

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 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. On June 26, 2025, 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 ALR10C6ZE to the Operator on July 17, 2025.

7. On February 9, 2026, the Operator submitted to the Department an NOI requesting reauthorization of NPDES General Permit ALR100000 coverage for regulated disturbance activities and discharges of treated stormwater from the Facility. The Department granted reauthorization of ALR10C6ZE to the Operator on March 25, 2026 effective April 1, 2026 and is scheduled to expire on March 31, 2031.

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. F.

9. During inspections of the Facility on January 14, 2026, and March 12, 2026, 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 F. of the Permit.

10. Pursuant to Part III. K. 4. 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 January 14, 2026, and the March 12, 2026, inspection, significant accumulations of sediment resulting from discharges at the Facility were observed and documented by the Department offsite, in violation of Part III. K. 4. of the Permit.

12. On January 26, 2026, a Notice of Violation was sent to the Operator by the Department as a result of the January 14, 2026, inspection. The Notice of Violation 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 thirty days of receipt of the NOV. The required report was received on February 18, 2026 by the Department.

13. Pursuant to Part I. D. 10. 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 March 12, 2026, the Department analyzed water samples collected from the discharge of the Facility that indicated a turbidity of 525 NTUs, upstream of the Facility in a Shoal Creek that indicated a turbidity of 32.2 NTUs, and a turbidity of 327 NTUs downstream from the Facility discharge. The turbidity samples resulted in an increase of 294.8 NTUs, in violation of Part I. D. 10. of the Permit.

15. During the inspection of the Facility on March 12, 2026, the Department analyzed water samples collected from the discharge of the Facility that indicated a turbidity of 485 NTUs,

upstream of the Facility in an UT to Shoal Creek that indicated a turbidity of 8.59 NTUs, and a turbidity of 333 NTUs downstream from the Facility discharge. The turbidity samples resulted in an increase of 324.41 NTUs, in violation of Part I. D. 10. of the Permit.

16. On April 1, 2026, a Notice of Violation was sent to the Operator by the Department as a result of the March 12, 2026, inspection. The Notice of Violation 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.

17. The Operator neither admits nor denies the Department's allegations. The Operator consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

18. The Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

DEPARTMENT 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 arriving 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 \$39,000.00.

B. THE STANDARD OF CARE: In considering this factor, the Department noted the continued violations after previous enforcement the Department noted the substantial off-site environmental impacts. In consideration of the standard of care by the Operator, the Department enhanced the penalty by \$10,500.00.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Operator delayed certain costs associated with failing to implement proper BMPs. In consideration of the economic benefit to the Operator, the Department enhanced the penalty by an additional \$1,000.00.

D. 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.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department is unaware of any previous violations not addressed above.

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

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty the Department believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

H. The civil penalty is summarized in Attachment 1.

OPERATOR CONTENTIONS

On January 9th and into January 10th, the project site experienced a catastrophic precipitation¹ event with approximately 5.0 inches of rainfall received within a 24-hour period. For context, design guidance in the Alabama Handbook is based on a 2-year, 24-hour event, which is 4.13 inches at this location. The rainfall depth of the January 9 storm event exceeded the design benchmark by roughly 0.87 inches, which qualifies as an "upset" event.

BMPs were in place prior to the January 9–10 rainfall event; however, the site received approximately 5 inches of rain within a 24-hour period, which exceeded the minimum BMP design recommendation (2-year/24-hour, 4.13 inches at this location) and inundated/submerged multiple controls. During and immediately following the peak of the storm, high flows exceeded the capacity of Shoal Creek, which inundated much of the project site and temporarily submerged portions of the installed BMPs (including silt fence, inlet protection, and turbidity barriers), reducing their ability to detain and treat stormwater as designed. Once controls were submerged, settling time and filtration performance were substantially diminished until flows receded and the controls could be safely accessed and restored.

Immediately following the January 2026 rainfall event, the Permittee initiated response actions to restore and enhance controls. Immediate response actions included: Inspection of the site to identify overtopping, damaged controls, and areas requiring supplemental protection; Completion of repairs to perimeter controls, including repair/maintenance of silt fence and turbidity curtains in priority locations to restore continuity and function; Following completion of the immediate repairs and maintenance, the Permittee began installation of additional BMPs, to further strengthen erosion and sediment controls at the site.

To further minimize turbidity and prevent sediment migration to receiving waters, the Permittee eliminated uncontrolled discharge potential by diverting outflow from the pond near Hole 10 and pumping the water to a constructed multi-chamber “chute” treatment system prior to any release. The chute treatment system consists of segmented chambers constructed using staked containment, poly sheeting/liner, and straw bales to create a controlled flow path. Immediately following the January 2026 rain event and as soon as site conditions allowed, the Permittee initiated corrective actions. Repairs and maintenance to BMPs were completed promptly, and installation of additional BMPs began immediately after those repairs were completed. Because the ADEM inspection occurred shortly after the event (January 14), some corrective measures and supplementary installations were still being implemented and refined

at the time of the inspection, particularly in areas where access was limited by saturated ground and ponded water.

