Stormwater Construction Enforcement: Alabama Department of Environmental Management and Baldwin County Construction Project Operator Enter into Order by Consent

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The Alabama Department of Environmental Management and Waverly Construction of Alabama LLC ("WC") entered into a January 8th Special Order by Consent ("Order") addressing alleged violations of an Alabama Construction Stormwater Permit. See Order 26-XXX-CLD.

The Order provides that WC is constructing a residential development in Baldwin County, Alabama.

The residential development is stated to be Roans Creek ("Facility").

The Facility is stated to have sediment and other pollutants in stormwater runoff from the Facility and have the potential to discharge and/or have discharged to a water of the State.

WC is stated to have submitted to ADEM a Notice of Intent ("NOI") in 2024 requesting coverage under NPDES General Permit ALR10000 for regulated disturbance activities and discharges of treated stormwater from the Facility.

ADEM personnel are stated to have observed and documented during a March 19, 2025, inspection that WC ad caused and contributed to a substantial visible contrast with the natural appearance of the receiving water in violation of the Permit. A Notice of Violation ("NOV") is stated to have been sent to WC notifying it of the definitions and requesting steps be taken to correct the alleged violations. The report was received by ADEM on April 18, 2025.

ADEM during an inspection on September 25, 2025 is stated to have observed and documented that although NPDES construction activity had commenced and was continuing, the WC Operator had not properly implemented and maintained effective BMPs in violation of the Permit.

WC is stated to have caused and contributed to a substantial visible contrast with the natural appearance of the receiving water and caused and contributed to an increase of turbidity to the receiving water by more than 50 NTU's above background in violation of the Permit. Further, ADEM is stated to have observed and documented pollutants deposited offsite in a waterboy in violation of the Permit. An additional NOV is stated to have been sent to WC.

WC states in general that:

- Non-compliant discharges did not have any irreparable harm to the environment or threat to the public and cleared up quickly.
- A diligent attempt to comply has been the on-going effort at the facility and that many additional BMPs have been implemented and maintained to minimize the pollutants in the runoff.
- No cost was avoided in association with the proper implementation and maintenance of BMPs.
- The compliance effort was serious and diligent and has taken all available efforts to minimize and mitigate the effects of the discharge allowed by the facility conditions and to protect the environment to the maximum extent practicable as soon as the conditions on the facility are allowed.

A civil penalty of $32,800 is assessed. Further, the Order requires that WC take certain steps pursuant to a time period related to stormwater control activities.

A copy of the Order can be downloaded here.