

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. **7258 23**

KENTUCKY-TENNESSEE CLAY COMPANY
250 K-T ROAD
CRENSHAW, MISSISSIPPI 38621

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Kentucky-Tennessee Clay Company, Respondent, in the above captioned cause and agree as follows:

1.

By letters dated May 23, 2022, and December 6, 2022, Respondent was contacted by Complainant and notified of the following violations of its Title V Operating Permit No. 2360-00035:

- A. Condition No. 3.B.12: Respondent failed to demonstrate compliance with the total filterable Particulate Matter (PM) limit of 8.0 pounds per hour (lbs/hr) during a stack test of Emission Point AA-005 on May 18, 2020. Respondent emitted 28.40 lbs/hr of total filterable PM during the stack test. Respondent demonstrated compliance with the total filterable PM limit during a retest of Emission Point AA-005 on December 18, 2020.
- B. Condition No. 5.C.1: Respondent failed to submit the performance test results within sixty (60) days of the date the performance tests were conducted. Respondent

submitted the results of the May 18, 2020 stack test 28 days late. Respondent submitted the results of the December 18, 2020 stack test 398 days late.

- C. Condition No. 3.B.10: Respondent failed to demonstrate compliance with the total filterable PM limit of 4.0 pounds per hour (lbs/hr) during a stack test of Emission Point AA-004 on June 1, 2022. Respondent emitted 4.52 lbs/hr of total filterable PM during the stack test. Respondent demonstrated compliance with the total filterable PM limit during a retest of Emission Point AA-004 on July 5, 2022.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$78,750. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee. The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 2339
Jackson, MS 39225

3.

Without admission of law or fact, Respondent has agreed to the terms of this Order to resolve this matter without the expense, uncertainties, and delay associated with litigation. Respondent consents to abide by the terms of this Order and to pay the civil penalty assessed herein in resolution of a disputed matter. This Order shall thus not be admissible in evidence against Respondent in any future proceeding other than a proceeding in which both Respondent and Complainant are parties. The parties further agree that the Commission continues to assert that the matters set forth in Paragraph 1 of this Agreed Order were violations of the environmental laws, regulations and/or permits applicable to Respondent.

4.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

5.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

6.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 9th day of June, 2023.

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

BY: [Signature]
CHRIS WELLS
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 31st day of May, 2023.

KENTUCKY-TENNESSEE CLAY COMPANY

BY: [Signature]
TODD SWANGER
VICE PRESIDENT

STATE OF GA

COUNTY OF Washington

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Todd Swanger who first being duly sworn, did state upon his oath and acknowledge to me that he is the Vice President of Kentucky-Tennessee Clay Company and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 31st day of May, 2023.

Laura Hollie Mock
NOTARY PUBLIC

My Commission expires: September 19, 2023

