

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
 Liberty Aggregates, LLC) **No. APCP-2022-049**
)
)
 Proceeding Under the)
 Missouri Air Conservation Law)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO THE RESPONDENT

The issuance of this Administrative Order on Consent No. APCP-2022-049 (Order) by the Missouri Department of Natural Resources (the Department) is a formal administrative action by the State of Missouri and is being issued because Liberty Aggregates, LLC (the Respondent) is in violation of Missouri Air Conservation Law, Chapter 643, of the Revised Statutes of Missouri (RSMo), and its implementing regulations. This Order is issued under Sections 643.060(4), 643.080, and 643.085, RSMo. Failure to comply with this Order is, by itself, a violation of the Missouri Air Conservation Law under Section 643.151.3, RSMo.

FINDINGS OF FACT

1. Liberty Aggregates, LLC is an active limited liability company registered and in active status with the Missouri Secretary of State.

2. The Respondent is a rock crushing plant which processes quarried limestone. The facility is located at ~~5920~~⁵⁹²² Southview Drive, Liberty, Clay County, Missouri.

3. The Respondent violated 10 CSR 10-6.060(1)(A)3., "Construction Permits Required" which requires an existing installation whose potential to emit exceeds de minimis threshold levels or is less than de minimis threshold levels due to taking practically enforceable requirements in a permit to obtain a construction permit before new construction and/or modification that can result in an emission increase. The Respondent has also violated Special Condition 2 of its Construction Permit 092016-011, which limits its PM emissions to 15 tons in any 12-month period from the entire installation.

4. On or about June 2, 2022, the Respondent was operating a demonstration rock crusher on-site to determine whether to purchase this equipment, without first obtaining a temporary construction permit. The operation of a rock crusher will result in an emission increase; therefore, the Respondent was required to have a temporary construction permit.

5. The Respondent also exceeded its 15 ton emission limit for any 12-month period. After reviewing facility reports, the inspector found that the Respondent's 12-month rolling total as of May 2022 was 16.6027 tons.

6. On July 5, 2022, the Department issued Referral Notice of Violation (RNOV) No. KCAP22003 to the Respondent to document violations identified.

7. The Respondent has begun the work to return to compliance. The Respondent has been issued a new construction permit for the rock crusher and it has begun to limit production to lower emissions.

8. The amount of the administrative penalty is assessed according to the criteria of 10 CSR 10-6.230, "Administrative Penalties." From a gravity-based analysis, it has been determined the first violation of 10 CSR 10-6.060 for failure to obtain a construction permit is a moderate potential for harm and a moderate extent of deviation from the requirement. The second violation of excess emissions is a moderate potential for harm and moderate extent of deviation from the requirement. The first violation of 10 CSR 10-6.060 that occurred at the Respondent's facility on June 2, 2022, was a moderate potential for harm because the Respondent's actions had a significant impact on the Department's ability to implement the regulation, and was a moderate extent of deviation because the Respondent's actions deviated significantly from the requirements of the Missouri Air Conservation Law and associated rules. The second violation of 10 CSR 10-6.060 that occurred at the Respondent's facility on June 2, 2022, was a moderate potential for harm and was a moderate extent of deviation because the Respondent was aware of emission limits outlined in its construction permit. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate for both violations, and considering adjustment factors including control and legal requirements, the assessed penalty is \$9,550.

STATEMENT OF VIOLATIONS

The Department finds that the following violations of the Missouri Air Conservation Law, Chapter 643, RSMo, and its implementing regulations have occurred, thereby

subjecting the Respondent to penalties as described in Sections 643.151 and 643.085, RSMo:

9. On June 2, 2022, the Respondent failed to obtain a temporary construction permit prior to operating a demonstration rock crusher on-site, and a review of facility records shows that the Respondent was over its 15 ton emission limit required by its permit. Both of these actions are in violation of Missouri Air Conservation Regulation 10 CSR 10-6.060, "Construction Permits Required."

AGREEMENT

10. The Department and the Respondent desire to amicably resolve all claims that the Department might bring against the Respondent for the violations of the Missouri Air Conservation Law and regulations described above and within RNOV No. KCAP22003. The Department and the Respondent agree that this Order resolves only the specific violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the Missouri Air Conservation Law and regulations or any other source of law, and that this Order does not resolve any claims based on any failure by the Respondent to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those specifically referenced herein.

