

Arkansas
State Claims Commission

NOV 26 2018

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms. Stearns, Conrad and Schmidt,
- Miss Consulting Engineers, Inc.

Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces		
Claim No.	_____	
Date Filed	(Month)	(Day) (Year)
Amount of Claim \$	_____	
Fund	_____	

COMPLAINT

Stearns, Conrad and Schmidt,
Consulting Engineers, Inc.

11260 Roger Bacon Drive, Suite 300 Reston

_____, the above named Claimant, of _____ (Street or R.F.D. & No.) _____ (City)
 _____ (Name)
 Virginia 20190 _____ County of Fairfax represented by Clayborne S. Stone Mitchell Williams
 _____ (State) _____ (Zip Code) _____ (Daytime Phone No.) _____ (Legal Counsel, if any, for Claim)
 of 425 West Capitol Ave., Suite 1800 Little Rock, AR 72201 (501) 688-8886 (501) 918-7886
 _____ (Street and No.) _____ (City) _____ (State) _____ (Zip Code) _____ (Phone No.) _____ (Fax No.) says:

State agency involved: Arkansas Department of Environmental Quality Amount sought: excess of \$350,000.00
 2014 through present and continuing
 Month, day, year and place of incident or service: SEE EXHIBIT A
 Explanation:

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
 Yes July through October 2018 to whom? Michael Bynum ADEQ
 _____ (Yes or No) _____ (Month) _____ (Day) _____ (Year) _____ None _____ (Department)
 : and that the following action was taken thereon:
 and that \$ 00.00 was paid thereon: (2) Has any third person or corporation an interest in this claim? No ; if so, state name and address
 _____ (Name) _____ (Street or R.F.D. & No.) _____ (City) _____ (State) _____ (Zip Code)
 and that the nature thereof is as follows: _____ : and was acquired on _____ in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.



Stone
 _____ (Signature of Claimant/Representative)
 SWORN TO and subscribed before me at Little Rock AR
 on this 20th day of November, 2018
 _____ (Date) _____ (Month) _____ (Year)
 Melody Goldman Brown
 _____ (Notary Public)
 My Commission Expires: June 01 2027
 _____ (Month) _____ (Day) _____ (Year)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**STEARNS, CONRAD AND SCHMIDT,
CONSULTING ENGINEERS, INC.**

CLAIMANT

V. Case No. _____

**ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY**

RESPONDENT

STATEMENT IN SUPPORT OF CLAIM

Stearns, Conrad, and Schmidt, Consulting Engineers, Inc. ("SCS Engineers") submits the following Statement in Support of Claim:

1. SCS Engineers is a foreign corporation authorized to do business in the State of Arkansas.

2. Respondent Arkansas Department of Environmental Quality ("ADEQ") is an agency, department, or institution of the State of Arkansas for purposes of the jurisdiction of the Arkansas State Claims Commission (the "Commission") under Ark. Code Ann. § 19-10-204.

3. The Commission has exclusive jurisdiction over this claim pursuant to Ark. Code Ann. § 19-10-204.

4. On or about October 6, 2014, SCS Engineers and ADEQ entered into a Professional/Consultant Service Contract (the "Contract") for services related to the closure of the inactive NABORS landfill near Mountain Home, Arkansas (the "Project"). A true and correct copy of the Contract is attached hereto as Exhibit 1.

5. The Contract is a "time and materials contract," with an initial not to exceed contract amount of \$2,334,730.00 (the "NTE Amount").

6. A general description of the Contract's scope of work is set forth in Attachment # 4 to the Contract.

EXHIBIT
A

7. During the course of SCS Engineers work on the Project, ADEQ requested, and SCS Engineers performed, several services outside the Contract's scope of work.

8. ADEQ paid SCS Engineers for some of these out-of-scope services, but it did not increase the NTE Amount under the Contract. Accordingly, the Contract's budget is insufficient to reimburse SCS Engineers for the full services provided by SCS Engineers at the request of and for the benefit of ADEQ when the costs of out-of-scope services are included.

