

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

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**IN THE MATTER OF:**

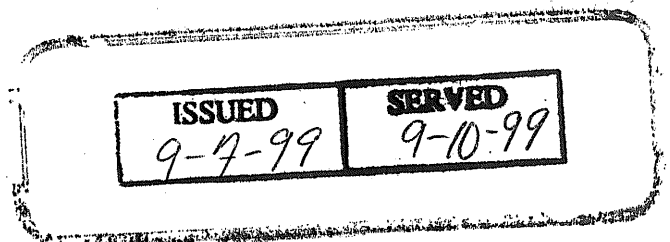
**SHELBY CONTRACTING, INC.  
PLANT # 4  
FAULKVILLE, ALABAMA**

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) **ORDER NO. 99-149-WP**  
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**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, 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, the Department makes the following **FINDINGS**:

1. Shelby Contracting, Inc. (hereinafter "Shelby") operates an asphalt plant located in Faulkville, Alabama.
2. Code of Alabama (1975), §22-22-9(i)(3), as amended, provides that "[e]very person, prior to discharging any new or increased pollution into any waters of this state, shall apply to the [Department] in writing for a permit and must obtain such permit before discharging such pollution."



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 (1994).

4. Shelby conducts activities for which a permit for a stormwater discharge is required by 40 C.F.R. § 122.26 (1994).

5. On June 17, 1996 Shelby was issued Administrative Order # 96-101-WP by the Department for violations of the Alabama Water Pollution Control Act and its implementing regulations and requiring Shelby to submit a completed application for a General Permit, develop and implement a Best Management Practices Plan, remove and dispose of all oil and diesel contaminated soil at its facility, stop all improper disposal of diesel and other fuels and to pay a \$2,0000 penalty.

6. On July 29, 1996 Shelby submitted an application for a General Permit, and Environmental Risk Assessment was hired by Shelby to oversee the cleanup of the contaminated soils at the Faulkville facility.

7. On September 1, 1996, the Department granted authorization to Shelby to discharge stormwaters to waters of the state pursuant to NPDES General Permit # ALG02-0091. Said permit contained an expiration date of September 30, 1997.

8. 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."

9. Shelby failed to submit a notice of intent to be covered by General Permit # ALG02-0091.

10. Shelby cannot operate its asphalt plant without discharging pollutants into an unnamed tributary to Flint Creek, a water of the state.

11. Shelby is continuing to operate its asphalt plant located in Huntsville, Alabama.

12. Shelby has made no effort to obtain a reissued permit from the Department.

13. 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.

### **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(l), 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, Shelby shall submit to the Department its notice of intent for coverage under NPDES General Permit # ALG02-0091, including the payment of all applicable fees.

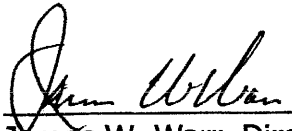
B. That not later than 30 days after receipt of this Order, Shelby shall pay to the Department a civil penalty in the amount of \$4000 for the violations cited herein.

C. 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 Shelby.

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

ORDERED and ISSUED this 7<sup>th</sup> day of September, 1999.



James W. Warr, Director  
Alabama Department of  
Environmental Management  
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Montgomery, Alabama 36109  
(205) 271-7700