

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

---

In the Matter of the Alleged Violations of Article 23  
of the Environmental Conservation Law of the State of New  
York (ECL) and Part 422 of Title 6 of the Official  
Compilation of Codes, Rules and Regulations of  
the State of New York (6 NYCRR),

**ORDER**

DEC Case No.  
R4-2019-0429-25

-by-

**RONALD OPEIL FLAGSTONE COMPANY, LLC,**

Respondent.

---

This administrative enforcement proceeding addresses allegations by staff of the New York State Department of Environmental Conservation (DEC or Department) that respondent Ronald Opeil Flagstone Company, LLC violated ECL article 23 and 6 NYCRR part 422 at real property that respondent owns located on Gallop Hill Road, Masonville, Delaware County, New York (site).

As set forth in Department staff's complaint dated August 12, 2019 (Complaint), the Department issued respondent a mined land reclamation renewal permit for reclamation purposes only (No. 4-1242-00027/00001) (permit), with effective dates of April 20, 2017 to April 19, 2019. Complaint, ¶ 3. Department staff alleged that respondent:

-- violated ECL 23-2713(2), 6 NYCRR 422.3, and Special Condition Nos. 1 and 4 of the permit by failing to reclaim the land affected by mining at the site within two years after cessation of mining activities (Complaint, ¶ 16);

-- violated ECL 71-1305(2) and Special Condition No. 10 of the permit, by failing to contain water on the site, resulting in an ongoing discharge outside the life of mine boundary (Complaint, ¶ 21); and

-- violated ECL 72-1005(3) and Special Condition No. 7 of the permit by failing to pay annual regulatory fees for the years 2016, 2017, and 2018 (Complaint, ¶ 26).

Department staff seeks the imposition of a civil penalty in the amount of thirty-four thousand dollars (\$34,000), as well as an order directing respondent to complete the required reclamation and to pay the outstanding regulatory fees, including any accrued interest.

Respondent failed to answer the complaint, and Department staff subsequently moved, on December 4, 2019, for a default judgment pursuant to 6 NYCRR 622.15 (Default Motion). The motion was served upon respondent by first class mail and included an affirmation by DEC attorney Stephen Repsher (Repsher Affirmation) and affidavit of Jami June, a mined land reclamation specialist in DEC Region 4 (June Affidavit), both documents dated December 4, 2019, as well as several exhibits. Administrative Law Judge (ALJ) Maria E. Villa prepared the attached default summary report, which I adopt as my decision in this matter subject to my comments below.

The reclamation-only permit was issued to respondent after respondent's mining permit expired on April 17, 2017, in light of respondent's failure to submit a timely permit renewal application (June Affidavit, ¶ 7). During inspections of the site on April 11, 2017, May 9, 2018, and April 17, 2019, Department staff observed that none of the reclamation work had been completed (id., ¶ 17).

In addition, during the April 17, 2019 inspection, Department staff observed an ongoing discharge of sediment-laden water from a sediment trap at the site to a forested area outside the life of mine boundary (June Affidavit, ¶19). This discharge was also observed during the April 11, 2017 inspection, and evidence of the discharge was noted during the May 9, 2018 inspection (id., ¶¶ 19 and 21).

According to Department staff's complaint, respondent failed to pay the required annual regulatory fees for the site for the years 2016, 2017, and 2018 (Complaint, ¶ 12; see also June Affidavit, ¶ 26). In the papers submitted on the motion for default judgment, Department staff stated that it had reviewed the outstanding regulatory fee payment spreadsheet for 2019 and determined that respondent's annual fee payment for 2019, which was due by August 28, 2019, was also unpaid and overdue (see June Affidavit, ¶ 27).

Department staff's submissions in support of the motion for a default judgment provide proof of facts sufficient for me to conclude that the Department has a viable claim and that respondent: (a) failed to complete the required reclamation, in violation of ECL 23-2713(2), 6 NYCRR 422.3, and Special Condition Nos. 1 and 4 of the permit; (b) failed to remediate an unpermitted discharge outside the life of mine, in violation of ECL 71-1305(2) and Special Condition No. 10 of the permit; and (c) failed to pay annual required regulatory fees in violation of ECL 72-1005(3) and Special Condition No. 7 of the permit. Accordingly, Department staff is entitled to a default judgment on liability.

