

BEFORE THE RECLAMATION COMMISSION

JOHN L. GARBER MATERIALS, INC., : Case Nos. RC-16-004
: RC-16-005
Appellant, :
: Review of Chief's Order 2653-IM
-vs- : and Final Civil Penalty Assessment;
: Permit IM-436
DIVISION OF MINERAL RESOURCES :
MANAGEMENT, :
: **REPORT OF THE**
Appellee. : **HEARING OFFICER**

Appearances: Brian Barger, April Bott, Counsel for Appellant John L. Garber Materials, Inc.; Amanda Scheeser, Brian Ball, Assistant Attorneys General, Counsel for Appellee Division of Mineral Resources Management.

FINDINGS, CONCLUSIONS

On August 23, 2016, John L. Garber Materials, Inc. filed with the Reclamation Commission a *Notice of Appeal* from Chief's Order 2653-IM, and from the Final Civil Penalty based upon that order. Accompanying Appellant's *Notice of Appeal* was a draft in the amount of \$20,250.00, as required by O.R.C. §1513.02(E)(3). These causes were assigned case numbers RC-16-004 (appeal of Chief's Order) and RC-16-005 (appeal of penalty).

On September 2, 2016, the Appellant filed a *Notice of Withdrawal of Appeal* with the Reclamation Commission. Pursuant to Ohio Administrative Code §1513-3-17, case numbers RC-16-004 and RC-16-005 are hereby **DISMISSED** without further action required by the Reclamation Commission.

It is the Commission's understanding that John L. Garber Materials will be seeking informal review before the Division Chief of Chief's Order 2653-IM and the related penalty. In accordance with the request of both the Appellant and the Division, the Commission will retain the pre-paid penalty of \$20,250.00 in the Commission's penalty fund, pending the outcome of the informal review and until the Commission receives further instructions as to whether, or how, these funds shall be transferred or released.

9/8/2016
DATE


LINDA WILHELM OSTERMAN
Hearing Officer

**BEFORE THE RECLAMATION COMMISSION
STATE OF OHIO**

John L. Garber Materials, Inc.
2500 Lexington-Springmill Road
Lexington, Ohio 44904
Ph: 419-884-1663

Case Nos. RC-16-004
RC-16-005

Appellant,

v.

Lanny Erdos
Chief, Division of Mineral Resources
Management
2045 Morse Road, Bldg. H-3
Columbus, OH 43229

Appellee.

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SEP - 2 2016

RECLAMATION COMMISSION

NOTICE OF WITHDRAWAL OF APPEAL

Pursuant to Ohio Adm.Code 1513-3-17(A), Appellant hereby notifies the Reclamation Commission that it is withdrawing its appeals in Case Nos. RC-16-004 and RC-16-005, without prejudice.

Respectfully submitted,



Brian Barger (0018908)
April Bott (0066463)
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Counsel for Appellant

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abott@bottlawgroup.com
Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Notice of Withdrawal* was sent, via electronic mail, on September 2, 2016 to:

Amanda Scheeser
Amanda.scheeser@ohioattorneygeneral.gov
Brian Ball
Brian.ball@ohioattorneygeneral.gov


Counsel for Appellant