

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

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BOB RILEY
GOVERNOR

July 28, 2008

CERTIFIED MAIL
7005 3110 0000 9536 0905

EDWARD WIGGINS
SUMMIT, LLC
PO BOX 1020
NORTHPORT, AL 35475

RE: ADMINISTRATIVE ORDER 08-181-MNPS
The Summit
Tuscaloosa County (125)
NPDES ALR16C172
Hwy 43 Northport, AL

Dear Mr. Wiggins:

Enclosed please find the above-referenced Administrative Order which requires certain actions to be taken regarding violations of applicable environmental laws and regulations. In issuing this Order, the Department took into consideration all available information concerning these violations, including any written response or oral comments submitted on behalf of the operator/owner.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to \$25,000 per day for each violation as well as possible criminal penalties. Pursuant to Code of Alabama 1975, §22-22A-7(c)(1) this Order may be appealed by filing a request for hearing before the Environmental Management Commission within thirty (30) days after receiving this Order. The request should be addressed to the Chair of the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Div. 2, Environmental Management Commission regulations can be viewed or downloaded from ADEM's WebPage at <http://www.adem.state.al.us/Regulations/regulations.htm> or may be obtained by submitting a request in writing to the ADEM Permits & Services Division.

Should you have any questions concerning this matter, please contact **Gayle Holcombe, Birmingham Branch**, by email at gholcombe@adem.state.al.us or by phone at (205) 942-6168.

Sincerely,

Steven O. Jenkins, Chief
Field Operations Division

soj/deh File:EUO/32948

c: Water Management Division, EPA Region IV
Enclosure: Copy of Final Order

Office of Public Affairs, ADEM

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (Fax)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (Fax)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (Fax)

Mobile - Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (Fax)

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, Steven O. Jenkins, do hereby certify that I have served the executed Administrative Order 08-181-MNPS upon the person listed below by sending the same, postage paid, through the United States Mail certified mail receipt# 7005 3110 0000 9536 0905, with instructions to forward and return receipt, to:

Summit, LLC
3325 Mitt Lary Road
Northport, AL 35475

DONE this day of July 28th, 2008.



Steven O. Jenkins
Chief, Field Operations Division
Alabama Department of Environmental Management

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)
)
)

SUMMIT, LLC)

THE SUMMIT)

NORTHPORT, T21S, R10W, S5 & 6)

TUSCALOOSA COUNTY, ALABAMA)

NPDES ALR16C172)
_____)

ORDER 08-181-MNPS

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the Alabama Department of Environmental Management (hereinafter "Department" or "ADEM") Administrative Code of Regulations (hereinafter "ADEM Admin. Code") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Department makes the following FINDINGS:

1. Summit, LLC (hereinafter "Operator") is an Alabama Limited Liability Company which is constructing The Summit (hereinafter "Facility"), a residential subdivision development located in T21S, R10W, S5 & 6 off US Highway 43 near Northport, in Tuscaloosa County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to Mill Creek, a water of the State, classified for Fish & Wildlife.

2. The following acronyms are used in this Order and, when used, shall have the meaning of the name or title referenced below.

BMPs	Best Management Practices
CBMPP	Construction Best Management Practices Plan
NOR	Notice of Registration
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional

3. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala. Code (2006 Rplc. Vol.).

4. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to submit to the Department a NOR in order to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

5. On January 11, 2007, the Operator submitted to the Department a NOR requesting NPDES coverage under ADEM Admin. Code chap. 335-6-12 for regulated disturbance activities and discharges of treated stormwater from the Facility. The Department granted registration ALR16C172 to the Operator on January 11, 2007. Registration ALR16C172 is scheduled to expire on January 10, 2010.

6. Pursuant to ADEM Admin. Code r. 335-6-12-.05(2), all NPDES construction sites/activities and noncoal mining sites/activities less than five acres in size in Alabama are required to fully implement and regularly maintain effective BMPs to the maximum extent practicable, and in accordance with the Operator's CBMPP that has been prepared by a QCP.

7. During an inspection of the Facility on January 24, 2008, the Department documented that the Operator had not properly implemented and maintained effective

BMPs resulting in discharges of sediment and other pollutants in stormwater runoff to Mill Creek.

