

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF MINING AND
MINERALS PROGRAM

vs.

OGC FILE NO. 24-1626

ROCK SOLID ROCK, LLC

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Rock Solid Rock, LLC (“Respondent”), whose address is 1313 S Washington Avenue, Suite C, Titusville, FL 32780, to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapters 373, 378, and 403, Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a Florida registered limited liability company and is a “person” within the meaning of Sections 376.301(29) and 403.031(9), F.S.
3. Respondent is operating a sand mine, commonly known as Rock Solid Rock, LLC., Brevard Pit, (“Facility”), located at Parcel Number 23-35-24-00-750 in Brevard County, Florida (“Property”). The Department has assigned Site Number MMR_447089 to the Facility.
4. On March 7, 2024, the Department conducted a mining and reclamation inspection of the Facility. This inspection revealed Respondent failed to obtain an environmental resource permit prior to construction, in violation of Rule 62-330.020(2), F.A.C., and Sections 373.413(2) and 403.161(1)(b), F.S. To date, Respondent has failed to file a permit application for the Facility.

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In addition, Respondent failed to notify the Department at least 60 days prior to beginning mining operations, in violation of Rule 62C-39.003, F.A.C., and Section 403.161(1)(b), F.S.

Having reached a resolution of the matter, Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall comply with the following corrective actions within the stated time periods:

- a) Respondent shall immediately cease all mining activities at the Facility. Respondent shall install Best Management Practices (“BMPs”) and stormwater management features to ensure containment of stormwater on site during operations. Upon completion of the installation of BMPs and stormwater management features at the Facility, Respondent shall arrange an inspection with the Department and submit photo documentation of completed activities.
- b) Upon written approval from the Department of the installation of BMPs and stormwater management features, Respondent can continue interim mining activities in previously disturbed areas within the Facility where sufficient real property interest has been obtained, in accordance with Section 4.2.3(d) of the *Environmental Resource Permit Applicant’s Handbook*. All activities conducted shall meet the applicable conditions for issuance under Rule 62-330.301, F.A.C.
- c) Within 90 Days of the effective date of this Order, Respondent shall revegetate and reclaim all lands owned by the State of Florida (“State Lands”) that were impacted by the Respondent. Reclamation activities shall comply with Rule 62C-39.008, F.A.C. Respondent shall provide the Department with notice of completion of reclamation activities within 7 days of completion of reclamation activities.
- d) Within 90 days of the effective date of this Order, Respondent shall submit a draft environmental resource permit application pursuant to Chapter 373, F.S., to the Department’s Mining and Mitigation Program for review.
- e) Within 60 days of the Department’s response to the draft environmental resource permit application described in subparagraph 5.d., Respondent will submit a

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formal environmental resource permit application.

- f) Within 365 days of the effective date of this Order, Respondent shall have obtained an environmental resource permit from the Department, or operations at the facility shall cease until the proper authorizations are obtained from the Department for the mining activities described in paragraph 4 of this Order.
- g) The Respondent shall respond to Department comments on the Application within 45 days of receipt of any Requests for Additional Information.

6. Any non-compliance with the requirements of this order is subject to revocation of the interim mining authorization provided above. Upon written notification from the Department, Respondent shall cease all mining activities until a permit is obtained.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$5,000 in settlement of the regulatory matters addressed in this Order. This amount includes \$4,500 for civil penalties and \$500 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

- a) \$4,500 for violation of Rule 62-330.020(2), F.A.C., and Sections 373.413(2), 403.121(4)(c), and 403.161(1)(b) F.S., for failure to obtain a required permit before construction.

8. Respondent agrees to pay the Department stipulated penalties in the amount of \$100 per day for each and every day for the first two weeks, and then \$250 per day for each and every day thereafter, where Respondent fails to timely comply with any of the requirements of paragraph(s) 5 through 7 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay the stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 10, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 7 of this Order.

9. Respondent shall make all payments required by this Order by cashier's check, money order, or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-

check can be made by going to the DEP Business Portal at:

<http://www.fldeportal.com/go/pay/>. It will take a number of days after this order becomes final, effective, and filed with the Clerk of the Department before the ability to make online payment is available.

10. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Marisa Rhian, Program Administrator, Department of Environmental Protection, Mining and Mitigation Program, 2600 Blair Stone Road, MS 3577, Tallahassee, Florida 32399, MiningAndMitigation@FloridaDEP.gov.

11. Respondent shall allow all authorized representatives of the Department access to the Facility at reasonable times upon reasonable notice to Respondent for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

12. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or Property does not relieve Respondent of the obligations imposed in this Order.

13. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall,

within seven calendar days, notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Additionally, the Department may agree to extend the time for performance under the provision or provisions of this Order for any reason, such as good faith by the Respondent. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

14. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

15. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

16. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Order.

17. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000 per day per violation, and criminal penalties.

18. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also

acknowledges and waives its right to appeal the terms of this Order pursuant to Section 120.68, F.S.

19. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

20. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of Section 403.161(1)(b), F.S.

21. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or

modification of the Consent Order; and

- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

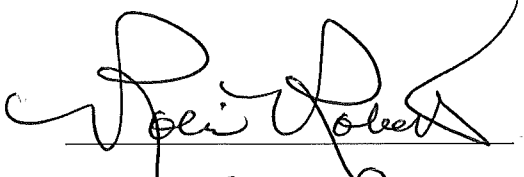
The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Division Office at 2600 Blair Stone Road, MS 3500, Tallahassee, Florida 32399. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, F.S. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, F.S. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, F.S. and Rule 62- 110.106(12), F.A.C.

22. Rules referenced in this Order are available at

<https://floridadep.gov/ogc/ogc/content/rules>.

23. The undersigned certifies that he [or she] NAME, is authorized and empowered to negotiate, enter into, and execute, in the name and on behalf of the Respondent, any agreements, documents, instruments, and certificates involving and including this Order entered into between Respondent and the Department without limitation.

FOR THE RESPONDENT, Rock Solid Rock, LLC:



Name: Robi Roberts

Title: Managing Member

Date: May 20, 2024

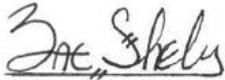
DONE AND ORDERED this 23 day of May, 2024, in Leon County, Florida.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Matthew Knoll
Deputy Director
Division of Water Resource Management

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.



May 23, 2024

Clerk

Date

Copies furnished to:
Lea Crandall, Agency Clerk
Mail Station 35

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