

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

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Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

March 27, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

BOBBY SMITH, JR.
SBE DEVELOPMENT, LLC
100 FOUR STAR LANE
ODENVILLE AL 35120

RE: Administrative Order 13-080-LD
NPDES No. ALR108957
St. Clair County (115)
Market Place at Legacy Springs

Dear Mr. Smith:

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 Josh Therrien by email at jtherrien@adem.state.al.us or by phone at 205-942-6168.

Sincerely,

Steven O. Jenkins, Chief
Field Operations Division

SOJ/deh

File: EUO/38378

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
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

SBE DEVELOPMENT, LLC
MARKET PLACE AT LEGACY SPRINGS
SPRINGVILLE, T14S, R2E, S32
ST CLAIR COUNTY, ALABAMA
NPDES AUTHORIZATION NO. ALR108957

ORDER 13-080-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 r.") 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. SBE Development, LLC (hereinafter "Operator") is an Alabama developer constructing the residential subdivision development, Market Place at Legacy Springs (hereinafter "Facility") located off of Highway 174, in the City of Springville, St Clair 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 Big Canoe 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 AWPCA, Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.).

4. The following references and 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 |
| NOI | Notice of Intent |
| NOV | Notice of Violation |
| NPDES | National Pollutant Discharge Elimination System |
| QCP | ADEM-recognized Qualified Credentialed Professional |
| WL | Warning Letter |

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

6. On March 2, 2012, the Operator submitted to the Department an NOI requesting NPDES coverage under NPDES General Permit ALR100000 (hereinafter, "Permit") for regulated disturbance activities and discharges of treated stormwater from the Facility. The Department granted authorization ALR108957 to the Operator on March 2, 2012. The Permit will expire on March 31, 2016.

7. Pursuant to Part III. A. of the Permit, the permittee shall design, install, and maintain effective erosion controls and sediment controls, appropriate for site conditions. Sediment control measures, erosion control measures, and other site management practices must be properly selected based on site-specific conditions, must meet or exceed the technical standards outlined in the Alabama Handbook and the site-specific CBMPP prepared in accordance with Part III. D.

8. Pursuant to Part III. D. of the Permit, construction activity may not commence until a CBMPP has been prepared in a format acceptable to the Department and certified by a QCP as adequate to meet the requirements of the Permit. The Permittee shall properly implement and regularly maintain the controls, practices, devices, and measures specified in the CBMPP.

9. During inspections of the Facility on September 14, 2012, and January 11, 2013, the Department documented that the Operator had not properly implemented and maintained

effective BMPs, although NPDES construction activity had commenced and was continuing, in violation of Part III. A. and D. of the Permit.

10. On September 20, 2012, a WL was sent to the Operator by the Department as a result of the September 14, 2012 inspection. The WL notified the Operator of deficiencies documented at the Facility, and required the Operator to submit to the Department, within ten days of receipt of the WL, a response showing steps that were taken at the Facility to correct the noted deficiencies. The required report was received on October 24, 2012.

11. On February 25, 2013, a NOV was sent to the Operator by the Department as a result of the January 11, 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 Order, the Operator shall have a QCP perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters.

D. That, within ten days of issuance of this 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.

E. That, within thirty days of issuance of this 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.

F. That, within seven days of the completion of the activities required in E 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.

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

H. That, 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 herein shall remain in full force and effect.

I. That, 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.

J. 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.

K. 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 27th day of March, 2013

Marilyn Elliott

Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

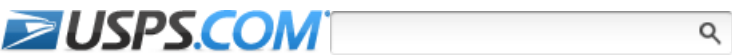
I, Steven O. Jenkins, do hereby certify that I have served the executed Administrative Order Number 13-080-LD upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt #91 7199 9991 7030 3431 2278, with instructions to forward and return receipt, to:

**Bobby Smith, Jr.
SBE Development, LLC
100 Four Star Lane
Odenville AL 35120**

Done this 27th day of March, 2013.



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




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