11. The provisions of this Order apply to and bind the parties executing this Order, their agents, subsidiaries, successors, assigns, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the parties agreeing hereto. Any changes in ownership or corporate status, including but not

limited to any transfer of assets or real or personal property, do not affect the responsibilities of the Respondent under this Order.

12. The Respondent agrees to comply with the Missouri Air Conservation Law and regulations and, in particular, to refrain from further violations of 10 CSR 10-6.060, for all future operations.

PENALTY

13. To resolve in part the violations listed in Paragraphs 4 through 5 (under Findings of Fact) above, the Respondent agrees to a penalty in the amount of \$9,550, which shall be paid by **certified check** made payable to the "Clay County Treasurer, as trustee for the Clay County School Fund." The penalty is reduced to \$7,640 (80% of the assessed penalty) based on payment received within 30 days of the date the Order is sent to the Respondent and the expectation of the Respondent's full participation in the conference, conciliation, and persuasion process. The Respondent shall mail such payment along with the signed Order to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0477

CORRECTIVE ACTIONS BY THE RESPONDENT

To resolve the remaining violation, the Respondent agrees to and will complete to the Department's satisfaction, the following schedule of compliance:

14. The Respondent was required to limit its production to get below the 15 ton emission limit outlined in its permit. The Respondent was required to submit its 12-month rolling total emissions report until it is back in compliance or until the permit is

amended. The Respondent has completed the required corrective actions and is back in compliance.

OTHER PROVISIONS

15. This Order resolves the claims of the Department for the specific violations and concerns stated herein through the effective date of this Order.

16. The Department reserves all legal and equitable remedies available to enforce the provisions of this Order, except as stated in the previous paragraph. This Order shall not be construed to limit the rights of the Department to obtain penalties or injunctive relief under the Clean Air Act, the Missouri Air Conservation Law or the implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in the previous paragraph. The Department further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare of the environment arising at, or posed by the Respondent, whether related to the violations addressed in this Order or otherwise.

17. By signing this Order, all signatories assert that they have read and understand the terms of this Order, that they had the opportunity to consult with counsel, and that they have the authority to sign this Order on behalf of their respective parties.

18. This Order shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. This Order may not be modified orally.

19. If any provision of this Order is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

20. Penalty payments under this Order, including any stipulated penalties, are penalties within the meaning of Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), and 26 C.F.R. § 1.162-21(a)(3)(i). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2)(iii)(A), certain costs incurred by performance of this Order may qualify as restitution, remediation, or costs required to come into compliance with the law. **Liberty Aggregates, LLC** is solely responsible for providing to the Department complete, accurate, and necessary information by the close of any applicable tax year to complete a Form 1098-F. Further, the Department shall not be responsible for any incomplete or inaccurate information nor the results of any tax audit. No portion of any penalties paid pursuant to this Order may be used to reduce any federal or state tax obligations, except as authorized by the Internal Revenue Service.

21. Nothing in this Order excuses the Respondent for any future non-compliance with the laws of the State of Missouri, and the Department expressly reserves the right to address future noncompliance in any manner authorized by law.

22. This Order will become final, effective, and fully enforceable upon the date the Department signs it. The Department shall send a fully executed copy of this Order to the Respondent for their records.

CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the Department:

Emily Stafford
Compliance and Enforcement Section
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Respondent:

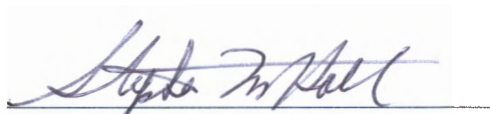
Chris Limpus
Liberty Aggregates, LLC
5920 Southview Dr.
Liberty, MO 64068

RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal, seek judicial review, or otherwise challenge this Order pursuant to Sections 643.130, 643.085, or 621.250, RSMo, Chapters 536, 643, or 640, RSMo, 10 CSR 10-1.030, or any other source of law.

AGREED TO AND ORDERED:

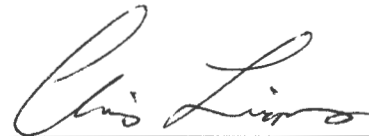
**MISSOURI DEPARTMENT OF
NATURAL RESOURCES**



Stephen M. Hall, Director
Air Pollution Control Program

Date: 7-17-2023

LIBERTY AGGREGATES, LLC



Chris Limpus, General Manager
Liberty Aggregates, LLC

Date: 6-19-23