



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

# Stormwater Enforcement: Alabama Department of Environmental Management and Operator Constructing Fairhope Commercial Development Enter into Special Order by Consent

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The Alabama Department of Environmental Management (“ADEM”) and RW Battles, LLC, (“RW”) entered into an October 12th Special Order by Consent (“Order”) addressing an alleged violation of the Alabama regulations implementing the Clean Water Act Stormwater Program.

RW is stated to be constructing a commercial development (Publix at Point Clear [“Facility”]) in Fairhope, Alabama.

Sediment and other pollutants in stormwater runoff from the Facility are stated to have the potential to discharge and/or have discharged to Point Clear Creek. Point Clear Creek is stated to be a water of the state.

RW is stated to have submitted to ADEM a Notice of Intent (“NOI”) on April 22, 2021, requesting NPDES coverage under NPDES General Permit ALR10000. This permit encompasses regulated disturbance activities and discharges of treated stormwater from the Facility. ADEM granted registration.

The Order provides that during an inspection of the Facility on September 24, 2021, ADEM observed and documented that:

. . . although NPDES construction activity had commenced and was continuing, the Operator had not properly implemented and maintained effective BMPs in violation of Parts III. A. and E. of the Permit.

ADEM personnel are stated to have observed and documented that RW had caused and contributed to a substantial visible contrast with the natural appearance of the receiving water in violation of Part I.D.10 of the Permit.

A warning letter was sent to RW as a result of the inspection. A required report was provided by RW to ADEM on October 22, 2021.

A July 13 inspection is stated to have identified failure to properly implement and maintain effective BMPs and have caused and contributed to a substantial visible contrast with natural appearances of the

receiving water. In addition, the activities are stated to have contributed to an increase in turbidity to the receiving water by more than 50 NTU's above background.

In response to a request by ADEM, RW prepared a report showing steps that were taken at the Facility to correct the previously referenced violations.

The Order assesses a civil penalty of \$13,200.

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