #3 includes a list of late DMRs for the SID Permit during the evaluation period from June 2013 to April 2015.

10. A review of the DMRs associated with the SID Permit further indicates that DMRs for the semiannual reporting of chloride, chromium, and zinc were not submitted with the corresponding monthly report three times during the period from December 2012 through April 2015, in violation of the SID Permit. Attachment #4 includes a list of missing DMRs for the SID Permit during the evaluation period.

11. SID Permit Condition Part II.E.6 stated "all monitoring equipment shall be installed, maintained, and calibrated in accordance with the manufacturer's instructions [...] or accepted practices." NPDES Permit Condition IV.A.5.e stated that "the permittee shall complete a review and evaluation of the BMP at least once every three years from the date of preparation of the BMP plan." On March 20, 2014, the Department conducted a compliance evaluation inspection and noted that the 10 pH buffer solution was expired, in violation of the SID Permit. Also, noted in the

same inspection, the latest BMP plan was dated December 2005, in violation of the NPDES Permit.

12. On October 29, 2014, the Department conducted stream sampling around the Facility's NPDES discharge pipe and observed a gray sludge in the water, on the rocks, and along the creek bank. Departmental personnel also noted that the tributary was backed up from the Facility's discharge, had a bad smell, had a DO level of 1 mg/l, and had about six inches of sludge on the bottom. The Department emailed the Permittee on October 31, 2014 to inquire about possible causes of the gray sludge in the creek. The Department did not receive a response from the Permittee until the Department conducted an inspection of the Facility on November 19, 2014, and questioned the Permittee.

13. Based on the visual observations by the Department on October 29, 2014, the Department conducted an NPDES compliance sampling inspection at the Facility on November 19, 2014. During the inspection and subsequent thereto, the Permittee informed the Department that the Permittee ceased all closure operations on October 31, 2014 when the Department's email was received. The Permittee stated that a clean out line used during dewatering residue from ponds no longer in service was backed up with lint. This may have caused the sand filter to malfunction, thus some solids (lints and sludge) were released through DSN001. The Permittee indicated that it immediately shutdown the equipment being used to dewater the remnants of the wastewater treatment ponds. The Permittee further reported that the sand filter was cleaned and repaired and put back on line on November 4, 2014, at which time the Permittee resumed closing down and dewatering residue from the bottom of the wastewater treatment ponds and discharging through DSN001. According to the Permittee, Permittee had conducted a visual inspection of the stream at the Permittee's NPDES discharge pipe, DSN001S, observed that the water was clear, and concluded that any solids (lints and sludge) discharged had been washed away by a recent rain event.

14. During the November 19, 2014 inspection, the Department noted gray sludge and lints consistent with the Facility's discharge in the receiving waterbody downstream from the Facility's outfall pipe. The Department observed sludge approximately two feet in depth in some areas and sedimentation at the bottom of the receiving waterbody approximately 100 feet

downstream from the Facility's outfall pipe. The Department also noted during the November 19, 2014 inspection that the Permittee had no remediation plan to address an unpermitted discharge to waters of the state.

15. NPDES Permit Condition I.C.2.a requires the Permittee to report to the Director, within twenty-four hours of becoming aware of the noncompliance, any noncompliance which may endanger health or the environment. The Permittee failed to report the above-noted incident, in violation of NPDES Permit Condition I.C.2.a.

16. ADEM Admin. Code r. 335-10-.06(a) states "State waters shall be free from substances attributable to sewage, industrial wastes or other wastes that will settle to form deposits which are unsightly, putrescent or interfere directly or indirectly with any classified water use." The Permittee violated this condition by discharging solids which formed bottom deposits.

17. ADEM Admin. Code r. 335-10-.06(b) states "State waters shall be free from floating debris, oil, scum, and other floating materials attributable to sewage, industrial wastes or wastes in amounts sufficient to be unsightly or interfere directly or indirectly with any classified water use." The Permittee violated this condition by discharging solids which resulted in floating material.

18. The Permittee has agreed to the terms hereof and consents to abide by the terms of this Consent Order and pay the civil penalty assessed herein in an effort to resolve the allegations described even though the Permittee does not agree with the allegations or the penalty.