9. SCS has performed the following out-of-scope services and charged ADEQ for those services as follows:

- Leachate Hauling in 2016 and the first half of 2017 \$198,664.83
- Boundary Survey in August 2018 \$17,259.89
- Construction Management (to date) (approximate amount) \$350,000.00

10. The work performed by SCS Engineers has been in accordance with the Contract and as directed by ADEQ.

11. Despite demand, ADEQ has failed and refused to pay SCS Engineers for the work it has performed and/or failed and refused to increase the NTE Amount, which has resulted in damage to SCS Engineers because it has performed work for which ADEQ has refused to pay.

12. Alternatively, ADEQ is liable to SCS Engineers for quantum meruit for services performed by SCS Engineers, which have benefitted ADEQ.

13. In addition, SCS Engineers seeks its costs and a reasonable attorney's fees for prosecution of this claim.

WHEREFORE, SCS Engineers prays for an award of damages against ADEQ as set forth above, for its costs, and a reasonable attorney's fees.

Respectfully submitted,

Clayborne S. Stone, Ark. Bar No. 2003
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
425 W. Capitol Ave., Suite 1800
Little Rock, AR 72201
(501) 688-8800
(501) 688-8807 - facsimile
cstone@mwlaw.com

DEC 09 2019

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RECEIVED

STEARNS, CONRAD AND SCHMIDT,
CONSULTING ENGINEERS, INC.

CLAIMANT

V.

CLAIM NO. 190618

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

RESPONDENT

NOTICE AND REQUEST FOR APPROVAL OF SETTLEMENT

Comes now Respondent, the Arkansas Department of Environmental Quality (ADEQ), by and through its attorneys, Basil Hicks and Daniel Pilkington, and Claimant, Stearns, Conrad, and Schmidt, Consulting Engineers, Inc.'s (SCS)), by and through its attorney, Clay Stone, and for their Notice of Settlement states as follows:

1. The parties have agreed to settle this claim in accordance with the settlement agreement ("Agreement") attached as Exhibit A.
2. The parties request that the Claims Commission approve the settlement of this Claim for the amount of One Hundred Eighty-Nine Thousand and 00/100 Dollars (\$189,000.00) pursuant to the terms of the Agreement attached as Exhibit A.

WHEREFORE, Respondent and Claimant pray that the Claims Commission approve the settlement of this claim.

Respectfully submitted,

Stearns, Conrad and Schmidt, Consulting Engineers, Inc.
ATTN: General Counsel
11260 Roger Bacon Dr., Suite 300
Reston, VA, 20190

By:



Clayborne S. Stone
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
Attorney for Claimant

and

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72148

By:

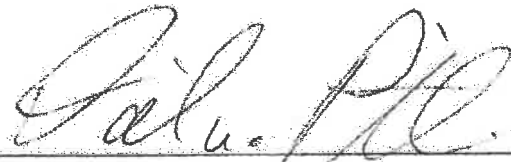


Daniel Pilkington (2007195)
Basil Hicks (2015117)
Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Daniel Pilkington, do hereby certify that a true and accurate copy of the foregoing Notice of Settlement was served upon the parties' attorney(s) listed below by email or by another acceptable means under the Arkansas Rules of Civil Procedure on this the 9th day of December, 2019.

Clayborne S. Stone
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
425 w. Capitol Ave., Suite 1800
Little Rock, AR 72201
cstone@mwlaw.com



Daniel Pilkington

**Arkansas
State Claims Commission**

DEC 09 2019

RECEIVED

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**STEARNS, CONRAD AND SCHMIDT,
CONSULTING ENGINEERS, INC.**

CLAIMANT

V.

CLAIM NO. 190618

**ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY**

RESPONDENT

Exhibit A to Notice and Request for Approval of Settlement

DEC 09 2019

RECEIVED

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (“Agreement”) is entered into by Stearns, Conrad and Schmidt, Consulting Engineers, Inc. (“SCS”), the Arkansas Department of Energy and Environment, Division of Environmental Quality (“DEQ”), and Kolb Grading, LLC (“Kolb”) (collectively SCS, DEQ, and Kolb are the “Parties”).

