

FILED

November 19, 2025

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U.S. EPA REGION 7
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BLVD.
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2025-0196
U.S. Minerals, Inc.,	)	
	)	
Respondent	)	Administrative Order on Consent
	)	
Proceedings under Section 309(a)(3) of the	)	
Clean Water Act, 33 U.S.C. § 1319(a)(3)	)	
_____	)	

Preliminary Statement

1. The following Administrative Order on Consent (Order) is made and issued pursuant to Section 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a)(3). The authority to issue this Order has been duly delegated to the Director of the Enforcement and Compliance Assurance Division of EPA Region 7 with concurrence by the Office of Regional Counsel.

2. Respondent is U.S. Minerals, Inc. (USM), a foreign for-profit corporation authorized to do business in the state of Kansas.

3. The EPA, together with the Respondent, enter this Order to address Respondent's alleged violations of the CWA and National Pollutant Discharge Elimination System (NPDES) permit for Respondent's facility. As set forth in this Order, the Parties have reached agreement regarding a framework and timeframes for Respondent to attain compliance with the CWA and the NPDES permit.

General Provisions

4. Respondent admits each jurisdictional allegation set forth in this Order.

5. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution or enforcement of this Order.

6. The provisions of this Order shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.

7. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this Order, including any costs related to resolution of any dispute arising regarding this Order.

8. This Order does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

9. Respondent waives all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

10. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter the terms and conditions of this Order and to execute and legally bind the party.

11. By signing this Order, Respondent acknowledges that this Order may be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondent.

12. Respondent certifies that any information or representation it has supplied or made to the EPA concerning this matter was, at the time of submission, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA, regarding matters relevant to this Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

13. Terms used in this Order that are defined in the CWA or EPA regulations promulgated under the CWA have the meanings assigned to them in the CWA or those regulations, unless otherwise provided in this Order.

Statutory and Regulatory Background

14. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants, except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342.

Section 402 of the CWA provides that pollutants may be discharged in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that Section.

15. The CWA prohibits the discharge of “pollutants” from a “point source” to a “navigable water,” as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

16. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

17. To implement Section 402 of the CWA, the EPA promulgated regulations codified at 40 C.F.R. Part 122. Under 40 C.F.R. § 122.1, an NPDES permit is required for the discharge of pollutants from any point source into waters of the United States.

18. The Kansas Department of Health and Environment (KDHE) is the state agency within the state of Kansas that has been authorized by the EPA to administer the federal NPDES program pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and applicable implementing regulations.

19. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains concurrent enforcement authority with authorized states for violations of the CWA.

General Allegations

20. Respondent is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

21. At all times relevant to this action, Respondent owned, operated, or otherwise controlled the Facility, which occupies approximately 11.2 acres. The Facility loads, unloads, stockpiles, crushes, sorts, bags, and applies chemicals to coal slag to produce roofing granules, abrasives, and fillers.

22. Stormwater, snow melt, surface drainage, and runoff water leave the Facility and discharge into the unnamed tributary via two outfalls located on the western perimeter of the Facility or stormwater inlets located on Linn County Drive north of the Facility.

23. The Facility has “stormwater discharges associated with industrial activity” as defined by 40 C.F.R. § 122.26(b)(14) and is a “point source” as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

24. Stormwater from the Facility contains “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

25. The unnamed tributary is located on the west perimeter of the Facility and is a perennial stream that flows into the Marais des Cygnes River.

26. The Marais des Cygnes River is a traditionally navigable water and is therefore a “navigable water” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

27. The unnamed tributary is a relatively permanent water that connects to a traditionally navigable water and therefore is a water of the United States within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

28. Stormwater runoff from Respondent’s industrial activity at the Facility results in the addition of pollutants from a point source to navigable waters and thus is the “discharge of a pollutant” as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

29. Respondent’s discharge of pollutants associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

30. KDHE issues and implements the Kansas Water Pollution Control and National Pollutant Discharge Elimination System Stormwater Runoff from Industrial Activity via a General Permit (“Permit”) S-ISWA-2111-1 (Federal Permit # KSR000000) effective November 1, 2021, through October 31, 2026. KDHE assigned permit #KSR001083 to Respondent.

31. On November 22, 2024, EPA personnel, under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), inspected the Facility to determine Respondent’s compliance with the Permit and the CWA (“Inspection”). During this inspection and upon a review of documents thereafter, EPA’s Inspector identified violations of the Respondent’s NPDES permit.

Allegations of Violation

Count 1

Failure to Comply with Standard Conditions

32. The paragraphs above are re-alleged and incorporated herein by reference.

33. Part 4 of the Permit states that in addition to the conditions specified in this general permit, the permittee shall comply with the following Standard Conditions.

34. Part 4.1 of the Permit requires that “the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the requirements of this permit and Kansas and Federal law.”

35. At the time of the inspection, the EPA observed and documented improperly operated and maintained BMPs, including:

- a. A gap in the concrete barrier on the western border.
- b. The presence of coal slag entering the storm sewer on Linco Drive.

