

ARKANSAS

ENERGY & ENVIRONMENT

ENVIRONMENTAL QUALITY

May 30, 2019

Mr. Bobby Morris
MMSC, LLC
908 S. Old Missouri Rd.
Springdale, AR 72764

RE: Issuance of Open-Cut Mining General Permit No. 0002-MN-AG2-029

Dear Mr. Morris:

In accordance with the requirements of the Arkansas Open-Cut Land Reclamation Act (Arkansas Code annotated § 15-57-301 *et seq.*) and Regulation No. 15, please find enclosed your copy of Open-Cut Mining General Permit No. 0002-MN-AG2-028 for the "Hillside Quarry & Open Cut Mine" mine site located in Washington County, Arkansas. Please note the new General Permit Number (0002-MN-AG2-029) and refer to this number on associated correspondence.

If you have any questions concerning this matter, please contact Jerry Neill at (501) 682-0805 or neill@adeq.state.ar.us.

Sincerely,



Jarrod Zweifel, P.G.
Associate Director
Office of Land Resources

Enclosure

STATE OF ARKANSAS

DEPARTMENT OF ENVIRONMENTAL QUALITY




GENERAL PERMIT # 0002-MN-AG2-029 TO ENGAGE IN
OPEN-CUT MINING IN THE STATE OF ARKANSAS

This is to certify that

MMSC, LLC
Permittee

has complied with the application requirements of Act 827 of 1991, as amended, the Arkansas Open-Cut Land Reclamation Act and the Arkansas Open-Cut Mining and Reclamation Regulation (Regulation No. 15) written pursuant to the Act. The Permittee is authorized to conduct open-cut mining activities in accordance with the Act, the Regulation, the approved permit, any permit conditions, the approved mining plan and the approved reclamation plan, all of which are on file with the Department.

Permit Term: FROM August 27, 2019 TO January 14, 2024
(not to exceed five years)



Director (or Designee)

Date: August 27, 2019

** This document is transferable and is at all times the property of the State of Arkansas. This document must be posted at the mine office.*

**AUTHORIZATION TO MINE MATERIALS OUTSIDE OF A STREAM
CHANNEL ON TWENTY ACRES OR LESS UNDER THE ARKANSAS
OPEN-CUT LAND RECLAMATION ACT.**

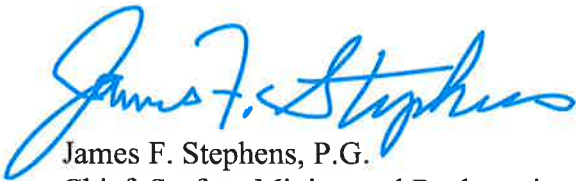
In accordance with the provisions of the Arkansas Open-Cut Land Reclamation Act (Arkansas Code Annotated § 15-57-301 *et seq.*), operators wanting to mine materials outside of a stream channel from an area of twenty (20) acres or less in size located in the State of Arkansas are authorized to conduct open-cut mining operations following the conditions set forth in Parts I through VII herein.

This permit shall become effective on January 15, 2014.

This permit shall expire on January 14, 2019.

Operators who are not already covered by an individual permit or are otherwise exempted by the Act and fail to submit a complete written Notice of Intent as required to the Department to be covered by this general permit will be considered to be in violation of the Act and therefore subject to possible enforcement action by the Department.

Signed this 15th day of January, 2014.



James F. Stephens, P.G.
Chief, Surface Mining and Reclamation Division
Arkansas Department of Environmental Quality

General Permit 0002-MN-AG2

Part I - Definitions

Definitions as used in this General Permit unless the context otherwise requires:

Act means the Arkansas Open-Cut Land Reclamation Act;

Affected Land means the area of land where open-cut mining has been or is taking place or upon which spoil has been deposited, or any other surface disturbance including haul roads, processing and loading facilities, or appurtenances related to the mining operations on or after July 1, 1977; until the land is reclaimed;

Best Management Practices means a practice or combination of practices that have been determined to be an effective and practicable means of controlling nonpoint source pollutants from being discharged into Waters of the State;

Commercial Purposes means the sale of material from an open-cut mine as either a cash transaction, part of a contractual agreement involving payment for materials provided, or use in another process to create a product with value;

Commission means the Arkansas Pollution Control and Ecology Commission, or such commission or other entity as may lawfully succeed to the powers and duties of the Commission;

Contemporaneous Reclamation means that reclamation efforts, including but not limited to, backfilling, grading, topsoil replacement and revegetation of all land disturbed by open-cut mining activities shall occur as contemporaneously as practicable.

