

ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF )  
 )  
ROBERT K. SHELLNUT )  
d/b/a SHELLEY PULPWOOD AND LOGGING )  
a/k/a DIAMOND K LOGGING )  
COOSA COUNTY, ALABAMA )

ORDER NO. 95-035-WP

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975) §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol.), and the Alabama Water Pollution Control Act, Code of Alabama (1975) §§ 22-22-1 through 22-22-14 (1990 Rplc. Vol.), the Alabama Department of Environmental Management (the Department) makes the following FINDINGS:

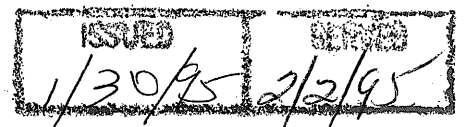
(1) Robert Shellnut, doing business as (d/b/a) Shelley Pulpwood and Logging, and also known as (a/k/a) Diamond K Logging, operates a timber harvesting business headquartered in Bremen, Georgia.

(2) Robert K. Shellnut (hereinafter, "Shellnut" or "Diamond K") harvested timber along Stewart Branch and unnamed tributaries of Stewart Branch in Coosa County, Alabama, on behalf of Scott Paper Company, Inc., (Scott Paper).

(3) This harvesting operation was completed on August 19, 1994.

(4) Stewart Branch and the unnamed tributaries of Stewart Branch are waters of the State of Alabama (the State).

(5) Section 22-22-9(i), Code of Alabama 1975 (1990 Rplc. Vol.) prohibits the discharge of any pollutant by any person into a water of the State without a permit.



(6) Neither Scott Paper nor Diamond K have a permit to discharge pollutants into Stewart Branch or its unnamed tributaries.

(7) On September 14, 1994, Department personnel inspected the timber harvesting operation described hereinabove.

(8) The inspection revealed that most or all of the standing timber and other vegetation had been removed from various points along the banks of Stewart Branch and its tributaries. The inspection also revealed that heavy equipment had been operated in the streams on a regular basis.

(9) The timber harvesting operation conducted by Diamond K caused the unpermitted discharge of pollutants such as tree tops, brush, logs, whole trees, and sediment into Stewart Branch and its unnamed tributaries.

(10) The discharges were so severe that stream channels were obstructed or destroyed at various points along the timber harvesting operation. Included among these discharges were four temporary stream crossing constructed by pushing logs and several tons of sediment into the streams.

(11) Alabama's Best Management Practices (BMPs) for Forestry were not implemented at this site even though Diamond K was on notice that use of BMPs could prevent most or all water pollution violations.

(12) On August 13, 1993, as a result of a timber harvesting operation conducted at another site, Diamond K received a letter from the Alabama Forestry Commission, which notified Diamond K that it had caused unpermitted discharges of pollutants to

waters of the State in Coosa County, Alabama. In addition to notifying Diamond K of water pollution violations, the letter also strongly encouraged the use of BMPs and further stated that use of said BMPs would have prevented most of the unpermitted discharges. The August 13, 1993, letter concerned a logging operation on the same tract of land as does this Administrative Order.

(13) Due to the discharges described in paragraph 12, representatives of Diamond K were given formal instructions on compliance with Alabama's BMPs for Forestry on August 17, 1993. A forester with the Alabama Forestry Commission reported that Mr. Shellnut and two employees of Diamond K displayed "arrogant attitudes" during the training session.

(14) As a result of a previous, separate timber harvesting operation on the property of Scott Dennis, Diamond K caused unpermitted discharges of pollutants to waters of the State near Edwardsville in Cleburne County, Alabama.

(15) A proposed administrative order was mailed to Mr. Shellnut of Diamond K Logging on December 9, 1994, by certified mail. The proposed order was delivered to Mr. Shellnut by the U.S. Postal Service on December 13, 1994. A revised proposed order was sent to Mr. Shellnut on December 13, 1994, by certified mail. The revised proposed order was delivered to Mr. Shellnut by the U.S. Postal Service on December 16, 1994.

