

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
Lambert Contracting, LLC )
Scottsboro, Jackson County, Alabama )
Facility ID No. 705-0060-X002 )

CONSENT ORDER

No.

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Lambert Contracting, LLC ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-17, as amended, and the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 through 22-28-23, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Lambert Contracting, LLC (the "Permittee") owns and operates a limestone quarry located at 20805 John T Reid Parkway in Scottsboro, Jackson County, Alabama (the "Facility"). The Permittee operates the Facility under the authority of ADEM Permit No. 705-0060-X002 ("Permit"), issued to it on February 6, 2026.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§22-22A-1 through 22-22A-17, as amended.

3. Pursuant to Ala. Code §22-22A-4(n), as amended, 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, as amended.

4. ADEM Admin Code r. 335-3-10-.01 and 335-3-10-.02 (67) incorporate by reference the requirements of Subpart 000, including 40 CFR 60.674 (b).

5. 40 CFR 60.674 (b) states:

“The owner or operator of any affected facility for which construction, modification, or reconstruction commenced on or after April 22, 2008, that uses wet suppression to control emissions from the affected facility must perform monthly periodic inspections to check that water is flowing to discharge spray nozzles in the wet suppression system. The owner or operator must initiate corrective action within 24 hours and complete corrective action as expeditiously as practical if the owner or operator finds that water is not flowing properly during an inspection of the water spray nozzles. The owner or operator must record each inspection of the water spray nozzles, including the date of each inspection and any corrective actions taken, in the logbook required under § 60.676(b).”

6. ADEM Admin Code r. 335-3-14-.01 (1) (a) (b) states:

“(a) Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall submit an application for an Air Permit at least 10 days prior to construction.

(b) Before any article, machine, equipment, or other contrivance described in subparagraph (a) of this paragraph may be operated or used, authorization shall be obtained from the Director in the form of an Air Permit. No Permit shall be granted for any article, machine, equipment or contrivance described in subparagraph (a) of this paragraph, constructed or installed without notification as required by subparagraph (a) of this paragraph, until the information required is presented to the Director and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards established by the Department.”

#### DEPARTMENT'S CONTENTIONS

7. On January 13, 2026, the Department received an initial Air Permit application for the Facility from the Permittee. This application proposed to replace the circuit constructed and operated under the authority of Air Permit No. 705-0060-X001 with the higher capacity circuit X002.

8. On January 27, 2026, the Department received a complete Air Permit application for the Facility from the Permittee.

9. On February 5, 2026, the Department conducted an inspection of the Facility and observed the Permittee's mineral processing equipment operating without an Air Permit. In addition, there were no records available on site indicating that periodic monitoring inspections of the wet suppression system were being conducted.

10. On February 6, 2026, ADEM Permit No. 705-0060-X002 was issued to the Facility.

11. On February 19, 2026, the Department issued a Notice of Violation ("NOV") to the Permittee for operating the new mineral processing equipment without an Air Permit.

12. On March 9, 2026, the Permittee responded to the NOV, stating that this matter resulted from an unintentional oversight. The Permittee believed that it was operating in full compliance with the Department's rules and regulations pursuant to Air Permit No. 705-0060-X001 issued on April 30, 2025, as well as the Temporary Authorization to Operate (TAO) approved on August 20, 2025. Circuit 705-0060-X002 was constructed and began operating during the week of November 20, 2025. At the time, the Permittee understood that operations were consistent with the conditions outlined in the TAO for Air Permit No. 705-0060-X001 and was in the process of submitting the required permit modification documentation. Accordingly, the Permittee believed that it was authorized to continue facility operations based on the previously granted approvals by the Department and was not aware that continued operations required issuance of a subsequent TAO authorization. In addition, the wet suppression is monitored continuously throughout the day, and modifications are made on an as needed basis. The Permittee now has the periodic monitoring records on file at the Facility instead of only at the home office. The records were not on site due to the construction of the permanent office being conducted. Also,

a new manager of the Facility has been hired and has been tasked and briefed with permit requirements. An employee has been positioned at the Facility to perform all required ADEM air and water pollution testing.

13. 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 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 this violation to be serious. The Department is not aware of any evidence of irreparable harm to human health or the environment due to this violation.

B. **THE STANDARD OF CARE:** By operating the Facility without prior authorization from the Department, the Permittee did not exhibit the requisite standard of care.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Permittee likely derived some economic benefit from its non-compliance.

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

E. **HISTORY OF PREVIOUS VIOLATIONS:** The Facility has no history of previous violations.

F. THE ABILITY TO PAY: The Permittee has 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.

14. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, 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 and consistent with the historical penalty range imposed by the Department for similar violations (*See* Attachment "A", which is hereby made a part of Department's Contentions).

15. The Department neither admits nor denies the Permittee's 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.

#### PERMITTEE'S CONTENTIONS

16. The Facility neither admits nor denies the Department's contentions. The Facility consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issue 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., *as amended*, 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 Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$12,000 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 Permittee agrees 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  
Post Office Box 301463  
Montgomery, Alabama 36130-1463

C. The Permittee agrees to comply with the terms, limitations, and conditions of the Permit and ADEM regulations everyday 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 Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees 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 Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee 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 Permittee, 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 Permittee) 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 Permittee, 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 Permittee 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 Facility 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 Permittee 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 Permittee 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 Permittee does hereby waive any hearing on the terms and conditions of same.

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

K. The Department and the Permittee 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 Permittee 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 Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

N. The Department and the Permittee 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 Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

LAMBERT CONTRACTING, LLC

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

  
\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Edward F. Poolos  
Director

Lyle T. Cavanaugh  
(Printed Name)

Quality Control Manager  
(Printed Title)

Date Signed: 4/21/2026

Date Executed: \_\_\_\_\_

Attachment A  
 Lambert Contracting, LLC  
 Jackson County, Alabama  
 Facility ID No. 705-0060-X002

<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 apply for an Air Permit before construction began	1	\$2,500	\$750	-	
Operating prior to receiving permit	1	\$5,000	\$1,500	-	
Failure to maintain wet suppression records	1	\$2,500	\$750	-	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		<b>\$10,000</b>	<b>\$3,000</b>	<b>-</b>	<b>\$13,000</b>

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	- \$3,000
Total Adjustments (+/-) <i>Enter at Right</i>	- \$3,000

Economic Benefit (+)	+\$2,000
Amount of Initial Penalty	\$15,000
Total Adjustments (+/-)	- \$3,000
<b>FINAL PENALTY</b>	<b>\$12,000</b>

Footnotes

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