

ADEQ

ARKANSAS
Department of Environmental Quality

August 5, 2009

Mr. Dale Seitz
2380 Hwy 143
Berryville, AR 72616

RE: Gravel removal from Kings River
AFIN: n/a Permit No.: n/a



Dear Mr. Seitz:

On July 8, 2009, I performed an investigation of your gravel removal actions on the Kings River in response to a complaint in accordance with the provisions of the Arkansas Water and Air Pollution Control Act and the regulations promulgated thereunder. The complainant alleged that gravel was being removed from a Kings River island gravel bar upstream of the Grandview Bridge. This inspection revealed the following violation:

Removal of gravel from below the ordinary high water mark of the Kings River, an Extraordinary Resource Waterway, without authorization from the Department in violation of Arkansas Pollution Control and Ecology Commission Regulation No. 2.

The above item requires your immediate attention. Please submit a written response to this finding to Cindy Garner, Water Division Enforcement Branch Manager, of this Department. The response should be mailed to the address below. This response should contain detailed documentation describing the course of action taken to correct the item noted. This corrective action should be completed as soon as possible, and the written response with all necessary documentation (i.e. photographs) is due by August 15, 2009.

For additional information you may contact the enforcement section by telephone at 501-682-0639 or by fax at 501-682-0910. If I can be of any assistance, please contact me at (870) 446-6170 or by e-mail at Kirkpatrick@adeq.state.ar.us.

Sincerely,

Bruce Kirkpatrick
District 2 Field Inspector
Water Division

cc: Water Division Enforcement Branch
Water Division Permits Branch



ARKANSAS
Department of Environmental Quality

FOR OFFICE USE ONLY:
AIR HW RST SW WATER MINING

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

COMPLAINT REPORT

LOCATION: Hwy 143 Bridge on Kings River at Grandview

AFIN#: n/a **PERMIT#:** n/a

DATE RECEIVED: 07/07/09

COUNTY: Carroll

COMPLAINANT NAME: Verla Marshall

COMPLAINT AGAINST: Dale Seitz

ADDRESS: 4871 Hwy 143, Berryville, AR 72616

ADDRESS: 2380 Hwy 143, Berryville, AR 72616

PHONE: 870-423-4708 **Fax:** NA

PHONE: 870-423-4711 **FAX:** NA

PERSON RECEIVING REPORT:
Bruce Kirkpatrick

DATE:
07/07/09

SUPERVISOR REFERRAL:

DATE:

INSPECTOR REFERRED:

DATE:

**MEDIA SUPERVISOR
REFERRAL:**

DATE:

PHONE REFERRAL CONTACT:

DATE:

RECEIVING INSPECTOR:
Bruce Kirkpatrick

DATE:
07/0709

DESCRIPTION (IN DETAIL)

The complainant alleged that gravel was being removed from a Kings River island gravel bar upstream of the Grandview Bridge.

LOCATION (IN DETAIL)

Just upstream of the Hwy 143 Bridge on the Kings River at Grandview

PREVIOUS COMPLAINT? ☒ YES ☐ NO **DATES:** 5/29/09

DISCHARGE TO STREAM? ☐ YES ☒ NO **NAME OF STREAM:**

HOW COMPLAINT WAS RECEIVED: ☒ PHONE ☐ LETTER ☐ VERBAL ☐ FAX ☐ E-MAIL

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880

www.adeq.state.ar.us

FOLLOW UP ON COMPLAINT

COMPLAINT #: *n/a*

AFIN #: *n/a*

INSPECTOR: *Bruce Kirkpatrick*

DATE:*07/08/09*

ACTION TAKEN: *Site investigation*

PHOTOS TAKEN: *yes*

A site investigation was performed on 7/08/09. The investigation revealed that gravel had recently been removed from as island gravel bar of the Kings River, an Extraordinary Resource Waterway, just upstream of the Hwy. 143 bridge. The investigation revealed that gravel had been removed from an area approximately 45 yards by 8 yards since a previous investigation on 5/29/09.

This inspection revealed the following violation:

Removal of gravel from below the ordinary high water mark of the Kings River, an Extraordinary Resource Waterway, without authorization from the Department in violation of Arkansas Pollution Control and Ecology Commission Regulation No. 2.

