

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

FAITH VILLAGE, LLC

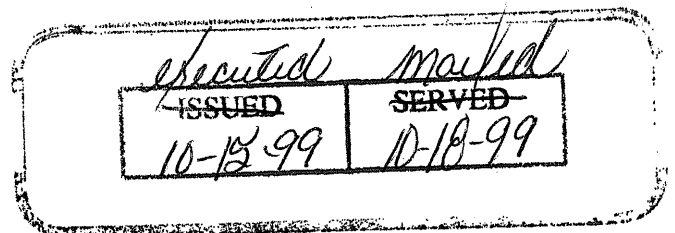
WARRIOR, ALABAMA

CONSENT ORDER NO. 00-007-CMNPS

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama (1975), §§ 22-22-1 through 22-22-14, as amended, the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto and the National Pollutant Discharge Elimination system administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Department makes the following FINDINGS:

1. Faith Village, LLC (hereinafter, " the Permittee") operates a construction site located in T14S, R13W,S1 in Jefferson County, Alabama.
2. The Alabama Department of Environmental Management is a duly constituted department of the State of Alabama pursuant to Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended.



3. Pursuant to Code of Alabama (1975), § 22-22A-4(n), as amended, the Department is the state water pollution control agency for the purposes of the federal Clean Water Act, 33 U.S.C. §§ 1251 through 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, Code of Alabama (1975), §§ 22-22-1 through 22-22-14, as amended.

4. On August 14, 1998, the Permittee received Authorization # ALR103851 to conduct its construction activities pursuant to NPDES General Permit # ALG610000 which regulates stormwater runoff from construction, excavation, land clearing, other land disturbance activities, and associated areas.

5. Part II,B.,2.,a. of NPDES General Permit # ALG610000 requires the Permittee to prepare and implement a comprehensive Best Management Practices (hereinafter "BMP") plan which will prevent/minimize the discharge of all sources of pollution (i.e., sediment, trash, garbage, debris, oil and grease, chemicals, materials, etc.) to State waters in stormwater runoff.

6. Part II, B., 2., a., of NPDES General Permit ALG610000 requires the Permittee to prepare and implement a Best Management Practices (BMP) plan which adequately controls, eliminates or reduces pollutants in stormwater runoff.

7. Part II, C., 1., of NPDES General Permit ALG610000 requires the Permittee to promptly take all reasonable steps to mitigate and minimize or prevent any adverse impact on human health or the environment resulting from noncompliance with any limitations of this permit, including such accelerated or additional monitoring of the discharge and/or receiving waterbody as necessary to determine the nature and the impact of the noncomplying discharge.

8. Part II. E., 1., a., of NPDES General Permit ALG610000 states that it is the Permittee's responsibility to comply with all conditions of the permit (ALG610000), and that any violation of the permit is a violation of the Alabama Water Pollution Control Act and the Federal Water Pollution Act.

9. An inspection was conducted on June 2, 1998. The following deficiencies were noted:

- a. No facility ID was displayed.
- b. The permit was still pending and had not been issued.
- c. No rain gauge was on site.
- d. A silt fence was installed incorrectly.
- e. The silt fence next to Hwy 160 was down allowing sediments to flow underneath into a storm ditch running along Hwy 160.
- f. The sediment trap was not designed to allow for proper detention time.

10. A Warning Letter citing these violations was issued to the Permittee on June 4, 1998

11. Another inspection of the Faith Village construction site was conducted on March 16, 1999. The following deficiencies were noted:

- a. BMP's were not maintained allowing sediments to leave the site.
- b. Silt fences were down at various locations on site.
- c. Hay bales used to protect the inlets at the rear of the site were not staked.
- d. Sediments were observed in the inlets due to the lack of protection.
- e. Sediments were noted accumulating on site as well as off site.
- f. Erosion was noted on site.
- g. Sediments were accumulating in a wet weather stream across Hwy 160.

12. A Warning Letter citing these violations was issued to the Permittee on March 18, 1999.

13. A complaint was received on May 17, 1999, about a construction site that was piping waste and runoff into a private pond. An inspection was done on Faith Village on May 19, 1999 as a result, and the following deficiencies were noted:

- a. Silt fences were either full or down.
- b. RipRap on the southwest area of the site had sediment accumulations in it.
- c. Sediment accumulations were noted in the wet weather stream across Hwy 160.
- d. The area was denuded and showing signs of erosion.
- e. Sediments were flowing off site through the culverts.
- f. Five-gallon buckets of oil were noted on site and leaking onto ground.

14. A Notice of Violation was issued to the Permittee on June 10, 1999.

15. The Permittee neither admits nor denies the allegations herein, but in a continuing effort to cooperate with the Department and to comply with the provisions of the Alabama Water Pollution Control Act, the Permittee has agreed to the terms of this Consent Order.