RECITALS

WHEREAS, on or about October 6, 2014, SCS and DEQ entered into a Professional/Consultant Service Contract, as amended (the “SCS Contract”) for services related to the closure of the inactive North Arkansas Board of Regional Sanitation (“NABORS”) landfill near Mountain Home, Arkansas (the “Project”);

WHEREAS, on or about May 15, 2017, Kolb and DEQ entered into a contract for services related to the closure of the inactive NABORS landfill near Mountain Home, Arkansas (the “Kolb Contract”);

WHEREAS, SCS and DEQ dispute whether certain work performed by SCS was included in the SCS Contract and whether DEQ owes SCS any additional funds, whether under the SCS Contract or otherwise;

WHEREAS, Kolb and DEQ dispute the obligations imposed by various terms of the Kolb Contract, including the amount of retained funds due to Kolb on final completion of the Project (“Kolb Retainage”) and the remaining work necessary to bring the project to final completion (“Kolb Dispute”);

WHEREAS, on November 26, 2018, SCS commenced an action against DEQ before the Arkansas Claims Commission, Claim No. 190618 (the “SCS Claim”);

WHEREAS, the Parties have agreed to enter into this Agreement under which SCS and DEQ will compromise and settle the SCS Claim and Kolb and ADEQ will compromise and settle the Kolb Dispute.

NOW THEREFORE, for and in consideration of the mutual agreements and covenants set forth herein, the receipt and sufficiency of which are hereby expressly acknowledged, the Parties hereby covenant and agree as follows:

TERMS AND CONDITIONS

1. SCS, Kolb and DEQ agree to execute and submit the certificate of substantial completion attached hereto as Exhibit A for approval by the Division of Building Authority (DBA) within one business day of the effective date of this Agreement.
2. SCS, with Kolb's reasonable cooperation, will complete all documents required by Article 9 of the General Conditions (Division 00, Section 007213) of the Project Manual - Specifications Closure of Inactive NABORS Landfills _Rebid, dated December 5, 2016 (Project Manual), including but not limited to a final Construction Quality Assurance Report, a draft of the Certificate of Final Completion, and drafts of Kolb's final Change Order and final Request for Payment, in an amount not to exceed Seven Hundred Eleven Thousand Seven Hundred Forty-Three and 37/100 Dollars (\$711,743.37) inclusive of the retained amounts (collectively, the "Final Closure Documents"), and submit the Final Closure Documents to DEQ and DBA for review and approval within thirty (30) days of the Effective Date (as defined below).
3. Any comments by DEQ on the Final Closure Documents shall be provided to SCS within fourteen (14) days of SCS's submission of the Final Closure Documents. SCS shall respond within thirty (30) days to comments provided by DEQ or DBA, if any, to the extent such comments relate to material errors or omissions in any of the Final Closure Documents. SCS

warrants that the Final Closure Documents shall be prepared in a manner that is in accordance with the professional standards for professional engineers. DEQ shall respond within fourteen (14) days of receipt of SCS's response to DEQ's comments.

4. After review and response to any comments related to material errors or omissions in the Final Closure Documents, SCS, with Kolb's prior approval of its final Request for Payment, shall submit to DEQ and DBA revised Final Closure Documents that address those comments.

5. All work required to be performed by SCS pursuant to this Agreement shall not exceed 160 hours. Furthermore, to the extent any work to be performed by SCS pursuant to this Agreement requires SCS to make a site visit to the Project, SCS shall not be required to make any more than two site visits. Kolb shall only make one site visit to the Project, but only if required to complete the Final Closure Documents.

6. This Agreement in no way limits the DBA from requesting additional information from the Parties as may be reasonable and necessary to carry out its statutory obligations and its approval of documents submitted pursuant to this Agreement or the Project Manual.

7. Upon approval by DBA of the Certificate of Final Completion and Kolb's final Request for Payment DEQ shall, without modification, offset or deduction, authorize payment of Kolb's final Request for Payment including the release of retained amounts in accordance with the time frames provided by Ark. Code Ann. §19-4-1411. By executing this Agreement, Kolb directs DEQ to pay SCS the amount of One Hundred Sixty-One Thousand and 00/100 Dollars (\$161,000.00) from amounts due under Kolb's final Request for Payment. The Balance of the approved final Request for Payment shall be paid to Kolb at the same time as SCS is paid under this Section 7.

