

ADEM



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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ONIS "TREY" GLENN, III, P.E.

DIRECTOR

BOB RILEY

GOVERNOR

September 28, 2006

CERTIFIED MAIL

7004 2890 0000 4835 7290

JOHN HALL

776 DOWNTOWNER LOOP WEST

MOBILE AL 36609

RE: ADMINISTRATIVE ORDER 06-101-MNPS
Fontaine Woods
Mobile County (097)
Proposed NPDES ALR16A391
TIS, R1W, S15 Oak Leaf Drive - off Hwy 43 North

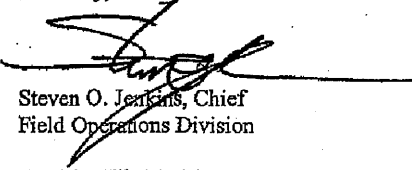
Dear Mr. Hall:

Enclosed please find the above-referenced Administrative Order which requires certain actions to be taken regarding violations of applicable environmental laws and regulations. In issuing this Order, the Department took into consideration all available information concerning these violations, including any written response or oral comments submitted on behalf of the operator/owner.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to \$25,000 per day for each violation as well as possible criminal penalties. Pursuant to Code of Alabama 1975, §22-22A-7(c)(1) this Order may be appealed by filing a request for hearing before the Environmental Management Commission within 30 days after receiving this Order. The request should be addressed to the Chair of the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Div. 2, Environmental Management Commission regulations can be viewed or downloaded from ADEM's WebPage at <http://www.adem.state.al.us/Regulations/regulations.htm> or may be obtained by submitting a request in writing to the attention of Diane McKeithen, ADEM Permits & Services Division.

Should you have any questions concerning this matter, please contact Don Mroczko, Mobile Branch, Coastal/Facility Section, by email at dmroczko@adem.state.al.us or by phone at (251) 432-6533.

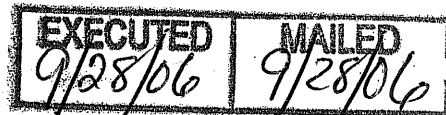
Sincerely,


Steven O. Jenkins, Chief
Field Operations Division

SOJ/sbc File:EUO/

c: Water Management Division, EPA Region IV
Office of Public Affairs, ADEM

Enclosure: Copy of Final Order



Birmingham Branch
110 Vulcan Road
Birmingham, Alabama 35209-4702
(205) 942-6166
(205) 941-1603 [Fax]

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, Alabama 35603-1333
(256) 353-1713
(256) 340-6359 [Fax]

Mobile Branch
2204 Perimeter Road
Mobile, Alabama 36615-1131
(251) 450-3400
(251) 479-2593 [Fax]

Mobile - Coastal
4171 Commanders Drive
Mobile, Alabama 36615-1421
(251) 432-6533
(251) 432-6596 [Fax]



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ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

JOHN HALL
AXIS, T1S, R1W, S15
MOBILE COUNTY, ALABAMA
Proposed NPDES ALR16A391

ORDER 06-101-MNPS

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (1997 Rplc. Vol. and 2005 Cum. Supp.), Alabama Water Pollution Control Act (hereinafter "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (1997 Rplc. Vol.), the Alabama Department of Environmental Management (hereinafter "Department" or "ADEM") Administrative Code of Regulations (hereinafter "ADEM Admin. Code R.") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Department makes the following FINDINGS:

1. John Hall (hereinafter "Operator"), is a developer constructing the residential subdivision, Fontaine Woods (hereinafter "Facility") located in T1S, R1W, S15 in Axis, Mobile County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to Turtle Branch, a water of the State, classified for Fish & Wildlife.

2. The following acronyms are used in this Order and, when used, shall have the meaning of the name or title referenced below.

BMPs	Best Management Practices
CBMPP	Construction Best Management Practices Plan

NOR	Notice of Registration
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
PE	Professional Engineer licensed to practice in the State of Alabama
P-Form	Preliminary Inspection Report Transmittal Form
QCI	ADEM-recognized Qualified Credentialed Inspector
QCP	ADEM-recognized Qualified Credentialed Professional

3. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala. Code (1997 Rplc. Vol. and 2005 Cum. Supp.).

