

LANCE R. LEFLEUR  
DIRECTOR



ROBERT J. BENTLEY  
GOVERNOR

Alabama Department of Environmental Management  
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

September 25, 2013

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

JAMES MOORE  
7551 WILLIAM HOWTON ROAD  
MULGA AL 35118

RE: Administrative Order 13-147-LD  
Unpermitted FID# 50711.1  
Tuscaloosa County (125)  
Heritage Drive Site

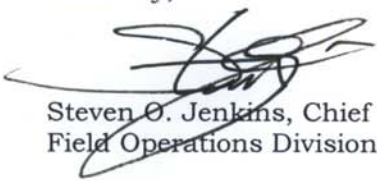
Dear Mr. Moore:

Please find enclosed an Administrative Order which requires you to immediately **stop work** on all construction, building, land disturbance and related activity, except as need to address the alleged violations of the Alabama Water Pollution Control Act. The Unilateral Order has been issued without the consent of the responsible parties. This order does not assess a civil penalty.

Pursuant to §§22-22A-(7)(c)1, Code of Alabama (1975), as amended, this Order may be appealed by filing a request for a hearing within 30 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and must comply with the requirements of ADEM Admin. Code r. 335-2-1-.04, copies of which may be obtained by submitting a written request to the attention of Molly Tatum, ADEM-Permits and Services Division. Rule 335-2-1-.04 is also available online at the Department's website at <http://www.adem.state.al.us/alEnviroRegLaws/files/Div2Eff5-26-09.pdf>.

If you have questions regarding this matter, please contact Evan Roberts by email at [elroberts@adem.state.al.us](mailto:elroberts@adem.state.al.us) or by phone at 205-942-6168.

Sincerely,

  
Steven O. Jenkins, Chief  
Field Operations Division

SOJ/deh

File: EUO/XXX

Enclosure

cc: Thomas L. Johnston, ADEM  
Valerie Jackson, ADEM  
Scott Hughes, ADEM  
Birmingham Branch, ADEM

Birmingham Branch  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1603 (FAX)

Decatur Branch  
2715 Sandlin Road, S.W.  
Decatur, AL 35603-1333  
(256) 353-1713  
(256) 340-9359 (FAX)



Mobile Branch  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (FAX)

Mobile-Coastal  
3664 Dauphin Street, Suite B  
Mobile, AL 36608  
(251) 304-1176  
(251) 304-1189 (FAX)

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

JAMES MOORE  
HERITAGE DRIVE SITE  
MCCALLA, T20S, R5W, S32  
TUSCALOOSA COUNTY, ALABAMA  
UNPERMITTED FACILITY# 50711.1

ORDER 13-147-LD

FINDINGS

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 "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management [hereinafter "Department"] makes the following FINDINGS:

1. James Moore (hereinafter "Operator"), is the owner of, and operator at the construction site, Heritage Drive Site (hereinafter "Facility") located on Heritage Drive in the City of McCalla, Tuscaloosa County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to an unnamed tributary to Mud Creek, a water of the State.

2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala. Code (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (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 Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.).



4. The following references and acronyms are used in this Administrative 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
NOI	Notice of Intent
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional

5. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to submit to the Department an NOI in order to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

6. During an inspection of the Facility on August 7, 2013, the Department documented that the Operator had not registered for and obtained NPDES coverage and that regulated disturbance activities and/or discharges were occurring in violation of ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1).

7. ADEM Admin. Code r. 335-6-12-.21(1) provides that commencement and/or continuation of NPDES construction activity is prohibited unless effective BMPs are implemented and maintained in accordance with a CBMPP prepared/certified by a QCP as adequate to meet the requirements ADEM Admin Code chap. 335-6-12 and applicable requirements of ADEM Administrative Code Division 335-6. The CBMPP and any BMPs shall meet or exceed the technical standards of ADEM Admin. Code chap. 335-6-12, and the Alabama Handbook For Erosion Control, Sediment Control, And Stormwater Management On Construction Sites And Urban Areas published by the Alabama Soil and Water Conservation Committee (hereinafter the "Alabama Handbook").