The civil penalty that Department staff seeks is consistent with the applicable provisions of ECL 71-1305(2), which authorizes penalties for violations of ECL article 23 and the regulations promulgated thereto, and those violations have been established here. As required by the Department's Civil Penalty Policy (DEE-1), the civil penalty reflects the potential harm and the actual damage caused by the violation, because respondent's failure to complete any reclamation or to remediate the unpermitted discharge poses an ongoing risk of environmental erosion and degradation at the site (see Repsher Affirmation, ¶ 12).

Upon the record before me, staff's requested penalty, which is less than the maximum allowed, is authorized and appropriate. I hereby direct respondent to pay the civil penalty within thirty (30) days of the service of this order upon it.

As Department staff states, respondent's failure to pay the annual regulatory fee "undermine[s] the regulatory scheme required to be adhered to by the mining community" (*id.*, ¶ 12; see also Exhibit A to June Affidavit [May 12, 2017 letter which documents regulatory fees owing for 2016 and 2017 billing years]). Respondent is subject to the annual regulatory fee requirement, and I hereby direct that respondent pay its unpaid annual regulatory fees for the years 2016, 2017, 2018 and 2019, together with any penalties and accrued interest. To the extent that respondent requires information regarding the applicable penalties and accrued interest, it should contact the DEC Region 4 office in that regard.

Lastly, Department staff requests that respondent be directed to complete the mine reclamation work contained in the Mined Land Reclamation Plan previously approved for the site within one hundred twenty (120) days of the service of the order upon it. The reclamation plan, which set forth the actions that respondent was required to complete to reclaim the mined area includes, but is not limited to, backfilling of excavated areas, grading of slopes, and establishing a seventy-five percent vegetative cover on all affected areas, among other items (see June Affidavit, ¶ 14; see also June Affidavit, Exhibit A [Reclamation-Only Permit and Cover Letter dated May 12, 2017]; Complaint ¶ 8). Respondent is legally obligated to reclaim the site within two years after cessation of mining activities and it has failed to do so.

I hereby direct that respondent complete the mine reclamation work within one hundred twenty (120) days of the service of the order upon it. Upon good cause shown by respondent, respondent may request an extension to this one hundred twenty (120) day period. Any request for an extension of time by respondent must be submitted to the Department in writing with appropriate supporting documentation. The determination whether to allow for any extension shall be solely within the discretion of Department staff.

**NOW, THEREFORE**, having considered this matter and being duly advised, it is **ORDERED** that:

- I. Department staff's motion for default pursuant to the provisions of 6 NYCRR 622.15 is granted. By failing to answer or appear in this proceeding, respondent Ronald Opeil Flagstone Company, LLC waived its right to be heard.
- II. Based upon the allegations of the complaint and the proof submitted by Department staff on the motion, respondent Ronald Opeil Flagstone Company, LLC:
  - A. violated ECL 23-2713(2), 6 NYCRR 422.3, and Special Condition Nos. 1 and 4 of the mined land reclamation renewal permit for reclamation purposes only (No. 4-1242-00027/00001) (permit) by failing to reclaim the land affected by mining at the site within two years after cessation of mining activities;

- B. violated ECL 71-1305(2) and Special Condition No. 10 of the permit, by failing to contain water on the site, resulting in an ongoing discharge outside the limits of the life of mine boundary; and
- C. violated ECL 72-1005(3) and Special Condition No. 7 of the permit by failing to pay annual regulatory fees for the years 2016, 2017, 2018, and 2019.
- III. Respondent Ronald Opeil Flagstone Company, LLC is hereby assessed a civil penalty in the amount of thirty-four thousand dollars (\$34,000) for the violations referenced in paragraph II of this Order.
- IV. Within thirty (30) days of service of this order upon respondent Ronald Opeil Flagstone Company, LLC, respondent is to submit thirty-four thousand dollars (\$34,000) by certified check, cashier's check, or money order made payable to the "New York State Department of Environmental Conservation." The civil penalty payment shall be sent to the following address:
- Stephen Repsher, Esq.  
Assistant Regional Attorney  
NYS DEC Region 4  
1130 North Westcott Road  
Rotterdam, New York 12306.
- V. Within thirty (30) days of service of this order upon respondent Ronald Opeil Flagstone Company, LLC, respondent shall remit all unpaid annual regulatory fees for the years 2016, 2017, 2018 and 2019, together with any penalties and accrued interest, to the Department at the address referenced in paragraph IV.
- VI. Respondent Ronald Opeil Flagstone Company, LLC shall complete the mine reclamation work contained in the Mined Land Reclamation Plan previously approved for the site within one hundred twenty (120) days of the service of the order upon it. Upon good cause shown by respondent, respondent may request an extension to this one hundred twenty (120) day period. Any request for an extension of time by respondent must be submitted to the Department in writing with appropriate supporting documentation. The determination whether to allow for any extension shall be solely within the discretion of Department staff.
- VII. Any other correspondence or questions regarding this order shall be directed to the attention of Stephen Repsher, Esq., at the address referenced in paragraph IV.

