

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Rogers Group, Inc.-Greenbrier Quarry
421 Great Circle Road
Nashville, TN 37228

LIS No. 24- **107**
Permit Number: AR0047112
AFIN 23-00291

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("Order") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of Rogers Group Inc.-Greenbrier Quarry (Respondent) and the Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent operates a rock crushing and asphalt production facility located at 1306 Highway 65 North in Greenbrier, Faulkner County, Arkansas ("Facility").
2. Respondent discharges treated wastewater from the following permitted outfalls to waters of the state:
 - a. Outfalls 001 and 004 to Cadron Creek, thence to the Arkansas River in Segment 3D of the Arkansas River; and
 - b. Outfall 005 to an unnamed tributary of Cadron Creek, thence to Cadron Creek, thence to the Arkansas River in Segment 3D of the Arkansas River Basin.

3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

4. Pursuant to the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accordance with 33 U.S.C. § 1342(a).

5. DEQ is authorized under the Arkansas Water and Air Pollution Control Act (“Act”) to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of a NPDES permit.

6. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes DEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any rule or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), “[e]ach day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

9. DEQ issued NPDES Permit Number AR0047112 (“Permit”) to Respondent on June 11, 2019. The Permit became effective on July 1, 2019, and expires on June 30, 2024.

10. Part III, Section D, Condition 10 of the Permit requires Respondent to submit a complete permit renewal application at least 180 days prior to the expiration date of the Permit if the activity regulated by the Permit is to continue after the expiration date.

11. Respondent intends to operate this Facility beyond the expiration date of the current permit, June 30, 2024.

12. On July 5, 2023, and October 2, 2023, DEQ notified Respondent that the Permit would expire on June 30, 2024, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than January 2, 2024.

13. On December 4, 2023, Respondent submitted documents for its renewal application to the DEQ ePortal system. Respondent executed its renewal application via the DEQ ePortal system on December 5, 2023. Respondent submitted information consistent with its initial application for the Permit in 2019.

14. On December 6 and 7, 2023, DEQ reviewed Respondent's application and noted several items that Respondent would need to complete or correct before the application would be complete.

15. Respondent reports that on January 5, 2024, its renewal application was "locked for review" in the DEQ ePortal system and that Respondent attempted to submit revised Forms 2C and 2F via the DEQ ePortal system on January 11, 2024, but was unable to do so since the renewal application remained "locked for review."

16. On January 22, 2024, Respondent asked DEQ, through the DEQ ePortal system, how Respondent could upload additional requested information and revisions of previously submitted data requested by DEQ through the DEQ ePortal system.

17. On January 22, 2024, DEQ unlocked Respondent's renewal application.

18. On January 23, 2024, Respondent provided the updated renewal application submission and executed it in the DEQ ePortal system.

19. On February 6, 2024, Respondent submitted additional information to complete the application, and on March 12, 2024, DEQ informed Respondent that the permit renewal application was determined to be administratively complete on February 6, 2024.

20. In DEQ's March 12, 2024 letter, DEQ informed Respondent that its complete Permit renewal application was not received by January 2, 2024. Respondent disagrees with DEQ's determination. Failure to submit the complete Permit renewal application by January 2, 2024, is a violation of Part III, Section D, Condition 10 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this Order, and DEQ consent to the following:

1. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.
2. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to DEQ stipulated penalties according to the following schedule:

- | | |
|---|-------------------|
| a. First day through fourteenth day: | \$100.00 per day |
| b. Fifteenth day through the thirtieth day: | \$500.00 per day |
| c. Each day beyond the thirtieth day: | \$1000.00 per day |

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of failure by Respondent to comply with the requirements of this Order.

3. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so notify DEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

4. DEQ may grant an extension of any provision of this Order, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

5. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

6. This Order is effective upon the Director's Signature. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) calendar day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

7. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

8. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 27 DAY OF June, 2024.



BAILEY M. TAYLOR, DIVISION OF ENVIRONMENTAL QUALITY, INTERIM
DIRECTOR CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Rogers Group Inc. – Greenbrier Quarry

BY: Erik Knowles
(Signature)

Erik Knowles
(Typed or printed name)

TITLE: Director of Environmental Services

DATE: 6/27/24



February 7, 2022

Ladies and Gentlemen:

This letter is to confirm that Erik Knowles, Director of Environmental Services for Rogers Group, Inc. ("Rogers"), has been delegated the authority on behalf of Rogers to prepare, execute and submit to state authorities all forms and documents required by environmental authorities in such states in connection with the application and issuance of permits to Rogers ("Permit Documents") and to address all matters before such state authorities as the representative of Rogers in connection with such Permit Documents.

If you have any questions or require additional information, please telephone the undersigned at (615) 780-5747.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Daniel C. Rose', is written over a large, stylized blue circular flourish.

Daniel C. Rose
Vice President, General Counsel & Secretary

Corporate - Legal
421 Great Circle Road
Nashville, TN 37228

Phone: (615) 780-5747
Fax: (615) 564-5747
rogersgroupinc.com