8. During the August 7, 2013, inspection of the Facility, the Department documented that the Operator had not properly implemented and maintained effective BMPs, although NPDES construction activity was continuing, in violation of ADEM Admin. Code r. 335-6-12-.21(1).

9. ADEM Admin. Code r. 335-6-12-.35(10) requires operators to promptly take all reasonable steps to determine the nature and impact of non-complying discharges, and to remove, to the maximum extent practical, pollutants deposited offsite or in any waterbody.

10. During the August 7, 2013, inspection of the Facility, the Department documented accumulations of sediment resulting from discharges at the Facility had been deposited in an unnamed tributary to Mud Creek, in violation of ADEM Admin. Code r. 335-6-12-.35(10).

11. On August 19, 2013, a NOV was sent to the Operator by the Department as a result of the August 7, 2013 inspection. The NOV notified the Operator of deficiencies documented at the Facility.

#### **ORDER**

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-5(10), 22-22A-5(12), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That the Operator shall **IMMEDIATELY CEASE** all construction, building, production, and related activity at the Facility other than BMP implementation / maintenance, and sediment removal / remediation. Construction and related activity other than BMP implementation / maintenance, and sediment removal / remediation is not authorized to resume until approved in writing by the Department.

B. That the Operator shall take immediate action to prevent, to the maximum extent practicable, sediment and other pollutants in stormwater leaving the Facility and prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State.

C. That, within five days of issuance of this Administrative Order, the Operator shall submit to the Department a complete NOI. The NOI, including the appropriate permit fees, should be submitted electronically via the e-NOI system for the NPDES Construction General Permit on the ADEM website at <https://app.adem.alabama.gov/eNOI/>.

D. That, within five (5) days of issuance of this Administrative Order, the Operator shall have a QCP perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters.



E. That, within ten (10) days of issuance of this Administrative Order, the Operator shall submit to the Department the results of the QCP comprehensive inspection and a plan to return the Facility, offsite conveyances, and affected State waters to compliance with Permit requirements.

F. That, within thirty (30) days of issuance of this Administrative Order, the Operator shall fully implement effective BMPs, designed by a QCP, that meet or exceed the technical standards outlined in the Alabama Handbook, the site CBMPP plan, and the Permit, and correct all deficiencies at the Facility and offsite conveyances, including sediment removal or remediation.

G. That, within seven (7) days of the completion of the activities required in F above, the Operator shall submit to the Department a certification signed by the QCP that effective BMPs that meet or exceed the technical standards outlined in the Alabama Handbook, the site CBMPP plan, and the Permit have been implemented, all deficiencies have been corrected, and full compliance with the requirements of the Permit has been achieved at the Facility, offsite conveyances, and affected State waters.

H. That this Administrative Order does not affect the Operator's obligation to comply with any Federal, State, or local laws or regulations.

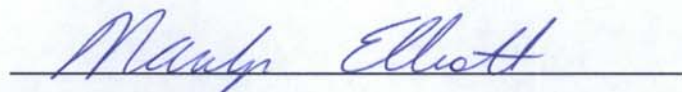
I. That, should any provision of this Administrative Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and, therefore, unenforceable, the remaining provisions herein shall remain in full force and effect.

J. That, except as otherwise set forth herein, the 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.

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

L. 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 25<sup>th</sup> day of September, 2013.



Lance R. LeFleur, 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 executed Administrative Order Number 13-147-LD upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt #91 7199 9991 7032 3109 9057, with instructions to forward and return receipt, to:

**James Moore**  
**7551 William Howton Road**  
**Mulga AL 35118**

Done this 25<sup>TH</sup> day of September, 2013.

A handwritten signature in black ink, appearing to be 'S. O. Jenkins', written over a horizontal line.

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