- c. The presence of coal slag located in the east driveway tracking out onto Ragains Road.
- d. The presence of coal slag covering the ground surface and overflowing the block barricade and railroad tracks into the stormwater retention area.

36. At the time of the inspection and after a review of other relevant information, Respondent failed to operate and maintain best management practices as required by Part 4.1 of the Permit.

37. Respondent's failure to comply with standard conditions is a violation of the terms and conditions of Respondent's NPDES permit and the CWA.

Count 2

Failure to Update SWPPP and/or Inadequate SWPPP

38. The paragraphs above are re-alleged and incorporated herein by reference.

39. Part 2.1 of the Permit states that "the permittee shall develop a stormwater pollution prevention (SWP2) plan that is specific to the industrial activity and site characteristics occurring at the permitted location described in the NOI. The permittee shall fully implement and periodically review, and update as necessary, the provisions of their SWP2 Plan, as required under this part, as a condition of this general permit."

40. Part 2.2 of the Permit states that "the purpose of the SWP2 Plan is to ensure the design, implementation, management, and maintenance of Best Management Practices (BMPs) to reduce the amount of pollutants in stormwater discharge associated with industrial activities at the facility" and that "as guidance, in developing the SWP2 Plan, the permittee shall review, evaluate, select, install, utilize, operate and maintain the BMPs in accordance with the best professional judgement, generally accepted and scientifically defensible guidance and the concepts and methods as described in the Environmental Protection Agency (EPA) guidance documents."

41. Part 2.4.2 of the Permit requires that the description of potential pollution sources includes, but are not limited to, a site map and inventory of exposed materials that contain the listed elements.

42. Part 2.4.3 of the Permit requires that the measures and controls listed in the SWPPP include "a listing and description of stormwater management controls, managerial/administrative BMPs, structural control BMPs, and non-structural control BMPs appropriate for the facility that addresses the following minimum components, including a schedule, if necessary, for implementing such controls".

43. Part 2.4.6 of the Permit states that "the SWP2 Plan shall be re-evaluated and modified in a timely manner, but in no case more than 90 days after" the listed events.

44. At the time of the inspection and after a review of other relevant information, Respondent's SWPPP failed to include the following:

- a. A site map identifying all the requirements listed in the Permit.
- b. A narrative description of the inventory of exposed materials.
- c. An updated listing and description of the specific selection or design of stormwater management controls used at the Facility, including failing to: describe the concrete barrier/retaining wall on the western border of the Facility; dust control measures used on stockpiles; and good housekeeping procedures.

45. Based on the Inspection, EPA's review of the Facility's SWPPP, and other relevant information, Respondent failed to update the SWPPP and/or maintain an adequate SWPPP as required by Part 2 of the Permit.

46. Respondent's inadequate SWPPP is a violation of the terms and conditions of Respondent's NPDES permit and the CWA.

Count 3

Failure to Conduct and/or Adequately Document Routine Facility Inspections

47. The paragraphs above are re-alleged and incorporated herein by reference.

48. Sections 2.4.3.d of the Permit states trained personnel shall "inspect at appropriate intervals, (inspection frequency shall be stated in SWP2 Plan, but at a minimum quarterly inspection shall be performed), designated equipment and storage areas for raw material, finished product, chemicals, recycling, equipment, paint, fueling and maintenance; and loading, unloading, and waste management areas. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. The inspection report shall include completion dates for correction of all deficiencies. Records of inspections shall be maintained on-site or in a readily accessible location for at least three years after the date of the inspection."

49. Section 2.4.4 of the Permit states that "a comprehensive site compliance evaluation shall be conducted and documented at least once a year".

50. The EPA Inspection and corresponding records review confirmed that the Respondent failed to: conduct and/or adequately document routine facility inspections for all quarters of 2022 and the first quarter of 2024; conduct and/or adequately document a comprehensive site compliance evaluation in 2022; and document corrective action of all deficiencies when appropriate.

51. Based on the Inspection, EPA's review of the Facility's SWPPP, and other relevant information, Respondent failed to conduct and/or adequately document routine facility inspections, annual comprehensive site compliance evaluations as required by Sections 2.4.3.d, 2.4.4 of the Permit.

52. Respondent's failure to conduct and document routine inspections is a violation of the terms and conditions of Respondent's NPDES permit and the CWA.

Order for Compliance

Based on the General Allegations and Allegations of Violation set forth above, and pursuant to the authority of Sections 309(a) of the CWA, 33 U.S.C. § 1319(a), Respondent AGREES and is hereby ORDERED to take the actions described below.

53. Within thirty (30) days of the Effective Date, Respondent shall submit to the EPA a Compliance Plan that includes:

- a. A description of actions taken or to be taken to correct the deficiencies and eliminate and prevent recurrence of the alleged violations identified in this Order, and to come into compliance with all applicable requirements of its Permit, including, as necessary, revisions to the SWPPP.
- b. A schedule, subject to EPA approval, for implementation of each of the proposed actions.

