

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TWIN LAKES QUARRYS INC.

P.O. BOX 705

MOUNTAIN HOME, ARKANSAS 72653

LIS 16- 015

PERMIT #0463-MN-A3

AFIN # 25-00257

CONSENT ADMINISTRATIVE ORDER

This CONSENT ADMINISTRATIVE ORDER (hereinafter "CAO") is issued pursuant to the authority of the Arkansas Open Cut Land Reclamation Act, Ark. Code Ann. § 15-57-301 *et seq.* and the regulations promulgated by the Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") including, but not limited to, Regulation No. 15: Arkansas Open-Cut Mining and Land Reclamation Code; Regulation No. 8: Administrative Procedures; and Regulation No. 7: Civil Penalties.

Furthermore, the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ") is authorized pursuant to Ark. Code Ann. § 8-1-202(b)(2)(B) to initiate and settle administrative enforcement actions to compel compliance with laws, orders, and regulations charged to the responsibility of ADEQ.

The issues herein having been settled by the agreement of Twin Lakes Quarrys, Inc. (hereinafter "Respondent") and ADEQ, it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered herein.

FINDINGS OF FACT

1. Respondent operated a sand mining site located at Moody Sand Pit, three miles S.E. of Salem, Fulton County, Arkansas (hereinafter "the site").
2. Ark. Code Ann. § 15-57-310(a) provides:
 - (a) It shall be unlawful for any operator to engage in open-cut mining without first obtaining from the Arkansas Department of Environmental Quality a permit to do so in the form required by the Arkansas Department of Environmental Quality.
3. Ark. Code Ann. § 15-57-304(a)(3) provides:
 - (a) It shall be unlawful for any person to:
 - (1) Violate any conditions of a permit or reclamation plan issued pursuant to this subchapter;
4. Ark. Code Ann. § 15-57-305(4)(a)-(c) authorizes ADEQ to assess an administrative civil penalty not to exceed:
 - a. One thousand dollars (\$1,000) for the first violation;
 - b. Two thousand five hundred dollars (\$2,500) for a second separate violation of the same offense within two (2) years; and
 - c. Five thousand (\$5,000) for a third separate or subsequent violation of the same offense within two (2) years.
5. Pursuant to Ark. Code Ann. § 15-57-304(b), "for the purposes of fines only, each day or part of a day during which the violation is continued or repeated shall constitute a separate offense."

6. On May 29, 2009, ADEQ issued Open-Cut Mining Permit #0463-MN-A3.
7. On May 21, 2011, the lease agreement for permit #0463-MN-A3 expired. A new lease agreement was not executed.
8. On May 28, 2014, Open-Cut Mining Permit #0463-MN-A3 expired.
9. On June 25, 2015, ADEQ's Mining Division performed an inspection of the site and determined the Respondent was no longer conducting open-cut mining operations, but the site has not been reclaimed. This is a violation of Ark. Code Ann. § 15-57-304(a)(3) and APC&EC Reg. 15.502(B)(3).

ORDER AND AGREEMENT

WHEREFORE, the Respondent and ADEQ do hereby stipulate and agree:

1. Respondent shall obtain and submit to ADEQ written permission from the landowner to reclaim the site within thirty (30) days of the effective date of this order.
2. In the event the landowner denies access to the property for reclamation to be completed, the operator must provide written documentation of attempts to gain access to the property, including letters, certified mail receipts, etc., to prove that access was sought but denied.
3. Respondent shall submit a revised reclamation schedule approved by ADEQ within thirty (30) days of the effective date of this order.
4. Respondent shall reclaim the site within eighteen (18) months of the effective date of this order.

5. In compromise and full settlement of civil penalties for the violation described in paragraph 9 of the FINDINGS OF FACT, Respondent agrees to pay to ADEQ **SEVEN HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$750.00)** as a voluntary civil penalty.

6. In determining the amount of civil penalties assessed, ADEQ considered pertinent factors pursuant to, and consistent with, Section 9 of APC&EC Regulation No.

7. Therefore, the total sum of civil penalties hereby assessed is **SEVEN HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$750.00)**. Full payment thereof shall be made within thirty (30) calendar days of the effective date of this CAO, shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of the FISCAL DIVISION, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed.

7. Failure to meet any requirement or deadline of this CAO constitutes a violation of said CAO. If Respondent should fail to meet any such 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: \$100.00 per day

(B) Fifteenth day through the thirtieth: \$500.00 per day

(C) Each day beyond the thirtieth day: \$1,000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the failure of the Respondent to comply with the requirements of this CAO.

8. If any event, including, but not limited to natural disasters, occurs which causes, or may cause, delay in achievement of compliance by the Respondent with the requirements or deadlines created by this CAO, it shall be the responsibility of Respondent to notify ADEQ, in writing, as soon as reasonably possible after it is apparent delay will result, but in no case after the due dates specified above. This notification shall describe in detail the anticipated length of the delay and the precise cause of the delay.

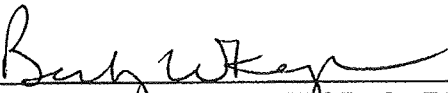
9. ADEQ may grant an extension of any provisions of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has been or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance 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 fault of Respondent and the length of delay attributable to such circumstances shall rest with Respondent. Failure to notify ADEQ promptly, as provided in the preceding paragraph, may be ground for denying an extension.

10. This CAO is subject to public review and comment in accordance with APC&EC Reg.8.407 and is therefore not final 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.

11. As provided by APC&EC Regulation No. 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. Nothing in the CAO shall be construed as a waiver by ADEQ of its enforcement authority over violations not specifically addressed herein. Also this CAO does not purport in any way to relieve Respondent of its responsibility for obtaining any necessary permits, nor does it exonerate the Respondent from any past, present, or future conduct which is not expressly addressed herein.

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.

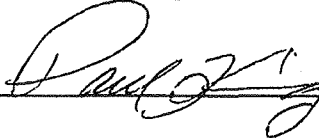
SO ORDERED this 23 day of February, 2016



BECKY W. KEOGH, DIRECTOR, ADEQ

APPROVED AS TO FORM AND CONTENT:

TWIN LAKES QUARRYS, INC.

 (Signature)

Paul King (Typed or Printed name)

DATE: 2-19-16