VIII. The provisions, terms and conditions of this order shall bind respondent Ronald Opeil Flagstone Company, LLC, and its agents, successors and assigns, in any and all capacities.

For the New York State Department  
of Environmental Conservation

By: \_\_\_\_\_/s/\_\_\_\_\_  
Basil Seggos  
Commissioner

Dated: Albany, New York  
February 27, 2020

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

---

In the Matter of the Alleged Violations of Article 23  
of the Environmental Conservation Law of the State of New  
York (“ECL”) and Part 422 of Title 6 of the Official Compilation  
of Codes, Rules and Regulations of the State of  
New York (“6 NYCRR”)

DEFAULT  
SUMMARY  
REPORT

DEC No. R4-2019-0429-25

-by-

**RONALD OPEIL FLAGSTONE COMPANY, LLC,**

Respondent.

---

Procedural History and Background

On August 12, 2019, staff of the New York State Department of Environmental Conservation (“Department” or “DEC”) served respondent Ronald Opeil Flagstone Company, LLC (“respondent”) with a notice of hearing and complaint dated August 12, 2019. The complaint included three causes of action alleging violations of ECL Article 23 and Part 422 of 6 NYCRR, at real property respondent owns located on Gallop Hill Road, Masonville, Delaware County, New York (“site”).

The Department issued a Mined Land Reclamation renewal permit for reclamation purposes only (Permit #4-1242-00027/00001) (the “Permit”), with effective dates of April 20, 2017 to April 19, 2019. Affidavit of Jami June, sworn to December 3, 2019 (the “June Affidavit”), Exhibit A. The Permit was issued to respondent after its mining permit expired on April 17, 2017 due to respondent’s failure to submit a timely permit renewal application. June Affidavit, ¶ 7. Special Condition No. 4 of the Permit required respondent to reclaim the mine site in accordance with the previously approved Mined Land Reclamation Plan by no later than the Permit’s expiration date (April 19, 2019). June Affidavit, ¶ 11; Exhibit A, ¶ 4.

Section 23-2713(2) of the ECL and Section 422.3(e) of 6 NYCRR require that all affected land be reclaimed within a two-year period after mining ceases. In addition, Special Condition No. 1 of the Permit states that “[a]ll activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant’s agent as part of the permit application,” and Special Condition No. 4 requires the permittee to reclaim the mine in accordance with the previously approved Mined Land Reclamation Plan, and states further that reclamation is to be completed and approved by the Department by no later than the permit’s expiration date. June Affidavit, Exhibit A.

Inspections by Department Staff on April 11, 2017, May 9, 2018, and April 17, 2019 revealed that none of the required reclamation had been completed at the site. Complaint, ¶ 9;

June Affidavit, ¶ 16, Exhibits C, D, and E. In addition, during the April 11, 2017 and April 17, 2019 inspections, Department Staff observed an active and ongoing discharge of sediment-laden water from a sediment trap in the northern portion of the mine site to a forested area outside the life of mine boundary. Complaint, ¶ 18; June Affidavit, ¶ 19, Exhibit F and G. During the May 9, 2018 inspection, evidence of the discharge’s ongoing nature was visible, but an active discharge was not observed. Complaint, ¶ 18; June Affidavit, ¶ 21. As alleged in the complaint, respondent’s failure to contain all water on the mine site, resulting in an ongoing discharge outside the life of mine, was an ongoing violation of Special Condition No. 10 of the Permit, and Section 71-1305(2) of the ECL.<sup>1</sup> Complaint, ¶ 21; June Affidavit, ¶18, Exhibit A.

The complaint also alleged that respondent failed to pay the required annual regulatory fees for the years 2016, 2017, and 2018, in violation of Special Condition No. 7 of the Permit, and Section 72-1005(3) of the ECL. Complaint, ¶ 26; June Affidavit, ¶¶ 22-23. Section 72-1005(3) of the ECL requires that “for all persons holding permits or approvals, or subject to regulation under this title liability to pay annual fees shall continue until such time as reclamation has been completed and approved by the department.” Special Condition No. 7 of the Permit requires the permittee to pay regulatory fees during the Permit term, and states that “[i]f the permittee is in arrears on regulatory fees, all delinquent fees must be paid in full before final reclamation can be approved.” June Affidavit, Exhibit A.