(16) The cover letter attached to the proposed order instructed Mr. Shellnut to respond to the proposed order by December 23, 1994. The letter also offered Mr. Shellnut an

opportunity to meet with Department personnel to discuss the proposed order. As of the date of this Order, neither Mr. Shellnut nor any representative of Mr. Shellnut or Diamond K has responded to the proposed order or communicated with the Department in any way.

(17) Scott Paper has submitted a proposed reclamation plan to the Department and has now undertaken efforts to remediate this site; Diamond K, however, has made no effort to remediate the site, to cooperate with Scott Paper or the Department, or to participate in any way in this proceeding.

#### ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16 and 22-22-1 through 22-22-14 (1990 Rplc. Vol.), it is hereby ORDERED:

A. That immediately upon receipt or notice of this Order, Robert Shellnut (d/b/a Shelly Pulpwood and Logging and a/k/a Diamond K Logging) shall cease all unpermitted discharges of sediments and logging debris to any waters of the State.

B. That upon acceptance by the Department of the reclamation plan submitted by Scott Paper, Mr. Shellnut shall remediate and reclaim the logging site in accordance with said plan. Mr. Shellnut is to cooperate fully with Scott Paper when implementing said reclamation plan and Mr. Shellnut is not to obstruct, delay, or interfere with Scott Paper's timely and proper implementation of the plan.

C. That no sediment, logging debris, or other pollutant removed from Stewart Branch or its tributaries is to be deposited, discharged, or discarded into any area that would qualify as a wetland under ADEM Admin. R. 335-13-1-.03.

D. That Mr. Shellnut shall complete the final reclamation, which shall be accomplished in accordance with the accepted plan, within 90 days after notice or receipt of this Order.

E. That within 5 days of completion of said reclamation, whether completed by Diamond K, Scott Paper, or both, Mr. Shellnut shall certify to the Department that the reclamation has been accomplished in accordance with the accepted plan. Said certification shall be prepared and signed by a professional forester registered in the State of Alabama.

F. That Mr. Shellnut shall submit a certification to the Department, signed by him, which acknowledges his familiarity with and understanding of Alabama's BMPs and which acknowledges the obligation not to discharge pollutants into waters of the State.

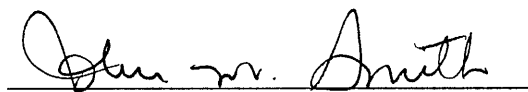
G. That Robert K. Shellnut d/b/a Shelley Pulpwood and Logging and a/k/a Diamond K Logging shall pay a Twenty Thousand Dollar (\$20,000.00) penalty to the Department for the violation(s) identified in paragraphs 9 and 10.

H. That within 20 days of receipt or notice of this Order, Robert Shellnut shall submit to the Department a list of all logging operations he has conducted at any time in the State of Alabama. Said list shall provide a legal description of each logging site.

I. That failure to comply fully with the terms and conditions 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 Robert K. Shellnut.

J. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate relief against Robert K. Shellnut for the violations identified herein.

ORDERED and ISSUED this 30<sup>th</sup> day of January, 1995.

  
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John M. Smith, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W. L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7700

CERTIFICATE OF SERVICE

I, G. Keith Clark, hereby certify that I have served Administrative Order No. 95-035-WP upon Robert K. Shellnut, d/b/a Shelley Pulpwood and Logging and a/k/a/ Diamond K Logging by sending the same postage paid, through the U.S. Mail, as Certified Mail, with instructions to forward and return receipt requested to:

CERTIFIED MAIL NO. (Z 073 536 257)

Robert Shellnut  
Shelley Pulpwood and Logging  
a/k/a Diamond K. Logging  
1486 Bush Mill Road  
Bremen, GA 30110

DONE this 30th day of January, 1995.

  
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G. Keith Clark