16. The Department has agreed to the terms of this Consent Order in order to resolve the violations alleged in this Order, and the Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based upon the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), and 22-22-9(i), and with the consent of the Permittee, the Department ORDERS and the Permittee AGREES:

A. That immediately upon execution of this Consent Order, the Permittee shall implement temporary Best Management Practices (BMP's) adequate to prevent sediment in storm water from leaving the construction site. Said BMP's shall also be adequate for the control of other pollutants in storm water runoff discharging into waters of the State of Alabama. Further, these BMP's shall conform to the EPA document entitled *Storm Water Management for Construction Activities*.

B. That immediately upon execution of this Consent Order and continuing hereafter, the Permittee shall comply with all other terms, conditions, and limitations of the Permit.

C. That not later than fourteen (14) days after execution of this Consent Order, the Permittee shall submit to the Department a plan describing the implementation of permanent structural and non-structural BMP's that are adequate to prevent or minimize sediment and other pollutants in storm water runoff from discharging into waters of the State. This plan, at a minimum, must meet the standards found in the EPA document entitled *Storm Water Management for Construction Activities*. If this plan is not sufficient to accomplish the aforementioned tasks, it shall be modified immediately by the Permittee so that it does accomplish those tasks.

D. That not later than thirty (30) days after execution of this Consent Order, the Permittee shall submit to the Department certification from a qualified, credentialed professional that the BMP plan has been fully implemented and is effective in controlling, minimizing or reducing sediments from entering storm water runoff from the construction site. For the purposes of this Consent Order, a qualified, credentialed professional shall include a professional engineer (PE) licensed to practice in Alabama, and a Certified Professional in Erosion and Sediment Control (CPESC) as determined by the Soil and Water Conservation Society (SWCS) and the International Erosion Control Association (IECA). A credentialed, qualified professional may also be a registered

professional landscape architect, or other credentialed professional (registered land surveyor, registered geologist, registered forester, etc.) with the necessary education, proven experience, and professional certification acceptable to the Department. The credentialed professional must be familiar with current industry standards for erosion and sediment controls and must be able to inspect and assure that structural and nonstructural BMPs or other pollution control devices (silt fences, erosion control fabric, rock check devices, etc.) or management strategies have been properly implemented and regularly maintained according to good engineering practices and the requirements of ALG610000. Pursuant to ADEM Admin. Code Chap. 335-6-3 a professional engineer (PE) registered in the state of Alabama must certify the design and construction of structural practices such as SPCC plan containment structures, dam construction, etc. The plan will be subject to Departmental review and approval. However, the plan shall be implemented immediately. In the event the Department makes comments on the plan, the plan will be immediately modified where appropriate to address the Department's comments, and the modifications shall be immediately implemented.

E. That, immediately upon execution of this Consent Order and continuing thereafter, the Permittee shall conduct the monthly inspections required by Part I.B. of NPDES General Permit #ALG610000. These inspections shall be conducted by a qualified, credentialed professional. Further, the inspection results shall be provided to the Department in inspection reports which shall be certified by the qualified, credentialed professional for accuracy and shall be submitted to the Department by the 28th day of the month following the month in which the inspection is conducted. The Department shall release the Permittee from the requirements of this paragraph regarding the monthly submittal of the inspection reports upon the submission of a written request for such if the

Permittee is in compliance with the requirements of NPDES General Permit # ALG610000 and this Consent Order for 12 consecutive months. Said request shall include copies of all data or other reports necessary to show compliance for the appropriate time period. Said release, if granted, shall not relieve the Permittee from any inspection or any other requirements imposed by NPDES General Permit # ALG610000. The Department may also release the Permittee from the requirements of this paragraph at any time if the Permittee requests termination of its permit on Department forms and said termination is approved by the Department. This will require the site to be completely developed with discharge of pollutants to waters of the State minimized.

F. That the Permittee shall pay to the Department not later than 30 days after execution of this Consent Order a civil penalty of Two Thousand dollars (\$2000.00). The Department may file suit in the Circuit Court of Montgomery County, Alabama, to collect the entire unpaid amount of the penalty if the payment becomes in default and is not made before 5:00 PM of the day following the scheduled due date. The Department shall take no action to collect the penalty as long as the payment is made when scheduled.

G. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations that are alleged in this Order.

H. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

I. That, for purposes of this Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court.

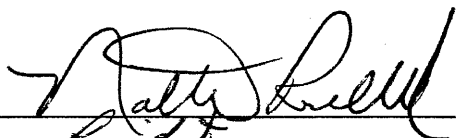
The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this agreement, the Permittee shall be limited to the defenses of Force Majeure, compliance with this Agreement, and physical impossibility.

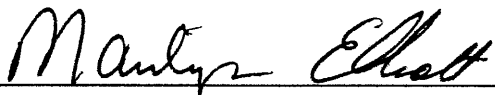
J. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Permittee which would constitute possible violations not addressed in this Order, then such violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Order if further Orders, litigation or other enforcement action address matters not raised in this Order.

K. That, by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the parties do hereby waive any hearing on the terms and conditions of same.

FAITH VILLAGE Development, LLC

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: 
Its: President


James W. Warr, Director

DATE: 9/24/99

DATE: 10-15-99

