

**NEW HOPE CRUSHED STONE**

16090

REFERENCE NO.	DESCRIPTION	INVOICE DATE	INVOICE AMOUNT	DISCOUNT TAKEN	AMOUNT PAID
	LICENSES				14,845.00

CHECK DATE	CHECK NO.	PAYEE	DISCOUNTS TAKEN	CHECK AMOUNT
12/5/16	16090	COMMONWEALTH OF PA		\$14,845.00

12-7 2016	NEW HOPE CRUSHED STONE + LIME COMPANY	6149	16090	14,845.00	NC CIVIL PENALTY	073420- 035000-101
Date	Name	Receipt Number	Check Number	Amount Paid	Issued For	Revenue ID

**006149**

LOCAL OFFICE STAMP

DEPT. OF ENVIRONMENTAL PROTECTION  
DISTRICT MINING OPERATIONS  
POTTSVILLE DISTRICT OFFICE  
5 WEST LAUREL BOULEVARD  
POTTSVILLE, PA 17901-2522

RECEIPT

DESCRIPTION SM# 7974SM3  
16-5-032-N

**COMMONWEALTH OF PENNSYLVANIA**

RECEIVED  
FROM

BY:

C6

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of: : Violations of the Noncoal Surface Mining  
: Conservation and Reclamation Act  
New Hope Crushed Stone & :  
Lime Company : Docket No. 16-5-032-N  
P.O. Box 248 : Solebury Township  
New Hope, PA 18938-0248 : Bucks County

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this                      day  
of                      , 2016 by and between the Commonwealth of Pennsylvania, Department of  
Environmental Protection (“Department”) and New Hope Crushed Stone & Lime Company  
(“NHCS”). The Department has found and determined the following:

- A. The Department is the agency with authority to administer and enforce the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §691.1, et seq.; the Noncoal Surface Mining Conservation and Reclamation Act, the Act of December 19, 1984, P.L. 1093, as amended 52 P.S. §3301.1, et seq.; Section 1917-A of the Administrative Code, the Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §510-17A; and, the Rules and Regulations of the Environmental Quality Board adopted thereunder.
- B. NHCS is a Pennsylvania corporation with a mailing address of P.O. Box 248, New Hope, PA 18938-0248, whose business includes the mining of noncoal material by the surface mining method.
- C. The principals and persons responsible for the daily activities of NHCS are: President, John A. Mehok; Vice President, Daniel J. Adamczyk; Secretary, Greg Rodrigo; and Treasurer, Christina Cursley.
- D. At all times material hereto, NHCS was authorized to conduct noncoal surface mining in Pennsylvania pursuant to Surface Mining Operator’s License No. 1879.
- E. At all times material hereto, NHCS has operated noncoal surface mines in Solebury Township, Bucks County, pursuant to Permit No. 7974SM3.

- F. Section 11(b) of the Noncoal Surface Mining Conservation and Reclamation Act, Act No. 1984-219 provides that: The Department may issue such orders as are necessary to aid in the enforcement of the provisions of this Act. For the purposes of this section, any condition that creates a risk of fire, landslide, subsidence, cave-in or other unsafe, dangerous or hazardous condition, including, but not limited to, any unguarded and unfenced open pit area, highwall, water pool, spoil bank, abandoned structure, equipment, machinery, tools and other property used in or resulting from surface mining or other hazard to public health or safety, is hereby declared to be a nuisance.
- G. Subchapter E of Section 77.102 (f)(1) and (2) of the rules and regulations, Subchapter E 25 Pa. Code § 77.102 (f) (1) and (2), provides that:
- (1) The application shall contain a mining plan which provides for reclamation concurrent with the progress of the proposed mining operation to the highest extent possible and which complies with the provisions of the “Surface Mining Conservation and Reclamation Act,” as amended.
  - (2) Mining and Reclamation shall be conducted in accordance with the approved mining and reclamation plan and the provisions of the “Surface Mining Conservation and Reclamation Act,” as amended.
- H. NHCS failed to conduct concurrent reclamation and abatement of the nuisance to the minimum standards outlined in the Department’s January 29, 2016 Letter. Specifically, following a review of the 2<sup>nd</sup> Quarter 2016 reclamation progress report, it was determined that 12,732 cubic yards of backfill material was placed for reclamation during the 2<sup>nd</sup> Quarter 2016, which failed to meet the minimum standard of 89,600 cubic yards of backfill material as outlined in the Department’s January 29, 2016 letter, as noted in Paragraph 1 of Compliance Order No. 16-5-032-N, dated August 26, 2016.
- I. NHCS’s conduct set forth above constitutes a violation of Section 77.102 (f)(1) and (2) of the rules and regulations, 25 Pa. Code § 77.102 (f) (1) and (2); and Section 11(b) of the Noncoal Surface Mining Conservation and Reclamation Act, 52 P.S. §3311(b).

