

ALABAMA DEPARTMENT OF  
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )

DILIP BHAKTA )

MOBILE, ALABAMA )

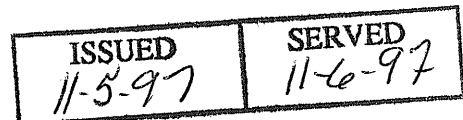
ORDER NO. 98- 027 -MNPS

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama (1975), §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Water Pollution Control Act, Code of Alabama (1975), §§ 22-22-1 through 22-22-14, as amended, the regulations promulgated thereto and the National Pollutant Discharge Elimination System (hereinafter "NPDES") administered by the Alabama Department of Environmental Management (hereinafter "ADEM" or "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to §402 of the Federal Water Pollution Control Act, 33 U.S.C. §1342, the Department makes the following **FINDINGS**:

1. Dilip Bhakta (hereinafter, "the Operator") is currently engaged in motel construction and other land disturbance activities at a construction site located in Mobile, Alabama (hereinafter, "the site"). Storm water from the northeast portion of the construction site discharges into the city sewer system which discharges to Threemile Creek, and storm water from the southwest portion of the site discharges into a ditch which discharges into Threemile Creek, a water of the state which is classified as suitable for agricultural and industrial water supply.

2. Code of Alabama (1975), §22-22-9(i)(3) and ADEM Admin. Code



R. 335-6-6-.03(a) provide that no person may discharge pollutants into waters of the state without first having obtained a permit therefor or coverage under a valid General NPDES permit.

3. Inspections by Department personnel on June 19, 1997 and August 7, 1997, indicated that the Operator discharged contaminated storm water, containing pollutants, into waters of the State. Analyses of these discharges revealed concentrations of total suspended solids of 3740 mg/l from the discharge to the northeast and of 2000 mg/l from the discharge to the southwest.

4. The Operator has neither applied for nor obtained either an individual NPDES permit or coverage under the General NPDES Storm water Permit.

5. ADEM Admin. Code R. 335-6-6-.09(5)(c) states that "in no case shall turbidity exceed 50 Nephelometric units above background."

6. Analyses of samples taken on June 19, 1997 revealed the following results:

Southwest of the site	
downstream	7,250 NTU
effluent	7,500 NTU
upstream	99 NTU

Northeast of the site	
downstream	14,500 NTU
effluent	31,500 NTU
upstream	32 NTU

7. On July 17, 1997, the Operator was issued a Warning Letter requiring him to file a report with the Department showing the steps that had been taken and were being taken to abate the discharge of pollution from the site.

8. As of the date of issuance of this Order, the report required in the Warning Letter has not been received.

9. On August 28, 1997, the Operator was issued a Notice of Violation again requiring him to file a report with the Department showing the steps that had been taken and were being to abate discharges of pollution from the site.

10. As of the date of issuance of this Order, said report has not been received.

### **ORDER**

Based upon the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(i), and 22-22-9(k), as amended, the Department hereby **ORDERS**:

A. That immediately after receipt of notice of this Order, the Operator shall implement all measures necessary to prevent sediment and other pollutants in storm water runoff from leaving the site or associated areas.

B. That not later than five days after receipt of notice of this Order, the Operator shall submit to the Department, and begin implementation of, a plan, prepared by a qualified credentialed professional, for implementing and maintaining appropriate permanent structural and non-structural Best Management Practices (hereinafter, "BMPs") that are adequate to prevent or minimize to the extent practicable sediment and other pollutants in storm water runoff from being discharged into waters of the State. This plan, at a minimum, must meet the standards found in the U.S. Environmental Protection Agency document entitled "Storm Water Management for Construction Activities." If the Department determines through its review of the submitted plan or future inspections that the plan is not sufficient to accomplish the aforementioned tasks, it shall be modified by a qualified credentialed professional so that it does accomplish those tasks and shall be resubmitted within three days of receipt of comments from the Department. Also, the plan shall contain a detailed proposed completion schedule with structural and nonstructural BMPs to be implemented within 14 days of plan submittal. A qualified credentialed professional may be:

a. A certified professional erosion and sediment control specialist as determined by the Soil and Water Conservation Society and the International Erosion Control Association;

b. A professional engineer registered in the State of Alabama;

- c. A licensed landscape architect;
- d. A registered land surveyor;
- e. A registered professional geologist with proven experience in BMP implementation;
- f. A USDA Natural Resources Conservation Service technical staff member with proven experience in BMP implementation; or
- g. Other qualified professional with proven experience in BMP implementation acceptable to the Department. Any professional in this category must be approved by the Department prior to commencing work.

C. That not later than three days after plan implementation is complete, the Operator shall submit to the Department a certification from the plan designer that the BMP plan has been implemented in accordance with the plan, including the completion schedule, submitted to the Department

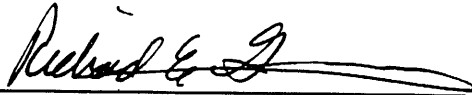
D. That not later than 30 days after receipt of notice of this Order, the Operator shall pay to the Department a civil penalty in the amount of \$5,000 for the violations cited herein.

E. That the failure of the Operator to comply with this Order will constitute cause for the commencement of legal action for the recovery of criminal penalties, civil penalties, or other appropriate relief.

F. That the issuance of this Order does not preclude the Department from seeking criminal penalties, civil fines, or other appropriate relief for the violations stated

herein against the Operator.

ORDERED and ISSUED this 5 day of November, 1997.

A handwritten signature in black ink, appearing to read "Richard E. Warr", written over a horizontal line.

James Warr  
Alabama Department of Environmental  
Management  
Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700

**CERTIFICATE OF SERVICE**

I, Olivia H. Jenkins, hereby certify that I have served the proposed Administrative Order No. 98-027-MNPS, upon Dilip Bhakta by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 496-260-005, with instructions to forward and return receipt requested to:

Mr. Dilip Bhakta  
4410 Stephens Road  
Mobile, Alabama 36613

DONE this 6<sup>th</sup> of November, 1997.



Olivia H. Jenkins