

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Delta Oil Services, Inc.  
Northport, Tuscaloosa County, Alabama  
EPA Identification Number ALR000050955**

Consent Order No. 22-XXX-CHW/CWP

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Delta Oil Services, Inc. (“Delta”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (“AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the Alabama Water Pollution Control Act (“AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, as amended, and the regulations promulgated pursuant thereto.

**STIPULATIONS**

1. Delta is a used oil transporter (EPA ID NO. ALR000050955) located at 16787 Groundhog Road, Adger, Tuscaloosa County, Alabama. Alabama Used Oil Transport Permit No. ALR000050955 was issued on December 8, 2020, and will expire on December 7, 2023. Delta, as a result of its operations, was a used oil transporter, a used oil processor/re-refiner, a hazardous waste transporter, a hazardous waste treatment facility, and a hazardous waste storage facility, as those terms are defined in ADEM Admin. Code Div. 14, at all times relevant to this action.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.

3. Pursuant to Ala. Code § 22-22A-4(n), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended.

In addition, the Department is authorized to administer and enforce the provisions of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended. The Department is responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.

#### **DEPARTMENT'S CONTENTIONS**

4. On April 15, 2021, a release of used oil was discovered by Tuscaloosa County EMA and Northport Fire Department at Burgess Equipment Repair (EPA ID ALR000057117), located at 3325 Mitt Lary Road, in Northport, Alabama. Based on information obtained during the investigation, the Department has determined that the used oil was released from a Delta transport vehicle.

(a) Pursuant to ADEM Admin. Code r. 335-14-17-.05(c)1., in the event of a discharge of used oil during transportation, the transporter must take appropriate immediate action to protect human health and the environment. Pursuant to ADEM Admin. Code r. 335-14-17-.05(5)(c)5., a transporter must clean up any discharge of used oil that occurs during transportation or take such action as may be deemed necessary by the Department or its designee so that the used oil discharge no longer presents a hazard to human health or the environment.

Delta failed to clean up used oil released from one of its transport vehicles that was staged at the Burgess Equipment Repair site referenced above.

(b) Ala. Code § 22-22-9(i)(3) requires every person to apply for and obtain a permit before discharging any new or increased pollution into any waters of this state.

During the Department's April 16, 2021, investigation, the Department observed a sheen on an unnamed tributary to Carroll Creek, a water of the state, originating from the Delta truck release. Delta discharged pollutants to a water of the state without a permit in violation of Ala. Code § 22-22-9(i)(3).

(c) ADEM Admin. Code r. 335-6-10-.06(b) requires that state waters shall be free from floating debris, oil, scum, and other floating materials attributable to sewage, industrial wastes or other wastes in amounts sufficient to be unsightly or interfere directly or indirectly with any classified water use.

The discharge from the Delta truck release resulted in a floating oil sheen that violated the water quality criteria set forth in ADEM Admin. Code r. 335-6-10-.06 (b).

5. On May 6, 2021, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Delta's facility located in Adger, Alabama. The CEI and a review of Delta's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-17-.09, used oils that cannot be recycled and are therefore being disposed must be disposed of in a manner according to ADEM Admin. Code r. 335-14 or 335-13.

Delta disposed of used oil onto the ground at the Adger facility by not properly cleaning up releases of used oil in a timely manner.

(b) Pursuant to ADEM Admin. Code r. 335-14-17-.06(5)(f)1., containers and aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil".

Delta failed to label twenty totes and three aboveground tanks containing used oil with the words "Used Oil".

(c) Pursuant to ADEM Admin. Code r. 335-14-17-.06(5)(a)1., a container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

Delta failed to keep closed two totes that contained used oil.

(d) Pursuant to ADEM Admin. Code r. 335-14-17-.06(5)(c), containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

Delta failed to provide secondary containment for the storage of totes containing used oil.

(e) Pursuant to ADEM Admin. Code r. 335-14-17-.06(5)(b), containers and aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be in good condition and not leaking.

Delta stored used oil in three aboveground storage tanks that were not in good condition and were leaking.

(f) Pursuant to ADEM Admin. Code r. 335-14-17-.06(5)(d), existing aboveground used oil tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

Delta stored used oil in three aboveground used oil storage tanks that did not have a secondary containment system.

(g) In pertinent part, ADEM Admin. Code r. 335-14-17-.06(5)(g), provides that upon detection of a release of used oil to the environment, an owner /operator must perform cleanup steps.

Delta failed to clean up used oil released from a secondary containment drainage hose and from leaking aboveground storage tanks.

(h) Pursuant to ADEM Admin. Code r. 335-14-4-.01(2)(c), a non-rail transporter must not transport hazardous wastes without having received an Alabama Hazardous Waste Transport Permit in compliance with rules 335-14-8-.09 through 335-14-8-.13.

