



STATE OF TENNESSEE  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
KNOXVILLE ENVIRONMENTAL FIELD OFFICE – Mining Section  
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**March 1, 2022**

**NOTICE OF DETERMINATION**

Application for the renewal and modification of an NPDES permit to discharge treated mine wastewater and storm water into the East Fork Stones River in Cannon County, Tennessee.

**SRM Materials, LLC**  
**1136 2<sup>nd</sup> Ave North**  
**Nashville, TN 37308**

**Woodbury Quarry**  
**1327 John Bragg Highway**  
**Woodbury, TN 37190**  
**NPDES Permit TN0069558 (Renewal and Modification)**  
**Cannon County**

This NPDES permit will authorize the discharge of treated mine wastewater and storm water resulting from an existing limestone quarry and processing facility. The permittee submitted a complete application on September 20, 2021, which included supporting plans and design calculations for mine wastewater and storm water treatment. The Division of Water Resources (the “Division”) made a preliminary determination that the proposed activity would result in *de minimis* degradation, and thus, no alternatives analysis or social and economic justification was required, per *Chapter 0400-40-03-.06(1)(b)2 of the Rules of TDEC*. The applicant also submitted calculations which demonstrate that the treatment structures will meet the Division’s preferred design criteria of a 10-year, 24-hour storm event.

This NPDES permit authorizes discharges to the East Fork Stones River in Cannon County, Tennessee. The East Fork Stones River is identified by the Department as fully supporting. The East Fork Stones River is identified as an Exceptional Tennessee Water (ETW) due to the presence of the state endangered Brawley’s Fork Crayfish. East Fork Stones River is not identified as an Outstanding National Resource Water (ORNW) according to the most recent list of “Known Exceptional Tennessee Waters and Outstanding Natural Resource Waters.” According to the information available to the Division, East Fork Stones River meets the specifications described

at *Chapter 0400-40-03-.06(3)* for the classification of available parameters for the pollutants of concern at this facility (Total Suspended Solids (TSS) and pH). The Division has made a final determination that the proposed activity will only result in no more than *de minimis* degradation of parameters that are available.

The Division issued a draft NPDES permit for the Woodbury Quarry on October 6, 2021 and issued a public notice document concerning the draft permit application on October 21, 2021. Due to the amount of public interest in the project, the Division issued a notice of public hearing on December 14, 2021, which requested comments from other regulatory agencies and members of the public.

A hybrid Public Hearing was held at the Cannon County Courthouse and via a Microsoft Teams video-teleconference on January 18, 2022. The Division of Water Resources – Mining Section held a preliminary technical session with the public from 5:00-6:00 P.M. CST to provide the opportunity for the public to hear information regarding the proposed project and to ask questions about the project and the decision-making process. Introductory remarks by the hearing officer provided a brief summary of the proposed permitting action, the purpose of the hearing, a brief description of the hearing procedure, and the decision process.

Approximately eight people attended the meeting at the Cannon County Courthouse, and approximately one person attended the meeting via Microsoft Teams. Five individuals offered verbal comments during the hearing and six written comments were received during the public comment period. The public comment period expired on January 28, 2022. All comments received by the Division during the comment period are part of the hearing record and were considered by the Division in making a final permit decision.

### **Comments and Responses**

Please note that a number of comments are not included in this document because: 1) they were not directly related to the proposed project, 2) state a belief, opinion, or request that did not specifically ask for a response, 3) required a response without a direct relationship to the project, and/or 4) sought information or involved matters beyond the regulatory authority of the Division.

Subjects included in the comments and the Division's responses follow: (Public comments that represent similar concerns and issues are grouped together under specific categories.)

### **A. Water Quality and NPDES Permit Comments**

*A-1) Commentors are concerned with springs going dry or altering courses.*

The issuance of this NPDES permit does not authorize alterations or impacts to Waters of the State. The permittee is responsible for ensuring streams and wetlands are not adversely impacted by their activity, including the loss of hydrology. Alterations to streams or wetlands without an Aquatic Resource Alteration Permit (ARAP) is a violation of the Tennessee Water Quality Control Act of 1977 and would be subject to potential enforcement and penalties. Individuals who observe alterations or impacts to streams or wetlands should contact the TDEC Cookeville Field Office, Division of Water Resources at 1221 South Willow Avenue Cookeville, TN 38506 or (615)-520-6688.

*A-2) The expansion area includes a stream that is used often by boaters.*

The proposed NPDES permit boundary expansion on the southwest side of the facility excludes two unnamed tributaries to the East Fork Stones River that were identified as streams on September 9, 2021 via a hydrologic determination and concurred with by the Division on September 22, 2021. The features are excluded from the proposed permit boundary and a thirty-foot buffer will be maintained to prevent impacts to those features. The streams are small tributaries unsuitable for boating. If the commentor is referring to the East Fork Stone River, which borders the northeast side of the permit area, the permittee does not propose to expand operations towards the East Fork Stones River.