8. DEQ agrees to release all claims against Kolb, including claims for liquidated damages and warranty work and to end the warranty period defined in the Kolb Contract for the closure of the NABORS landfill as of the date of execution of this Agreement.

9. DEQ and SCS agree to settle the SCS Claim, and to submit to the Claims Commission an agreed settlement of that claim in the amount of One Hundred Eighty Nine Thousand and 00/100 Dollars (\$189,000.00), to be paid by DEQ to SCS in accordance with applicable state law governing settlements before the Claims Commission.

10. All payments made pursuant to this agreement are contingent upon approval by DBA of the Final Closure Documents. Once DBA approves Kolb's final Request for Payment, DEQ shall make the payments required by Kolb's approved final Request for Payment within the time allowed by Ark. Code Ann. § 19-4-1411, but in no case later than twenty (20) days after DBA's approval of Kolb's final Request for Payment.

11. In exchange for and in consideration of the mutual covenants and payments exchanged herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, DEQ hereby releases, acquits and forever discharges SCS, including its affiliates, subsidiaries, successors, assigns, shareholders, officers, directors, employees, sureties, insurers, and agents, from any and all known and unknown claims, claims for relief, actions, causes of actions, suits, debts, liens, contracts, obligations, agreements, promises, representations, liabilities, demands, damages, losses, costs, and expenses (including attorney's fees) of every kind or nature, joint or several, fixed or contingent, which DEQ ever had, now has, or which DEQ shall or may have, relating to, arising out of, or in any way connected to the SCS Claim, the SCS Contract, or the relationship between the SCS and DEQ in any respect. This release shall in no way affect DEQ's rights or SCS's obligations under this Agreement.

12. In exchange for and in consideration of the mutual covenants and payments exchanged herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, SCS hereby releases, acquits and forever discharges DEQ from any and all known and unknown claims, claims for relief, actions, causes of actions, suits, debts, liens, contracts, obligations, agreements, promises, representations, liabilities, demands, damages, losses, costs, and expenses (including attorney's fees) of every kind or nature, joint or several, fixed or contingent, which SCS ever had, now has, or which SCS shall or may have, relating to, arising out of, or in any way connected to the SCS Claim, the SCS Contract, or the relationship between the SCS and DEQ in any respect. This release shall in no way affect SCS's rights or DEQ's obligations under this Agreement.

13. In exchange for and in consideration of the mutual covenants and payments exchanged herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, DEQ hereby releases, acquits and forever discharges Kolb, including its members, managers, officers, employees, and agents, from any and all known and unknown claims, claims for relief, actions, causes of actions, suits, debts, liens, contracts, obligations, agreements, promises, representations, liabilities, demands, damages, losses, costs, and expenses (including attorney's fees) of every kind or nature, joint or several, fixed or contingent, which DEQ ever had, now has, or which DEQ shall or may have, relating to, arising out of, or in any way connected to the Kolb Dispute or the relationship between DEQ and Kolb in any respect. This release shall in no way affect DEQ's rights or Kolb's obligations under this Agreement.

14. In exchange for and in consideration of the mutual covenants and payments exchanged herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Kolb hereby releases, acquits and forever discharges DEQ from any and

all known and unknown claims, claims for relief, actions, causes of actions, suits, debts, liens, contracts, obligations, agreements, promises, representations, liabilities, demands, damages, losses, costs, and expenses (including attorney's fees) of every kind or nature, joint or several, fixed or contingent, which Kolb ever had, now has, or which Kolb shall or may have, relating to, arising out of, or in any way connected to the Kolb Dispute or the relationship between the DEQ and Kolb in any respect. This release shall in no way affect Kolb's rights or DEQ's obligations under this Agreement.

