

IN THE MATTER OF

OTIS FREEMAN

d/b/a OTIS FREEMAN LOGGING

TUSCALOOSA COUNTY, ALABAMA

ORDER NO. 95-033-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975) §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), and the Alabama Water Pollution Control Act, Code of Alabama (1975) §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.), the Alabama Department of Environmental Management (the Department) makes the following FINDINGS:

1. Mr. Otis Freeman (Freeman) d/b/a Otis Freeman Logging operates or operated a timber harvesting operation (the operation) along Bluff Creek and unnamed tributaries of Bluff Creek in Section 4 of Township 20 South of Range 8 West in Tuscaloosa County, Alabama.

2. Bluff Creek and the unnamed tributaries of Bluff Creek are waters of the State.

3. Section 22-22-9(i), Code of Alabama 1975 (1990 Rplc. Vol.) prohibits the discharge of any pollutant by any person into a water of the State without a permit.

4. Freeman does not have a permit to discharge pollutants into Bluff Creek, its unnamed tributaries, or any other water of the State.

5. On September 12, 1994, Department personnel inspected the operation along Bluff Creek and its tributaries.

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6. As a result of his logging operation, Freeman had discharged tree tops, brush, and sediment into Bluff Creek and its unnamed tributaries, waters of the State.

7. On June 24, 1994, as a result of a separate timber harvesting operation conducted along Sellers Creek and unnamed tributaries of Sellers Creek in Tuscaloosa County, Alabama, Freeman received a Notice of Violation (NOV) for the unpermitted discharge of sediment, wood debris, and other pollutants to waters of the State.

8. The NOV noted that Freeman had not used Alabama's Best Management Practices (BMPs) for Forestry at the Sellers Creek site. It also put Freeman on notice that the unpermitted discharge of pollutants to waters of the State, which resulted in large part from Freeman's failure to implement Alabama's BMPS, was a violation of Alabama's Water Pollution Control Act.

9. Despite this notice, Freeman failed to implement BMPs at the Bluff Creek operation.

ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16 and 22-22-1 through 22-22-14 (1990 Rplc. Vol.), it is hereby ORDERED:

A. That immediately upon receipt or notice of this Order, Freeman shall cease all unpermitted discharges of sediment, slash, or other pollutants to Bluff Creek, its unnamed tributaries, or to any other water of the State.

B. That within 30 days of receipt or notice of this Order, Freeman shall submit to the Department a reclamation plan prepared and certified by a professional forester registered in the State of Alabama. Said plan shall detail how the discharged pollutants (sediment, slash, and other logging debris) will be removed from all impacted streams and shall detail the precautions that will be taken to ensure water quality during the reclamation. During the removal activity, no heavy equipment will be allowed in the streams and the plan shall so state. Additionally, the plan shall provide for the stabilization and revegetation of all disturbed areas with the potential to affect water quality. If the plan submitted to the Department is not sufficient to accomplish the aforementioned goals, it will be amended by Freeman until it does. Alternatively, the Department, at its discretion, may unilaterally modify the plan to the extent necessary to accomplish those goals.

C. That Freeman shall implement the approved reclamation plan in accordance with the provisions contained therein.

D. That within 20 days after approval of the plan by the Department, Freeman shall have fully and completely implemented the reclamation plan and shall have completely removed all discharged material from the impacted streams.

E. That any reclamation attempted prior to receipt or notice of this Order shall be conformed to the approved plan.

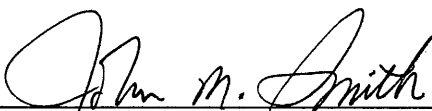
F. That within five days after completion of the reclamation, Freeman shall certify to the Department that the

reclamation has been accomplished in accordance with the approved plan. Said certification shall be prepared and signed by a professional forester registered in the State of Alabama.

G. That failure to comply fully with the terms and conditions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against Freeman.

H. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate relief against Freeman for the violations identified herein.

ORDERED and ISSUED this 19th day of January, 1995.



John M. Smith, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, G. Keith Clark, hereby certify that I have served Administrative Order No. 95-033-WP upon Otis Freeman d/b/a Otis Freeman Logging by sending the same postage paid, through the U.S. Mail, as Certified Mail, with instructions to forward and return receipt requested to:

CERTIFIED MAIL NO. (Z 073 536 254)

Otis Freeman
Otis Freeman Logging
Route 3, Box 277
Northport, AL 35476

DONE this 20th day of January, 1995.

A handwritten signature in cursive script, reading "G. Keith Clark", written over a horizontal line.

G. Keith Clark