



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
GARY C. RIKARD, EXECUTIVE DIRECTOR

October 7, 2016

CERTIFIED MAIL #7010 0780 0001 9992 6896

Mr. Jeff Cox
Birdsong Construction Company, Inc.
P O Box 2235
Clinton, MS 39060

**Re: Birdsong Construction Company Inc., Clinton Mine
Agreed Order No. 6694 16**

Enclosed you will find a copy of Agreed Order No. 6694 16, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Gary Rikard, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

If you have any questions regarding your obligations under the enclosed order, please contact Austin Byrd at (601) 961-5386.

Sincerely,

*Renee Odum
for*

Tim Aultman, P.E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Austin Byrd

Agency Interest No. 65870
ENF20160002

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6694 16

BIRDSONG CONSTRUCTION COMPANY, INC.
PO BOX 2235
CLINTON, MISSISSIPPI 39060

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Birdsong Construction Company, Inc., Respondent, in the above captioned cause and agree as follows:

1.

By letter dated April 11, 2016, Respondent was contacted by Complainant and notified of the following violations at its mining site (Clinton Mine – MSR322400) located off of Industrial Drive, Clinton, Mississippi in Hinds County:

1. Violation of ACT 6, Section S-1, Condition (1): *Failed to properly implement the SWPPP.*
2. Violation of ACT 6 Section S-3: *Failed to Identify Mine Boundaries.*
3. Violation of ACT 6, Section S-2, Condition (7): *Failed to Install additional and/or alternative erosion and sediment controls when existing controls proved to be ineffective.*
4. Violation of ACT 6, Section S-2, Condition (10): *Failed to Maintain all erosion controls.*

01 4900

5. Violation of ACT 8, Section S-4, Condition (2): *The owner or operator shall notify MDEQ orally within 24 hours from the time he or she becomes aware of unanticipated noncompliance.*

6. Violation of ACT 13, Section T-1 & T-2:

T-1, TRAINING DOCUMENTATION:

Personnel training conducted to meet the requirements of this ACT shall be documented. Training records shall include employee's name, worker identification number, date of training, contents of training, and the employee's signature acknowledging that training was received. All training records shall be maintained for at least three years from the date of training.

T-2, TRAINING PROGRAM REQUIREMENTS:

The coverage recipient shall develop and implement a program for initial and periodic refresher training of personnel that are responsible for implementing and/or complying with the requirements of this permit. Initial training for all personnel that are responsible for implementing and/or complying with the requirements of this permit shall be performed within twelve (12) months of issuance of coverage or recorage under this permit.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$7,000. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality

Attn: Jennifer Parish

P.O. Box 2339

Jackson, MS 39225

In conjunction with the civil penalty, Respondent agreed to terminate the active mining permit. The Request for Termination (RFT) of Coverage for MSR322400 was received by MDEQ on August 17, 2016. MDEQ Environmental Permits Division (EPD) terminated Certificate of Permit Coverage No. MSR322400 on September 26, 2016.

3.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

4.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

5.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 7th day of OCTOBER, 2016.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 

GARY C. RIKARD
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 28th day of Sept, 2016.

BIRDSONG CONSTRUCTION COMPANY, INC

BY: [Signature]

TITLE: President

STATE OF MS

COUNTY OF Hinds



PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Jeffery J Cox who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the President of Birdsong Construction Company, Inc. and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 28th day of Sept, 2016.

Audrey Click
NOTARY PUBLIC

My Commission expires: 11/20/18