15. Notwithstanding the releases given in Sections 11, 12, 13 and 14 of this Agreement, or any other term of this Agreement, the following claims and defenses of the Parties are specifically reserved and not released:

- a. To the extent that DBA has not provided the approval necessary for DEQ to authorize the payments as recited in Section 7 on or before March 31, 2020, or that DEQ fails to make the payments as authorized pursuant to Section 7, or to the extent the Claims Commission or the Arkansas General Assembly fails to approve the settlement of Claim No. 190618 as set out in this Agreement, any limitations period will be tolled and SCS will retain, to the extent allowed by law, the right to re-assert the claims in the SCS Claim against DEQ, and DEQ will retain the right to re-assert any defenses.
- b. To the extent that DBA has not provided the approval necessary for DEQ to authorize the payments as recited in Section 7 on or before March 31, 2020, or that DEQ fails to make the payments as authorized pursuant to Section 7, Kolb shall have the right, but not the obligation, to terminate this Agreement with respect to the rights and obligations of Kolb and DEQ to one another after

providing ten (10) days' notice to DEQ, and in such event Kolb and DEQ shall have the right to pursue all available remedies under the Kolb Contract and Arkansas law, including without limitation Ark. Code Ann. §19-4-1401, *et seq.*

16. The Parties acknowledge, understand and agree that this Agreement is a compromise of disputed claims. This Agreement is not and shall not be construed to be an admission of liability whatsoever on the part of any of the Parties.

17. All notices or demands required or provided for in this Agreement shall be in writing, and may be given or served personally, or shall be sent by United States registered or certified mail with postage or charges prepaid, and addressed to all Parties as follows:

If SCS: Stearns, Conrad and Schmidt, Consulting Engineers, Inc.
ATTN: General Counsel
11260 Roger Bacon Dr., Suite 300
Reston, VA 20190
Email: tbarham@scsengineers.com

With copies to: Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
425 West Capitol Avenue, Suite 1800
Little Rock, AR 72201
Attention: Clay Stone
Email: cstone@mwlaw.com

If to Kolb: Jeff Kolb
Kolb Grading, LLC
5731 Westwood Drive,
Weldon Springs, MO 63304
Email: jdkolb@kolbgrading.com

With copies to: J. Randolph Parham
Berger, Cohen & Brandt, L.C.
8000 Maryland Ave., Suite 1500
Clayton, Missouri 63105
Email: rparham@bcblawlc.com

If to DEQ: Becky Keogh, Secretary
Arkansas Department of Energy and Environment
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118

With copies to: Office of Chief Counsel
Arkansas Department of Energy and Environment
5301 Northshore Drive
North Little Rock, Arkansas 72118
Attention: Basil Hicks and Daniel Pilkington
Email: hicks@adeq.state.ar.us
daniel.pilkington@adeq.state.ar.us

18. This Agreement is entered into in Arkansas and shall be construed in accordance with the laws of the State of Arkansas.

19. This Agreement may be executed in one or more counterparts, which together shall be taken and construed as one and the same Agreement.

20. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns.

21. SCS, Kolb and DEQ all agree that the terms of this Agreement are enforceable by a civil action or claim, and all Parties expressly agree and consent to exclusive jurisdiction and venue for any such proceeding shall be in Pulaski County Circuit Court in Little Rock, Arkansas.

22. The Parties acknowledge that this Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and all prior agreements, negotiations, and understandings with respect to the subject matter hereof are canceled and superseded by this Agreement. The Parties agree that this Agreement may not be varied in its terms except in writing signed by the Parties concerned.

[Signatures on the following page]

This Agreement is made and entered into by and between the Parties hereto on this 9th day of December 2019 (the "Effective Date").

Division of Environmental Quality

By: Betty W Keogh

Name: Betty W Keogh

Title: Director

Stearns, Conrad and Schmidt, Consulting Engineers, Inc.

By: Floyd Cotter

Name: Floyd Cotter

Title: Vice President

Kolb Grading, LLC

By: Jeffrey D Kolb

Name: Jeffrey D Kolb

Title: V.P.

EXHIBIT

A

CERTIFICATE OF SUBSTANTIAL COMPLETION
DIVISION of BUILDING AUTHORITY / CONSTRUCTION SECTION
501 Woodlane, Suite 101N, Little Rock, AR 72201

PROJECT: Closure of Inactive N.A.B.O.R.S. Landfills

Owner/Agency: Arkansas Department of Environmental Quality

DBA Project Number: 9301601R

DEFINITION OF DATE OF SUBSTANTIAL COMPLETION:

The Date of Substantial Completion of the Work, or designated portion thereof, is the date certified by the Design Professional and approved by the Owner and DBA when the Work is sufficiently complete, in accordance with the Contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it is intended, as expressed in the Contract Documents. Check the appropriate box below to denote a full or partial substantial completion.