Department means the Arkansas Department of Environmental Quality or such department or other entity which may lawfully succeed to the powers and duties of the Department;

Director means the executive head and active administrator of the Department;

Material means any commodity or natural deposit mined or treated as spoil during open-cut mining operations;

Open-cut mining means the surface extraction of clay, bauxite, sand, gravel, soil, shale or other materials for commercial purposes;

Operator means any person engaged in or controlling an open-cut mining operation;

Ordinary High Water Mark means that line delimiting the bed from the bank and is found by ascertaining where the presence and actions of water are so usual and long, continuing in ordinary years, as to mark upon the soil of the bed a

character distinct from that of the banks, with respect to vegetation and the nature of the soil;

Permit Area means a contiguous (sharing a boundary or edge; adjacent; touching) area owned by a single person or multiple persons upon which open-cut mining operations occur where the amount of affected land will be twenty (20) acres or less.

Person means any individual, partnership, firm, company, public or private corporation, cooperative, association, joint-stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or any other legal entity whatever which is recognized by law as the subject of rights and duties;

Pit means a tract of land where open-cut mining is taking place;

Reclamation for productive use means conditioning areas affected by open-cut mining to make them suitable for any uses or purposes consistent with those enumerated in the declaration of policy;

Right-of-way means the portion of land over or under which certain facilities, including, but not limited to roadways, pipelines or power lines, are built;

Soil means the unconsolidated mineral or organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants, generally free of boulders, cobbles or other floating rock;

Spoil means all waste material and debris connected with open-cut mining and with the mechanical removal, cleaning and preparation of materials at the mine site.

Watershed means an area of land that surface water drains into a central system, such as a lake, river, or an ocean.

Part II - Coverage under this Permit

A. Permit Coverage Area. This permit coverage includes all areas outside of stream channels within the State of Arkansas.

B. Eligibility.

1. General. This permit shall authorize any open-cut mining operation outside of a stream channel that follows the standard conditions in Part V of this permit and that will result in the disturbance of twenty (20) acres or less.

2. Limitations on Coverage.

- (a) This permit shall not cover in-stream mining operations or open-cut mining operations where the permit area will exceed the maximum twenty (20) acres during the life of the mine.
- (b) This permit shall not cover mining operations that are located within the watershed of any water body or waterway designated as an Extraordinary Resource Water (ERW) or a Natural and Scenic Waterway (NSW) in the Commission's Regulation No. 2. For the purposes of this permit, the watershed of an ERW or a NSW will be identified by the United States Geological Survey's twelve (12) digit Hydrological Unit Code (HUC).

C. Requiring an Individual Permit. The Director may require any operator seeking to be authorized by this permit to apply for and obtain an individual permit only if the operator has been notified in writing by the Department that an individual permit is required. This notice shall include a brief statement of the reasons for this decision, the individual permit application materials, a statement setting a deadline for the operator to file the application and, if applicable, a statement that coverage under this general permit shall automatically terminate on the effective date of the individual permit. The Director may grant additional time to submit the application upon request of the applicant. However, coverage under this permit will be terminated, if an operator fails to submit the individual permit application by the date specified in the notice.

D. Authorization.

- 1. An operator of an open-cut mine of twenty (20) acres or less outside of a stream channel must submit a Notice of Intent (NOI) in accordance with the requirements of Part III of this permit for lawful coverage.

Part III - Notice of Intent Requirements

A. Deadlines for Notification. An operator shall submit a NOI in accordance with the requirements of this Part at least ten (10) working days prior to the commencement of an open-cut mining operation authorized by this general permit.

B. Failure to Notify. An operator who fails to notify the Department for intent to be covered by this general permit is in violation of the Arkansas Open-Cut Land Reclamation Act (Ark. Code Ann. § 15-57-301 *et seq.*).

C. Contents of the Notice of Intent.

1. The Notice of Intent form used must be the form obtained from the Department.

2. Additional documents and other information required to be submitted with the NOI form:

(a) A vicinity map that must be a full sized 7.5 minute topographic quadrangle map as prepared by the United States Geological Survey with the mine site location marked.

(b) Proof of right to mine through one of the following:

(1) Deed

(2) Lease

(3) Other form of landowner approval.

(c) Written mining plan stating in general terms how mining is going to be conducted on the site including information on the number of acres to be affected and the anticipated depth of the pit. The written mining plan must contain information concerning incremental mining that might take place at sand and gravel operations.

(d) Written reclamation plan stating what the condition of the site will be after mining and reclamation including, but not limited to, the following:

(1) Grading of slopes

(2) Plant species to be used for re-vegetation

(3) Roads and buildings that will be left on site.

(e) NOI application fee of \$200.00.

(f) Bond amount per acre: \$15,000.00

(g) Total bond: Number of acres to be affected times the bond amount from paragraph (f) above (Acres x \$15,000.00).

