



**Alabama Department of Environmental Management**  
**adem.alabama.gov**

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

January 9, 2019

**CERTIFIED MAIL NO: 91 7199 9991 7034 1848 8216**  
**RETURN RECEIPT REQUESTED**

MR DARRIN HEATHERLY  
GOOD HOPE CONTRACTING CO INC  
BLOUNT SPRINGS MATERIALS INC  
3280 COUNTY ROAD 437  
CULLMAN AL 35057

RE: Consent Order No. 19-022-CAP

Dear Mr. Heatherly:

Please find enclosed ADEM Consent Order No. 19-022-CAP which requires Good Hope Contracting Co., Inc. and Blount Springs Materials, Inc. to take certain actions in regard to alleged violations of the Alabama Air Pollution Control Act. This Order has been issued with the consent of Good Hope Contracting Co., Inc., Blount Springs Materials, Inc., and the Department. The monetary penalty required by Order Item A was received by the Department on November 26, 2018.

If you have any questions concerning this matter, please contact Ceil M. Jones at (334) 274-4187 in Montgomery.

Sincerely,

Ronald W. Gore, Chief  
Air Division

RWG/cmj

Enclosure

cc: Tom Johnston, Office of General Counsel

Executed: 01-09-2019

Mailed: 01-09-2019



ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: \_\_\_\_\_ )

Good Hope Contracting Co., Inc. )  
Blount Springs Materials, Inc. )  
Falkville, Morgan County, Alabama )  
ADEM Facility ID Nos. 712-0094-X001 and )  
712-0049-X001 )  
\_\_\_\_\_ )

CONSENT ORDER  
No. 19- 022 -CAP

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, “the Department” or “ADEM”) and Good Hope Contracting Co., Inc. (hereinafter, “Good Hope”) and Blount Springs Materials, Inc. (hereinafter, “Blount Springs”) and pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-16 (2006 Rplc. Vol.), and the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 through 22-28-23, (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Good Hope owns and operates an asphalt plant facility (hereinafter, “the Asphalt Plant”) currently located at 624 East State Crusher Road, Falkville, Morgan County, Alabama. The Asphalt Plant is operated under the authority of ADEM Air Permit No. 712-0094-X001 (hereinafter, the “Asphalt Permit”), issued on September 25, 2006. This Permit authorizes the operation of a 400 TPH drum-mix plant to produce hot mix asphalt, subject to certain limitations and conditions.

2. Blount Springs owns and operates a limestone quarry facility (hereinafter, “the Quarry”) located at 624 East State Crusher Road, Falkville, Morgan County, Alabama. The

Quarry is operated under the authority of ADEM Air Permit Nos. 712-0049-X001-X003. The Permit for Unit X001 (hereinafter, the “Quarry Permit”), issued on March 21, 2007, authorizes the operation of crushing, screening, and conveying equipment for processing limestone, subject to certain limitations and conditions.

3. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§22-22A-1 through 22-22A-16 (2006 Rplc. Vol.).

4. Pursuant to Ala. Code §22-22A-4(n) (2006 Rplc. Vol.), the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 through 22-28-23 (2006 Rplc. Vol.).

5. Proviso No. 17 of the Asphalt Permit states, in part, that “Precautions shall be taken to prevent fugitive dust emanating from plant roads, grounds, stockpiles, screens, dryers, hoppers, ductwork, etc.”

6. Proviso No. 14 of the Quarry Permit states, in part, that “Precautions shall be taken to prevent fugitive dust emanating from plant roads, grounds, stockpiles, screens, dryers, hoppers, ductwork, etc.”

7. Proviso No. 17 of the Quarry Permit states, in part, that “This process is subject to the regulations of the New Source Performance Standards (NSPS) (40 CFR 60, Standards of Performance for Nonmetallic Mineral Processing Plants). This NSPS limits emissions from crushers to 15% opacity...”

### DEPARTMENT'S CONTENTIONS

8. On August 16, 2018, ADEM conducted an unannounced inspection of the Asphalt Plant and Quarry and noted the following:

a) Excessive fugitive emissions were emanating from directly beneath the bucket elevator on the Asphalt Plant, as product was being dumped from a chute to the ground.

b) Excessive fugitive emissions emanating from the Quarry Unit No. X001, specifically from the primary and secondary crushers, which prompted ADEM inspectors to conduct an EPA Method 9 Visible Emissions Observation (VEO).

c) The VEO resulted in documented visible emissions of 24% and 33% opacities (six-minute averages) from the primary crusher and emissions of 17% and 29% opacities from the secondary crusher, which were in excess of the Quarry Permit and NSPS, Subpart OOO, 15% opacity limits.

d) Excessive fugitive emissions were emanating from dry haul roads and Quarry grounds.