The complaint seeks an order of the Commissioner:

- (1) directing respondent to complete the work set forth in the Department-approved reclamation plan within one hundred and twenty (120) days of service of the Commissioner’s Order upon respondent;
- (2) directing respondent to pay the Department the unpaid 2016, 2017, and 2018 regulatory fees, including any accrued interest, within thirty (30) days of service of the Commissioner’s Order upon respondent; and
- (3) imposing a civil penalty in the amount of thirty-four thousand dollars (\$34,000) to be paid within thirty days of service of the Commissioner’s Order upon respondent.

Complaint, Wherefore Clause, ¶¶ I-III.

The notice of hearing served with the complaint indicated that an answer to the complaint was due within twenty days of service of the complaint. Respondent did not answer the complaint. In the notice, respondent was advised that the failure to timely file a written answer would constitute a default and a waiver of respondent’s right to a hearing, and that if respondent

---

<sup>1</sup> Section 71-1305(2) of the ECL states that “[i]t shall be unlawful for any person to violate any of the provisions of or fail to perform any duty imposed by article 23 of this chapter or any rule or regulation promulgated thereunder or any order or condition of any permit of the department made pursuant thereto.” Special Condition No. 10 of the Permit states that “[t]here shall be no natural swales or channels . . . that are capable of discharging waters to any offsite areas or to any areas outside the limits of the Life of Mine except those explicitly described and shown in the . . . approved Mined Land Use Plan. All silt laden water and storm water generated on, or running across, the site shall be retained within the approved project area.”

failed to answer, an order granting the relief requested in the complaint could be issued against respondent.

On December 4, 2019, Department Staff moved for a default judgment. The motion was served upon respondent by first class mail, and included the December 4, 2019 affirmation of Stephen Repsher, Esq. (the “Repsher Affirmation”), and the June Affidavit, as well as several exhibits. A list of those exhibits is attached to this default summary report.

### Motion for Default and Applicable Regulations

Section 622.4(a) of 6 NYCRR states that a respondent upon whom a complaint has been served must file an answer to the complaint within twenty days of the date of such service. Section 622.15 provides that “(a) [a] respondent’s failure to file a timely answer ... constitutes a default and a waiver of respondent’s right to a hearing. If [this] occurs the department staff may make a motion to the ALJ for a default judgment. (b) The motion for a default judgment may be made orally on the record ... and must contain: (1) proof of service upon the respondent of the notice of hearing and complaint ... ; (2) proof of the respondent’s failure to appear or failure to file a timely answer; and (3) a proposed order.”

As the Commissioner stated in *Matter of Alvin Hunt, d/b/a Our Cleaners* (Decision and Order dated July 25, 2006, at 3), “[t]he consequences of a default is [sic] that the respondent waives the right to a hearing and is deemed to have admitted the factual allegations of the complaint or other accusatory instrument on the issue of liability for the violations charged.” Moreover, the Commissioner has stated, “a defaulting respondent is deemed to have admitted the factual allegations of the complaint and all reasonable inferences that flow from them.” *Id.* at 6.

In addition, in support of a motion for a default judgment, Department Staff must “provide proof of the facts sufficient to support the claim[s]” alleged in the complaint. *Matter of Queen City Recycle Center, Inc.*, Decision and Order of the Commissioner, December 12, 2013, at 3. Department Staff is required to support their motion for a default judgment with enough facts to enable the ALJ and the Commissioner to determine that Department Staff has a viable claim. *Matter of Samber Holding Corp.*, Order of the Commissioner, March 12, 2018, at 1 (citing *Woodson v Mendon Leasing Corp.*, 100 N. Y. 2<sup>nd</sup> 62, 70-71 (2003)).

The record establishes that Department Staff served the notice of hearing and complaint upon respondent, and that respondent failed to file an answer to the complaint. As part of its motion for default judgment, Department Staff submitted a proposed order. The Department is entitled to a default judgment in this matter pursuant to the provisions of Section 622.15 of 6 NYCRR.

Department Staff’s motion included the June Affidavit. Mr. June is a Mined Land Reclamation Specialist in the Department’s Region 4 office. The June Affidavit states that Department Staff issued respondent a reclamation-only permit after respondent failed to submit a timely permit renewal application. The permit was renewed for the limited purpose of authorizing a timely reclamation of the mine. The reclamation plan required respondent to,



among other things, backfill excavated areas, grade slopes, and establish a seventy-five percent (75%) vegetative cover on all affected areas.

