

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 88-00799

LIS No. 16-080

RONNIE DUFFIELD GRAVEL COMPANY
d/b/a DUFFIELD GRAVEL COMPANY
HIGHWAY 326 GUM LOG COMMUNITY
RUSSELLVILLE, AR 72802

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "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, and APC&EC Regulation 19.

The issues herein having been settled by agreement of Ronnie Duffield Gravel Company d/b/a Duffield Gravel Company (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 rock crushing facility located at Highway 326 Gum Log Community in Russellville, Pope County, Arkansas.
2. ADEQ granted coverage to Respondent under Minor Source General Air Permit

for Rock Crushing Facilities, Permit Number 1916-AGP-000 (the Permit). Respondent was issued Permit Tracking Number 1916-AGP-035 on October 29, 2003.

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. As an owner and operator of stationary Reciprocating Internal Combustion Engines (RICE) at an area source of Hazardous Air Pollutant emissions, Respondent is subject to 40 C.F.R. Part 63, Subpart ZZZZ (Subpart ZZZZ). The three (3) affected stationary RICE located at the site are identified in this CAO as follows:

Table 1 - Respondent's Stationary RICE Subject to Subpart ZZZZ

RICE ID	Model Number	Manufacture Date	Serial Number	Horsepower
RICE 1	3406DITA	1995	2WB15883	590
RICE 2	3412	1996	81Z18985	913
RICE 3	3412	2001	BPG00251	913
Total Horsepower				2,416

7. Specific Condition 12 of the Permit limits Respondent to a maximum total of

1,500 horsepower for all stationary RICE at the facility. On July 15, 2015, ADEQ personnel conducted an inspection of Respondent's facility. The inspection revealed three (3) stationary RICE with a combined total of 2,416 horsepower. Such act violates Specific Condition 12 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

8. The inspection revealed that Respondent failed to comply with the applicable emission limitations and operating limitations found in Tables 2b and 2d of the Permit by failing to install or maintain a catalyst and failing to limit or reduce the emissions of CO. Such failures violate Specific Conditions 81(a) and 83 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. The inspection revealed that Respondent failed to comply with the applicable notification requirements of § 63.6645 of Subpart ZZZZ and in 40 C.F.R. Part 63, Subpart A (Subpart A). Such failures violate Specific Condition 82 and Specific Condition 112 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. The inspection revealed that Respondent failed to conduct an initial performance test or other initial compliance demonstration on the stationary RICE, according to Table 4 and Table 5 of the Permit, that apply, within 180 days after the May 3, 2013, compliance date. Such failure violates Specific Condition 87 and Specific Condition 102 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. The inspection revealed that Respondent failed to equip its three RICE, identified in Table 1, with either: a) a closed crankcase ventilation system that prevents crankcase

emissions from being emitted to the atmosphere; or b) an open crankcase filtration emission control system that reduces emissions from the crankcase by filtering the exhaust stream to remove oil mist, particulates, and metals. Such failure violates Specific Condition 98 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. The inspection revealed that Respondent failed to install on its RICE 1-3 either: a) a Continuous Emissions Monitoring System (CEMS) to continuously monitor carbon monoxide and either oxygen or carbon dioxide at both the inlet and outlet of the oxidation catalyst; or b) a Continuous Parameter Monitoring System (CPMS) to continuously monitor catalyst inlet temperature. Thus, Respondent has not monitored and collected data according to §63.6635 of Subpart ZZZZ. Such failures violate Specific Condition 105 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

13. The inspection revealed that Respondent failed to submit its first semi-annual Compliance Report, which was due no later than July 31, 2013, and the subsequent semi-annual Compliance Reports, which were due no later than January 31, 2014, July 31, 2014, and January 31, 2015. In addition, the semi-annual Compliance Report that was due no later than July 31, 2015, has not been received by ADEQ. Such failures violate Specific Condition 116 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. ADEQ informed Respondent of the compliance issues identified in the July 15, 2015, inspection report in correspondence dated July 30, 2015. This letter was intended to provide the facility with an opportunity to review violations and submit information Respondent

deemed appropriate regarding the compliance issues.

15. In correspondence dated August 13, 2015, Respondent stated that it: 1) had contacted environmental consulting firms to address the July 15, 2015, inspection findings; 2) was exploring options to order oxidation catalysts to install on its stationary RICE that was expected to be installed within fifteen (15) weeks; 3) plans to schedule initial performance testing of its stationary RICE after installation of the oxidation catalysts; and 4) expects to submit the appropriate permit application to ADEQ within 120 days. As of August 25, 2016, Respondent has not provided assurances that these actions have been completed.

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 thirty (30) calendar days of the effective date of this CAO, Respondent shall submit an administratively complete Air Permit application for the appropriate permit type to address the violation referenced in FINDINGS OF FACT Paragraph 7 of this CAO.

2. Within fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit copies of records documenting the installation on its stationary RICE, identified in Table 1, with either: a) a CEMS to continuously monitor carbon monoxide and either oxygen or carbon dioxide at both the inlet and outlet of the oxidation catalyst; or b) a CPMS to continuously monitor catalyst inlet temperature.

3. Within fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit copies of records documenting the installation on its stationary RICE, identified in Table 1, with either: a) a closed crankcase ventilation system that prevents crankcase emissions

from being emitted to the atmosphere; or b) an open crankcase filtration emission control system that reduces emissions from the crankcase by filtering the exhaust stream to remove oil mist, particulates, and metals.

4. The records referenced in ORDER AND AGREEMENT Paragraphs 2 and 3 of this CAO shall be mailed to:

ADEQ, Air Enforcement Section
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

5. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall conduct the initial performance testing of the three stationary RICE identified in Table 1. Initial performance testing shall comply with the emissions and operating limitations and other requirements of Tables 4 and 5 to Subpart ZZZZ. Respondent shall adhere to testing notification and reporting requirements of General Condition 7.

6. Respondent shall comply with report submittal requirements of Specific Condition 116 of the Permit, including the past-due semi-annual Compliance Report covering the reporting period of July 1, 2015 through December 31, 2015. This report covering the reporting period of July 1, 2015 through December 31, 2015 must be submitted within fifteen (15) calendar days of the effective date of this CAO.

7. Within ninety (90) calendar days of the effective date of this CAO, Respondent shall submit all past-due notifications required by §63.6645 of Subpart ZZZZ and in Subpart A.

8. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$4,800.00)**, or one-half of the penalty, **TWO THOUSAND FOUR**

HUNDRED DOLLARS (\$2,400.00) if this CAO is signed and returned to Air Enforcement Section, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **September 30, 2016**. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 4th DAY OF October, 2016.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

RONNIE DUFFIELD GRAVEL COMPANY
d/b/a DUFFIELD GRAVEL COMPANY

BY: [Signature] (Signature)
Luke Duffield (Typed or printed name)

TITLE: V.P.

DATE: September 28, 2016