PARTIAL SUBSTANTIAL COMPLETION

The partial substantial completion includes the following area(s):

The Work performed under this Contract has been reviewed and found to be substantially complete. The Date of Substantial Completion for the above portion(s) of the Project is hereby established as: _____, which is the date of commencement of applicable warranties required by the Contract Documents, and assumption by the Owner of responsibility for maintenance, security, heat, utilities, damage to the Work and insurance excepting as stated below.

FULL SUBSTANTIAL COMPLETION

The Work performed under this Contract has been reviewed and found to be substantially complete. The Date of Substantial Completion for the Project is hereby established as: 12-12-18, which is the date of commencement of applicable warranties required by the Contract Documents, and assumption by the Owner of responsibility for maintenance, security, heat, utilities, damage to the Work and insurance excepting as stated below.

The responsibilities of the Owner and the Contractor shall be as follows: (Note - Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage; Contractor shall secure consent of the Surety Company, if any.)

A list of punch list items to be completed or corrected, prepared by the Contractor and verified and amended by the Architect/Engineer is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. The date of commencement of warranties for items on the attached list will be the date of final completion and inspection/acceptance by the Architect/Engineer, owner and DBA.

In the case of a full substantial completion the Owner and Contractor understand and agree that all items listed on the attached punch list must be completed within 30 calendar days from the date of

substantial completion. Failure to complete the punch list items within the above referenced timeframe may result in notification to and request for action of the Surety Company's Performance and Payment Bond.

Certification of Design Professional:

Firm Name SCS Engineers
Address 8575 W 110th Street, Ste. 100, Overland Park, KS 66210
[Signature] Vice President 6-7-19
Signature Title Date

Approval of Contractor:

Company Name Kolb Grading LLC
Address 5731 Westwood, St. Charles, MO 63304
[Signature] President 6/10/2018
Signature Title Date

Approval of State Owner-Agency:

Agency Name Division of Environmental Quality, AR Dept of Energy AND ENVIRONMENT
Address 5301 North Shore Drive, North Little Rock, AR 72118
[Signature] Director 12/9/2019
Signature Title Date

Approval of Division of Building Authority:

Signature Title Date

Cc: Surety Company

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**STEARNS, CONRAD AND SCHMIDT,
CONSULTING ENGINEERS, INC.**

CLAIMANTS

V.

CLAIM NO. 190618

**ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the Release and Settlement Agreement signed by authorized representatives of Stearns, Conrad and Schmidt, Consulting Engineers, Inc. (“SCS” or the “Claimant”) and the Arkansas Department of Environmental Quality (“DEQ” or the “Respondent”).¹

Based upon a review of the pleadings and the Settlement Agreement, the Claims Commission hereby APPROVES the Settlement Agreement and Release as it relates to Claimant’s claim against Respondent.²

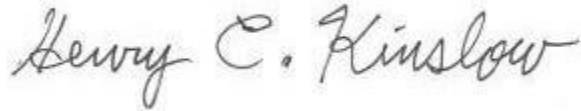
As such, the Claims Commission refers the award of \$189,000.00 to the General Assembly for review and placement on an appropriations bill pursuant to Ark. Code Ann. § 19-10-215(b).

¹ The Release and Settlement Agreement is a global settlement of disputes between Respondent, Claimant, and a third party, Kolb Grading, LLC, with regard to Respondent’s closure of a landfill near Mountain Home, Arkansas. However, only the dispute between Respondent and Claimant is before the Claims Commission.

² As stated in Paragraph 9 of the Release and Settlement Agreement:

DEQ and SCS agree to settle the SCS Claim, and to submit to the Claims Commission an agreed settlement of that claim in the amount of One Hundred Eighty Nine Thousand and 00/100 Dollars (\$189,000.00), to be paid by DEQ to SCS in accordance with applicable state law governing settlements before the Claims Commission.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: December 10, 2019

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).