

LANCE R. LEFLEUR  
DIRECTOR



ROBERT J. BENTLEY  
GOVERNOR

Alabama Department of Environmental Management  
adem.alabama.gov

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Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

May 19, 2015

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mike VonEschenbach  
Rast Construction, Inc.  
2901 Shannon-Oxmoor Road  
Birmingham AL 35211

RE: Administrative Order 15-067-LD  
NPDES No. ALR10AP48  
Jefferson County (073)  
Prince of Peace Catholic School

Dear Mr. VonEschenbach:

Please find enclosed an Administrative Order which requires you to immediately **stop work** on all construction, building, land disturbance and related activity, except as needed to address the alleged violations of the Alabama Water Pollution Control Act. The Unilateral Order has been issued without the consent of the responsible parties. This order does not assess a civil penalty.

Pursuant to §§22-22A-(7)(c)1, Code of Alabama (1975), as amended, this Order may be appealed by filing a request for a hearing within 30 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and must comply with the requirements of ADEM Admin. Code r. 335-2-1-.04, copies of which may be obtained by submitting a written request to the attention of the ADEM-Office of General Counsel. Rule 335-2-1-.04 is also available online at the Department's website at <http://www.adem.state.al.us/alEnviroRegLaws/files/Div2Eff5-26-09.pdf>.

If you have questions regarding this matter, please contact Derick Houston at 205-942-6168.

Sincerely,

Anthony Scott Hughes, Chief  
Field Operations Division

ASH/deh

File: EUO/45709

Enclosure

cc: Thomas L. Johnston, ADEM  
Valerie Jackson, ADEM  
Lynn Battle, ADEM  
Birmingham Office, 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)

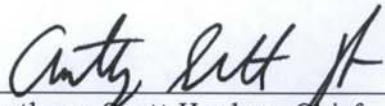
Mobile-Coastal  
3664 Dauphin Street, Suite B  
Mobile, AL 36608  
(251) 304-1176  
(251) 304-1189 (FAX)

**ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE**

I, Anthony Scott Hughes, do hereby certify that I have served the executed Administrative Order Number 15-067-LD upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt #91 7108 2133 3936 7226 0678, with instructions to forward and return receipt, to:

**Mike VonEschenbach  
Rast Construction, Inc.  
2901 Shannon-Oxmoor Road  
Birmingham, AL 35211**

Done this 19<sup>th</sup> day of May, 2015.

  
\_\_\_\_\_  
Anthony Scott Hughes, Chief  
Field Operations Division  
Alabama Dept. of Environmental Management

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF )

RAST CONSTRUCTION, INC. )  
PRINCE OF PEACE CATHOLIC SCHOOL )  
HOOVER, JEFFERSON COUNTY, ALABAMA )  
T19S R3W S21 )  
NPDES PERMIT ALR10AP48 )

ORDER 15-067-LD

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 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 (2006), the Alabama Department of Environmental Management [hereinafter "Department"] makes the following FINDINGS:

1. Rast Construction, Inc. (hereinafter "Operator"), is an Alabama corporation constructing the Prince of Peace Catholic School (hereinafter "Facility") located at 4650 Preserve Pkwy, Hoover, Jefferson County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to an unnamed tributary to Black Creek, a water of the State.

2. 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.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the State agency 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 1387 (2006). In addition, the Department is authorized to administer and enforce the provisions of the AWPCA, Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.).



4. The following references and 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
NOI	Notice of Intent
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional

5. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to register for and obtain NPDES coverage prior to commencing and/or continuing regulated disturbance activities.

6. On August 29, 2014 the Operator submitted to the Department an NOI requesting NPDES coverage under NPDES General Permit ALR100000 (hereinafter "Permit") for regulated disturbance activities and discharges of treated stormwater from the Facility. The Department granted authorization ALR10AP48 to the Operator on August 29, 2014. The Permit will expire on March 31, 2016.

7. Pursuant to Part III. A. of the Permit, the Permittee shall design, install, and maintain effective erosion controls and sediment controls, appropriate for site conditions. Sediment control measures, erosion control measures, and other site management practices must be properly selected based on site-specific conditions, must meet or exceed the technical standards outlined in the Alabama Handbook and the site-specific CBMPP prepared in accordance with Part III. D of the Permit.

