

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

BENNY DAVIS AND
WILLIAM MIMS d/b/a
SUB-TERRA RENTALS & LIQUIDATORS
COLUMBIANA, ALABAMA

ORDER NO. 85-010-AP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, § 22-22A-1 et seq., Code of Alabama 1975 (1983 Cum. Supp.) and the Alabama Air Pollution Control Act, § 22-28-1 et seq., Code of Alabama 1975, as amended, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Benny Davis and William Mims operate a junkyard on Alabama Highway 25, near Columbiana, in Shelby County, Alabama, under the name Sub-Terra Rentals and Liquidators (hereinafter, "Sub-Terra").

2. The Department's Air Pollution Control Regulations, specifically Part 3.1 thereof, prohibit the open burning of materials, with certain enumerated exceptions. None of the exceptions to the prohibition against open fires contained in Sections 3.1.1 through 3.1.10 of the Regulations are applicable to the operations conducted at the Sub-Terra junkyard with the

exception of Section 3.1.8 allowing "[f]ires set in salamanders or other devices used by construction or other workers for heating purposes."

3. Since January of 1981, the Department has observed six violations of Part 3.1 of the Department's Air Pollution Control Regulations because of the open burning of materials at the Sub-Terra junkyard, the last observed violation occurring on July 25, 1984.

4. On February 4, 1981 and April 8, 1982, Sub-Terra received warning letters concerning violations of Part 3.1 of the Department's Air Pollution Control Regulations.

5. On January 11, 1983, following their request to be permitted to do so, Sub-Terra was informed by telephone by the Department that the open burning of scrap material is prohibited by the Department's Air Pollution Control Regulations,

6. On July 18 and 25, 1984, two violations of Part 3.1 of the Department's Air Pollution Control Regulations were observed at the Sub-Terra junkyard because of the open burning of scrap materials.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to § 22-22A-5(10) and § 22-28-10(2) Code of Alabama 1975, as amended, it is hereby ORDERED:

A. That Sub-Terra Rentals and Liquidators shall:

(1) Extinguish all ongoing fires and eliminate all visible emissions or smoke from fires at the junkyard not later than seven days following receipt of this Order;

(2) Henceforth conduct or permit no open burning whatsoever at the Sub-Terra junkyard near Columbiana, with the exception of small fires for warming purposes only, as permitted by Section 3.1.8 of the Department's Air Pollution Control Regulations;

(3) Not later than 120 days of receipt of this Order, provide at the Sub-Terra Columbiana site a system for extinguishing prohibited fires, including:

(a) the installation of 1 1/2 inch water lines throughout the yard. Sufficient hydrants and flexible hoses must be present to effectively reach and spray any machine, building or other work area on the yard; or,

(b) the installation of a mobile or fixed water storage tank with sufficient pump, hose and nozzle combination to effectively reach and spray any work area on the yard. Minimum capacity of the tank shall be 500 gallons if mobile or 5,000 gallons if fixed;

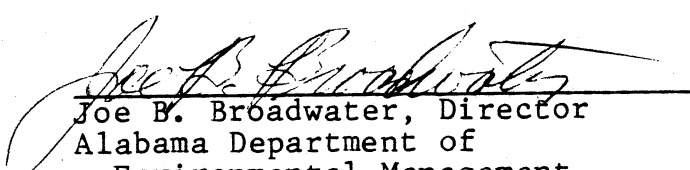
(4) Submit written progress reports to the Department postmarked not later than December 15, 1984, January 15, 1985 and February 28, 1985, describing the progress in installation of the fire extinguishing system as of the date of the report as well as the work remaining to be done. Reports shall be addressed to: Chief, Air Division, Alabama Department of Environmental Management, 1751 Federal Drive, Montgomery, Alabama 36130;

(5) Notify the Department's Air Division of any open burning conducted at the Sub-Terra junkyard, except that authorized by Section 3.1.8 of the Department's Air Pollution Control Regulations, by telephone [(205) 271-7861] within twelve (12) hours and in writing postmarked within seventy-two (72) hours of such open burning. Any such notification shall not serve to authorize or excuse any violation of Part 3.1 of the Department's Air Pollution Control Regulations.

B. Any open burning of scrap material at the Sub-Terra junkyard, whether accidental or otherwise, shall be deemed a violation of applicable regulations unless yard personnel proceed immediately upon learning of the burning to actively extinguish the fire(s).

Failure to comply with any provision of this Order shall constitute cause for the commencement of legal action by the Department against Sub-Terra for the recovery of civil penalties, criminal fines, or other appropriate relief.

ORDERED and ISSUED this 31st day of October 1984.


Joe B. Broadwater, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I hereby certify that I have served Order No. 85-010-AP upon Sub-Terra Investments by sending the same, postage paid, through the United States Mail as Certified Mail, with the instructions to forward and return receipt requested, to:

Mr. Benny Davis
Sub-Terra Investments
P.O. Box 1363
Columbiana, Alabama 35051

and

Mr. William J. Mims
1949 Braddock Drive
Birmingham, Alabama 35226

Done this 29th day of November 1984.

KJA 11/29/84 Sub

PS Form 3811, July 1983

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☒ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:
Mr. William J. Mims
1949 Braddock Drive
Birmingham, Alabama 35226

4. Type of Service: Article Number
☐ Registered ☐ Insured
☒ Certified ☐ COD **54714**
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *W J Mims*

6. Signature - Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

NOV 29 1984
BIRMINGHAM, AL 35201
USPS

KJA 11/29/84 Sub-Terra Final Order

PS Form 3811, July 1983

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☒ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:
Mr. Benny Davis
Sub-Terra Investments
P.O. Box 1363
Columbiana, AL 35051

4. Type of Service: Article Number
☐ Registered ☐ Insured
☒ Certified ☐ COD **54715**
☐ Express Mail

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *Benny Davis*

6. Signature - Agent
X

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

NOV 29 1984
COLUMBIANA, AL 35051
USPS