

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 15-00966

LLOYD ELKINS  
2857 HIGHWAY 9  
MORRILTON, AR 72110

L1818-055

**NOTICE OF VIOLATION**

TO: LLOYD ELKINS  
2857 HIGHWAY 9  
MORRILTON, AR 72110

Notice is hereby given that the Director of the Arkansas Department of Environmental Quality (ADEQ) has determined that there are reasonable grounds to believe that LLOYD ELKINS (Respondent) has committed the following violations of the Arkansas Water and Air Pollution Control Act ("the Act"), Ark. Code Ann. § 8-4-101 *et seq.*, the Removal of Asbestos Material Act, Ark. Code Ann. § 20-27-1001 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, and APC&EC Regulation 21.

This Notice of Violation (NOV) is issued in accordance with the provisions of the APC&EC Regulation 7: Civil Penalties, APC&EC Regulation 8: Administrative Procedures and APC&EC Regulation 21.

**PROPOSED FINDINGS OF FACT**

1. On or before, January 8, 2018, Respondent conducted demolition activities at a structure formerly located at 2450 Highway 95, Hattieville, Conway County, Arkansas 72063 ("the Site").
2. Ark. Code Ann. § 20-27-1007(2) and (4) provides:

It shall be unlawful for any person:

...

(2) To participate in any response action, demolition, or renovation contrary to the regulations or orders issued under this subchapter or contrary to the Arkansas Water and Air Pollution Control Act § 8-4-101 *et seq.*, and the Arkansas Solid Waste Management Act § 8-6-201 *et seq.*, and the regulations promulgated thereunder, whether or not such person is required to have a license or certificate pursuant to this subchapter;

...

(4) To violate any provision of this subchapter or any regulation or order adopted or issued under this subchapter.

3. Ark. Code Ann. § 8-4-103(c)(1) as referenced by Ark. Code Ann. §20-27-1002

(a) authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

4. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann.

§ 20-27-1002(a), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

5. The structure in question constitutes a "facility" as defined in APC&EC

Regulation 21, § 4.

6. Respondent meets the definition of an "owner or operator of a demolition or

renovation activity" as defined in APC&EC Regulation 21, § 4.

7. On January 8, 2018, ADEQ received a complaint regarding the demolition and

improper disposal of a structure located at the Site.

8. On January 10, 2018, ADEQ personnel conducted an investigation into the

complaint.

9. The investigation revealed that Respondent failed to conduct or have conducted a

thorough asbestos inspection of the affected facility prior to demolition. Such failure violates APC&EC Reg.21.501, and therefore violates Ark. Code Ann. § 20-27-1007(4).

10. The investigation revealed that Respondent failed to submit a written NOI and appropriate NOI fee to ADEQ at least ten (10) working days prior to commencing the demolition activity. As noted in paragraph 9 of the Findings of Fact, no asbestos inspection was conducted prior to the demolition activity; therefore, the appropriate fee amount could not be determined at this time. Such failure violates APC&EC Reg.21.601, and therefore violates Ark. Code Ann. § 20-27-1007(4).

11. The investigation revealed that Respondent failed to dispose of the demolition debris in accordance with APC&EC Reg. 21.1101. Respondent stated to ADEQ personnel that he “disposed of it as fill in his Uncle’s pond” located at 465 Wonderview Drive in Hattievillle, Arkansas. Such act violates APC&EC Reg.21.1101, and therefore violates Ark. Code Ann. § 20-27-1007(4).

12. In a letter dated January 17, 2018, ADEQ informed Respondent of the violations identified during the investigation conducted on January 10, 2018. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deems appropriate.

13. To date, ADEQ has not received a response to the January 17, 2018 letter.

**PROPOSED CIVIL PENALTY ASSESSMENT AND CORRECTIVE ACTION**

1. This NOV addresses all violations contained in the **PROPOSED FINDINGS OF FACT**.

2. For violations specified in the **PROPOSED FINDINGS OF FACT**, Respondent is assessed a civil penalty of **SEVEN THOUSAND NINE HUNDRED DOLLARS (\$7,900.00)**. Payment shall be made payable to the Arkansas Department of Environmental Quality and mailed to:

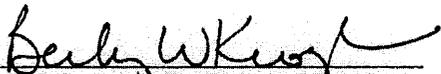
ADEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317.

3. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of the responsibilities for obtaining any necessary permits or licenses.

**THEREFORE TAKE NOTICE THAT:**

If Respondent wishes to dispute the proposed Findings of Fact, corrective actions or the proposed civil penalty assessment, Respondent must file a written request, compliant with APC&EC Regulation 8, for hearing on this NOV with the Secretary, Arkansas Pollution Control and Ecology Commission, 101 East capitol, Suite 205, Little Rock, Arkansas 72201, within **twenty (20) calendar days** of the date of its receipt, or the allegations contained herein will be deemed proven. Upon timely filing a written request for hearing with the secretary of the APC&EC that is compliant with APC&EC Regulation 8, Respondent will be entitled to an adjudicatory hearing upon the allegations and matters stated in this NOV.

If no timely request for hearing is filed with the secretary of the APC&EC, the Director may issue a Default Administrative Order affirming the allegations as Findings of Fact, assessing civil penalties, and ordering the corrective actions stated herein.

  
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF  
ENVIRONMENTAL QUALITY

DATE: June 22, 2018 *Amu*