

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management

adem.alabama.gov

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Montgomery, Alabama 36130-1463

(334) 271-7700

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BOB RILEY
GOVERNOR

July 20, 2009

CERTIFIED MAIL #91 7108 2133 3936 3653 3336

SHAKIR MEGHANI
674 TWITCHELL ROAD
DOTHAN AL 36305

RE: FINAL ORDER
Microtel Inns & Suites
Dale County (045)
NPDES Registration ALR16EBLN



Dear Mr. Meghani:

Enclosed please find the above-referenced Administrative Order which requires certain actions to be taken regarding violations of applicable environmental laws and regulations. In issuing this Order, the Department took into consideration all available information concerning these violations.

Please be advised that failure to comply with the terms of this Order can result in penalties of up to \$25,000 per day for each violation as well as possible criminal penalties. Pursuant to Code of Alabama 1975, §22-22A-7(c)(1) this Order may be appealed by filing a request for hearing before the Environmental Management Commission within thirty (30) days after receiving this Order. The request should be addressed to the Chair of the Environmental Management Commission and should comply with the requirements of ADEM Admin. Code R. 335-2-1-.04. Copies of ADEM Admin. Code, Div. 2, Environmental Management Commission regulations can be viewed or downloaded from ADEM's WebPage at <http://www.adem.state.al.us/Regulations/regulations.htm> or may be obtained by submitting a request in writing to the ADEM Permits & Services Division.

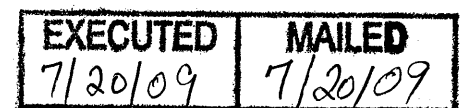
Should you have any questions concerning this matter, please contact **Heather Griffin, Construction Stormwater Section, NPDES Enforcement Branch** by phone at (334) 394-4321.

Sincerely,

James E. McIndoe, Chief
Water Division

JEM/hmg

Enclosure: Copy of Final Order
Certificate of Service



Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (Fax)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (Fax)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (Fax)

Mobile - Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (Fax)

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

SHAKIR MEGHANI
MICROTEL INNS & SUITES
OZARK, T6N, R23E, S30
DALE COUNTY, ALABAMA
EXPIRED NPDES ALR16EBLN

ORDER 09-082-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter "AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code r.") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management [hereinafter "Department"] makes the following FINDINGS:

1. Shakir Meghani (hereinafter "Operator"), is an Alabama developer constructing the commercial development Microtel Inns & Suites (hereinafter "Facility") located in T6N, R23E, S30, at the intersection of Hwy. 231N and Roy Parker Road, in Ozark, Dale County, Alabama. Sediment and other pollutants in stormwater runoff from the Facility have the potential to discharge and/or have discharged to an unnamed tributary to Little Clay Bank Creek, a water of the State, classified for Fish & Wildlife.

2. The following acronyms are used in this Order and, when used, shall have the meaning of the name or title referenced below.

BMPs	Best Management Practices
NOR	Notice of Registration
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
QCP	ADEM-recognized Qualified Credentialed Professional
UT	Unnamed Tributary
CBMPP	Construction Best Management Plan

3. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

4. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(1) and 335-6-12-.11(1), the Operator is required to submit to the Department an NOR in order to register for and obtain NPDES coverage prior to commencing or continuing regulated disturbance activities.

5. On June 12, 2008, the Operator submitted to the Department an NOR requesting NPDES coverage under ADEM Admin. Code chap. 335-6-12, for regulated disturbance activities and discharges of treated stormwater from the Facility. The Department notified the Operator that the NOR it submitted on June 12, 2008, was not complete, and requested that additional information be provided in order to complete the NOR. The Operator submitted the requested information to the Department on June 17, 2008. The Department granted registration ALR16EBLN to the Operator on June 17, 2008. The Operator's Registration ALR16EBLN expired on June 16, 2009.

6. Pursuant to ADEM Admin. Code r. 335-6-12-.05(2), all NPDES construction sites/activities and noncoal mining sites/activities less than five (5) acres in size in Alabama are required to fully implement and regularly maintain effective BMPs to the maximum extent practicable, and in accordance with the Operator's CBMPP that has been prepared by a QCP.

7. Pursuant to ADEM Admin. Code rs. 335-6-12-.05(3) and 335-6-12-.28, the Operator is required to ensure that comprehensive inspections of the Facility, offsite areas and stormwater conveyances, and associated receiving waters are conducted according to a prescribed schedule, after significant precipitation, and as often as needed by a QCP, to ensure that effective BMPs have been properly designed, implemented, and maintained. Each day there is activity at the Facility, the Operator or other qualified person is required to observe that portion of the Facility where construction disturbance has occurred and report any apparent BMP deficiencies to the Operator or QCP.

8. During an inspection of the Facility on March 26, 2009, the Department documented that the Operator had not properly implemented and maintained effective BMPs

resulting in discharges of sediment and other pollutants in stormwater runoff to an UT to Little Clay Bank Creek. Therefore, the Operator violated the above-stated regulation.

