

ONIS "TREY" GLENN, III  
DIRECTOR



Alabama Department of Environmental Management  
adem.alabama.gov  
1400 Coliseum Blvd. 36110-2059 Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700  
FAX (334) 271-7950

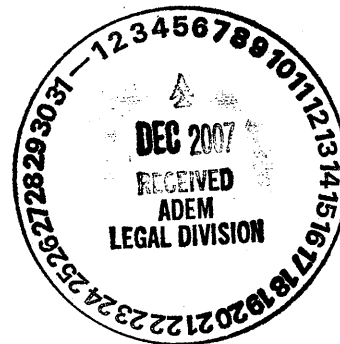
BOB RILEY  
GOVERNOR

November 30, 2007

CERTIFIED MAIL  
7005 1820 0003 1876 8934

MR CHARLES GIVIANPOUR  
SOUTH GRANDE VIEW ESTATES DEVELOPMENT  
1600 LAKE CYRUS CLUB DRIVE  
HOOVER, AL 35244

RE: ADMINISTRATIVE ORDER 08-050-MNPS  
Grande View Estates  
Shelby County (117)  
NPDES ALR160838  
Off Shelby County Road 12



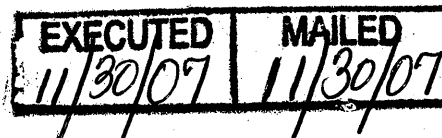
Dear Mr. Givianpour:

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 **Derick Houston, Birmingham Branch**, by email at [deh@adem.state.al.us](mailto:deh@adem.state.al.us) or by phone at (205) 942-6168.

Sincerely,



Steven O. Jenkins, Chief  
Field Operations Division

soj/dh File:EUO/11264

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)

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

SOUTH GRANDE VIEW ESTATES DEVELOPMENT ) ORDER 08-050-MNPS  
GRANDE VIEW ESTATES )  
ALABASTER, T21S,R3W,S16,21 )  
SHELBY COUNTY, ALABAMA )  
NPDES ALR160838 )

FINDINGS

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

1. The Operator is an Alabama corporation which is constructing the residential subdivision Grande View Estates located in Township 21 South, Range 3 West, Sections 16 and 21, in Alabaster, Shelby County, Alabama (hereinafter "the Facility"). Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to an Unnamed Tributary of Spring Creek, a water of the State, classified for Fish & Wildlife.

2. The following acronyms are used in this Administrative 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
NTUs	Nephelometric Turbidity Units
NOR	Notice of Registration
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 an NOR in order to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

5. On April 5, 2006, the Operator submitted to the Department an NOR requesting re-registration of NPDES coverage ALR160838. The Department granted re-registration of ALR160838 to the Operator on April 5, 2006. Registration ALR160838 expired on March 3, 2007. As of September 6, 2007, an NOR requesting re-registration of NPDES coverage ALR160838 had not been submitted to the Department.

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 PE or QCP.

7. During inspections of the Facility on March 30, 2006, and April 5, 2006, 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 an Unnamed Tributary of Spring 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 March 30, 2006, and April 5, 2006, inspections by the Department, significant accumulations of sediment resulting from discharges at the Facility were observed offsite and in an Unnamed Tributary of Spring Creek.

10. Pursuant to Ala. Code § 22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violations, 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 violations 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 be less than \$100 or exceed \$25,000 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. Each day such violation continues shall

constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATIONS:** Excessive sediment was allowed to be discharged from the Facility by the Operator. The Operator did not ensure that effective BMPs were fully implemented and maintained, resulting in the discharge of pollutants that could otherwise have been prevented and/or minimized. While the noted violations caused significant harm, the noted violations did not appear to cause irreparable harm to the environment. There is no evidence that the noted violations were a threat to the health or safety of the public.

B. **THE STANDARD OF CARE:** The Operator did not implement and fully maintain effective BMPs at the Facility until notified by the Department.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has been unable to ascertain if there has been a significant economic benefit conferred on the Operator by the Operator's failure to comply with applicable regulatory requirements and delayed response to the noted violations.

D. **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT:** The Operator took timely action to minimize or mitigate to the extent practicable the effects of the noted violations upon the environment after notification from the Department.

E. **HISTORY OF PREVIOUS VIOLATIONS:** The Operator does not have a history of previous violations.

F. THE ABILITY TO PAY: The Operator has not alleged an inability to pay the civil penalty.

ORDER

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

A. That, not later than forty-five days after issuance of this Administrative Order, the Operator shall pay to the Department a civil penalty in the amount of \$35,000 for the violations cited herein.

B. That all penalties due pursuant to this Administrative Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
PO Box 301463  
Montgomery, Alabama 36130-1463

C. That, immediately upon issuance of this Order and continuing thereafter, the Operator shall ensure immediate and future compliance with the AWPCA, applicable ADEM regulations, and all NPDES registration limitations, terms, and conditions for all ADEM NPDES regulated sites/facilities disturbed, operated, owned, and/or controlled by the Operator or responsible officials of the Operator, except as may be provided otherwise by an ADEM approved compliance schedule contained in this Order or any other Order executed or issued by the Department.

