



January 30, 2020

SENT VIA CERTIFIED MAIL NO. 7017 0660 0000 0139 0976
Return Receipt Requested

Jeremy Pritchett
Aggregate Industries - WCR, Inc.
1687 Cole Blvd., Suite 300
Golden, CO 80401

Re: Proposed Early Settlement Agreement in the Matter of AGGREGATE INDUSTRIES - WCR, INC.
AIRS No.: 123-0173
Case No.: 2019-184

Dear Jeremy Pritchett:

Aggregate Industries - WCR, Inc. ("Aggregate") owns and operates the Longmont Distel aggregate mining and hot mix asphalt plant located at 1587 Weld County Road 20 ½, Weld County, Colorado ("Facility"). The Facility is subject to the terms and conditions of Colorado Construction Permit Number 07WE0645, Issuance 3 issued to Aggregate on February 20, 2018 ("Permit Number 07WE0645"); Colorado Construction Permit Number 14WE0798, Issuance 2 issued to Aggregate on January 15, 2020; Air Quality Control Statutes; and Colorado Air Quality Control Commission ("AQCC") Regulations. The Facility was previously subject to the terms and conditions of Colorado Construction Permit Number 14WE0798, Issuance 1 issued to Aggregate on July 22, 2015, Final Approval issued February 22, 2016 ("Permit Number 14WE0798").

On September 25, 2018, Grant McKercher, of the Colorado Air Pollution Control Division ("Division"), inspected the Facility. Based on the inspection and a review of records related to the Facility, the Division issued a Compliance Advisory to Aggregate on October 30, 2019. On December 3, 2019, the Division and Aggregate met to discuss the issues identified in the Compliance Advisory.

Based upon a review of the inspection, records related to the Facility, and the information provided by Aggregate, the Division has determined the following:

- A. Pursuant to Permit Number 07WE0645, Conditions 1 and 11, Aggregate must develop a revised operating and maintenance ("O&M") plan for the asphalt plant (AIRS Point 005), along with a recordkeeping format, that outlines how Aggregate will maintain compliance on an ongoing basis with the requirements of the permit. Within one hundred and eighty (180) days after commencement of operation or issuance of the permit on February 20, 2018, Aggregate must submit the O&M plan to the Division. Aggregate failed to submit a revised O&M plan to the Division until July 8, 2019, violating Permit Number 07WE0645, Conditions 1 and 11. The Division approved the revised O&M plan on September 26, 2019.



- B. Pursuant to Permit Number 07WE0645, Condition 10.c, records of startups, shutdowns, and malfunctions shall be maintained, as required under 40 CFR, § 60.7. Pursuant to Permit Number 07WE0645, Conditions 1 and 11, compliance with the O&M plan must commence upon startup. Pursuant to the O&M plan under Permit Number 07WE0645, approved on September 26, 2019, Aggregate will maintain daily records of startup and shutdown times, and maintain records of any malfunction events including: date, time, the nature of the malfunction, any excess emissions, and any corrective actions taken. Aggregate failed to maintain records of startups, shutdowns, and malfunctions for AIRS Point 005 until July 8, 2019, violating Permit Number 07WE0645, Conditions 1, 10.c, and 11.
- C. Pursuant to Permit Number 07WE0645, Condition 2, total emissions from the Facility, including all permitted emissions and potential to emit from all insignificant activities, must be less than 100 tons per year of carbon monoxide (CO). Pursuant to Permit Number 07WE0645, Condition 3, AIRS Point 005 is permitted for 98.8 tons of CO per year. A 60 KW diesel-powered water pump located at the Facility at the time of the inspection had a potential to emit of 2.53 tons of CO per year, causing total potential Facility emissions to be greater than 100 tons of CO per year. Until May 8, 2019, Aggregate had the diesel pump at the Facility and therefore did not limit total emissions, including potential to emit, to less than 100 tons of CO per year, violating Permit Number 07WE0645, Condition 2. The diesel pump was replaced by an electric pump on May 8, 2019.
- D. Pursuant to Permit Number 07WE0645, Condition 13.a and AQCC Regulation Number 3, Part A, § II.C, a revised Air Pollutant Emission Notice ("APEN") must be filed by April 30 of the year following a significant increase in emissions. A significant increase in emissions for any criteria pollutant by sources emitting less than 100 tons per year of a criteria pollutant, is a change in annual emissions of five (5) tons per year or more, above the level reported on the last APEN. The APEN for AIRS Point 005 received by the Division on April 25, 2017, reports actual asphalt production of 79,823 tons per year, equating to 15.57 tons of CO emissions per year using the emission factor of 0.39. Data provided by Aggregate reports asphalt production of 112,263 tons per year in December 2017, equating to 21.89 tons of CO emissions per year. The increase in production between the amount reported on the last APEN and December 2017 corresponds to an increase in CO emissions above 5 tons per year. Aggregate was required to submit a revised APEN following this increase in emissions by April 30, 2018. Aggregate failed to submit a revised APEN for AIRS Point 005 until July 8, 2019, violating Permit Number 07WE0645, Condition 13.a and AQCC Regulation Number 3, Part A, § II.C.
- E. Pursuant to Permit Number 14WE0798, Conditions 3 and 11, Aggregate shall develop a revised O&M plan, along with a recordkeeping format, that outlines how Aggregate will maintain compliance on an ongoing basis with the requirements of the permit. Compliance with the O&M plan shall commence at startup. Pursuant to the O&M plan for the Nordberg Cone crusher (AIRS Point 007), approved on January 28, 2016, Aggregate must: inspect and conduct maintenance on the water spray bar system monthly; maintain records of the inspections and maintenance conducted on the water spray bar system; inspect and conduct maintenance on the crusher as recommended by the manufacturer; and maintain records of the inspections and maintenance conducted on the crusher. Aggregate failed to maintain and provide records of inspection and maintenance of the spray bar system. Additionally, Aggregate failed to maintain and provide records of inspection and maintenance of the crusher. Aggregate failed to comply with the O&M plan for AIRS Point 007, violating Permit Number 14WE0798, Conditions 3 and 11. Permit Number



