

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

R & S MATERIALS, INC.

NPDES PERMIT NO. AL0057207

ORDER NO. 90-072-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, ALA. CODE §§ 22-22A-1 through 22-22A-16 (1975 and 1989 Cum. Supp.), the Alabama Water Pollution Control Act, ALA CODE §§ 22-22-1 through 22-22-14 (1975 and 1989 Cum. Supp.) and the National Pollutant Discharge Elimination System (NPDES) Administered by the Alabama Department of Environmental Management (the Department) and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, §402, 33 U.S.C. §1342 the Department makes the following FINDINGS OF FACT:

1. R & S Materials, Inc. (the Permittee) operates a surface sand and gravel mine and associated wet preparation plant at Township 16N, Range 20E, Sections 2, 3, and Township 17N, Range 20E, Sections 34, 35, 36 in Montgomery County, Alabama.

2. On October 7, 1988, the Department issued NPDES Permit Number AL0057207 to the Permittee. This permit authorized the discharge of pollutants and other wastes into waters of the state subject to certain terms, conditions and limitations.

ISSUED 2/21/90	SERVED 2/29/90
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3. On August 3, 1989 the Permittee discharged pollutants and other wastes into waters of the State from unpermitted point sources in violation of Part II, A., 1 & 2 of its permit as shown by the following laboratory analysis of a sample taken from that discharge:

pH	Turbidity	TSS
5.8 s.u.	35 n.t.u.	19 mg/l

4. On May 1, 1989 the Permittee discharged pollutants and other wastes from an unpermitted point source in violation of Part II, A., 1 & 2 of its permit as shown by the following laboratory analysis of a sample taken from that discharge:

pH	TSS
5.6 s.u.	36 mg/l

5. The Permittee has otherwise violated the terms and conditions of NPDES Permit Number AL0057207 as follows:

a. Approaches to Line Creek crossing to the Silica Pit have not been regraded or revegetated.

b. An unauthorized discharge structure was constructed for the mining basin on the west side of the facility.

c. Construction berm is sloughing directly into Tank Branch in violation of Part II, A., 1 & 2 of its permit.

d. Fill material has been deposited directly into Line Creek in violation of Part II, A., 1 & 2 of its permit.

e. Best management practices have not been implemented to control non-point source runoff from disturbed areas in violation of Part II, A., 1 & 2 of its permit.

f. An unauthorized crossing was constructed across Tank Branch in violation of Part II, A., 1 & 2 of its permit.

6. The above violations were committed with indifference to the terms of NPDES Permit Number AL0057207.

7. The Permittee realized an economic benefit from its failure to comply with the terms and conditions of NPDES Permit Number AL0057207.

8. The Permittee has the ability to pay a civil penalty.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to ALA. CODE §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(i), 22-22-9(k), and 22-22-9(c) (1975 and 1989 Cum. Supp.), it is hereby ORDERED:

A. That the Permittee pay to the Department a civil penalty of Five Thousand Dollars (\$5,000.00) within 30 days from the date of service of this Order.

B. That upon receipt of notice of this Order the Permittee shall cease all unpermitted discharges to waters of the State.

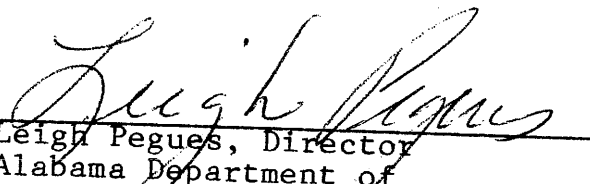
C. That the Permittee immediately comply with all terms, conditions and limitations of NPDES Permit Number AL0057207.

D. The Permittee shall within 7 days from the date of receipt of this Order submit complete and comprehensive NPDES Permit applications for any and all surface mining and mineral processing operations.

E. That the failure of the Permittee to comply with any provisions of this Order shall constitute cause for the revocation of any or all NPDES permits held by the Permittee, shall constitute cause for the assessment of additional penalties, and/or shall constitute cause for the commencement of criminal fines, civil penalties, or other appropriate relief.

G. That the issuance of this Order does not preclude the Department or others from seeking other appropriate relief for the violations cited herein.

ORDERED and ISSUED this 21st day of February, 1990.


Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W.L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

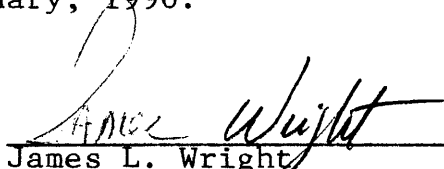
CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Order No. 90-072-WP upon R & S Materials, Inc. by sending the same, postage paid, through the United States Mail, as Certified Mail No. P 070 963 722 and P 070 963 723, with instructions to forward and return receipt requested to:

Mr. Peter Bolton, President
R & S Materials, Inc.
Post Office Box 3547
Montgomery, Alabama 36109

Mr. Euel A. Screws, Jr., Esq.
Copeland, Franco, Screws and Gill
444 South Perry Street
Montgomery, Alabama 36104

Done this 21st day of February, 1990.


James L. Wright