

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)	
)	
Highway 160, LLC)	
Mulvehill Property)	Unilateral Order No. XX-XXX-WP
Warrior, Blount County, Alabama)	
Unpermitted Site)	

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act (“AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, as amended, the ADEM Administrative Code of Regulations (“ADEM Admin. Code”) promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C § 1342, the Alabama Department of Environmental Management (“Department”) makes the following FINDINGS:

1. Highway 160, LLC (“the Operator”) operates a crushed stone mining facility known as Mulvehill Property. Mulvehill Property is located at Highway 31, Warrior, Blount County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of AWPCA, Ala. Code §§ 22-22-1 to 22-22-14, as amended.

4. On November 8, 2024, the Department received a complaint regarding land disturbance and mining operations observed at the facility.

5. On November 14, 2024, the Department conducted a complaint inspection of the Mulvehill Property.

6. ADEM Admin. Code r. 335-6-9-.05(1) requires all surface mining operations to have a valid National Pollutant Discharge Elimination System (“NPDES”) permit issued by the Department. The inspection of Mulvehill Property on November 14, 2024, by the Department revealed that the facility was operating a surface mine without an NPDES permit in violation of ADEM Admin. Code r. 335-6-9-.05(1).

7. ADEM Admin. Code r. 335-6-6-.03(1) states that no person shall discharge pollutants into waters of the State without first having obtained a valid NPDES permit or coverage under a valid General NPDES permit. During the inspection on November 14, 2024, Department personnel observed five locations where sediment, a pollutant, discharged to a water of the State in violation of ADEM Admin. Code r. 335-6-6-.03(1).

8. ADEM Admin. Code r. 335-6-9-.06(2) states, “[n]o untreated wastewater from a mineral preparation plant, washing operation or contaminated surface runoff from mineral storage piles or refuse piles shall be discharged into any stream.” During the inspection on November 14, 2024, Departmental personnel observed the Operator operating a rock crusher and also observed mineral storage piles onsite. Departmental personnel did not observe any treatment structures or Best Management Practices (“BMPs”) being implemented by the Operator to control or treat the wastewater from the rock crusher and storage piles before being discharged, which is a violation of ADEM Admin. Code rs. 335-6-9-.06(2) and 335-6-9-.03.

9. On December 13, 2024, the Department issued a Notice of Violation (“NOV”) to the Operator for the Mulvehill Property.

10. On February 5, 2025, the Department received notice the NOV was unable to be delivered to the Operator by the United States Postal Service.

11. On April 9, 2025, the Department received an additional complaint regarding the Mulvehill Property.

12. On April 29, 2025, the Department conducted an additional complaint inspection of the Mulvehill Property. Departmental personnel observed during the inspection that no BMPs were in place, mining operations were taking place, and there were mineral storage piles located on site, in violation of ADEM Admin. Code rs. 335-6-9-.06(2) and 335-6-9-.05(1).

13. On June 12, 2025, the Department issued an updated NOV to the Operator for violations at the Mulvehill Property which required a response within thirty days of receipt.

14. On June 24, 2025, the issued NOV was received by the Operator.

15. On August 28, 2025, the Department attempted to contact the Operator to obtain a response to the issued NOV; however, the Operator did not respond.

16. On September 15, 2025, the Department made another attempt to contact the Operator regarding the NOV. There has been no response from the Operator to date.

17. Failure to respond to the NOV is a violation of Ala. Code § 22-22-9(e), as amended.

CIVIL PENALTY

18. Pursuant to Ala. Code § 22-22A-5(18)c, as amended, 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 that delayed compliance may have conferred 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. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY: Violations of ADEM Admin. Code div. 335-6 and the AWPCA were noted. The Department considered the general nature of each violation, the violations' effects, if any, on the receiving waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. THE STANDARD OF CARE: The Department noted that the violations, both technical and nontechnical, were easily avoidable by applying for an NPDES Permit and properly implementing BMPs. In consideration of the standard of care manifested by the Operator, the Department enhanced the penalty.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLAINT MAY HAVE CONFERRED: The Department has considered that failure to properly apply for a NPDES Permit and implement BMPs on site conferred an economic benefit upon the Operator, and the Department, as a result, has enhanced the penalty.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT: The Department is unaware of any efforts made by the Operator to minimize or mitigate the effect that the violations may have had upon the environment at the Mulvehill Property facility.

