

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF	)	
	)	
EMPIRE RENTALS AND WHOLESALE, LLC	)	UNILATERAL ORDER 26-XXX-LD
253 MERYAL LANE	)	
NEW MARKET, T2S, R2E, S32	)	
MADISON COUNTY, ALABAMA	)	
NPDES AUTHORIZATION NO. ALR10C60V	)	

PREAMBLE

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act (“AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, as amended, and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, as amended, the Alabama Department of Environmental Management (“ADEM” or “Department”) makes the following FINDINGS:

1. The Operator, Empire Rentals and Wholesale, LLC (“Operator”), is an Alabama Domestic Limited Liability Corporation that is registered with the Alabama Secretary of State’s Office. The Operator is constructing a single-family residential home This includes clearing, grading, installation of utilities, paving, and construction of the single-family residence known as 253 Meryal Lane, (“Facility”), located in T2S, R2E, S32 on Meryal Lane, in the City of New Market, Madison County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to a UT to Berry Springs, a water of the State.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, as amended.

3. Pursuant to Ala. Code § 22-22A-4(n), as amended, 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, as

amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 through 22-22A-14, as amended.

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
NTUs	Nephelometric Turbidity Units
NOI	Notice of Intent
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional
UT	Unnamed Tributary

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. During an inspection of the Facility on November 22, 2024, the Department observed and documented that the Operator had not registered for and obtained NPDES coverage, although regulated disturbance activities and /or discharges had commenced and were continuing.

7. On November 22, 2024, the Operator submitted to the Department a 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 ALR10C60V to the Operator on November 22, 2024. General Permit ALR100000 is scheduled to expire on March 31, 2026.

8. 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 For Erosion Control, Sediment Control, And Stormwater Management On Construction Sites And Urban Areas published by the Alabama Soil

and Water Conservation Committee (hereinafter the “Alabama Handbook”) and the site-specific CBMPP prepared in accordance with Part III. E.

9. Pursuant to Part III. E. 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 this permit. The Permittee shall properly implement and regularly maintain the controls, practices, devices, and measures specified in the CBMPP.

10. During inspections of the Facility on November 22, 2024, and June 19, 2025, 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 Parts III. A. and E. of the Permit.

11. Pursuant to Part III. I. 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.

12. During the November 22, 2024, inspection, significant accumulations of sediment resulting from discharges at the Facility were observed and documented by the Department offsite, in violation of Part III. I. 3. of the Permit.

13. Pursuant to Part 1. D. 11. of the Permit, the Permittee is not authorized to discharge stormwater where the turbidity of such discharge will cause or contribute an increase in the turbidity of the receiving water by more than 50 NTUs above background.

14. During the inspection of the Facility on June 19, 2025, the Department analyzed water samples collected from the discharge of the Facility that indicated a turbidity of greater than 1,000 NTUs, and upstream of the Facility samples indicated a turbidity of 175 NTUs. The turbidity samples resulted in an increase of 825 NTUs, which contributed to a substantial visible contrast with the natural appearance of the receiving water which is in violation of the State Water Quality Standards for turbidity, a violation of Part I. D. 11. of the Permit.

15. On December 26, 2024, an NOV was sent to the Operator by the Department as a result of the November 22, 2024, inspection. The NOV notified the Operator of deficiencies documented at the Facility, and required the Operator to submit to the Department a report

prepared by a QCP showing steps that were taken at the Facility to correct the noted violations within ten days of receipt of the NOV. The Department received the report on May 09, 2025, and is awaiting the detailed sediment loss analysis and plan for removal remediation, and/or mitigation of sediment from the Facility deposited offsite.

16. On October 14, 2025, a copy of the proposed Consent Order was mailed to the Operator detailing the conditions required to resolve the violations. The copy was delivered on December 08, 2025, and an initial response was received on December 15, 2025.

17. On January 07, 2026, a show cause meeting was held to discuss the proposed Consent Order. A reduced penalty was offered to the Operator; however, a resolution could not be reached at that time. An updated response was received by the department on January 23, 2026, showing the recently implemented BMP measures. This response did not contain the required QCP Certification. To date, the Department has not received the QCP certification.

#### CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)(c), as amended, in determining the amount of any penalty, the Department must give consideration 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. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arrival at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATIONS: Considering the general nature of the violations, the magnitude and duration of the violations, their effects, if any on impaired waters, and lack of any available evidence of irreparable harm to the environment or threat to the public, the Department determined the base penalty to be \$21,000.00.

B. THE STANDARD OF CARE: In considering the standard of care manifested by the Operator, the Department noted the lack of maintenance of BMPs, and the substantial off-site environmental impacts to adjacent property. The Department noted that failure to obtain a permit and prolonged BMP maintenance were non-technical requirements and easily avoidable. In consideration of these factors, the Department noted that the standard of care taken by the Operator was not commensurate with the applicable regulatory requirements. Thus, the Department enhanced the penalty by an additional \$10,500.00.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Operator avoided certain costs associated with proper implementation and maintenance of BMPs. Based on the Department's estimates of these delayed costs and the timeframe of non-compliance, the Department believes that the Operator did derive a significant economic benefit from these violations. In consideration of the economic benefit to the owner/operator, the Department enhanced the penalty by an additional \$1,200.00.

D. HISTORY OF PREVIOUS VIOLATIONS: The Department has documented previous violations at the Facility, resulting in a formal enforcement action. On August 08, 2024, an NOV was sent to the Operator by the Department as a result of the August 08, 2024, inspection. The NOV notified the Operator of deficiencies documented at the Facility, and required the Operator to submit to the Department a report prepared by a QCP showing steps that were taken at the Facility to correct the noted violations within ten days of receipt of the NOV. The Department never received the report. Therefore, the Department enhanced the penalty by an additional \$10,500.00.

E. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT: The Department is unaware of any efforts by the Operator to minimize or mitigate the effects of the violations upon the environment.

F. THE ABILITY TO PAY: The Department is unaware of any evidence regarding the Operator's inability to pay the civil penalty.

G. The civil penalty is summarized in Attachment 1.

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), as amended, it is hereby ORDERED:

A. That the Operator shall pay to the Department a civil penalty in the amount of \$43,200.00 in settlement of the violations alleged herein within forty-five days from the date of issuance of this Administrative Order. Failure to pay the civil penalty within forty-five days from the date of issuance of the Administrative Order may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

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 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.

D. That the Operator shall, within five days from the date of issuance of this Administrative Order, the Operator shall have a QCP perform a comprehensive inspection of the Facility, offsite conveyances, and affected State waters.

E. That the Operator shall, within ten days from the date of issuance of this Administrative Order, 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.

F. That, within ten days of the date of issuance of this Administrative Order, the Operator shall submit to the Department a detailed plan, prepared by a QCP, for the removal and/or remediation of sediment and other pollutants deposited offsite and/or in State waters.

G. That the Operator shall, within thirty days from the date of issuance of this Administrative Order, 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 removal or remediation.

H. That, within seven days of the completion of the activities required in paragraph G 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.

I. That this Administrative Order shall not affect the Operator's obligation to comply with any federal, State, or local laws or regulations.

J. 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.

K. 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.

L. That failure to comply with the provisions of the 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 \_\_\_\_ day of February, 2026.

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Edward F. Poolos, Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059  
(334) 271-7700

## ATTACHMENT 1 - PENALTY SYNOPSIS

Empire Rentals and Wholesale, LLC - 253 Meryal Lane

New Market, Madison County NPDES ALR10C60V

Violation	Number of Violations	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
Operating an NPDES construction site without, or outside of, NPDES coverage.	1	\$5,000	\$2,500	\$2,500
Effective Best Management Practices (BMPs) not implemented and/or maintained	2	\$6,000	\$3,000	\$3,000
Discharge and/or accumulation of solids/sediment offsite and/or in State waters	1	\$5,000	\$2,500	\$2,500
Water Quality Standard violation	1	\$5,000	\$2,500	\$2,500
<b>Totals:</b>	<b>5</b>	<b>\$21,000</b>	<b>\$10,500</b>	<b>\$10,500</b>
			Economic Benefit*:	\$1,200
			Sub-Total:	\$43,200
			Mitigating Factors*:	
			Ability to Pay*:	
			Other Factors*:	
			Amount of Initial Penalty:	\$43,200
			Total Adjustments:	
			<b>Final Penalty:</b>	<b>\$43,200</b>

\*See the Department's "Contentions" portion of the Order for a detailed description of each violation and the penalty factors.