

April 21, 2014

VIA FEDERAL EXPRESS

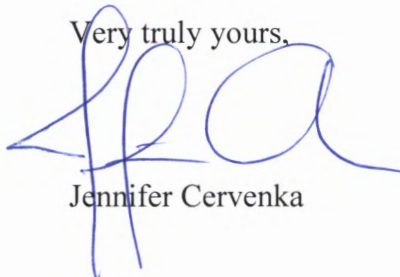
Ms. Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: In the Matter of Copar Quarries of Westerly, LLC/Docket CAA 01-2014-0001

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find an original and one copy of Respondent Copar Quarries of Westerly, LLC's Answer to Administrative Complaint.

Very truly yours,



Jennifer Cervenka

JRC:jwb
Attachment

cc: John W. Kilborn, Esq. (w/enc., via regular mail)

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2014 APR 22 A 10: 24
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

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RECEIVED

IN THE MATTER OF)
)
Copar Quarries of Westerly, LLC)
271 Church Street)
Bradford, Rhode Island 02808,)
Respondent)
)
Proceeding under Section 113)
of the Clean Air Act)
_____)

Docket No. CAA-01-2014-0001

RESPONDENT'S ANSWER TO ADMINISTRATIVE COMPLAINT

COMES NOW the Respondent, Copar Quarries of Westerly, LLC ("Copar"), and files Copar's Answer to Administrative Complaint, filed by the Environmental Protection Agency ("EPA"), and states the following:

1. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 1 and therefore, all such allegations are denied.
2. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 2 and therefore, all such allegations are denied.
3. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 3 and therefore, all such allegations are denied.
4. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 4 and therefore, all such allegations are denied.

5. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 5 and therefore, all such allegations are denied.

6. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 6 and therefore, all such allegations are denied.

7. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 7 and therefore, all such allegations are denied.

8. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 8 and therefore, all such allegations are denied.

9. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 9 and therefore, all such allegations are denied.

10. Copar states that the regulations and statutes referenced speak for themselves; however, Copar denies that it violated any laws, rules, or regulations. Copar is without knowledge to admit or deny all other allegations of Paragraph 10 and therefore, all such allegations are denied.

11. Admitted.

12. Copar admits that it conducts stone crushing and sand and gravel processing at a facility located at 271 Church Street in Bradford, Rhode Island. Copar further admits that it began operations at 271 Church Street on or around January 3, 2011. Copar denies the remaining averments of paragraph 12.

13. Admitted.

14. Copar is without knowledge to admit or deny the allegations of Paragraph 14 and, therefore, all such allegations are denied.

15. Denied.

16. The allegation in paragraph 16 calls for a legal conclusion. To the extent the allegation in paragraph 16 requires a response, Copar denies the allegation.

17. The allegation in paragraph 17 calls for a legal conclusion. To the extent the allegation in paragraph 17 requires a response, Copar denies the allegation.

18. Admitted.

19. Admitted that on January 28, 2013, the EPA issued an Administrative Order ("AO") that gave Copar notice that EPA asserted Copar was in violation of the NSPS. Further admitted that the AO directed Copar to comply with the requirements of the NSPS.

20. Paragraph 20 does not state an allegation and therefore requires no response. To the extent a response is required, Copar denies the allegation as stated.

First Count – Failure to Conduct Emissions Testing

21. Copar hereby incorporates by reference its responses to paragraphs 1 through 20.

22. The regulations referenced speak for themselves and the allegations in paragraph 22 call for a legal conclusion. To the extent the allegations in paragraph 22 require a response, Copar denies the allegations.

23. The regulations referenced speak for themselves and the allegations in paragraph 23 call for a legal conclusion. To the extent the allegations in paragraph 23 require a response, Copar denies the allegations.

24. Copar admits that it commenced operations on or about January 3, 2011. The remaining allegations of paragraph 24 call for legal conclusions. To the extent the remaining allegations in paragraph 24 require a response, Copar denies the allegations.

25. Denied.

Second Count- Failure to Maintain an Inspection Logbook

26. Copar hereby incorporates by reference paragraphs 1 through 26.

27. The regulations referenced speak for themselves and the allegations in paragraph 27 call for a legal conclusion. To the extent the allegations in paragraph 27 require a response, Copar denies the allegations.

28. Copar admits that it uses wet suppression to control particulate emissions. Copar further admits that it began logging the monthly inspection dates of the wet suppression system in January 2012. Copar further admits that on February 22, 2012 the water pump that supplies water to the wet suppression system broke down and required replacement, and that Copar's operations were halted until such replacement took place. All other allegations are denied.

29. Denied.

Third Count – Failure to Submit Notification of Startup Date

30. Copar hereby incorporates by reference its responses to paragraphs 1 through 29.

31. The regulations referenced speak for themselves and the allegations in paragraph 31 call for a legal conclusion. To the extent the allegations in paragraph 31 require a response, Copar denies the allegations.