19. The Department has agreed to the terms of the 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 the Consent Order are in the best interests of the citizens of Alabama.

CONTENTIONS OF THE DEPARTMENT

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 that delayed compliance may have conferred 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, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY: Based on information available to the Department, violations of the NPDES and SID Permits, ADEM Admin. Code chap. 335-6-6, ADEM Admin. Code chap. 335-6-5, 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 discharge, the effects, if any, on impaired waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. THE STANDARD OF CARE: Some of the violations listed above, such as failure to submit DMRs, failure to submit Non-compliance forms, and the failure to give twenty-four hour notification after the wastewater release, are considered to be easily avoidable.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is unaware of an economic benefit received by the Permittee as a direct result of non-compliance.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT: The Department noted environmental effects as a result of the violations with no efforts or apparent plan by the Permittee to mitigate the effects.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department has considered the history of violations of this Permittee and determined no enhancement of the penalty is necessary.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: 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 #5.

CONTENTIONS OF THE PERMITTEE

1. General Processes to Reduce and Eliminate Discharges; Closure of Waste Treatment Facilities.

Permittee operates a carpet manufacturing plant in Atmore, Alabama, which previously included a coloring or dyeing process. Permittee has modified the Facility operations, substantially reduced water consumption needs of the Facility operations, and reduced and eliminated all discharges permitted by ADEM by the two permits described above.

Permittee has voluntarily been in the process of reducing and eliminating discharges described and permitted under each of the permits issued by ADEM. In particular, the process of coloring or dyeing carpet has been eliminated and all of the permitted discharges associated with those processes have been eliminated.

Permittee, since late 2013 and through 2014, has been changing the carpet manufacturing processes at the Atmore Plant to implement processes that do not require the use of substantial volumes of water and discharges of the effluents or solids as allowed by the ADEM permits. Permittee was actively shutting down the wastewater treatment systems and the clarifiers, and has closed and eliminated all the wastewater treatment ponds at the Facility pursuant to a plan of closure worked out with ADEM. The SID permit was terminated in April 2015, and the Permittee has applied to terminate the NPDES individual permit and convert it to a general stormwater permit which is pending at this time.

2. October 29, 2014, Inspection.

At the time of the ADEM inspection on October 29, 2014, the Permittee was in the process of closing down all of the wastewater treatment ponds and dewatering sludge and lint in the ponds. Permittee had operational personnel onsite conducting the processes; however, no indication of any problem or unusual discharge was noted.

The laboratory results of the prior DMR period TSS samples indicated no exceedance of permit limits related to solids. The effluent samples taken in October by the plant operator prior to the week of October 27, 2014, and on October 27, 2014, did not visually indicate to plant personnel that the system was discharging in excess of permit limits.

To the Permittee's knowledge, all operational systems were operating properly with proper people operating the equipment.

When Permittee was notified by email on October 31, 2014, by ADEM about the October 29, inspection and observations of visible lint and sludge in the part of the unnamed tributary to Boggy Branch below discharge outfall DSN001, Permittee immediately shut down all processes and equipment to determine if there had been an equipment failure, malfunction or any reason for the discharges to create the situation described by ADEM. No problems were immediately discovered, but by process of checking all equipment, Permittee found the sand filter was clogged but still in operating condition. The sand filter could have been a reason that a heavy dose of sludge was discharged or accumulated, although the source of the accumulation of sludge below the discharge point was not confirmed.

To Permittee's knowledge, all processes, best management, maintenance and operational practices, as well as the equipment and personnel, were present and in working order except the clog in the sand filter, which was cleared and cleaned immediately.

Permittee did not and does not believe the discharge or accumulation was noncompliant due to any operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation. In contrast Permittee was expending substantial funds to reduce, eliminate and prevent discharges.

Permittee explained during the informal conference with ADEM on April 6, 2014, that an unintentional discharge of lint and sludge occurred in 2004, and as a result, Permittee initiated and installed the sand filter technology which would prevent such discharges. This use and additional technology did prevent unintentional discharges.

Permittee did not feel that the October 29, incident required further notification since ADEM was already aware and had an inspection report, Permittee was communicating with ADEM by way of the closure of the treatment ponds. Since ADEM had notified the Permittee of the incident, the Permittee did not believe Permit Condition I.C.2.a was applicable.

