

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

BLUE RIDGE SAND AND GRAVEL, INC.)
WINFIELD, ALABAMA

ORDER NO. 86-066-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 to 22-22A-15 (1984), the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 (1984), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter, "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, § 402, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. Blue Ridge Sand and Gravel, Inc. (hereinafter, "the Operator") operates a sand and gravel surface mining operation and preparation plant located in Winfield, Alabama.

2. Code of Alabama 1975 provides that "every person, prior to discharging any new or increased pollution into any waters of this State shall apply to the [Department] in writing for a permit and must obtain such permit before discharging such pollution." ADEM Admin. Code R. 6-6-.03 provides that "[n]o

person shall discharge pollutants from a point source into waters without first having obtained a valid NPDES [National Pollutant Discharge Elimination System] permit"

3. ADEM Admin. Code R. 6-9-.05 provides that "[a]ll surface mining operations must have an NPDES permit issued by the Department."

4. The Operator has neither applied for nor obtained a NPDES permit from the Department.

5. On or about August 22, 1985, the Operator spilled diesel fuel, resulting in a discharge of pollutants from a point source into an unnamed tributary of East Branch of Luxapallila Creek, a water of the State, without a NPDES permit.

6. On or about October 9, 1985, the Operator discharged pollutants and other wastes into an unnamed tributary of East Branch of Luxapallila Creek, a water of the State, without a NPDES Permit.

7. On or about the following dates the Operator conducted surface mining operations without a NPDES permit: August 22, 1985 and October 9, 1985.

8. ADEM Admin. Code R. 6-9-.03 provides that "all surface mine operators shall provide the Department with a pollution abatement and/or prevention plan."

9. The Operator has failed to provide the Department with a pollution abatement and/or prevention plan.

10. ADEM Admin. Code R. 6-9-.06(1) provides that "[n]o operator shall conduct his operation in such a manner as to place, or cause to be placed into a stream, soil, rock, trees, overburden or any other debris or material associated with mining operations."

11. On or about October 9, 1985 the Operator placed soil, overburden, and other debris associated with mining operations into an unnamed tributary of East Branch of Luxapallila Creek.

12. ADEM Admin. Code R. 6-9-.06(2) provides that "[n]o untreated wastewater from a mineral preparation plant . . . shall be discharged into any stream."

13. On or about October 9, 1985 the Operator discharged untreated wastewater from its mineral preparation plant into an unnamed tributary of East Branch of Luxapallila Creek.

14. ADEM Admin. Code R. 6-9-.06(3) provides that "[a]ll water which is used to wash . . . gravel . . . shall be directed to specially constructed sedimentation basins or abandoned mines. The location and construction of such basins and/or the utilization of any abandoned mine for disposal, must be approved by the Department."

15. The Operator has not received approval from the Department for either the location or construction of the sedimentation basins which receive the water used to wash gravel.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22-9(c), 22-22-9(j), 22-22-9(1) and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, § 402, 33 U.S.C. § 1242, it is hereby ORDERED:

A. That immediately upon receipt of notice of this Order, the Operator shall cease all unpermitted discharges of pollutants to waters of the State.

B. That not later than 21 days after receipt of notice of this Order, the Operator shall submit to the Department a pollution abatement and/or prevention plan describing in detail the methods by which it will ensure that no further unpermitted discharges of pollutants to waters of the State occur. Said plan shall contain a construction and compliance schedule not to exceed 60 days for implementing the plan and said schedule shall be effective immediately upon notice to the Operator by the Department that the plan has been received. Said plan shall be prepared and certified by a registered professional engineer licensed to practice in the State of Alabama and shall conform to the provisions of ADEM Admin. Code R. 6-9-.03, Appendices A and B of ADEM Admin. Code R. 6-9, and ADEM Admin. Code R. 6-3-.01 to 6-3-.09.

C. That not later than seven days after construction of all treatment facilities required by the plan described in paragraph B above has been completed, the Operator shall submit to the Department in writing a certification by the design engineer that the facilities were constructed in accordance with the plans submitted to the Department.

D. That not later than seven days after compliance with the provisions of paragraphs A and B above has been achieved, the Operator shall submit to the Department in writing a certification by a principal executive officer of the Operator, at the level of vice-president or above, that compliance with the provisions of paragraphs A and B above has been achieved.

E. That not later than seven days after receipt of notice of this Order, the Operator shall submit to the Department a spill prevention control and countermeasure plan for all tanks at the Winfield operation. Said plan shall be prepared and certified by a registered professional engineer licensed to practice in the State of Alabama and shall be prepared in accordance with ADEM Admin. Code R. 6-3-.01 to 6-3-.09 and 40 C.F.R. § 112.

F. That not later than 14 days after receipt of notice of this Order, the Operator shall have completed construction of all treatment facilities required by the plan described in paragraph E above and shall submit to the Department in writing a

certification by the design engineer that the facilities were constructed in accordance with the plan submitted to the Department.

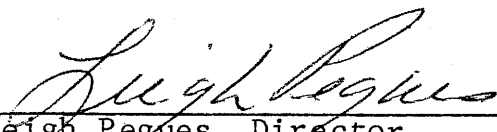
G. That not later than 21 days after receipt of notice of this Order, the Operator shall submit to the Department in writing a certification by a principal executive officer of the Operator, at the level of vice-president or above, that compliance with the provisions of paragraph E above has been achieved.

H. That, not later than 180 days after receipt of notice of this Order, the Operator shall cease all unpermitted discharges of pollutants and other wastes to waters of the State or shall have applied for and obtained a NPDES permit for such discharges.

I. That the failure to comply with the provisions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against the Operator.

J. That issuance of this Order does not preclude the Department from seeking civil penalties, criminal fines, or other appropriate sanctions or relief against the Operator for the violations stated herein.

ORDERED and ISSUED this 30th day of April 1986.



Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Federal Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I hereby certify that I have served Order No. 86-066-WP upon Blue Ridge Sand and Gravel, Inc. by sending the same, postage paid, through the United States Mail, as Certified Mail No. 686585777, with instructions to forward and return receipt requested to:

Bob R. Estes, President
Blue Ridge Sand and Gravel, Inc.
P.O. Box 733
Winfield, Alabama 35594

Done this 30th day of April 1986.



Olivia Hardy Hudgins