8. Pursuant to ADEM Admin. Code r. 335-6-12-.35(10)(a), the Operator is required to determine the nature, amount, and impact of a non-complying discharge, and remove, to the maximum extent practical, sediment and other pollutants deposited offsite or in any State water.

9. During the January 24, 2008, inspection by the Department, significant accumulations of sediment resulting from discharges at the Facility were observed offsite and in Mill Creek.

10. On February 20, 2008, a NOV was sent to the Operator by the Department as a result of the January 24, 2008, inspection. The NOV notified the Operator of deficiencies documented at the Facility, requested the Operator to submit to the Department a copy of the CBMPP for the Facility within seven days of receipt of the NOV, and requested the Operator to submit to the Department certification by a QCP that all deficiencies at the Facility had been corrected within fifteen days of receipt of the NOV. As of April 2, 2008, the requested information had not been submitted to the Department.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That the Operator shall, immediately upon receipt of this Order, cease all regulated disturbance and related activity at the Facility, other than BMP

implementation and maintenance, until the Operator, in a manner acceptable to the Department, implements effective BMPs and corrects all deficiencies at the Facility, offsite conveyances, and affected State waters. Regulated disturbance and related activity at the Facility, other than BMP implementation and maintenance, is not authorized to resume until approved in writing by the Department.

B. That, immediately upon receipt of this Order and continuing thereafter, the Operator shall fully implement and maintain temporary BMPs to prevent/minimize to the maximum extent practicable sediment and other pollutants in stormwater leaving the Facility, prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State, and ensure full compliance with the requirements of ADEM Admin. Code chap. 335-6-12.

C. That, unless relieved of this requirement in writing by the Department:

1. all inspections/evaluations shall be performed by a QCP;
2. BMP implementation and maintenance, and other corrective/remediation activities, shall be performed under the direct supervision of a QCP, and shall be certified by QCP;
3. all applications, plans, and information shall be certified by a QCP;
4. all submittals to the Department shall comply with applicable ADEM regulations and shall be signed by the Operator and certified by a QCP; and
5. all applications, plans, reports, and other submittals to the Department shall indicate who prepared the submittal, who conducted and/or supervised the

inspection/work including his or her QCP designation, how the inspection/work was conducted, and the results of the inspection/work.

Within seven days of the receipt of any written comments from the Department, the Operator shall modify any application, plan, information, report, or other submittal, or submit additional information/clarification to the Department to address any comments made by the Department in writing.

D. That, within five days of receipt of this Order, the Operator shall have a comprehensive inspection performed of the Facility, offsite conveyances, and affected State waters.

E. That, within ten days of receipt of this Order, the Operator shall submit to the Department a CBMPP detailing effective BMPs to be implemented to prevent/minimize to the maximum extent practicable sediment and other pollutants in stormwater leaving the Facility, and ensure full compliance with the requirements of ADEM Admin. Code chap. 335-6-12.

F. That, within ten days of receipt of this Order, the Operator shall submit to the Department a detailed plan for the remediation and/or removal of any sediment and other pollutants from the Facility deposited offsite and in State waters.

G. That, within twenty days of receipt of this Order, the Operator shall implement effective BMPs, implement all plans required by this Order, and correct all deficiencies at the Facility, offsite conveyances, and affected State waters, including sediment removal/remediation in a manner acceptable to the Department.

H. That, within twenty-five days of receipt of this Order, the Operator shall submit to the Department a certification that effective BMPs have been implemented, all deficiencies have been corrected, and full compliance with the requirements of ADEM Admin. Code chap. 335-6-12 has been achieved at the Facility, offsite conveyances, and affected State waters, including sediment removal/remediation in a manner acceptable to the Department.

I. Should any provision of this Order 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 herein shall remain in full force and effect.

J. Except as otherwise set forth herein, this Order 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 the Operator of the Operator's obligations to comply in the future with any permit coverage.

K. That the issuance of this Administrative Order does not preclude the Department from seeking civil penalties, criminal fines or other appropriate sanctions or relief against the Operator for the violations cited herein.

L. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Operator for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 7th day of July, 2008.

Manlyr Elliott

Onis "Trey" Glenn, III, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700