3. SID DMRs.

Permittee also has experienced persons to take required samples to be sent for testing and reporting to ADEM. Permittee uses the e-filing system of ADEM to make the reports and submit the DMRs although periodic delays to submit do (and did) occur. The delays and any alleged failure to submit DMRs was certainly not intentional, and Permittee has highlighted procedures to reduce and prevent such occurrences in the future to the extent any DMRs will be required once the closure plan is final. The SID permit has now been terminated and the NPDES individual permit will be terminated and converted to a General Permit. The three SID DMRs noted on Attachment 4 to the Consent Order included semiannual monitoring reporting; however, the monthly DMRs were submitted on time or shortly after the 28th of each month.

4. No Economic Advantage.

There certainly has been no economic benefit or advantage to any alleged violation or any delay in submitting DMRs. Quite the contrary, Permittee has expended substantial funds to maintain and exceed compliance with permit conditions and limits, reduce discharges, eliminate discharges and has maintained contact with ADEM.

5. Voluntary Process Changes to Eliminate Permitted Discharges.

Although not required by the Permit or the ADEM Administrative Code, Permittee, in 2012, voluntarily began to modify the manufacturing processes reducing and eliminating the discharges

of the permitted pollutants. To eliminate these potential stream loadings to all waters of the State, Boggy Branch and Brushy Creek, Permittee has voluntarily modified Permittee's carpet manufacturing process, spent substantial monies, dismantled and closed certain equipment and made onsite improvements without recapturing the value of the equipment and improvements, eliminated the clarifier, closed each of the wastewater treatment ponds, eliminated the sand filter, and will improve the water and water quality of the waterways. In addition, all of the SID discharges were totally eliminated on October 30, 2014.

6. Permitted From 2013 Through 2014, Spent Substantial Monies to Voluntarily Reach "No Discharge".

Any additional money expended by Permittee as regard matters alleged in this Consent Order are also additional and unexpected expenses to reach and confirm "no discharge."

7. Years of Compliance and Innovation.

Permittee has an excellent history of compliance with the permits, and has maintained diligent and innovative efforts to voluntarily implement procedures that provide better treatment systems and reduce discharges below permit limits, and, as of November 30, 2014, approximately thirty (30) days from the October 31 email, all TSS discharges have been eliminated.

8. Communications.

Permittee has maintained communications with ADEM, diligently addressed and incorporated the e-filing procedures, and has attempted to file all DMRs as required and on time, although some were late.

9. Substantial Overall Reduction / Elimination in Water Use and Reduction in Process Water Discharges.

Permittee has reduced and eliminated the process water discharges from the Facility under the SID and NPDES permits from a peak of 355,688,000 gallons in 2005 to zero (0) gallons of discharges in 2015.

The total annual Facility water usage in 2015 is expected to be less than 11 million gallons for a total elimination, reduction and savings of 344 million gallons per year of water used and discharged from the operations. The SID permit was terminated in April 2015.

ORDER

THEREFORE, the Permittee and the Department desire to resolve and settle the alleged compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six 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 believes that the penalty assessed below and the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee (hereinafter 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 \$40,000.00 in settlement of the violations alleged herein within forty-five days after issuance of this Consent Order. Failure to pay the civil penalty within forty-five days after 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, not later than thirty days after the effective date of this Consent Order, an Engineering Report that identifies the potential causes of noncompliance and summarizes an investigation of the changes necessary for the Permittee to achieve and maintain compliance with the NPDES Permit and a plan for remediation for the receiving waterbody below DSN001S. The Engineering Report should also

identify any additional areas downstream of the discharge where remediation is feasible considering overall environmental benefit. The Engineering Report shall include a schedule for implementation (i.e., a Compliance Plan) to include the above-noted remediation, as well as any additional areas identified in the Engineering Report. At a minimum, the Permittee shall consider each of the following: the need for changes in maintenance and operating procedures; the need for modification of existing treatment and collection system works; and the need for new or additional treatment and collection system works. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the report is not sufficient to accomplish compliance with the NPDES Permit and/or to properly address the above-noted remediation, then the report shall be modified accordingly. Modifications to the Engineering Report, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments. The Permittee shall complete implementation of the recommendations made in the Engineering Report within 180 days after the effective date of this Consent Order.

