

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

DIMUM INC
dba JADE FOODS
9217 STRONG HWY
EL DORADO, AR 71730

LIS 18-003
AFIN: 70-01015

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.*, Ark. Code Ann. § 8-7-508, The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the regulations promulgated thereunder, in particular Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 12. All Code of Federal Regulations references contained herein are incorporated by reference in APC&EC Reg. 12.104.

The issues herein having been settled by agreement of DIMUM INC ("Respondent") and the Director of the Arkansas Department of Environmental Quality (ADEQ or "Department"), it is hereby agreed and stipulated that the following Findings of Fact and Order and Agreement be entered.

FINDINGS OF FACT

1. Respondent owns three (3) underground storage tanks (USTs), located at Jade Foods, 9217 Strong Hwy, Strong, Union County, Arkansas ("the Site").

2. On August 23, 2016, an ADEQ inspector conducted a UST compliance inspection at the Site. This inspection confirmed there were three (3) USTs at the Site.
3. During this inspection, the ADEQ inspector noticed two new submersible (“sub”) pumps and line leak detectors (LLDs) installed on the unleaded and diesel sub pumps. Respondent was unable to provide an invoice for the work completed on the sub pumps and the LLDs at the time of inspection. Respondent stated that Philip Bryan Services, L.L.C. (PBS) did the work on the UST system. After further investigation, ADEQ received a copy of the work invoice from PBS. In a letter to ADEQ, PBS confirmed that PBS installed the sub pumps and the LLDs at the Site and that PBS was not licensed in Arkansas at that time.
4. A review of the Departments’ records confirmed that PBS was not licensed with the Department to perform work on USTs in the state of Arkansas at the time the work was done. Therefore, Respondent employed an individual who was not licensed by the Department to install, repair or upgrade a UST system. This act is a violation of APC&EC Reg. 12.504 (A)(1).
5. During this inspection, the ADEQ inspector requested to see records for the method used to detect releases from piping. Respondent failed to provide ADEQ with the requested documentation. Failure to perform release detection monitoring for piping is a violation of 40 C.F.R. § 280.41(b).
6. During this inspection, the ADEQ inspector requested documentation for the current three (3) year corrosion protection recertification for the USTs. Respondent failed to

provide ADEQ with the requested documentation. Failure to test the corrosion protection systems every three (3) years is a violation of 40 C.F.R. § 280.31(b)(1).

7. A review of Department records indicated that Respondent failed to pay tank fees. Failure to pay tank fees is a violation of APC&EC Reg. 12.203.
8. At the conclusion of the August 23, 2016, UST compliance inspection, the ADEQ inspector gave Respondent a deadline of September 23, 2016, to provide evidence of compliance for the violations noted in paragraphs 5, 6, and 7 above.
9. Respondent paid the past due tank fees on September 9, 2016.
10. On September 29, 2016, the ADEQ inspector conducted a follow-up inspection at the Site. The ADEQ inspector noted that Respondent stated that the line tightness tests, leak detection function tests, and the three (3) year corrosion protection recertification had been performed, but Respondent had not received documentation from Lonnie Goodwin Company (L.G.C.), who had performed the tests. The ADEQ inspector instructed Respondent to provide evidence of compliance by October 6, 2016.
11. Respondent did not provide evidence of compliance by October 6, 2016.
12. On November 9, 2016, the ADEQ inspector conducted a second follow-up inspection at the Site. The ADEQ inspector documented that all Significant Operational Compliance violations had been corrected. The inspector noted that L.G.C. released the paperwork documenting the line tightness tests, leak detection function tests, and the three (3) year corrosion protection recertification to Respondent on October 13, 2016. This paperwork verified the line tightness tests and leak detection function tests were completed at the

Site on September 14, 2016, and the three (3) year corrosion protection recertification was performed on September 15, 2016.

ORDER AND AGREEMENT

WHEREFORE, Respondent and ADEQ do hereby stipulate and agree:

1. In compromise and full settlement of civil penalties for the violations described in the Findings of Fact, the Respondent agrees to pay a penalty in the amount of **ONE THOUSAND TWO HUNDRED DOLLARS AND ZERO CENTS (\$1,200.00)** for the violations noted or one-half of the penalty, **SIX HUNDRED DOLLARS AND ZERO CENTS (\$600.00)**, if this CAO is signed and returned to Katie LeBoeuf, Enforcement Analyst, Office of Land Resources, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317 within twenty (20) days of receipt of this Consent Administrative Order, prior to 4:30 p.m., December 10, 2017. Payment shall be due within thirty (30) calendar days of execution of this CAO and shall be made payable to the Arkansas Department of Environmental Quality and mailed to the attention of the Fiscal Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. In the event that Respondent fails to pay the civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs of collection, as well as all other lawful fees and penalties.

2. If the Respondent fails to meet any requirement of this CAO within the applicable deadline established in this CAO, the Respondent consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- a. First day through fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1000.00 per day

These stipulated penalties for delay in scheduled performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of Respondent's failure to comply with requirements of this CAO. ADEQ reserves its right to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

3. Nothing in this CAO shall be construed as a waiver by ADEQ of its authority to recover from any responsible party costs incurred for undertaking corrective action in connection with the Site described herein, nor of its authority over violations not specifically addressed herein. Also, this CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits; nor does it exonerate any past, present, or future conduct except as expressly addressed herein.

4. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and is therefore not final until thirty (30) calendar days after public notice of the CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period or based on any other considerations which may subsequently come to light.

5. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.
6. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein as attested by the secretary of said entity. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS ~~08~~ DAY OF ~~12~~ 2017.

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Becky W Keogh

January 2018 *Bo*

BECKY W. KEOGH
DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:
DIMUM INC

BY: Signature *Mumtaz MF*

Print Name MUMTAZ MF

Date ~~08~~ 02/08/17