- J. The violations described above constitute unlawful conduct under Section 23 of the Noncoal Surface Mining Act, 52 P.S. §3323, and subject NHCS to civil penalty liability under Section 21 of the Noncoal Surface Mining Act, 52 P.S. §3321.

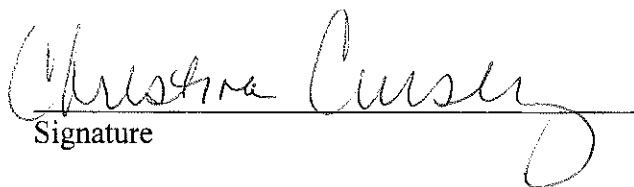
After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by NHCS, as follows:

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 21 of the Noncoal Surface Mining Act, 52 P.S. §3321, the Department hereby assesses a civil penalty of FOURTEEN THOUSAND EIGHT HUNDRED FORTY-FIVE DOLLARS (\$14,845.00), which NHCS hereby agrees to pay.
2. **Civil Penalty Settlement.** Upon signing this CACP, NHCS shall pay the civil penalty assessed in Paragraph 1. This payment is in settlement of the Department's claim for civil penalties for the violation set forth in Paragraph H above, for the dates set forth therein. The payment shall be by corporate check or the like, made payable to the "Commonwealth of Pennsylvania" and submitted to the Department of Environmental Protection, ATTN: Thomas J. Boretski, Mining Permit and Compliance Specialist, District Mining Operations, 5 West Laurel Boulevard, Pottsville, PA 17901-2522.
3. **Findings.**
  - a) NHCS agrees that the findings in Paragraphs A through H are true and correct and, in any matter or proceeding involving NHCS and the Department, NHCS shall not challenge the accuracy or validity of these findings.
  - b) The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.
4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. NHCS reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of NHCS certify, under penalty of law, as provided by 18 PA C.S. §4904, that they are authorized to execute this CACP on behalf of NHCS; that NHCS consents to the entry of this CACP as an ASSESSMENT of the Department; that NHCS hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that NHCS knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. §7514; the Administrative Agency Law, 2 PA C. S. §103(a) and Chapters 5A and 7A; or any other provision of law. Signature by attorney certifies only that the agreement has been signed after consulting with counsel.

FOR NEW HOPE CRUSHED STONE &  
LIME COMPANY:

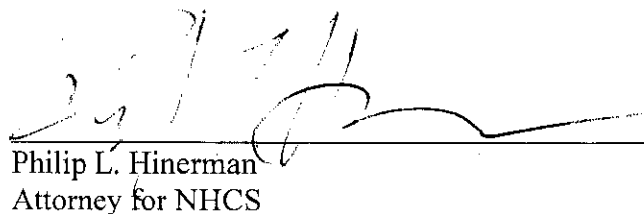
FOR THE COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

  
Signature

\_\_\_\_\_  
Michael J. Menghini  
District Mining Manager

CHRISTINA Cursley, Treas.  
Name, Title

\_\_\_\_\_  
Nels J. Taber  
Attorney for the Commonwealth

  
Philip L. Hinerman  
Attorney for NHCS

(CORPORATE SEAL)