



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Stormwater Enforcement: Alabama Department of Environmental Management and Baldwin County Residential Developer Enter into Special Order by Consent

10/17/2022

The Alabama Department of Environmental Management (“ADEM”) and DR Horton Inc. – Birmingham (“DR”) entered into a September 21st Special Order by Consent (“Consent Order”) addressing alleged violations of an NPDES general permit associated with stormwater discharges. See Order 22-XXX-CLD.

The Consent Order provides that DR is an Operator constructing a residential development (“Facility”) in Baldwin County, Alabama.

Sediment and other pollutants in stormwater runoff from the facility are stated to have the potential to discharge and/or have discharged to an unnamed tributary to Fish River and Fish River, waters of the State.

DR is stated to have submitted to ADEM a Notice of Intent on March 9, 2020, requesting coverage under NPDES General Permit ALR10000 (“Permit”). Such permit applies to regulated disturbance activities and discharges of treated stormwater from the Facility.

ADEM personnel are stated to have conducted an inspection of the Facility on June 29 and observed and documented that, although NPDES construction activity had commenced and was continuing, DR had not properly implemented and maintained effective Best Management Practices (“BMPs”) in violations of Parts III.A. and E. of the Permit.

Such personnel are stated to have observed and documented that DR had contributed to an increase of more than 50 NTUs in turbidity and caused a substantial visual contrast in natural appearance of the receiving water in violation of Parts I. C. 10. And 11 of the Permit.

The Consent Order assesses a civil penalty of \$22,750. Further, DR is required to take immediate action to prevent, to the maximum extent practicable, sediments and other pollutants in the stormwater leaving the Facility and prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State.

The Consent Order also requires:

- Within five days of its issuance that DR have a Qualified Credentialed Professional (“QCP”) perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters

- Within 30 days of its issuance that DR fully implement effective BMPs designed by a QCP that meets or exceeds the technical standards outlined in the Alabama Handbook, the site Construction Best Management Practices Plan (“CBMPP”), and NPDES permit
- Within 7 days of the completion of the activities required in the immediately proceeding provision that DR submit to ADEM a certification signed by the QCP that effective BMPs meet or exceed technical standards in the Alabama Handbook, the site CBMPP plan, and NPDES permit have been implemented and all deficiencies corrected

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