The following violation was cited as the result of a May 29, 2009, investigation:

Removal of gravel from below the ordinary high water mark and operating equipment in the wetted portion of the Kings River, an Extraordinary Resource Waterway, without authorization from the Department in violation of Arkansas Pollution Control and Ecology Commission Regulation No. 2.

FURTHER ACTION TAKEN/TO BE TAKEN: *Letter to Dale Seitz citing violation and requiring written response.*

A copy of all will be sent to the ADEQ files in Little Rock. A copy will be retained at the ADEQ Jasper Field Office.

INSPECTOR SIGNATURE:



DATE: *7/29/09*

HOURS WORKED: *4*

Water Division Photographic Evidence Sheet							
Location:	Kings River just upstream of the Grandview Bridge						
Photographer:	Bruce Kirkpatrick			Witness:	None		
Photo #	1	of	2	Date:	07/08/09	Time:	1255 hrs.
Description:	Area where gravel was removed						
							
Photographer:	Bruce Kirkpatrick			Witness:	None		
Photo #	2	of	2	Date:	07/08/09	Time:	1256
Description:	Area where gravel was removed						
							

Dear Mrs. Garner

8-14-09

In regards to the letter I recieved
on Aug. 5th I was having gravel
~~taken out for my own use.~~

It clearly states on page 11
of "the landowners guide to Streamside
Living" put out by the "Kings River
Watershed Partnership", that if I
am mining gravel for use on my

own property I do not need
a permit. I have some illustrations
on the pictures taken by Mr.

Kirkpatrick. Since I didn't
have time to take pictures myself.

Which
I am a
member of }

My family and I are leaving
for Colorado Springs on the 16th
of August to take my son to
an Olympic Shooting School he
won from the Ark. Youth Shooting Sports
and Ark. game & fish.

I have surveyed off 7 1/2 Acres
to sell, and the gravel I am
using is for access roads to the
acreage and for roads to
remove topsoil that I am
trading for the equipment and
labor.

I am not looking for sympathy
or trying to be a "whiny butt",
but My wife has been diagnosed
with Breast Cancer, we are
about \$350,000⁰⁰ in debt!

I am just trying to do the
best I can to keep my head
above water and be legal about it!

It would be nice if someone
could tell Ms. Borka Marshall to
Mind her own business and quit
turning me in to A.D.E.Q.

With Respect
Sincerely, Dale Fitz

Water Division Photographic Evidence Sheet

Location:	Kings River just upstream of the Grandview Bridge						
Photographer:	Bruce Kirkpatrick			Witness:	None		
Photo #	1	of	2	Date:	07/08/09	Time:	1255 hrs.
Description:	Area where gravel was removed						

The rivers main channel is here →



← This is my bank that cut out has been from the floods

From the South shot →

same area

Photographer:	Bruce Kirkpatrick			Witness:	None		
Photo #	2	of	2	Date:	07/08/09	Time:	1256
Description:	Area where gravel was removed						

From the North shot →



← The river runs along this side of the gravel bar.

This is where the river has jumped the bank and cut in to my bank →



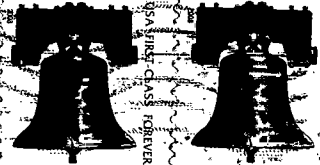
Hugh Seitz

2380 Highway 143

Berryville, AR 72616

LITTLE ROCK AR 720

35-0145-2000-007-3



Attn:
Cindy Garner

A.D.E.Q.
5301 Northshore Dr.
N. Little Rock Ar. 72118-5317

72118+5317





September 8, 2009

Mr. Dale Seitz
2380 Hwy 143
Berryville, AR 72616

RE: Gravel Removal from King's River, Response to Inspection

Dear Mr. Seitz:

The Department has received your response dated August 14, 2009 to the July 8, 2008 inspection of the area upstream from the 143 Bridge on the Kings River at Grandview. Your letter appears to adequately address your mining of gravel for use on your property. However, please be aware that at no time can gravel removal result in a violation of Arkansas Water Quality Standards.

If you have any questions regarding gravel mining, feel free to contact the Mining Division of the Arkansas Department of Environmental Quality.

Thank you for your response. Should you have any questions, feel free to contact me at 501-682-0635 or you may e-mail me at anderson@adeq.state.ar.us.

Sincerely,

A handwritten signature in cursive script that reads "Alan Anderson".

Alan Anderson
Enforcement Analyst
Water Division Enforcement Branch