32. Paragraph 32 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 32 require a response, Copar denies the allegations.

33. Denied.

34. Paragraph 34 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 34 require a response, Copar denies the allegations.

35. Paragraph 35 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 35 require a response, Copar denies the allegations.

36. Paragraph 36 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 36 require a response, Copar denies the allegations.

37. Paragraph 37 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 37 require a response, Copar denies the allegations.

38. Paragraph 38 states legal conclusions to which no response is required. To the extent that the allegations in paragraph 38 require a response, Copar denies the allegations.

First Count – Failure to Conduct Emissions Testing

39. Copar admits that EPA Reference Method 9 emission testing was performed in April 2013. The other allegations in paragraph 39 state legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 39 require a response, Copar denies the allegations.

Second Count – Failure to Maintain an Inspection Logbook

40. Copar admits that it began recording the monthly inspection dates of its wet suppression system in January 2012. The other allegations in paragraph 40 state legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 40 require a response, Copar denies the allegations.

Third Count – Failure to Submit Notification of Startup Date

41. Copar admits that it provided notification to RIDEM, not EPA, regarding the actual date of initial startup of all of its stone crushing and gravel processing equipment in July 2012. Copar further admits that it provided additional notification to EPA regarding the actual date of initial startup of all of its stone crushing and gravel processing equipment in March 2013. The remaining allegations in paragraph 41 call for a legal conclusion to which no response is required. To the extent that the remaining allegations in paragraph 41 require a response, Copar denies the allegations.

42. Paragraph 42 states a legal conclusion to which no response is required. Copar, by its filing of this Answer, requests a hearing.

43. Paragraph 43 states a legal conclusion to which no response is required. Copar will serve this Answer and any subsequent pleadings to the identified address.

44. Paragraph 44 states a legal conclusion to which no response is required.

45. Paragraph 45 states a legal conclusion to which no response is required. To the extent a response is required, Copar denies the allegations.

46. Paragraph 46 states a legal conclusion to which no response is required. Copar intends to request an informal conference with the EPA concerning the alleged violations.

47. Paragraph 47 states a legal conclusion to which no response is required. Copar intends to request an information conference with the EPA concerning the alleged violations.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

EPA's Complaint, and each count thereof attempted to be stated, fails to state a claim upon which relief can be granted against Copar, for the reason that, among other things, Copar did not have crushers with the capacity to process rock and/or gravel at or greater than 150 tons/hour during the relevant time period.

SECOND AFFIRMATIVE DEFENSE

Copar acted in good faith and with a reasonable belief that its actions were lawful at all times and places mentioned in EPA's Complaint.

THIRD AFFIRMATIVE DEFENSE

The Complaint, and each count therein attempted to be stated, is barred by the equitable doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

Any alleged failure of Copar to comply with laws and regulations, or any compliance delay, was wholly or partially caused by the actions of the Federal and/or State government, and civil penalties, if any, are inappropriate or should be reduced in proportion to the absolute or proportionate share of government responsibility.

FIFTH AFFIRMATIVE DEFENSE

Any alleged failure to comply with laws and regulations, or any compliance delay, was wholly or partially attributable to causes beyond the reasonable control of Copar, and civil penalties, if any, should be reduced to the absolute or relative proportions.

SIXTH AFFIRMATIVE DEFENSE

Copar, at all time and places mentioned in EPA's Complaint, exercised good faith efforts to comply with the applicable regulatory requirements.

SEVENTH AFFIRMATIVE DEFENSE

The EPA's Complaint, and each count therein attempted to be stated, is barred by the doctrine of estoppel.

EIGHTH AFFIRMATIVE DEFENSE

The EPA's Complaint, and each cause of action therein attempted to be stated, fails to state a claim for violation of federal laws and statutes on the ground that the regulations alleged to have been violated are vague, ambiguous, or do not impart notice to persons affected as to conduct proscribed and/or prohibited.

NINTH AFFIRMATIVE DEFENSE

Respondent submitted notification of the initial startup dates of its equipment to the Rhode Island Department of Environmental Management's Office of Air Resources, the state regulator responsible for administering a delegated Federal program.

TENTH AFFIRMATIVE DEFENSE

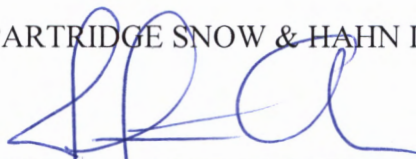
Respondent maintained a daily log, including its inspection of the facility's wet suppression system, during the relevant time period.

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COPAR QUARRIES OF WESTERLY, LLC

By Its Attorneys,

PARTRIDGE SNOW & HAHN LLP



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DATED: April 21, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was sent to the following by Standard U.S. Mail on this 21st day of April, 2014:

By Email & Standard U.S. Mail:

John W. Kilborn, Esq.
Senior Enforcement Counsel
U.S. EPA – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

By Federal Express:

Ms. Wanda Santiago
Regional Hearing Clerk
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