8. Pursuant to Part III. D. of the Permit, construction activity may not commence until a CBMPP has been prepared in a format acceptable to the Department and certified by a QCP as adequate to meet the requirements of the Permit. The Permittee shall properly implement and regularly maintain the controls, practices, devices, and measures specified in the CBMPP.

9. During inspections of the Facility on December 30, 2014, and on April 10, 2015, the Department observed and documented that the Operator had not properly implemented

and maintained effective BMPs, although NPDES construction activity had commenced and was continuing, in violation of Part III. A. and D. of the Permit.

10. Pursuant of Part III. H. 3. of the Permit, the Permittee shall promptly take all reasonable steps to remove, to the maximum extent practical, pollutants deposited offsite or in any waterbody or stormwater conveyance structure.

11. During the inspections of the Facility on December 30, 2014, and on April 10, 2015, accumulations of sediment and debris resulting from discharges at the Facility were observed and documented offsite, in violation of Part III. H. 3. of the Permit.

12. On January 14, 2015, a NOV was sent to the Operator by the Department as a result of the December 30, 2014 inspection. The NOV notified the Operator of deficiencies documented at the Facility and requested that the Operator submit to the Department, within ten days of receipt of the NOV, a response showing the steps that were taken at the Facility to correct the noted deficiencies. The requested response was received by the Department on January 29, 2015.

13. On April 24, 2015, a letter of non-compliance was sent to the Operator by the Department as a result of the April 10, 2015 inspection. The letter of non-compliance notified the Operator of non-compliance with the January 14, 2015, NOV.

#### **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 CEASE** all construction, building, production, and related activity at the Facility other than BMP implementation/maintenance, and sediment and debris removal/remediation. Construction and related activity other than BMP implementation/maintenance, and sediment and debris removal/remediation is not authorized to resume until approved in writing by the Department.



B. That the Operator shall take immediate action to prevent, to the maximum extent practicable, sediment and other pollutants in stormwater leaving the Facility and prevent noncompliant and/or unpermitted discharges of pollutants to waters of the State.

C. That within five (5) days of receipt of notice this Administrative Order, the Operator shall have a QCP perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters.

D. That within ten (10) days of receipt of notice of this Administrative Order, the Operator shall submit to the Department the results of the QCP comprehensive inspection and a plan to return the Facility, offsite conveyances, and affected State waters to compliance with Permit requirements.

E. That within thirty (30) days of receipt of notice of this Administrative Order, the Operator shall fully implement effective BMPs, designed by a QCP, that meet or exceed the technical standards outlined in the Alabama Handbook, the site CBMPP plan, and NPDES General Permit ALR100000, and correct all deficiencies at the Facility and offsite conveyances, including sediment and debris removal or remediation.

F. That within seven (7) days of the completion of the activities in paragraph E above, the Operator shall submit to the Department a certification signed by the QCP that effective BMPs that meet or exceed the technical standards outlined in the Alabama Handbook, the site CBMPP plan, and NPDES General Permit ALR100000 have been implemented, all deficiencies have been corrected, and full compliance with the requirements of NPDES General Permit ALR100000 has been achieved at the Facility, offsite conveyances, and affected State waters.

G. That this Administrative Order does not affect the Operator's obligation to comply with any Federal, State, or local laws or regulations.

H. That should any provision of this Administrative 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.

I. That except as otherwise set forth herein, this Administrative 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.

J. 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.

K. 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 civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 19<sup>th</sup> day of May, 2015.

Marilyn Elliott

Lance R. LeFleur, Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059  
(334) 271-7700

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May 20, 2015 , 5:26 pm	Departed USPS Origin Facility	BIRMINGHAM, AL 35222
May 20, 2015 , 2:40 pm	Arrived at USPS Origin Facility	BIRMINGHAM, AL 35222
May 20, 2015 , 12:17 am	Departed USPS Facility	MONTGOMERY, AL 36119
May 19, 2015 , 10:27 pm	Arrived at USPS Origin Facility	MONTGOMERY, AL 36119
May 19, 2015 , 9:12 pm	Accepted at USPS Origin Sort Facility	MONTGOMERY, AL 36104
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