



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

October 3, 2011

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. V. M. Cleveland
C and S Construction Company, Cleveland Sand Pit
1879 North Coley Road
Tupelo, MS 38801

**Re: C and S Construction Company, Cleveland Sand Pit
Agreed Order No. 6029 11**

Dear Mr. Cleveland:

Enclosed you will find a copy of Agreed Order No. 6029 11, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, 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 Ethan Mayeu at (601) 961-5613.

Sincerely,

A handwritten signature in blue ink that reads "Chris Sanders".

Chris Sanders, P. E.
Chief, Environmental Compliance and Enforcement Division

Enclosure
cc: Ethan Mayeu

Agency Interest No. 23772
ENF20110001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO.

6029 11

C AND S CONSTRUCTION COMPANY, LLC
1879 NORTH COLEY ROAD
TUPELO, MISSISSIPPI 38801

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 C and S Construction Company, LLC, Respondent, in the above captioned cause and agree as follows:

1.

On January 16, 2008, Respondent was issued Certificate of Coverage MSR321583 under the Mississippi Mining Storm Water General NPDES Permit No. MSR32 ("Permit") for surface mining operations on seven (7) acres off of County Road 1282 in Tupelo, Lee County, Mississippi (the "site").

2.

A site inspection by MDEQ personnel on July 15, 2010 revealed that Respondent had mined outside the original permitted area and had not implemented adequate storm water controls as required by the Permit. Additionally, a file review by MDEQ revealed that Respondent had failed to submit the required Semi-Annual Site Inspection Report Forms

documenting the required erosion control inspections.

3.

By letter dated November 10, 2010, Respondent was notified by Complainant of the following Permit violations at the site:

- A. ACT 6 Section S-1, Condition (1) of the Permit, for failure to implement the Storm Water Pollution Prevention Plan (SWPPP);
- B. ACT 6 Section S-1, Condition (4) of the Permit, for failure to amend the SWPPP;
- C. ACT 6 Section S-3 of the Permit, for failure to properly mark the boundaries of the mining operation;
- D. ACT 7 Section S-1, Conditions (1), (2), & (3) of the Permit, for failure to conduct required inspections of all erosion controls; and
- E. ACT 8 Section S-1 of the Permit, for failure to submit the required Semi-Annual Site Inspection Report Form.

4.

At an administrative conference held on November 30, 2010, Respondent indicated to MDEQ that no further mining operations would be conducted at the site in the future.

5.

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 cease from further mining activities at the site.
- B. Within thirty (30) days after this Agreed Order has been executed by the MDEQ Executive Director, or her designee (the "effective date"), Respondent shall install all necessary sediment and erosion controls including, but not limited to, silt fencing, hay bales, check dams, and/or a sediment basin(s) to prevent sediment from leaving the site. Such controls must include the establishment of proper vegetation over the site.

C. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$17,000 for the violations listed above. Respondent shall pay this penalty to MDEQ as follows: \$7,000 shall be paid within forty-five (45) days of the effective date and the remaining balance of \$10,000 shall be held in abeyance. Respondent shall not be required to pay the remaining balance pending Respondent's compliance with the terms of subparagraphs A and B of this Section. Should Respondent fail to comply with the terms of subparagraphs A and B of this Section, the abeyance penalty shall become due and payable within thirty (30) days of Respondent receiving written notification from Complainant that such a failure has occurred.

The settlement payment above shall be submitted to:

Mississippi Department of Environmental Quality
ATTN: Mona Varner
P.O. Box 2339
Jackson, MS 39225

6.

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.

7.


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.

8.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 29 day of September, 2011.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 26th day of September, 2011.

C AND S CONSTRUCTION COMPANY, LLC

BY: V.M. Cleveland

TITLE: member

STATE OF Mississippi

COUNTY OF Lee

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named V. M. Cleveland who first being duly sworn, did state upon his oath and acknowledge to me that he is the member of C and S Construction Company, LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 26th day of September, 2011.

Melinda C. Ware
NOTARY PUBLIC

My Commission expires: _____