Mr. June inspected the mine on April 11, 2017, May 9, 2018, and April 17, 2019, and observed that none of the required reclamation work had been completed. In addition, during the April 11, 2017 and April 17, 2019 inspections, he observed an active and ongoing discharge of sediment-laden water from a sediment trap in the northern portion of the mine site to a forested area outside the life of mine. An active discharge was not observed during the May 9, 2018 inspection, but evidence of the discharge's ongoing nature could be seen.

The June Affidavit stated that Mr. June reviewed the Department's records to determine whether respondent had paid the annual regulatory fees during the years 2016 to 2018. Mr. June determined that respondent had not made the required payments for the years 2016, 2017, 2018 or 2019.

The affidavits and exhibits in Department Staff's motion for default judgment are sufficient to conclude that Department Staff established that respondent violated ECL Article 23 and Part 422 of 6 NYCRR by failing to undertake the reclamation required by the Permit. In addition, the submissions on the motion establish that respondent failed to contain all water on the mine site, resulting in an ongoing discharge outside the life of mine, in violation of Special Condition No. 10 of the Permit and Section 71-1305(2) of the ECL. Finally, the affidavits and exhibits are sufficient to conclude that respondent failed to pay its annual required regulatory fees for the years 2016, 2017, and 2018, in violation of Section 72-1005(3) of the ECL and Special Condition No. 7 of the Permit. Accordingly, respondent is liable for the violations alleged in the complaint.

#### Findings of Fact

1. Respondent Ronald Opeil Flagstone Company, LLC is a foreign limited liability company authorized to do business in New York State, and permittee of an approximately 29-acre bluestone mine known as the "Opeil Flagstone Quarry," located on Gallop Hill Road in Masonville, Delaware County, New York. Complaint, ¶ 2; Repsher Affirmation, ¶ 2, Exhibit A; June Affidavit, ¶ 5.
2. Respondent was issued a Mined Land Reclamation renewal permit for reclamation purposes only (#4-1242-00027/00001) for the mine. The Permit was effective April 20, 2017 and expired on April 19, 2019. Complaint, ¶ 3; June Affidavit, ¶¶ 6, 7, 12 and 13, Exhibit A.
3. The Permit's reclamation plan required that respondent (1) backfill the quarry up to the existing high wall with spoil rock; (2) grade spoil stockpiles that were to remain in place to a slope no steeper than a ratio of 1V:1.5H and revegetate the slope; (3) install a fence or barrier ten (10) feet back from the edge of any cliff face exceeding twelve (12) feet in height; (4) remove all equipment, refuse and debris from the mine site; (5) fill in and reclaim all sediment traps; and (6) establish at least seventy-five percent (75%) vegetative cover on all areas affected by mining activity. Complaint, ¶ 9; June Affidavit, ¶ 14, Exhibit B.

4. Department Staff inspected the site on April 11, 2017, May 9, 2018, and April 17, 2019, and observed that none of the reclamation work had been completed at the site. Complaint, ¶ 9; June Affidavit, ¶ 9, Exhibits C, D, and E.

5. During the April 11, 2017 and April 17, 2019 inspections, Department Staff observed an active and ongoing discharge of sediment-laden water from a sediment trap in the northern portion of the mine site to a forested area outside the life of mine. June Affidavit, ¶ 19, Exhibits F and G. During the May 9, 2018 inspection Department Staff did not see an active discharge, but evidence of the discharge's ongoing nature was visible. June Affidavit, ¶ 21.

6. Mr. June reviewed the Department's database of outstanding regulatory fee payments. June Affidavit, ¶ 24. The payments appear on spreadsheets, and the spreadsheets are distributed to staff on a monthly basis. *Id.* In February 2019, Mr. June reviewed the outstanding regulatory fee payment spreadsheets for the years 2016-2018, and determined that respondent's payment for 2016 was due by August 28, 2016; payment for the year 2017 was due by August 23, 2017; and payment for 2018 was due by August 23, 2018. June Affidavit, ¶ 26. Respondent had not made any of the payments. *Id.*

7. In November 2019, Mr. June reviewed the spreadsheet for 2019 and determined that respondent's annual fee payment for 2019, which was due on August 28, 2019, was unpaid and overdue. June Affidavit, ¶ 27.