14WE0798, Issuance 2 issued to Aggregate on January 15, 2020, no longer requires Aggregate to use a spray bar system for AIRS Point 007.

The Colorado Air Pollution Prevention and Control Act, at § 25-7-122(1)(b), C.R.S., specifies that the penalty for such violations may be up to Fifteen Thousand Dollars (\$15,000.00) per day for each violation. The monetary amount of the Division's settlement offer specified below is derived from a pre-established schedule of penalties, which takes into account, among other factors, the magnitude and severity of the violation, cooperation of the company, as well as the prior history of violations of air quality requirements associated with any of the company's facilities/operations in the State of Colorado (including a company's parent or subsidiary relations, if applicable). Settlement offers are based on the evaluation of the same factors and criteria in all cases. Based upon Aggregate's cooperation, and its efforts to bring its operations into compliance with the regulations and permit conditions identified above, the Division acknowledges that Aggregate has appropriately and adequately addressed all compliance issues identified above. In the interest of settling the matters cited herein, the Division therefore offers the following settlement in accordance with the Division's settlement policy.

1. Payment of a reduced penalty in the sum of **Twelve Thousand Four Hundred Twenty-Five Dollars (\$12,425.00)**. Payment of the penalty precludes further enforcement by the Division for the above-described violation against Aggregate. The Division retains its authority to take enforcement actions based on any and all violations not specifically described above.
2. Entering into this settlement shall not constitute an admission of violation of the air quality laws, or the alleged facts relating thereto, nor shall any third party infer it to be such an admission in any administrative or judicial proceeding. However, Aggregate agrees not to challenge the factual or legal determinations herein, the Division's authority to bring, or the court's jurisdiction to hear, any action, insofar as it pertains to the matters contained herein, to enforce the terms of this settlement agreement. The described violation will constitute part of Aggregate's compliance history for any purpose for which such history is relevant.

This letter constitutes an offer of settlement and is not a demand for payment. Please contact me if you wish to discuss this offer of settlement. We remain willing to consider any information you wish to submit related to the violation. Please be advised, however, that the offer of settlement contained in this letter is predicated on resolving this matter within fifteen (15) days of the date of this settlement proposal letter. If you elect to continue the negotiation of this matter beyond that date, this offer shall be deemed withdrawn, and any penalty mitigation built into this settlement proposal may be revoked. If you require additional time to evaluate this settlement proposal or discuss remaining issues with the Division, however, please contact me regarding your request for an extension of the offer. Any extension of the offer, if agreed to by the Division, must be confirmed, in writing, by the Division.

If the above terms are acceptable to you, please have the appropriate person sign and return this letter and send a check in the sum of **\$12,425.00**, made payable to the Colorado Department of Public Health and Environment, to

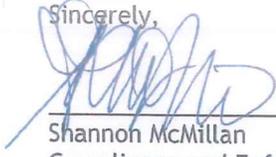
**Air Pollution Control Division
Attn: Heather Wuollet
4300 Cherry Creek Drive South
APCD-SS-B1
Denver, Colorado 80246-1530**

This offer of settlement, upon being fully endorsed by both the Division and Aggregate, shall constitute full and final resolution of the noncompliance issues identified herein and in the Compliance Advisory issued to Aggregate.



You may write or call to request a settlement conference if you wish to discuss the matter with representatives of the Division's compliance staff. If we do not receive a response from you within fifteen (15) days of the date of this letter, we will assume that you are not interested in resolving this matter as outlined above. Please call Heather Wuollet, at 303-692-3198, if you have any further questions regarding this matter.

Sincerely,



Shannon McMillan
Compliance and Enforcement Program Manager

I certify that I am authorized by Aggregate Industries - WCR, Inc. to execute this settlement agreement and bind Aggregate Industries - WCR, Inc., and any affiliated entities, to the terms and conditions of this agreement. I have read the above settlement and agree to the terms and conditions of this offer.

Name: W. Thomas Allen

Title: Regional GM

W. [Signature]
Signature

303-6418-1125
Telephone Number

2-13-20
Date

- cc: Shannon McMillan, APCD
- Beth Pilson, APCD
- Tom Lovell, APCD
- Michael Stovern, EPA (Region VIII)
- File
- Paul Carr, APCD
- Heather Wuollet, APCD
- Ben Cappa, APCD
- Tom Roan, Attorney General's Office