D. The Permittee shall prepare and submit progress reports to the Department describing in detail the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan. Such reports shall be submitted beginning sixty days after the effective date of this Consent Order and shall continue to be submitted every sixty days until the compliance date established in the following paragraph is attained. In addition, and if applicable, not later than fourteen days following each applicable due date contained in this Consent Order, the Permittee shall submit a written notice of noncompliance with the requirements of that paragraph. Notices of noncompliance shall state the cause of noncompliance, the corrective action taken, and shall describe the Permittee's ability to comply with any remaining requirements of this Consent Order.

E. No later than 180 days after the effective date of this Consent Order, the Permittee shall comply with the limitations imposed by Part I.A of the existing NPDES Permit, unless the NPDES Permit has been terminated, modified, or converted to a General Permit. Further, the

Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the effective date of this Consent Order, if the Permit is still in effect.

F. The Permittee shall submit certifications to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether or not the Permittee is in compliance with requirements of this Consent Order. The Permittee shall submit such certifications to the Department no later than 210 days after the effective date of this Consent Order for Paragraph E, and no later than thirty days after the remediation compliance date identified in the Engineering Report required under Paragraph C.

G. After the effective date of this Consent Order, the Permittee shall pay stipulated penalties for each day the Permittee fails to meet any of the written milestone dates or requirement set forth in or established by Paragraphs C, D, and F 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	\$ 100.00
31st to 60th day	\$ 200.00
After 60 days	\$ 300.00

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

H. Cumulative stipulated penalties described in paragraph G above shall under no circumstances exceed \$18,000.00. Once stipulated penalties of \$18,000.00 are due to the Department, or, should violations continue to occur after 180 days from the issuance of this Consent Order, then the Department shall be free to issue an additional order 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.

I. 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.

J. This Consent Order shall apply to and be binding upon both the Department and the Permittee, and their respective 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.

K. 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 alleged violations cited in this Consent Order.

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

M. 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 must be accompanied by the reasons (including documentation) for

each extension and the proposed extension time. This information shall be submitted to 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.

N. 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 Facility 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, and the Permittee 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 this Consent Order.

O. 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.

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

Q. 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 Consent Order.

R. 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.

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

T. 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.

Executed in duplicate, with each part being an original.

TDG OPERATIONS LLC, dba MASLAND CARPETS, SUCCESSOR TO
Masland Carpets, Inc.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: *Jon Faulkner* By: _____
Its: PRESIDENT Its: _____
Date: 6.29.15 Date: _____

Masland Carpets – NPDES Permit AL0021997
 Attachment 1: Limitation Violations

Limitation Violations

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit	NCF Received?
January 2014	0011	Solids, Total Suspended	626	899.9	Maximum Daily	lbs/day	No
January 2014	0011	BOD, Carbonaceous	12	22	Maximum Daily	mg/l	No
January 2014	0011	BOD, Carbonaceous	8	10.5	Monthly Average	mg/l	No
May 2014	0011	Color (ADMI Units)	80	110	Maximum Daily	ADMI	No
June 2014	0011	BOD, Carbonaceous	4	4.93	Monthly Average	mg/l	No
June 2014	0011	BOD, Carbonaceous	6	10	Maximum Daily	mg/l	No
September 2014	0011	Nitrogen, Ammonia Total	3.0	4.8	Maximum Daily	mg/l	No
September 2014	0011	BOD, Carbonaceous	20.6	38.1	Monthly Average	lbs/day	No
September 2014	0011	BOD, Carbonaceous	31.3	139.8	Maximum Daily	lbs/day	No
September 2014	0011	BOD, Carbonaceous	4	22.0	Monthly Average	mg/l	No
September 2014	0011	BOD, Carbonaceous	6	80.0	Maximum Daily	mg/l	No
October 2014	0011	Solids, Total Suspended	626	1003.2	Maximum Daily	lbs/day	No
October 2014	0011	Solids, Total Suspended	417	452.8	Monthly Average	lbs/day	No
October 2014	0011	pH	8.5	9.9	Maximum Daily	S.U.	No
October 2014	0011	Nitrogen, Ammonia Total	2.0	2.71	Monthly Average	mg/l	No