9. Pursuant to ADEM Admin. Code r. 335-6-12-.35(10)(a), the Operator is required to determine the nature, amount, and impact of a non-complying discharge, and remove, to the maximum extent practical, sediment and other pollutants deposited offsite or in any State water.

10. The Department also observed significant offsite accumulations of sediment resulting from discharges at the Facility during its inspection on March 26, 2009. Therefore, the Operator violated the above-stated regulation.

11. On April 9, 2009, a NOV was sent to the Operator by the Department as a result of the March 26, 2009, inspection. The NOV notified the Operator of deficiencies documented at the Facility,

12. The April 9, 2009, NOV required the Operator to submit to the Department a written report prepared by a QCP stating the actions taken to correct the noted deficiencies within thirty days of receipt of the NOV. On April 30, 2009, the Operator requested additional time to submit the written report. The Department granted the Operator's request and required that the report be submitted on or before June 2, 2009. The required report has not been submitted to the Department.

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) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That the Operator shall, immediately upon receipt of this Order, cease all regulated disturbance and related activity at the Facility other than BMP implementation and maintenance until the Operator, in a manner acceptable to the Department, implement effective BMPs and correct all deficiencies and offsite conveyances at the Facility. All regulated disturbances and related activity at the Facility, other than BMP implementation and maintenance, is not authorized to resume until approved in writing by the Department.

B. That, immediately upon receipt of this Order and continuing thereafter, the Operator shall take immediate action to prevent or minimize to the maximum extent practicable; sediment and other pollutants in stormwater leaving the Facility, prevent noncompliant and unpermitted discharges of pollutants to waters of the State, and ensure full compliance with the requirements of ADEM Admin. Code chap. 335-6-12.

C. That, the Operator shall ensure that:

1. All inspections and evaluations shall be performed by a QCP;
2. BMP implementation and maintenance, and other corrective/remediation activities, shall be performed under the direct supervision of a QCP, and shall be certified by a QCP;
3. All applications, plans, and information shall be certified by a QCP;
4. All submittals to the Department shall comply with applicable Department regulations and shall be signed by the Operator and certified by a QCP; and
5. All applications, plans, reports, and other submittals to the Department shall indicate who prepared the submittal, conducted or supervised the inspection/work, including his or her QCP designation, how the inspection/work was conducted, and the results of the inspection/work.

D. That, within five days of receipt of this Order, the Operator shall have a comprehensive inspection performed of the Facility, offsite conveyances, and affected State waters.

E. That, within ten days of receipt of this Order, the Operator shall submit to the Department a complete NPDES registration for the Facility, including the required fee.

F. That, within thirty days of receipt of this Order, the Operator shall submit to the Department a CBMPP detailing effective BMPs to be implemented to prevent or minimize to the maximum extent practicable, sediment and other pollutants in stormwater leaving the Facility, and ensure full compliance with the requirements of ADEM Admin. Code chap. 335-6-12.

G. That, within thirty days of receipt of this Order, the Operator shall submit to the Department a detailed plan for the remediation or removal of any sediment and other pollutants from the Facility deposited offsite.

H. That, within ninety days of receipt of this Order, the Operator shall fully implement effective BMPs, implement all plans required by this Order, and correct all deficiencies at the Facility, and offsite conveyances, including sediment removal or remediation in a manner acceptable to the Department.

I. That, within one hundred-twenty days of receipt of this Order, the Operator shall submit to the Department a certification that effective BMPs have been implemented, all deficiencies have been corrected, and full compliance with the requirements of ADEM Admin. Code chap. 335-6-12 has been achieved at the Facility, offsite conveyances, and affected State waters.

J. That, should the Operator be unable to meet a deadline set forth herein, the Operator may request a modification of said deadline if the delay is due to a *Force Majeure*. 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 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 required 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.

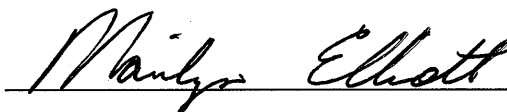
K. Should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and, therefore, unenforceable, the remaining provisions herein shall remain in full force and effect.

L. Except as otherwise set forth herein, this 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.

M. That the issuance of this Administrative Order does not preclude the Department from seeking civil penalties, criminal fines or other appropriate sanctions or relief against the Operator for the violations cited herein.

N. That failure to comply with the provisions of this 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 20th day of July, 2009.

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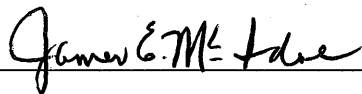
Onis "Trey" Glenn, III, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, James E. McIndoe, do hereby certify that I have served the executed Administrative Order 09- 082 -WP upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt # 91 7108 2133 3936 3653 3336, with instructions to forward and return receipt, to:

Shakir Meghani
674 Twitchell Road
Dothan, AL 36305

Done this 20th day of July, 2009.

A handwritten signature in cursive script, reading "James E. McIndoe", written over a horizontal line.

James E. McIndoe, Chief
Water Division
Alabama Department of Environmental Management