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Stormwater Enforcement: Alabama Department of Environmental Management and Jefferson County Developer Enter into Consent Order

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The Alabama Department of Environmental Management (“ADEM”) and USS Real Estate (“USS”) entered into a Consent Order (“CO”) addressing alleged violations of an NPDES General Permit (Stormwater) (“Permit”).

The CO provides that USS is a developer undertaking a residential subdivision development (“Facility”) in Jefferson County, Alabama.

Construction of the Facility is stated to have the potential to discharge sediment and other pollutants in stormwater runoff to an unnamed tributary to Hurricane Branch (a water of the State).

USS is stated to have submitted to ADEM a Notice of Intent (“NOI”) requesting NPDES coverage under NPDES General Permit ALR100000 for regulated disturbance activities and discharges of treated stormwater from the Facility. Authorization was granted for the Permit.

ADEM is stated to have observed during inspections of the Facility on August 8, 2019, February 6, 2020, and July 1, 2020, that USS had not properly implemented and maintained effective Best Management Practices (“BMPs”) in violation of the Permit. Further, the CO provides that during the previously referenced inspections significant accumulations of sediment resulting from discharges at the Facility were observed by ADEM discharging to Hurricane Branch.

The CO indicates that water samples from the discharge of the Facility registered a turbidity of 1.41 NTUs, upstream of the Facility, and a turbidity of 309 NTUs downstream from the Facility (per the August 8th inspection). During the July 1, 2020, inspection, ADEM is stated to have analyzed water samples collected from the discharge of the Facility that indicated turbidity of 69.7 NTUs, upstream of the Facility, and a turbidity of 172 NTUs downstream from the Facility.

ADEM is stated to have sent a Non-Compliance letter to USS on February 18, 2020. USS provided a response on March 25, 2020, outlining corrective measures that would be implemented to correct the noted violations.

USS neither admits nor denies the ADEM allegations.

USS is stated to have indicated that there is no evidence of any sediment accumulation or other impacts to Hurricane Branch or any other location offsite. In addition, the company references a follow-site inspection by ADEM which noted no significant deficiencies. Spectrum Environmental (which conducts

monthly QCP inspections at The Preserve) was requested to conduct an April 2020 inspection. It is stated to have provided a document indicating that the Facility was in compliance.

ADEM's February 6, 2020, inspection was stated by USS to have been conducted in the midst of a rain event that exceeded the 2-year, 24-hour design storm event for Jefferson County. The accumulated rainfall is stated to have been expected to be problematic for the BMPs to perform as designed under such circumstances.

Spectrum also performed a routine monthly QCP inspection following ADEM's July 1, 2020, inspection. It is stated to have documented that required BMPs were in place and the site stabilized.

A civil penalty of \$26,900 is assessed.

A copy of the CO can be downloaded [here](#).