(h) Reclamation bond instrument in the total amount of bond by one of the following:

(1) Cash

- (2) Collateral Bond:
 - (A) Certificate of Deposit
 - (B) Letter of Credit
- (3) Surety Bond

(i) Disclosure Statement

D. Where to Submit.

A NOI for coverage under this permit must be submitted to the Department using the following address:

Surface Mining and Reclamation Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

E. Additional Notification.

A copy of the permit certificate and the NOI form must be available at mine site during normal business hours.

F. Continuance of the Expired General Permit.

1. If the general permit expires before the final decision to renew or not renew the general permit is reached, the terms and conditions of the general permit shall remain in effect until there has been a final decision on the general permit.
2. In the event the Department makes a decision to not renew the general permit, existing coverage under the general permit shall continue until a final decision on the issuance of a individual open-cut mining permit is reached.

G. Reaffirmation of Permit Coverage.

Upon renewal of this general permit, the operator is required to submit a new NOI in accordance with this Part within thirty (30) days after the new effective date of the general permit to continue coverage.

H. Notice of Termination Request and Bond Release (NOTRBR). When a site covered by this general permit has been reclaimed in accordance with the reclamation plan, the operator shall submit a NOTRBR to the Department. The Department shall inspect the site to verify completion of the reclamation to meet any pertinent conditions listed in Parts IV and V of this permit. If reclamation is satisfactory, the Department will issue a termination of permit coverage and bond release letter. If reclamation is not satisfactory, the Department will recommend actions to correct deficiencies before permit coverage is terminated and the bond released. Failure to adequately reclaim the site after more than one hundred eighty (180) days from receipt of the Department's recommended actions will result in an enforcement action to insure that the site is reclaimed. The operator will be responsible for annual reports and annual fees until the permit coverage is terminated by the Department.

Part IV- Special Conditions and Management Practices

A. Within sixty (60) days following the submittal of a NOI for coverage under this general permit, the facility must contact the Permits Branch of the Water Division to obtain the appropriate forms to apply for the applicable Stormwater or other water permitting requirements at the following address, email, or telephone number.

Water Division, Permits Branch
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Telephone: (501) 682-0623 or by email at water-permit-application@adeq.state.ar.us

B. For forms and other information, please refer to the web page for the Permits Branch of the Water Division at the following website:

http://www.adeq.state.ar.us/water/branch_permits/default.htm

Part V- Standard Permit Conditions

- A. The perimeter of the permit area must be clearly marked on the ground at all times using metal posts or stakes projecting thirty-six (36) inches above ground and painted Hunter Orange or like color. These markers must remain in place until the operator has reclaimed the site and obtained release from reclamation liability from the Department.
- B. The operator shall protect the public from the dangers inherent in an open-cut mining operation by restricting access to the mine site and posting adequate warning signs.
- C. The operator shall preserve any topsoil for redistribution during reclamation unless otherwise approved by the Director.
- D. All affected land shall be graded to a rolling or terraced topography with adequate drainage to insure that no unplanned ponds of water develop on the site. No final slope shall be steeper than one (1) vertical to three (3) horizontal unless otherwise approved by the Department.
- E. If a pond is to be left as part of the reclamation plan, the operator must maintain a pH factor of six (6) to nine (9) in the pond.
- F. If the permit area is near a waterway, an undisturbed buffer zone of 100 feet must be maintained between the permit boundary and the ordinary high water mark of the waterway.
- G. An undisturbed buffer zone of 50 feet must be maintained from any adjacent property line or right-of-way until reclamation begins. The operator may create the final slope during reclamation starting ten (10) feet from the property line or right-of-way.
- H. All mine spoil generated by the operator shall be disposed of in a manner approved by the Department.
- I. For sand and gravel operations that will be conducting incremental mining operations, the operator shall perform contemporaneous reclamation of the mine site in accordance with the operator's incremental mining plan approved by the Department.
- J. No later than June 1 of each year of the permit term, the operator shall submit to the Department, an annual report containing information on the number of affected acres that are at the site and the number of tons of material mined during the previous twelve (12) months.
- K. No later than June 1 of each year of the permit term the operator shall submit to the Department, an annual fee, based on the number of acres affected at the site times ten dollars (\$10.00) per acre.
- L. Mine and permit identification sign:
 - 1. An identification sign shall be displayed at the main entrance to the site;
 - 2. The sign shall show permit number and the name, business address, and telephone number of the operator; and

3. The sign shall be maintained until a permit coverage and bond release letter is issued by the Department.

Part VI - Retention of Records

A. The operator shall retain records of all data used to complete the NOI and annual reports for a period of three years after receiving the permit coverage termination and bond release letter from the Department.

Part VII - Re-opener Clause

- A. If there is documented evidence by the Department indicating potential or realized impacts to the environment associated with mining activity at a site covered by this permit, the operator may be required to obtain an individual permit in accordance with Part II.C. of this permit.
- B. The Department may at any time initiate the procedure to modify a part of this general permit based on information collected on the effectiveness of this permit to protect the environment.