

3. ADEM Admin. Code R. 335-6-6-.03(b) requires a new stormwater discharger to obtain a permit for said discharges prior to conducting any activities for which a stormwater discharge permit is required by 40 C.F.R. § 122.26.

4. Elkin conducts activities for which a permit for a stormwater discharge is required by 40 C.F.R. § 122.26.

5. On September 1, 1993, the Department granted authorization to Elkin to discharge stormwaters to waters of the state pursuant to NPDES General Permit # ALG18-0331. Said permit contained an expiration date of September 30, 1997.

6. ADEM Admin. Code R. 335-6-6-.23(15)(b) provides "[a]ny person permitted to discharge by an expiring general permit shall submit a notice of intent to be covered by the general permit upon reissuance," and such notice "shall be submitted at least 90 days prior to the expiration date of the expiring general permit."

7. Elkin failed to submit a notice of intent to be covered by General Permit # ALG18-0331.

8. Elkin cannot operate its auto salvage facility without discharging pollutants into Coldwater Creek, a water of the state.

9. Elkin is continuing to operate its auto salvage facility located in Anniston, Alabama.

10. Elkin has made no effort to obtain a reissued permit from the Department.

11. The discharge of pollutants into a water of the state without a permit demonstrates a blatant disregard for the Department and its

regulations and results in a discharge which does not have the safeguards provided by a permit.

12. NPDES General Permit # ALG18-0331 requires that the Permittee submit Discharge Monitoring Reports (hereinafter "DMRs") to the Department on a semi-annual basis. Elkin failed to submit DMRs for the following periods:

January – June, 1994
July – December, 1994
January – June, 1995
July – December, 1995
January – June, 1996
July – December, 1996
January – June, 1997

13. Parts IV.A.4.a., b., and c. of NPDES General Permit # ALG18-0331 require that the Permittee maintain a Best Management Practices (hereinafter "BMP") plan, inspection records and BMP training records.

14. Elkin violated Parts IV.A.4.a., b., and c. of NPDES General Permit # ALG18-0331 by failing to maintain a BMP plan, failing to maintain inspection records, and failing to maintain BMP training records.

15. On January 3, 1996, the Department issued a Notice of Violation (hereinafter "NOV") to Elkin regarding those violations listed above which had occurred at that time.

16. Elkin failed to respond to the January 3, 1996 NOV.

ORDER

Based upon the foregoing **FINDINGS** and pursuant to Code of Alabama (1975) §§ 22-22A-5(10), 22-22-9(c), 22-22-9(j), and 22-22-9(i), as amended, and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act §402, 33 U.S.C. §1342, it is hereby **ORDERED**:

A. That not later than 30 days after receipt of this Order, Elkin shall submit to the Department its notice of intent for coverage under NPDES General Permit # ALG18-0331, including the completed application, the public notice, and the payment of the \$250 application fee.

B. That not later than 30 days after receipt of this Order, Elkin shall implement and maintain a BMP plan, BMP training records, and BMP inspection records. The BMP plan shall be prepared by a registered professional engineer licensed to practice in the State of Alabama. In addition, Elkin shall, within 30 days of receipt of this Order, submit to the Department a copy of its BMP plan and pictures demonstrating that the plan is actually being implemented or a certification by the registered engineer who prepared the plan that the BMP plan is being implemented in accordance with the provisions of the plan.

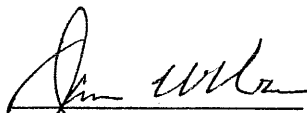
C. That immediately upon receipt of coverage under NPDES General Permit # ALG18-0331 and continuing thereafter, Elkin shall comply with the monitoring and reporting requirements of said permit.

D. That not later than 30 days after receipt of this Order, Elkin shall pay to the Department a civil penalty in the amount of \$1000 for the violations cited herein.

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

F. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate relief or sanctions against Elkin for the violations stated herein.

ORDERED and ISSUED this 29th day of September, 1999.



James W. Warr, Director
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Environmental Management
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