

LANCE R. LEFLEUR  
DIRECTOR



ROBERT J. BENTLEY  
GOVERNOR

Alabama Department of Environmental Management  
adem.alabama.gov

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Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

July 11, 2013

**CERTIFIED MAIL #91 7108 2133 3936 6587 0464**  
**RETURN RECEIPT REQUESTED**

Mr. Frank Green, CEO  
Eagle Biodiesel, Inc.  
Post Office Box 825  
Bridgeport, Alabama 35740

RE: **Final Unilateral Order No. 13-110-WP**  
Unpermitted  
Eagle Biodiesel, Inc.  
Jackson County (071)

Dear Mr. Green:

Please find enclosed the ADEM Unilateral Order No. 13-110-WP which requires you to take certain actions at Eagle Biodiesel, Inc. located on 311 Edmonds Avenue, in Bridgeport, Alabama, in regard to alleged violations of the Alabama Water Pollution Act. This Unilateral Order has been issued without the consent of Eagle Biodiesel, Inc. This Order does not assess a civil penalty.

Pursuant to Ala. Code §§ 22-22A-(7)©1, as amended, this Order may be appealed by filing a request for a hearing within 30 days after receiving notice of this Order. The request should be addressed to the Chair of the Environmental Management Commission and must comply with the requirements of ADEM Admin. Code r.335-2-1-.04, copies of which may be obtained by submitting a written request to the attention of Molly Tatum, ADEM-Office of General Counsel. Rule 335-2-1-.04 is also available online on the Department's website at <http://www.adem.state.al.us/alEnviroRegLaws/files/Div2Eff5-26-09.pdf>.

Sincerely,

A handwritten signature in black ink that reads "Glenda L. Dean".

Glenda L. Dean, Chief  
Water Division

GLD/lh

Enclosure: Final Unilateral Order No. 13-110-WP

cc: Tom Johnston/ADEM, Office of General Counsel  
Schuyler Espy/ ADEM, Office of General Counsel  
Daphne Smart/ADEM, Industrial/Municipal Branch  
Scott Ramsey/ADEM, Industrial/Municipal Branch  
Latoya Hall/ADEM, Industrial/Municipal Branch

**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: )

**Eagle Biodiesel Inc.** )  
311 Edmonds Ave )  
Bridgeport, AL 35740 )

Jackson County, AL )  
UNPERMITTED )

ORDER 13-110-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.), and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. Eagle Biodiesel Inc. (hereinafter "Eagle Biodiesel") operates a biodiesel manufacturing facility located on 311 Edmonds Ave, in Bridgeport, Jackson County, Alabama (hereinafter "the Facility"). Pollutants in storm water runoff from the Facility have the potential to discharge and/or have discharged to an unnamed tributary to the Tennessee River, 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 through 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), 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. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA, Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.).

4. Ala. Code §22-22-9(i)(3), as amended, provides:

Every person prior to discharging any new or increased pollution into any waters of the state shall apply to the Alabama Department of Environmental Management in writing for a permit and must obtain such permit before discharging such pollution.

5. Pursuant to Ala. Code § 22-22-9(i)(1), as amended, the Department is authorized to issue, modify or revoke orders prohibiting or abating discharges of pollutants or other wastes directly or indirectly into waters of the state.

6. Pursuant to Ala. Code § 22-22-9(c), the Department is authorized to require any person discharging to establish and maintain records, make reports, install, use and maintain monitoring equipment and methods, and to provide such other information as the Department may reasonably require.

7. Pursuant to 40 Code of Federal Regulations §122.26, discharges composed entirely of storm water associated with an industrial activity are required to obtain an National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit.

8. Eagle Biodiesel does not have a NPDES Permit to discharge storm water from the Facility to the unnamed tributary to the Tennessee River.

9. On January 7, 2010, the Department issued Eagle Biodiesel Administrative Order No. 10-050-WP, which required it to submit to the Department within forty-five days a certification of no exposure or a complete NPDES permit application. On November 28, 2011, the Department received an incomplete NPDES permit application. The Facility later indicated by phone to Departmental personnel that industrial activities were no longer being conducted on the site. The permit application was withdrawn by Eagle Biodiesel on August 14, 2012; however, the certification of no exposure (EPA Form 3510-11) was not submitted. Failure to submit the aforementioned documents is a violation of paragraph E of Order No. 10-050-WP.

10. On June 6, 2013, Department personnel conducted an inspection of the Facility in response to a report of a fire resulting from a spill. At the time of the inspection, the Department observed multiple areas of concern for potential unpermitted discharges of contaminated storm water from industrial activities. The Department noted that there was not adequate secondary containment for the above ground storage tanks on the site, and there was evidence of previous spills that had not been properly addressed.

### **ORDER**

Based on the foregoing *FINDINGS* and pursuant to Ala. Code §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), and 22-22-9(k) (2006 Rpl. Vol.), it is hereby *ORDERED*:

A. That, immediately upon receipt of this Order, Eagle Biodiesel shall cease any additional industrial activities, including, but not limited to, receipt of materials which have the potential to result in unpermitted discharges.

B. That, within fourteen days from the issuance of this Administrative Order, Eagle Biodiesel shall submit to the Department a report documenting all activities conducted or to be conducted to address the potential for unpermitted discharges. The report shall include a plan of action with a schedule for implementation (i.e. a Compliance Plan).

C. That, within forty-five days from the issuance of this Administrative Order, Eagle Biodiesel shall submit to the Department a complete NPDES permit application for discharges of storm water from the Facility or submit written certification that all industrial activities which require an NPDES storm water permit, as defined in 40 CFR 122.26(b)(14)(i)-(xi), have ceased.

D. That, forty-five days from the issuance of this Administrative Order, Eagle Biodiesel shall submit with the aforementioned permit application a Spill Prevention, Control and Countermeasures Plan in accordance with 40 CFR Part 112, as well as a Best Management Practices Plan for containment of any or all process liquids or solids, in a manner such that these materials do not present a significant potential for discharge.

E. That, 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 hereof shall remain in full force and effect.

F. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of a permit under federal, State or local law, and shall not be construed to waive or relieve Eagle Biodiesel of its obligation to comply in the future with all applicable law.

G. 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 Eagle Biodiesel for the violations cited herein.

H. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against Eagle Biodiesel for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 14<sup>th</sup> day of July, 2013.

Lance R. LeFleur

Lance R. LeFleur, Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059  
(334) 271-7700

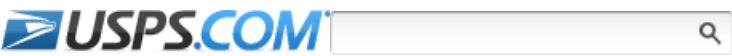
**ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE**

I, Glenda L. Dean, do hereby certify that I have served the executed Administrative Order Number 13-110-WP upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt # 91 7108 2133 3936 6587 0464, with instructions to forward and return receipt to:

Frank Green, CEO  
Eagle Biodiesel, Inc.  
Post Office Box 825  
Bridgeport, Alabama 35740  
Jackson County (071)

Done this 11<sup>th</sup> day of July, 2013

Glenda L. Dean  
Glenda L. Dean, Chief  
Water Division  
Alabama Department of Environmental Management




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		Available for Pickup	July 13, 2013, 10:12 am	BRIDGEPORT, AL 35740	
		Depart USPS Sort Facility	July 13, 2013	BIRMINGHAM, AL 35222	
		Processed through USPS Sort Facility	July 13, 2013, 2:18 am	BIRMINGHAM, AL 35222	
		Processed through USPS Sort Facility	July 12, 2013, 3:12 pm	BIRMINGHAM, AL 35222	
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