Delta transported hazardous waste (i.e., EPA Hazardous Waste No. D001) from a generator in Tuscaloosa without an Alabama Hazardous Waste Transporter Permit.

(i) ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for "storage" of any hazardous waste as identified or listed in Chapter 335-14-2.

Delta stored hazardous waste (i.e., EPA Hazardous Waste No. D001) from an off-site generator at the Adger facility without a permit.

(j) ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for “treatment” of any hazardous waste as identified or listed in Chapter 335-14-2.

Delta treated hazardous waste (i.e., EPA Hazardous Waste No. D001) from an off-site generator by mixing the hazardous waste with non-hazardous used oil in tanks at the Adger facility without a permit.

(k) Pursuant to ADEM Admin. Code r. 335-14-17-.05(3)(e), a used oil transporter whose base of operations is located in the State of Alabama must submit a correct and complete ADEM Form 8700-12 reflecting current used oil activities to the Department annually.

Delta failed to submit a Form 8700-12 to the Department for the year 2021.

6. On May 12, 2021, a representative of the Department’s Industrial Hazardous Waste Branch conducted a CEI of a transfer station operated by Delta located at 2940 Clements Road, Cottondale, Alabama. The CEI and a review of Delta’s compliance showed the following:

Pursuant to ADEM Admin. Code r. 335-14-8-.9(4)(b), a used oil transporter shall include the address and telephone number of any transfer facilities operated by the applicant in Alabama.

Delta failed to include a transfer station located at 2940 Clements Road, Cottondale, Alabama in its permit application.

7. On June 10, 2021, the Department issued a Notice of Violation to Delta, which cited violations of the hazardous waste regulations that were discovered during the CEI conducted on May 6, 2021, and May 12, 2021.

8. On July 15, 2021, the Department received Delta’s response to the aforementioned Notice of Violation.

9. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s),

including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** In arriving at the civil penalty, the Department considered the general nature and magnitude of the violation(s) along with the available evidence of irreparable harm to the environment and threat to the health or safety of the public.

(b) **STANDARD OF CARE:** In considering the standard of care manifested by Delta, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Delta failed to exhibit a standard of care commensurate with the applicable regulatory standards.

(c) **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that there was no significant economic benefit gained by Delta as a result of the violations referenced herein.

(d) **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT:** There are no known environmental effects to mitigate as a result of the alleged violations.

(e) **HISTORY OF PREVIOUS VIOLATIONS:** Based on a review of Department records, Delta has no history of previous violations.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that Delta is unable to pay the civil penalty.

(g) OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty that is warranted in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation (see Attachment A, which is made a part of the Department's Contentions).

10. The Department neither admits nor denies Delta's contentions, which are set forth below. The Department has agreed to the terms of this Special Order by Consent in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Special Order by Consent are in the best interest of the citizens of Alabama.

#### **FACILITY'S CONTENTIONS**

11. Delta Denies the Contentions of the department but consents to abide by the terms of this Special Order by Consent and pay the Civil penalty assessed herein to avoid further litigation with the Department. Delta's consent to this penalty should not be considered an admission on their part to any of the alleged violations."

#### **ORDER**

Therefore, without admitting that it has violated any statutes or regulations, Delta, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c. , as amended, as well as the need for timely and effective enforcement. The Department believes that the following conditions are appropriate to

address the violations alleged herein. Therefore, the Department and Delta agree to enter into this Special Order by Consent with the following terms and conditions:

A. Delta agrees to pay to the Department a civil penalty in the amount of \$58,680, according to the payment schedule described below, in settlement of the violations alleged herein within sixteen (16) months of the effective date of this Special Order by Consent. Delta shall pay this civil penalty as follows: \$9780 within thirty days of the effective date of this Special Order by Consent, and payments of \$9780 every 90 days after until the civil penalty is paid in full. If Delta fails to pay according to this schedule, the remaining amount of the civil penalty will become due immediately and the Department may sue to recover any remaining amount of the civil penalty in the Circuit Court of Montgomery County.

B. Delta agrees that all penalties due pursuant to this Special Order by Consent shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other payment methods acceptable to the Department and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Special Order by Consent shall reference Delta's name and address, and the ADEM Administrative Order number of this action.

C. Delta agrees that, independent of this Special Order by Consent, Delta shall comply with all terms, conditions, and limitations of its Permit, the applicable parts of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

D. Delta agrees that, within thirty (30) days of the effective date of this Special Order by Consent, Delta shall submit documentation demonstrating that all off-site generated hazardous wastes currently in storage at any facility owned or operated by Delta have been shipped off-site to an appropriate destination facility. The information should include all manifests associated with the shipment of these wastes.



E. Delta agrees that, within thirty (30) days of the effective date of this Special Order by Consent, Delta shall submit a plan to conduct assessment and remediation of all areas impacted by releases of used oil at the Adger facility and the Burgess Equipment Repair site. The plan shall be prepared in accordance with all applicable sections of the Alabama Environmental Investigation and Remediation Guidance (AEIRG) manual. The plan shall include a schedule for completion of all activities and shall be implemented upon approval by the Department.