4. Pursuant to ADEM Admin. Code R. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to submit to the Department an NOR in order to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

5. During an inspection of the Facility on March 7, 2006, the Department documented that the Operator had not registered for and obtained NPDES coverage prior to commencing regulated disturbance activities.

6. On March 9, 2006, the Operator submitted to the Department an NOR requesting registration of NPDES coverage under ADEM Admin. Code Ch. 335-6-12 for regulated disturbance activities and discharges of treated stormwater from the Facility. The NOR was not complete, and the Operator was notified of the deficiencies by letter on March 16, 2006. As of August 18, 2006, the requested corrections to the NOR had not been submitted by the Operator, and registration had not been granted by the Department.

7. Pursuant to ADEM Admin. Code R. 335-6-12-.05(2), all NPDES construction sites/activities and noncoal mining sites/activities less than five (5) acres in size in Alabama are required to fully implement and regularly maintain effective BMPs to the maximum extent practicable and in accordance with the Operator's CBMPP that has been prepared by a PE or QCP.

8. During an inspection of the Facility on March 7, 2006, the Department documented that the Operator had not properly implemented and maintained effective BMPs, resulting in discharges of sediment and other pollutants in stormwater runoff to Turtle Branch.

9. During the March 7, 2006, inspection, a P-Form, along with a copy of a preliminary inspection report, was provided by the Department to the Operator. Also, on March 16, 2006, a Warning Letter was hand delivered to the Operator by the Department as a result of the March 7, 2006, inspection. The Warning Letter notified the Operator of deficiencies documented at the Facility, requested the Operator to register for NPDES coverage, and requested the Operator to submit to the Department a copy of a CBMPP for the Facility within seven (7) days of receipt of the Warning Letter. The Warning Letter also requested the Operator to submit to the Department certification by a QCP that all deficiencies at the Facility had been corrected within thirty (30) days of receipt of the Warning Letter.

10. On April 13, 2006, the Department sent an NOV to notify the Operator that the response to the March 16, 2006, Warning Letter did not adequately address measures to correct previously identified deficiencies at the Facility. The NOV

requested the Operator to register for NPDES coverage, and to submit to the Department a copy of the CBMPP within fourteen (14) days of receipt of the NOV. The NOV also requested the Operator to submit to the Department certification by a QCP that all deficiencies at the Facility had been corrected within twenty-one (21) days of receipt of the NOV.

11. As of August 18, 2006, neither the complete NOR, the CBMPP, nor the QCP certification had been submitted to the Department.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (1997 Rplc. Vol. and 2005 Cum. Supp.), it is hereby ORDERED:

A. That, unless relieved of this requirement in writing by the Department, the Operator shall, immediately upon receipt of this Order, cease all regulated disturbance and related activity at the Facility other than BMP implementation and maintenance until an NOR for the Facility is submitted to the Department pursuant to the requirements of ADEM Admin. Code Ch. 335-6-12, and has been approved by the Department. Regulated disturbance and related activity at the Facility other than BMP implementation and maintenance is not authorized to resume until approved in writing by the Department.

B. That, immediately upon receipt of this Order and continuing thereafter, the Operator shall fully implement and maintain temporary BMPs to prevent/minimize to the maximum extent practicable sediment and other pollutants in stormwater leaving the

Facility, prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State, and ensure full compliance with the requirements of ADEM Admin. Code Ch. 335-6-12.

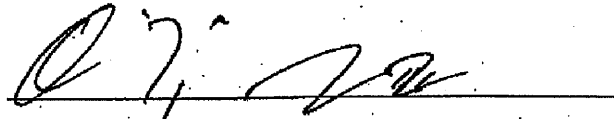
C. Should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

D. Except as otherwise set forth herein, this 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 Operator of the Operator's obligations to comply in the future with any permit coverage.

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

F. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Operator for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 28th day of September, 2006.



Onis "Trey" Glenn, III, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, Steven O. Jenkins, do hereby certify that I have served the Final Administrative Order 06-101-MNPS upon the person listed below by sending the same, postage paid, through the United States Mail certified mail receipt# 7004 2890 0000 4835 7290, with instructions to forward and return receipt, to:

John Hall
766 Downtowner Loop West
Mobile, AL 36609

DONE this 28th day of September, 2006.



Steven O. Jenkins
Chief, Field Operations Division
Alabama Department of Environmental Management