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit	NCF Received?
October 2014	0011	Nitrogen, Ammonia Total	3.0	11	Maximum Daily	mg/l	No
October 2014	0011	BOD, Carbonaceous	31.3	34.8	Maximum Daily	lbs/day	No
October 2014	0011	BOD, Carbonaceous	4	14.7	Monthly Average	mg/l	No
October 2014	0011	BOD, Carbonaceous	6	22	Maximum Daily	mg/l	No

Masland Carpets – NPDES Permit AL0021997

Attachment 2: Late DMRs

Late DMRS

Monitoring Period	Outfall	Due Date	Received Date	Days Late
August 2013	0011	09/28/2013	10/03/2013	5
September 2013	0011	10/28/2013	11/12/2013	15
October 2013	0011	11/28/2013	12/10/2013	12
March 2014	001Q	04/28/2014	05/19/2014	21
March 2014	001T	04/28/2014	05/19/2014	21
March 2014	002Q	04/28/2014	05/19/2014	21
March 2014	003Q	04/28/2014	05/19/2014	21
March 2014	004Q	04/28/2014	05/19/2014	21
May 2014	0011	06/28/2014	07/08/2014	10
June 2014	0011	07/28/2014	08/04/2014	7
June 2014	001Q	07/28/2014	08/04/2014	7
June 2014	001T	07/28/2014	08/04/2014	7
June 2014	002Q	07/28/2014	08/04/2014	7
June 2014	003Q	07/28/2014	08/04/2014	7
June 2014	004Q	07/28/2014	08/04/2014	7
September 2014	0011	10/28/2014	11/20/2014	23
September 2014	001Q	10/28/2014	11/21/2014	24
September 2014	001T	10/28/2014	11/21/2014	24
September 2014	002Q	10/28/2014	11/21/2014	24
September 2014	003Q	10/28/2014	11/21/2014	24
September 2014	004Q	10/28/2014	11/21/2014	24
October 2014	0011	11/28/2014	12/9/2014	11

Masland Carpets – SID Permit IU332700022

Attachment 3: Late DMRs

Late DMRS

Monitoring Period	Outfall	Due Date	Received Date	Days Late
January 2013	S011	02/28/2013	03/04/2013	4
July 2013	S011	08/28/2013	08/29/2013	1
August 2013	S011	09/28/2013	10/03/2013	5
September 2013	S011	10/28/2013	11/12/2013	15
October 2013	S011	11/28/2013	12/10/2013	12
May 2014	S011	06/28/2014	07/08/2014	10
June 2014	S011	07/28/2014	08/04/2014	7
September 2014	S011	10/28/2014	11/20/2014	23
October 2014	S011	11/28/2014	12/9/2014	11

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Attachment 4: Missing DMRs

Monitoring Period	Outfall
December 2012	S01S
December 2013	S01S
June 2014	S01S

Attachment 5

Masland Carpet
Atmore, Escambia County
AL0021997

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Effluent Violations	23	\$ 9,100.00	\$ -	\$ -
Failure to Submit DMRs	2	\$ 300.00	\$ 100.00	\$ -
Failure to Notify Department regarding unpermitted Discharge	1	\$ 4,000.00	\$ 2,000.00	\$ -
Unpermitted Discharge	1	\$ 7,500.00	\$ 7,500.00	\$ -
Water Quality Violations (bottom deposits and floating solids)	2	\$ 20,000.00	\$ -	\$ -

\$40,900.00	\$9,600.00	\$0.00
Total (A)	Total (B)	Total (C)
Base Penalty Total [Total (A) + Total (B) + Total (C)]		\$50,500.00
Mitigating Factors (-)		
Economic Benefit (+)		\$0.00
Ability to Pay (-)		
Other Factors (+/-)		
INITIAL PENALTY		\$50,500.00
Total Adjustments (+/-)		-\$10,500.00
FINAL PENALTY		\$40,000.00

Additional Adjustments due to negotiations, receipt of additional information, or public comment	
Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	-\$10,500.00
Total Adjustments (+/-)	-\$10,500.00

Footnotes

*See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors