

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 41-00370

LIS No. 17-001

SPECIALTY MINERALS INC.
339 HIGHWAY 71 SOUTH
ASHDOWN, ARKANSAS 71822

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, APC&EC Regulation 19, and APC&EC Regulation 26.

The issues herein having been settled by agreement of Specialty Minerals, Inc. (Respondent) and the Director of the Arkansas Department of Environmental Quality (ADEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent owns and operates a precipitated calcium carbonate plant (the Facility) located at 339 Highway 71 South in Ashdown, Little River County, Arkansas.
2. ADEQ issued Air Operating Permit 2337-AOP-R0 (the Permit) to Respondent on January 07, 2015.
3. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

4. Ark. Code Ann. § 8-4-103(c)(1) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

6. On May 25, 2016, Respondent submitted a Biannual Monitoring Report which identified the following potential deviations from the Permit:

- (1) Sample not analyzed for conductivity or TDS during the weeks of June 14, 2015 and June 21, 2015.
- (2) No opacity measurements were made for SN-08, SN-09, and SN-10 for the week of June 14, 2015.
- (3) No opacity measurements were made for SN-09 and SN-10 for the week of June 21, 2015.
- (4) Failure to report the above listed deviations to ADEQ within one day of occurrence.

7. On April 26, 2016, ADEQ conducted a routine compliance inspection of the Facility.

8. Specific Condition 4(c) of the Permit requires Respondent to collect and analyze *grab samples for conductivity from either of the two scrubber cooling towers (SN-01 or SN-02)* and one grab sample each week of the blowdown from one of the five non-contact cooling towers (SN-03 through SN-07). Records provided by Respondent indicate that grab samples for

conductivity were not analyzed or recorded for the weeks of June 14, 2015, June 21, 2015, April 10, 2016 and April 17, 2016. Such failures violate Specific Condition 4(c) of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. Specific Condition 8 of the Permit requires Respondent to conduct weekly observations of opacity from Railcar Lime Receiving (SN-08), Lime Silos 1001 & 1002 (SN-09), Lime Silo 1003 (SN-10) and Lime Silo 1004 (SN-11). Records provided by Respondent indicate that no weekly opacity observations were conducted on June 14, 2015, and June 21, 2015. Such failures violate Specific Condition 8 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. During the April 26, 2016 inspection, ADEQ reviewed Respondent's Annual Compliance Certification (ACC). The ACC was due on March 1, 2016 and was submitted to ADEQ on February 29, 2016. However, the ACC did not address all General Provisions contained in the Permit nor did it include the previously mentioned deviations for Specific Conditions 4 and 8. Respondent resubmitted an ACC on May 26, 2016. Such failures violate General Provision 21 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. In correspondence dated May 10, 2016, ADEQ notified Respondent of the inspection findings.

12. On July 29, 2015, Respondent replied to ADEQ's inspection findings with corrective measures to prevent recurrence of the violations noted in the Paragraphs 8 and 9.

13. On August 1, 2016, Respondent detected a total dissolved solids (TDS) concentration of 2,210 parts per million (ppm) at the Slaker #3 Cooling Tower, which exceeds the permitted limit of 2,000 ppm. On August 2, 2016, Respondent notified ADEQ of the TDS

concentration exceedance. Such acts violate Specific Condition 4(a) of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and ADEQ do hereby agree and stipulate as follows:

1. Within forty-five (45) calendar days of the effective date of this CAO, Respondent shall submit a compliance plan and implementation schedule (the Plan) addressing all issues of noncompliance noted in the FINDINGS OF FACT of this CAO. ADEQ shall review the Plan and may submit to Respondent a written request for additional information to determine that the proposed procedures adequately address the instances of noncompliance as outlined in the proposed Plan. It shall be the responsibility of Respondent to submit a response to any such written request made by ADEQ within fifteen (15) calendar days. Any failure to submit information requested by ADEQ shall be considered a violation of this CAO.

2. All corrective measures implemented pursuant to Paragraph 1 of the Order and Agreement shall be completed within ninety (90) calendar days of acceptance of the Plan by ADEQ. Submittal of said information shall be mailed to:

ADEQ
Office of Air Quality, Enforcement Section
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

3. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **THREE THOUSAND SEVEN HUNDRED DOLLARS (\$3,700.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

ADEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

In the event that Respondent fails to pay the civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs associated with collection.

4. All applicable submissions required by this CAO are subject to approval by ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

5. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | |
|--|----------------|
| (a) First day through the fourteenth day: | \$100 per day |
| (b) Fifteenth day through the thirtieth day: | \$500 per day |
| (c) More than thirty days: | \$1000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of ADEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of Respondent's failure to comply with the requirements of this CAO. ADEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

6. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or

deadlines of this CAO, Respondent shall notify ADEQ in writing as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates have passed. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

7. ADEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify ADEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

8. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) calendar days after public notice of the CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

9. As provided by APC&EC Regulation 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

10. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided

herein, shall this CAO be deemed in any way to relieve Respondent of responsibilities contained in the permit.

11. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of the responsibilities for obtaining any necessary permits.

12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 10 DAY OF January, ~~2016~~ ²⁰¹⁷ PM
Becky Wkeogh
BECKY WKEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SPECIALTY MINERALS INC.

BY: [Signature] (Signature)
For LePoite (Typed or printed name)

TITLE: Plant Manager

DATE: 1/3/17