9. On August 28, 2018, the Department issued a Notice of Violation (NOV) to Good Hope for excessive dust emissions from the Asphalt Plant, in violation of the Asphalt Permit.

10. On August 28, 2018, the Department issued a Notice of Violation (NOV) to Blount Springs for excessive dust emissions emanating from the Quarry equipment and roads, in violation of the Quarry Permit.

11. On September 18, 2018, the Department received a written response from Good Hope and Blount Springs (the "Permittees") stating the following:

a) The excess emissions from the Asphalt Plant were caused by an employee not using the proper procedure for cleaning out the chute on the bucket elevator.



b) The Quarry operator was not properly utilizing wet suppression to suppress dust from the limestone processing equipment.

12. Pursuant to Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers these violations to be serious. The Department is not aware of any evidence of irreparable harm to human health or the environment due to these violations.

B. THE STANDARD OF CARE: By not maintaining and operating the Asphalt Plant and Quarry in such a manner as to comply with the Permits, the Permittees did not exhibit the requisite standard of care.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any significant economic benefit as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts made by the Permittees to minimize or mitigate the effects upon the environment due to its non-compliance.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department previously issued a warning letter to Blount Springs on November 18, 2013, for excess emissions from Unit X001. The Department previously issued a warning letter to Good Hope on July 18, 2016, for excess emissions from the Asphalt Plant baghouse stack and for not meeting recordkeeping requirements.

F. THE ABILITY TO PAY: The Permittees have not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty it believes is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

13. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c (2006 Rplc. Vol.), as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate (*See* "Attachment A", which is hereby made a part of the Department's Contentions).

14. The Department neither admits nor denies the contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEES' CONTENTIONS

15. The Permittees neither admit nor deny the Department's Contentions. The Permittees consent to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittees, along with the Department, desire to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), as well as the need for timely and effective enforcement, and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittees agree to enter into this ORDER with the following terms and conditions:

A. The Permittees agree to pay to the Department a civil penalty in the amount of \$6,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittees agree that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

C. The Permittees agree to comply with the terms, limitations, and conditions of the Permits and NSPS Subpart OOO, every day hereafter.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittees agree that they are not relieved from any liability if they fail to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittees agree that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittees also agree that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittees shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittees, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittees) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed



economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittees, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

H. The Department and the Permittees agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Asphalt Plant and Quarry which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittees shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. The Department and the Permittees agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittees do hereby waive any hearing on the terms and conditions of same.

J. The Department and the Permittees agree that this Order shall not affect the Permittees' obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittees agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

L. The Department and the Permittees agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The Department and the Permittees agree that any modifications of this Order must be agreed to in writing signed by all parties.

N. The Department and the Permittees agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittees of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

GOOD HOPE CONTRACTING CO., INC.  
BLOUNT SPRINGS MATERIALS, INC.

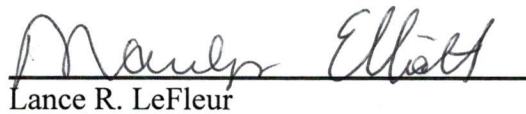
  
(Signature of Authorized Representative)

Neely Heatherly  
(Printed Name)

Vice President  
(Printed Title)

Date Signed: 11-19-18

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

  
Lance R. LeFleur  
Director

Date Executed: 1/9/2019

**Attachment A**

**GOOD HOPE CONTRACTING CO., INC.  
BLOUNT SPRINGS MATERIALS, INC.**

**Falkville, Morgan County**

Facility ID Nos. 712-0094-X001 and 712-0049-X001

<b>Violation*</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violations*</b>	
Failure to control fugitive emissions from Asphalt Plant	1	\$1,750	\$1, 750	\$250	
Failure to control fugitive emissions from Quarry	1	\$1,750	\$1, 750	\$250	
					<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		<b>\$3,500</b>	<b>\$3,500</b>	<b>\$500</b>	<b>\$7,500</b>

<b>Adjustments to Amount of Initial Penalty</b>	
<b>Mitigating Factors (-)</b>	
<b>Ability to Pay (-)</b>	<b>-\$1,500</b>
<b>Other Factors (+/-)</b>	
<b>Total Adjustments (+/-) Enter at Right</b>	<b>-\$1,500</b>

<b>Economic Benefit (+)</b>	
<b>Amount of Initial Penalty</b>	\$7,500
<b>Total Adjustments (+/-)</b>	<b>-\$1,500</b>
<b>FINAL PENALTY</b>	\$6,000

Footnotes

\* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.