F. Delta agrees that, within thirty (30) days of completion, Delta shall submit a report detailing all approved plan implementation activities at the site, including but not limited to the volume of wastes generated, the volume of wastes removed from the site, a listing of waste transportation entities utilized, and a listing of facilities where waste was sent off-site for management.

G. Delta agrees that, upon the effective date of this Special Order by Consent, Delta shall immediately implement appropriate Best Management Practices (BMPs) to prevent the unpermitted discharge of pollutants into waters of the state.

H. The Department and Delta (hereinafter the "parties") agree that this Special Order by Consent shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Special Order by Consent certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Special Order by Consent, to execute the Special Order by Consent on behalf of the party represented, and to legally bind such party.

I. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Special Order by Consent is intended to operate as a full resolution of the alleged violations cited herein.

J. Delta agrees that it is not relieved from any liability if it fails to comply with any provision of this Special Order by Consent.

K. For purposes of this Special Order by Consent only, Delta agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

L. The parties agree that the sole purpose of this Special Order by Consent is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Special Order by Consent, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement actions as may be appropriate. Delta agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Special Order by Consent if future orders, litigation, or other enforcement actions address new matters not raised in this Special Order by Consent.

M. The parties agree that this Special Order by Consent shall be considered final and effective immediately upon signature of all parties. This Special Order by Consent shall not be appealable, and Delta does hereby waive any hearing on the terms and conditions of this Special Order by Consent.

N. The parties agree that this Special Order by Consent shall not affect Delta's obligation to comply with any federal, State, or local laws or regulations.

O. The parties agree that final approval and entry into this Special Order by Consent are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the order.

P. The parties agree that, should any provision of this Special Order by Consent be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

Q. The parties agree that any modifications of this Special Order by Consent must be agreed to in writing signed by both parties.

R. The parties agree that, except as otherwise set forth herein, this Special Order by Consent is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State, or local law, and shall not be construed to waive or relieve Delta of its obligations to comply in the future with any permit.

**Executed in duplicate, with each part being an original.**

**DELTA OIL SERVICES, INC.**

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

*Jay Allen*  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Loren Hayes  
(Printed Name)

Manager  
(Printed Title)

2-7-22  
(Date Signed)

\_\_\_\_\_  
(Date Executed)

**Attachment A**

Delta Oil Services, Inc.  
 Adger, Tuscaloosa County  
 Facility ID No. ALR000050955/NPDES ALG340392  
 Northport, Tuscaloosa County (Unpermitted NPDES Location)  
 Cottondale, Tuscaloosa County (Unpermitted NPDES Location)

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>
Failure to clean up a release of used oil from a transport vehicle	1	\$5,000	\$1,000	\$0
Unauthorized disposal of used oil	1	\$5,000	\$1,000	\$0
Failure to mark containers of used oil and aboveground tanks of used oil with the words "Used Oil"	1	\$250	\$100	\$0
Failure to keep closed containers holding used oil	1	\$100	\$50	\$0
Failure to provide secondary containment for containers holding used oil	1	\$1,000	\$500	\$0
Failure to ensure aboveground used oil tanks are in good condition and not leaking	1	\$1,000	\$500	\$0
Failure to provide secondary containment for tanks holding used oil	1	\$1,000	\$500	\$0
Failure to clean up releases of used oil from storage/processing equipment	1	\$1,000	\$500	\$0
Transporting hazardous waste without a Permit	1	\$10,000	\$1,000	\$0
Storage of hazardous waste without a Permit	1	\$10,000	\$1,000	\$0
Treatment of hazardous waste without a Permit	1	\$10,000	\$1,000	\$0

Failure to submit a correct and complete ADEM Form 8700-12 annually	1	\$250	\$100	\$0	
Failure to include all transfer facilities operated by the applicant in Alabama in the permit application	1	\$1,000	\$500	\$0	
Unpermitted Discharge to Water of the State	1	\$7,500	\$7,500	\$0	
Water Quality Criteria Violation	1	\$2,500	\$2,500	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$55,600	\$17,750	\$0	\$73,350

Adjustments to Amount of Initial Penalty

Mitigating Factors (-)	\$0	Economic Benefit (+)	\$0
Ability to Pay (-)	\$0	Amount of Initial Penalty	\$73,350
Other Factors (+/-)	-\$14,670	Total Adjustments (+/-)	-\$14,670
<b>Total Adjustments (+/-)</b>	<b>-\$14,670</b>	<b>FINAL PENALTY</b>	<b>\$58,680</b>

Footnotes

\* \* See the "FINDINGS" portion of the Order for a detailed description of each violation and the penalty factors.