8. On August 12, 2019, respondent was served with the notice of hearing and complaint by certified mail. Repsher Affirmation, ¶ 31, Exhibit B (December 4, 2019 Affidavit of Service of Jill Viscusi). Department Staff received a Domestic Return Receipt on August 19, 2019, showing delivery on August 14, 2019. Repsher Affirmation, Exhibit B. Department Staff's motion for default judgment was served upon respondent via first class mail on December 4, 2019. Repsher Affirmation, ¶ 8, Exhibit C.

9. Respondent failed to answer the complaint. Repsher Affirmation, ¶ 6.

### Discussion

The record in this case shows that respondent failed to carry out the required reclamation at the site. Accordingly, Department Staff has provided proof sufficient to establish a viable claim that respondent violated Section 23-2713(2) of the ECL, Section 422.3 of 6 NYCRR, and Special Condition Nos. 1 and 4 of respondent's Permit, as alleged in the complaint's first cause of action. Furthermore, Department Staff has established a viable claim that respondent violated Section 71-1305(2) of the ECL and Special Condition No. 10 of the Permit, by failing to remediate an unpermitted discharge outside the life of mine, and Section 72-1005(3) of the ECL and Special Condition No. 7 by failing to pay annual regulatory fees.

Respondent was served with the notice of hearing and complaint on August 12, 2019. Respondent failed to file an answer to the complaint. Respondent was served with Department Staff's December 4, 2019 motion for default judgment by first-class mail. Department Staff

submitted a proposed order. Department Staff is entitled to a default judgment in this matter pursuant to the provisions of Section 622.15 of 6 NYCRR.

Based upon its assessment of the conditions at the site and the totality of the circumstances of this case, Department Staff requested a penalty of thirty-four thousand dollars (\$34,000). Department Staff noted that the penalty amount is well within the combined maximum statutory penalty for the violations alleged. Section 71-1307(1) of the ECL provides for a civil penalty not to exceed eight thousand dollars for violations of Article 23, with an additional penalty of two thousand dollars for each day during which the violation continues.

Moreover, the Department's civil penalty policy (DEE-1, Civil Penalty Policy) states that a penalty must reflect the relative importance of the type of violation in the statutory scheme, as well as the potential harm or actual damage caused by the violation. In this regard, Department Staff maintained that respondent's failure to complete reclamation, to contain the unpermitted discharge, and to pay the mandated regulatory fees, supports the penalty amount Department Staff has requested. Furthermore, Department Staff asserted that respondent's "omissions of action pose an ongoing risk of environmental erosion and degradation at the Mine site, and its failures to pay regulatory fees undermine the regulatory scheme required to be adhered to by the mining community." Repsher Affirmation, ¶ 12.

The civil penalty Department Staff seeks is consistent with the Department's civil penalty policy as well as applicable provisions of ECL Article 71, and the Commissioner should impose the penalty requested.

#### Recommendation

Based upon the foregoing, I recommend that the Commissioner issue an order:

1. Granting Department Staff's motion for default pursuant to the provisions of Section 622.15 of 6 NYCRR;
2. Finding respondent in violation of ECL 23-2713(2) and 72-1005(3), Section 422.3 of 6 NYCRR, and Special Condition Nos. 1, 4, 7 and 10 of the Permit, as alleged in the complaint;
3. Directing respondent, within thirty (30) days of service of the Commissioner's order on it, to pay a civil penalty in the amount of thirty-four thousand dollars (\$34,000);
4. Directing respondent, within thirty (30) days of service of the Commissioner's order on it, to pay the regulatory fees for the years 2016, 2017, 2018 and 2019, including any penalties and accrued interest;
5. Directing respondent, within one hundred and twenty (120) days of service of the Commissioner's order on it, to complete the reclamation set forth in the Department-approved Mined Land Reclamation Plan; and

6. Directing such other and further relief as he may deem just and proper.

\_\_\_\_\_/s/\_\_\_\_\_  
Maria E. Villa  
Administrative Law Judge

Dated: Albany, New York  
February 12, 2020

*Matter of Ronald Opeil Flagstone Company, LLC*  
Exhibits to December 3, 2019 Affidavit of Jami June

Exhibit A – May 12, 2017 cover letter and reclamation-only permit

Exhibit B – Mined Land Use Plan (cover sheet, table of contents and reclamation plan)

Exhibit C – April 17, 2019 photograph of mine site

Exhibit D – April 17, 2019 photograph of mine site

Exhibit E – April 17, 2019 photograph of mine site

Exhibit F – April 17, 2019 photograph of discharge

Exhibit G – April 17, 2019 photograph of discharge