The excessive sediment accumulations that affected treatment/storage capacity were primarily the result of BMPs performing their intended function during and immediately after the January 9–10 storm event. Maintenance and cleanout activities were initiated as soon as practicable, but completion was delayed by unsafe equipment access and persistent ponding and therefore were still in progress at the time of the January 14 inspection.

The March 12, 2026 inspection occurred during an extended wet-weather period, specifically on the sixth consecutive day of measurable rainfall at the site. The rainfall log from March 7th through March 12th is provided below.

Date	Rain Depth (in)
3/7/2026	0.58
3/8/2026	0.24
3/9/2026	1.27
3/10/2026	0.10
3/11/2026	1.28
3/12/2026	0.73
Total	4.20

Those conditions were particularly challenging because the project is located within a wide, low-gradient floodplain where runoff does not quickly drain from the disturbed area. Instead, runoff spreads across broad portions of the site and leaves soil saturated for extended periods. Under these conditions, BMP maintenance becomes more frequent and more difficult due to shallow inundation, saturated soils, and recurring runoff that limit access for inspection and repair, while also reducing the durability of completed maintenance before the next rainfall event. Where water remains spread across a flat floodplain rather than draining away quickly, the Operator has a much smaller window to inspect, clean out, reset, and reinforce controls before they are subjected to additional runoff.

Immediately following the March 2026 extended wet-weather event, the Permittee initiated response actions to restore and enhance controls. Immediate response actions included: Inspection of the site to identify overtopping, damaged controls, and areas requiring

supplemental protection; Completion of repairs to perimeter controls, including repair/maintenance of silt fence and turbidity curtains in priority locations to restore continuity and function; Following completion of the immediate repairs and maintenance, the Permittee began installation of additional BMPs, to further strengthen erosion and sediment controls at the site; Implementation of final stabilization measures

Since the inspection, the Permittee has continued maintenance activities to restore capacity, including prioritized cleanout/maintenance of affected control points and continued installation/supplementation of BMPs

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Therefore, the Operator, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to the Department and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)(c), as amended, as well as the need for timely and effective enforcement.

The Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Operator (hereinafter collectively, "Parties") agree to enter into this Consent Order with the following terms and conditions:

A. That the Operator shall pay to the Department a civil penalty in the amount of \$31,000.00 in settlement of the violations alleged herein within forty-five days after issuance of this Consent Order. Failure to pay the civil penalty within forty-five days after issuance 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 Consent 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 Consent 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 Consent 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 the Operator shall, within thirty days from the date of issuance of this Consent 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.

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

H. That this Consent Order shall apply to and be binding upon both Parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

I. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

J. That the Operator is not relieved from any liability if the Operator fails to comply with any provision of this Consent Order.

K. That, for purposes of this Consent Order only, the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. In any action brought by the Department to compel compliance with the terms of this Agreement, the Operator shall be limited to the defenses of Force Majeure, compliance with this Agreement and physical impossibility. A Force Majeure is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Operator, including the Operator's contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Operator) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute Force Majeure. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Operator, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but the Department is not obligated to do so.

L. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the

Facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Operator shall not object to such future Orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

M. That this Consent Order shall be considered final and effective immediately upon signature of all Parties. This Consent Order shall not be appealable, and the Operator does hereby waive any hearing on the terms and conditions of same.

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

O. That final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed penalty Orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.

P. That, should any provision of this Consent 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.

Q. That any modifications of this Consent Order must be agreed to in writing and signed by both Parties.

R. That, except as otherwise set forth herein, this Consent 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.

McDonald & Sons, Inc.

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

John A. McDonald II Pres/CEO
(Signature of Authorized Representative)

Edward F. Poolos
Director

John A. McDonald II
(Print Name of Authorized Representative)

Date Signed: _____

Pres/CEO
Title

Date Signed: 06-08-2026

ATTACHMENT 1 - PENALTY SYNOPSIS
MCDONALD & SONS, INC. - SHOAL CREEK GOLF COURSE-22610.01
 Shoal Creek, Shelby County NPDES ALR10C6ZE

Violation	Number of Violations	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
Effective Best Management Practices (BMPs) not implemented and/or maintained	2	\$9,000	\$3,000	
Discharge and/or accumulation of solids/sediment offsite and/or in State waters	2	\$15,000	\$5,000	
Water Quality Standard violation	2	\$15,000	\$2,500	
Totals:	6	\$39,000	\$10,500	
		Economic Benefit*:		\$1,000
		Sub-Total:		\$50,500
		Mitigating Factors*:		
		Ability to Pay*:		
		Other Factors*:		
		Amount of Initial Penalty:		\$50,500
		Total Adjustments:		-\$19,500
		Final Penalty:		\$31,000

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