*A-3) Commentors are concerned with wells going dry.*

There are currently more than 180 individual NPDES permits for limestone mining facilities within Tennessee. The Division's Mining Unit has not received any reports of damage to water wells due to limestone mining facilities within the state. The NPDES permit does not protect the operator from civil actions concerning damage to private property.

*A-4) Dust from trucks settles in the East Fork Stones River or washes into the river from the road.*

This Individual NPDES permit regulates the discharge of treated mine wastewater and storm water from the facility. It cannot regulate discharges of dust from truck traffic outside of the permitted area. The Tennessee Department of Transportation (TDOT) is responsible for storm water

discharges from Highway 70 South (John Bragg Highway), regulated under an Individual NPDES Permit for a Municipal Separate Storm Sewer System, permit number TNS077585. The TDOT contact for Cannon County is Jennifer Flynn – TDOT Community Relations, (423)-510-1164. Concerns with water quality or NPDES permit compliance should be directed to the TDEC Cookeville Field Office, Division of Water Resources at 1221 South Willow Avenue Cookeville, TN 38506 or (615)-520-6688.

*A-5) Commenters are concerned with the effects to water quality and fish and wildlife in the East Fork Stones River.*

The Federal Clean Water Act and the Tennessee Water Quality Control Act recognize the right of a permittee to discharge to waters of the state, as long as the discharge does not impair the designated uses of the receiving stream or violate state water quality standards, causing a condition of pollution. The primary purpose of any NPDES permit is to ensure that all designated uses of the receiving stream are protected. Any discharge from this facility must be consistent with the terms and conditions of the NPDES permit and shall not impair the downstream designated uses. The Division has determined that this permit is protective of the designated uses of the East Fork Stones River: domestic water supply, industrial water supply, fish and aquatic life, recreation, livestock watering and wildlife, and irrigation.

The facility's discharge is limited to a Total Suspended Solids (TSS) concentration of 40 mg/L and a pH of 6.0-9.0 Standard Units (SU). Additionally, within the permit there is a clause that states the wastewater shall contain no other materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life. The treatment structures for this proposed site have been designed to comply with applicable effluent limitations and be protective of downstream use classifications. The proposed discharges from this facility do not have the reasonable potential to cause or contribute to a violation of state water quality standards. If discharges from this facility are identified as causing a condition of pollution, the Division may modify the NPDES permit to include specific monitoring requirements for the pollutant and may also pursue enforcement action.

*A-6) The environmental impact from the rock quarry is negative.*

This NPDES permit is protective of water quality, please see the Response to Comment A-4. Environmental impacts aside from water quality impacts are not regulated by the NPDES permitting program.

## **B. NPDES Process Comments**

*B-1) The quarry has not been good stewards of the current boundary area; mined past current permit area.*

During an inspection of the facility on August 17, 2021, it was determined the permittee had expanded their highwall southwest past the existing permitted boundary by approximately 120-150 feet. This action did not result in impacts to waters of the state, but the facility was deemed out of compliance with the NPDES permit during the inspection for mining outside of the permitted boundary. To address this issue the permittee was required to submit a modification to include the disturbed area into the permit boundary. The issuance of this NPDES permit addresses the noncompliance and returns the permittee to compliance.

*B-2) The public notice process is inadequate. There is nothing in statute that says you cannot provide any greater public notice that what you do.*

Pursuant to *Rule 0400-40-05.06*, all notice and public participation requirements for this proposed permit have been met. The applicant notified the public of the application by posting a sign near the point of entrance to the facility and within view of a public road for at least 30 days. The sign was placed on October 15, 2021. A public notice of the preparation of a draft permit was issued by TDEC on October 21, 2021. This public notice was sent to all applicable federal and state agencies, local government, and persons on the Division's mailing list. Due to the amount of public interest in the project, the Division issued a notice of public hearing on December 14, 2021, and a notice of the public hearing was published in the local newspaper at least 30 days before the hearing. A public hearing was held on January 18, 2022, with the last day to accept comments being January 28, 2022. The public comment period for this draft permit and application spanned a total of 107 days, far greater than required by the public participation rules. Numerous comments were received by the Division and the public hearing was attended by several members of the community, indicating that the public participation process was successful.

## **C. Blasting, Traffic, Zoning, and Other Non-Water Quality Comments**

*C-1) Commentors are against the quarry expansion.*

The issuance of an NPDES permit is not a referendum, whereas the more "for or against" the permit the less there is a chance or opportunity for the permit to be issued. The issuance of an

NPDES permit is based on a review of all relevant information cumulating in the determination that the NPDES permit complies with all applicable statutory and regulatory requirements.