Reports/Submissions

54. *Quarterly Reporting.* In addition to the report required above, Respondent shall submit quarterly reports describing the actions it has taken to ensure continued compliance with the terms of its Permit and this Order. These reports are due beginning three (3) months from the Effective Date and every three (3) months thereafter until the Order is terminated. Each report shall include, at a minimum:

- a. A description of implementation and/or revision of the SWPPP during the previous three (3) month period.
- b. A description of work and other actions taken to construct structural controls and/or implement other controls, in the previous three (3) month period; and
- c. Copies of all relevant documentation regarding the activities described pursuant to subparagraphs (a) and (b), including, but not limited to, inspection reports and monitoring records, formal and informal enforcement actions, etc.

55. *Submittals.* All documents and other information required to be submitted to the EPA by this Order shall be submitted by electronic mail to:

Sans.Cynthia@epa.gov
Cynthia Sans
U.S. Environmental Protection Agency Region 7
Enforcement and Compliance Assurance Division
11201 Renner Boulevard
Lenexa, Kansas 66219.

56. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically to the EPA shall be submitted in hard copy to the address provided above.

All documents required to be submitted pursuant to this Order shall also be submitted to KDHE to the address provided below:

Shelly Shores
Shelly.shores@ks.gov
Kansas Department of Health and Environment
1000 SW Jackson Street
Topeka, Kansas 66612

57. After review of the schedule required by paragraph 46 of this Order, the EPA may approve or disapprove the schedule, in whole or in part. The EPA shall approve the schedule or any portion so long as the submission fulfills the requirement under this Order. Upon EPA approval, the schedule by Respondent is incorporated and enforceable as part of this Order. Respondent shall implement the Compliance Plan required by paragraph 46 according to the approved schedule.

58. If the EPA disapproves the schedule, EPA will notify Respondent in writing, which may include notice by email, and the EPA may require Respondent to supplement or modify its schedule. Within 30 days following receipt of written notice of EPA's disapproval, Respondent must submit a corrected schedule to the EPA for approval. If Respondent's modified schedule is disapproved in whole or in part by the EPA, EPA may require Respondent to correct the deficiencies or the EPA may determine that the schedule fails to meet the requirements of this Order.

59. Notwithstanding the receipt of a notice of disapproval pursuant to the above paragraph, Respondent must proceed to take all actions and provide all submissions required under this Order, including any actions required under any non-deficient portion(s) of its submission if such action can be undertaken independent of the deficient portion of Respondent's submission.

Effect of Compliance with the Terms of this Order for Compliance

60. Compliance with the terms of this Order shall not relieve Respondent of liability for, or preclude the EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

61. Failure to comply with this Order may subject Respondent to penalties up to \$68,445 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.

Access and Requests for Information

62. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect Respondent's facility, and/or to request additional information from Respondent, pursuant to the authority of Section 309 of the CWA, 33 U.S.C. § 1319 and/or any other authority.

Severability

63. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judiciary authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

Modifications

64. Any request to modify the terms of, or parties to, this Order shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this Order shall not relieve Respondent of any obligation under this Order and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this Order, in its sole and unreviewable discretion. All deadlines for performance under this Order may be extended upon written approval by the EPA, at its sole discretion, without formal amendment to the Order.

Effective Date

65. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA.

Termination

66. Upon EPA's determination that Respondent has completed all tasks required pursuant to this Order, Respondent shall submit to the EPA a Certification of Compliance and Request for Termination of this Order. Such certification and request shall include:

- a. a certification that Respondent has maintained compliance with this Order for the term of this Order; and
- b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with this Order.

67. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA determines that any requirement has not been completed and implemented in accordance with this Order, the EPA will notify Respondent in writing, provide a written summary of deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies. If so required, the EPA may also require Respondent to submit a revised Certification of Compliance and Request for Termination of this Order.

68. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA agrees that Respondent has adequately complied with all requirements of this Order, then the EPA may, in its unreviewable discretion, provide written notification of termination of this Order.

69. Notwithstanding any of the above, the EPA may terminate this order upon written notice issued by an authorized representative of the EPA.

For the Complainant, United States Environmental Protection Agency Region 7:

Date

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Kristina Gonzales
Office of Regional Counsel

For the Respondent, U.S. Minerals, Inc.:

 _____ Signature	<u>10/21/2025</u> _____ Date
 _____ Name	
<u>PRESIDENT</u> _____ Title	

CERTIFICATE OF SERVICE

I certify a fully executed and filed copy of the Administrative Order on Consent was sent this day in the following manner to the addressees:

Copy emailed to Regional Hearing Clerk:

R7_Hearing_Clerk_Filings@epa.gov

Copy emailed to Respondent:

Cory O'Neill
U.S. Minerals, Inc., Plant Manager
coneill@us-minerals.com

Copy emailed to representatives for Complainant:

Cynthia Sans
EPA Region 7 Enforcement and Compliance Assurance Division
Sans.Cynthia@epa.gov

Kristina Gonzales
EPA Region 7 Regional Counsel
Gonzales.Kristina@epa.gov

Carrie Venerable | New Solutions
EPA Region 7 Regional Counsel
Venerable.Carrie@epa.gov

Copy emailed to the Kansas Department of Health and Environment:

Shelly Shores
Kansas Department of Health and Environment
shelly.shores@kdhe.gov

Date

Signature