D. That, immediately upon the issuance of this Order and continuing thereafter, the Operator shall fully implement and maintain temporary BMPs to

prevent/minimize to the maximum extent practicable noncompliant and/or unpermitted discharges of pollutants to waters of the State.

E. 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 a 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.

That, 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.

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

G. That, within ten days of receipt of this Order, the Operator shall submit to the Department a complete NPDES registration, including the required fee, for the Facility.

H. That, within ten days after the issuance date 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 shall ensure full compliance with the requirements of ADEM Admin. Code ch. 335-6-12.

I. That, within ten days after the issuance date 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.

J. That, not later than twenty days after the issuance of this Administrative Order, the Operator shall fully implement and maintain effective BMPs, implement all plan(s) 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.

K. That, within twenty-five days after the issuance 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 ch. 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.

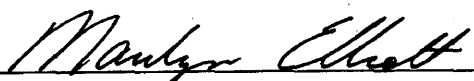
L. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. That, 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.

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

O. 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 30th day of November, 2007.

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

**ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE**

I, Steven O. Jenkins, do hereby certify that I have served the executed Administrative Order 08-050-MNPS upon the person listed below by sending the same, postage paid, through the United States Mail certified mail receipt#7005 1820 0003 1876 8934, with instructions to forward and return receipt, to:

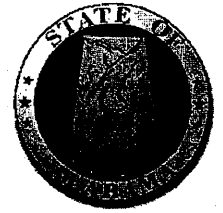
Mr. Charles Givianpour  
South Grande View Estates Development  
1600 Lake Cyrus Club Drive  
Hoover, AL 35244

DONE this 30<sup>TH</sup> day of November, 2007.



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

# ADEM



## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

POST OFFICE BOX 301463 36130-1463 ♦ 1400 COLISEUM BLVD. 36110-2059

MONTGOMERY, ALABAMA

WWW.ADEM.STATE.AL.US

(334) 271-7700

ONIS "TREY" GLENN III  
DIRECTOR

BOB RILEY  
GOVERNOR

Facsimiles: (334)

Administration: 271-7950  
General Counsel: 394-4332  
Communication: 394-4383  
Air: 279-3044  
Land: 279-3050  
Water: 279-3051  
Groundwater: 270-5631  
Field Operations: 272-8131  
Laboratory: 277-6718  
Mining: 394-4326

### ADEM WORKSHEET FOR NPDES CONSTRUCTION STORMWATER PENALTY ORDERS

The Environmental Management Act, Code of Alabama(1975), 22-22A-5 states:

" Any civil penalty assessed or recovered under paragraph a. or b. of this subdivision shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department under paragraph a. of this subdivision shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision. In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, 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 upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. ..."

**Facility Name:** South Grande View Estates Development – Grande View Estates

**NPDES #:** ALR160838

**ADEM Order:** 08-050-MNPS

**Location:** off Shelby County Road 12, near Alabaster, Shelby County, Alabama

Type of Violation	Past Order Penalty Range (Dollars)	Statutory Range (Dollars)
Reporting	100-1,000	100- 25,000
Records	100-1,000	100-25,000
CBMPP, SPCC, Other Required Plans	100-1,500	100- 25,000
Monitoring	100-1,000	100- 25,000
Operator QCP/QCI Inspections	100-1,000	100- 25,000
Permit Coverage	100-10,000	100- 25,000
Noncompliant Discharge	100-1,500	100- 25,000
Inadequate/No Response	100-25,000	100- 25,000
BMP	100-5,000	100- 25,000
Implementation/Maintenance/Effectiveness		
Sediment Deposition Offsite	100-10,000	100- 25,000
Water Quality Standards	100- 25,000	100- 25,000
Order Requirement	100-5,000	100- 25,000

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

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

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

Mobile – Coastal  
4171 Commanders Drive  
Mobile, Alabama 36615-1421  
(251) 432-6533  
(251) 432-6598 [Fax]

**VIOLATION FACTS:** Refer to the *Findings* section of the above referenced ADEM Administrative Order

**FACTORS CONSIDERED IN ESTABLISHING THE PENALTY AMOUNT:**

- **SERIOUSNESS OF THE VIOLATION:** Excessive sediment was allowed to be discharged from the Facility by the Operator. The Operator did not ensure that effective BMPs were fully implemented and maintained, resulting in the discharge of pollutants that could otherwise have been prevented and/or minimized. While the noted violations caused significant harm, the noted violations did not appear to cause irreparable harm to the environment. There is no evidence that the noted violations were a threat to the health or safety of the public.
- **THE STANDARD OF CARE:** The Operator did not implement and fully maintain effective BMPs at the Facility until notified by the Department.
- **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has been unable to ascertain if there has been a significant economic benefit conferred on the Operator by the Operator's failure to comply with applicable regulatory requirements and delayed response to the noted violations.
- **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT:** The Operator took timely action to minimize or mitigate to the extent practicable the effects of the noted violations upon the environment after notification from the Department.
- **HISTORY OF PREVIOUS VIOLATIONS:** The Operator does not have a history of previous violations.
- **THE ABILITY TO PAY:** The Operator has not alleged an inability to pay the civil penalty.

**PENALTY AMOUNT:** \$35,000

**OPERATIONAL REQUIREMENTS:** Refer to the *Order* section of the above referenced ADEM Administrative Order

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