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Storm Water Enforcement: Alabama Department of Environmental Management and an Alabama LLC Conducting Land Grading Activities Enter into Consent Order

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The Alabama Department of Environmental Management (“ADEM”) and Thomas and Jackson Construction, LLC (“T and J”) entered into a December 12th Consent Order (“CO”) addressing alleged violations of a National Pollution Discharge Elimination System (“NPDES”) permit addressing storm water discharges.

The CO provides that T and J is an operator and a limited liability company that is:

...conducting land grading and disturbance activities at the Trojan Towne (hereinafter “Facility”) located in T09N, R21E, S04, off of U.S. Highway 231 in the city of Troy, Pike County, Alabama.

T and J is stated to have submitted to ADEM a Notice of Intent on June 15, 2016, requesting NPDES permit coverage under ADEM NPDES General Permit ALR100000. The request under the General Permit was for regulated disturbance activities and discharges of treated storm water from the facility. The Alabama agency granted authorization on June 22, 2016.

ADEM is stated to have conducted an inspection of the Facility on August 3, 2016. Alleged violations referenced by the CO include:

- Effective Best Management Practices not implemented and/or obtained
- Commencement/continuation of regulated activity prior to obtaining valid ADEM NPDES permit coverage
- Noncompliance with applicable ADEM rules and permit requirements

An additional ADEM inspection was conducted on September 19, 2017, which references alleged violations such as:

- Failure to implement and maintain effective Best Management Practices
- Accumulation of sediment resulting from discharges of the Facility observed offsite in a water of the state
- Unstabilized, raised crossing structure resulting in water quality impacts due to crossing structure, erosion, stream bank scour, sediment deposition, soil compaction and rutting

T and J neither admits nor denies ADEM’s allegations.

A civil penalty of \$18,000 is assessed. Further, the CO requires that T and J immediately upon the date of issuance of the document and thereafter “fully implement and maintain temporary BMPs to prevent/minimize to the maximum extent practicable noncompliant and/or permitted discharges of pollutants to waters of the state.”

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