

ARKANSAS DEPARTMENT OF POLLUTION
CONTROL & ECOLOGY

LOCATION - SUBJECT Regulation 15
Revisions to Arkansas' Open-Cut
Reclamation Act 827

MINUTE ORDER NO. 92- 02

PAGE 1 OF 1

The Arkansas Open-Cut Land Reclamation Act was revised during the 1991 legislative session. The new act, Act 827, provides greater flexibility in bonding and clarifies certain permitting and reclamation requirements.

Attached is Regulation 15 which was written pursuant to Act 827. In addition to addressing the topics specifically required by the Act, Regulation 15 also provides the additional detail necessary to equitably implement the provisions of the Act.

Based on the above information, the Commission hereby adopts the attached Regulation 15.

COMMISSIONERS

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Chairman

SUBMITTED BY: F. Durham DATE PASSED: 1-31-92

PROMULGATED THIS 31st DAY OF January, 1992.

BY ORDER OF THE ARKANSAS COMMISSION OF POLLUTION CONTROL AND ECOLOGY

MINUTE ORDER 92-02

BY: Henry Wirth
Chairman

ATTEST: Randall Mathis
Director

APPROVED: Bill Clinton 4/4/94
Acting Governor



STATE OF ARKANSAS

Office of the Lieutenant Governor

February 6, 1992

Jim Guy Tucker
Lieutenant Governor

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Mr. J. W. Looney, Chairman
Pollution Control and Ecology Commission
Department of Pollution Control and Ecology
8001 National Drive
Little Rock, AR 72209

Dear Jake:

I am writing regarding the attached minute orders (92-01 and 92-02) authorizing Regulations 15 and 16. Both minute orders provided a place for the signature by the Governor evidencing approval of the Regulations. The issue of whether a signature by the Governor is required to authorize Regulations recently has become unclear due to Attorney General Winston Bryant's letter dated 7 January 1992. In that letter the Attorney General stated "the Governor has no statutory or constitutional authority under current law to approve or disapprove rules and regulations of the commission." No court has reviewed this issue. Should the Attorney General's conclusions be erroneous, failure of the Governor to approve the Regulations would be fatal to their validity. This issue cannot be completely resolved until additional direction is provided by the Legislature or a decision is rendered by the courts.

However, until such resolution is provided, to avoid placing essential state regulatory programs at risk by not signing appropriate documents, I believe the most prudent course of action is for the Governor to continue to review all rules and regulations proposed by "type 4 transfer" agencies created under Act 38 of 1971.

I have attached signed copies of minute orders 92-01 and 92-02 with this letter evidencing my approval of these Regulations in my capacity as Acting Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Guy Tucker".

Jim Guy Tucker
Acting Governor

JGT:kh

cc: Governor Bill Clinton
Attorney General Winston Bryant