E. HISTORY OF PREVIOUS VIOLATIONS: The Department is unaware of violations by the Operator previous to those noted in this Order for this facility.

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

G. The civil penalty is summarized in Attachment A.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), and 22-22-9(i), it is hereby ORDERED:

A. The Operator shall pay to the Department a civil penalty in the amount of \$62,500.00 for the violations cited in this Order within **forty-five days** from the issuance date of this Order. Failure to pay the civil penalty within forty-five days after issuance may result in

the Department's filing a civil action in the Circuit Court of Montgomery to recover the civil penalty.

B. All penalties due pursuant to this 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. Immediately upon issuance of this Order, the Operator shall take immediate action to prevent, to the maximum extent practicable, sediment and other pollutants from leaving the Mulvehill Property, as well as unpermitted discharges of pollutants to waters of the State.

D. The Operator shall submit a complete application, including applicable fees, to the Department to obtain an individual NPDES permit for the Mulvehill Property. The complete application and fees must be submitted so that they are received by the Department no later than **thirty days** after the date of issuance of this Order.

E. The Operator shall prepare and submit to the Department an Engineering Report for the Mulvehill Property facility that: (1) identifies the potential and known causes of noncompliance, and (2) summarizes an investigation of the changes and actions necessary to achieve compliance with state and federal regulations and to mitigate any existing effects the violations have had on the environment. At a minimum, the Engineering Report shall address the need for changes in maintenance and operating procedures, the need for modification of existing operations, and the need for new or additional treatment facilities and BMPs. The Engineering Report shall include a Compliance Plan with a schedule for implementation of corrective actions. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than **thirty days** after issuance of this Order. If the Department determines through its review of the submitted Engineering Report that the

submittal is not sufficient to accomplish compliance with state regulations, or is not sufficient to feasibly mitigate the effects of the violations on the environment, then the Operator shall modify the Engineering Report accordingly. The Operator shall submit modifications to the Engineering Report, if required, so that they are received by the Department no later than **thirty days** after receipt of the Department's comments.

F. The Operator shall complete the corrective actions provided in the Engineering Report no later than **180 days** after the issuance of this Order.

G. The Operator shall prepare and submit to the Department a detailed Progress Report describing the Operator's progress towards achieving compliance with items presented in the Engineering Report within thirty days of any request(s) for a progress report by the Department.

H. The Operator shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether the Operator is in compliance with all requirements of this Order. The Operator shall submit such certification so that it is received by the Department no later than 210 days after the issuance of this Order.

I. Should violations continue to occur 180 days after the issuance of this Order, then the Department may issue an additional order or file suit against the Operator in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance of this Order.

J. The Operator is not relieved from any liability if the Operator fails to comply with any provision of this Order.

K. This Order shall not affect the Operator's obligation to comply with any Federal, State, or local laws or regulations.

L. Final approval and issuance of this Order are subject to the requirement that the Department provide notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

M. 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.

N. 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 Operator of its obligations to comply in the future with any permit.

O. Failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against the Operator for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this _____ day of _____, _____.

Edward F. Poolos, Director

Alabama Department of Environmental Management

**Attachment A
 Highway 160, LLC – Mulvehill Property
 Warrior, Blount County
 Unpermitted**

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Conducting Surface Mining Operations without a Valid NPDES Permit	1	\$10,000.00	\$1,500.00	\$0.00
Discharging of Pollutants into a Water of the State without a Valid NPDES Permit	5	\$25,000.00	\$2,500.00	\$0.00
Failure to install treatment structures/BMPs	2	\$5,000.00	\$500.00	\$0.00
Failure to respond to NOV	1	\$4,500.00	\$1,500.00	\$0.00

\$44,500.00	\$6,000.00	\$0.00
Total (A)	Total (B)	Total (C)
Base Penalty Total [Total(A) + Total(B) + Total(C)]		\$50,500.00
Mitigating Factors (-)		\$0
Economic Benefit (+)		\$12,000.00
Ability to Pay (-)		\$0
Other Factors (+/-)		\$0
INITIAL PENALTY		\$62,500.00

Additional Adjustments due to negotiations, receipt of additional information, or public comment	
Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-)	\$0.00



Total Adjustments (+/-) \$0.00
FINAL PENALTY \$62,500.00

Footnote

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