Local zoning and planning ordinances may address designated land uses and activity within the city or county. The issuance of an NPDES permit does not supersede or prohibit any local zoning, planning, county, or city ordinances that may be in place or enacted that would prohibit or limit an activity. The local zoning, planning, county, or city ordinances, likewise, would not supersede or prohibit the issuance of a state water quality discharge permit.

*C-2). Commentor does not believe the quarry will follow the laws.*

The permittee is responsible for complying with the permit effluent limitations and terms and conditions of the NPDES permit, including any damages or impacts to waters of the state as a result of their activities. Failure to comply with permit effluent limitations or the terms and conditions of the NPDES permit would constitute a violation of applicable state and federal laws and is grounds for enforcement action, assessment of penalties, permit modification, permit termination or denial of permit reissuance.

*C-3) The state is not enforcing the laws.*

The TDEC Division of Water Resources is responsible for enforcing all applicable state water quality laws, including the requirement and issuance of individual NPDES permits for this facility. The NPDES program was established in the Clean Water Act of 1977, Section 402 (b) and 40 C.F.R. Part 123. Tennessee is an authorized state to administer the NPDES program. NPDES permits associated with mining activity are issued by the TDEC Division of Water Resources - Mining Section. The Mining Section is the statewide permitting authority for mine sites seeking NPDES permit coverage. This facility has an existing NPDES permit and submitted an NPDES permit renewal application as per state requirements.

The Division of Water Resources is not responsible for the enforcement of any other state or federal law outside of its jurisdiction.

*C-4) Commentors are concerned with air quality due to fugitive dust and blasting.*

The Division of Water Resources does not have jurisdiction over air quality, and air quality is not regulated by the NPDES permit program. Air quality concerns should be directed to the Tennessee

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Division of Air Pollution Control, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15<sup>th</sup> Floor Nashville, TN 37243, or by calling TDEC Cookeville Field Office at (423)-634-5768.

*C-5) Commenters are concerned with silicosis from limestone quarrying/dust.*

Please see the Response to Comment C-4.

*C-6) Blasting at the site is causing damage to nearby homes; quarry expansion could cause further damage.*

The Division of Water Resources does not regulate blasting activity. Blasting is regulated by the Tennessee Department of Commerce and Insurance, Division of Fire Prevention – State Fire Marshal’s Office. The State Fire Marshal’s Office can be contacted at 500 James Robertson Parkway, Nashville, TN 37243-0565 or by calling (615)-741-2241.

*C-7) Commenters are concerned with the effects of the quarry on local scenic beauty, road condition, truck traffic (flying rocks), impact on quality of life, or the quarry not being a good neighbor.*

While the Division of Water Resources empathizes with the commentors and recognizes their concerns, the Division does not have the jurisdiction or authority over these issues. The NPDES permit issued by the Division does not supersede any federal, state, county, or local rules or regulations, nor can the Division enforce other agency’s regulations. The Division encourages the commentors to contact the appropriate agency or their city and county government about these concerns.

## **Decision**

**The Division has reviewed the permit application, conducted the required antidegradation review, and considered all available stream assessments and data. Our review included in-stream background water quality monitoring, the most recent listing of 303(d) streams, Exceptional Tennessee Waters, and information concerning federal and state listed threatened and endangered species.**

**The Division issued a public notice of the proposed NPDES permit in accordance with 40 CFR 124.10(b) and the *Rules 0400-40-05-.06 (7)* on October 21, 2021. The Division issued a notice of public hearing on the proposed NPDES permit on December 14, 2021, in accordance with the *Rules 0400-40-05-.06 (8)*. Comments were accepted into the official record through January 28, 2022. The Division has responded to all relevant comments contained within the public hearing record.**

**The public participation process included notifying all applicable state and federal agencies, including the US Fish & Wildlife Service (USFWS), US Environmental Protection Agency (EPA), Tennessee Wildlife Resources Agency (TWRA), TDEC Natural Heritage Program, and TDEC Division of Archaeology. The Division received no comments from these agencies.**

**Based on its review of all relevant data, the Division has determined that the NPDES permit complies with all applicable statutory and regulatory requirements, is protective of water quality, and can be issued.**

**This permit may be appealed to the Board of Water Quality, Oil and Gas pursuant to Tenn. Code Ann. § 69-3-105(i) and *Rules of TDEC 0400-40-05-.12*.**

Sincerely,



**Daniel Lawrence  
NPDES Program Manager  
Division of Water Resources – Mining Section**