

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 28-00090

LIS No. 17-009

KNL HOLDINGS, LLC
603 NORTH 3RD AVENUE
PARAGOULD, ARKANSAS 72450

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, and APC&EC Regulation 19.

The issues herein having been settled by agreement of KNL Holdings, LLC (Respondent) and the Director of the Arkansas Department of Environmental Quality (ADEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent owns and operates a facility that manufactures metal trailers, storage bins, and truck trailer dumpers located at 603 North 3rd Avenue in Paragould, Greene County, Arkansas.
2. ADEQ issued Air Permit 1584-AR-4 (the Permit) to Respondent on June 08, 2005.

3. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...
(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

4. Ark. Code Ann. § 8-4-103(c)(1)(A) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 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.

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6. On July 20, 2016, ADEQ conducted a routine compliance inspection of Respondent’s facility. Records obtained at the time of the inspection for the reporting period July 2015 through June 2016, indicate a usage exceedance of paints. The permitted annual limit per rolling 12-month total is 9,000 gallons. Respondent exceeded the permitted annual paint usage limit in March 2016, April 2016, May 2016, and June 2016. Such acts violate Specific Condition 9 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Listed below is a table identifying month, year, permitted limit, rolling 12-month total and exceedance.

Month/Year	Annual Limit (gallons)	Rolling 12-Month Total	Gallon Exceedance
March 2016	9,000	9,092	92
April 2016		9,699	699
May 2016		10,666	1,666
June 2016		11,247	2,247

7. In correspondence dated July 27, 2016, ADEQ notified Respondent of preliminary inspection findings.

8. In a response dated August 23, 2016, Respondent stated that the additional paint usage was contributed to an increase in business and that a permit modification application will be submitted to increase the annual paint usage limit.

9. As of January 18, 2017, Respondent has not submitted a permit modification application.

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and ADEQ do hereby agree and stipulate as follows:

1. Within thirty (30) days of the effective date of this CAO, Respondent shall submit to ADEQ, Office of Air Quality an administratively complete air permit modification application to address the total annual paint usage addressed in Paragraph 6 of the FINDINGS OF FACT.

2. Contingent upon ADEQ's receipt and technical approval of the air permit modification application required by Paragraph 1 of the ORDER AND AGREEMENT of this CAO, ADEQ may grant Respondent written approval to operate in accordance with the emissions, usage, and throughput limits proposed in the application, until such time as ADEQ issues a final permitting decision on the application.

3. Contingent upon ADEQ's grant of written approval for Respondent to operate in accordance with the emissions, usage, and throughput limits proposed in the application, Respondent shall maintain all records necessary to demonstrate compliance with the throughput, usage, and emission rates contained in the application. Such records shall be maintained on-site and shall be made available to ADEQ upon request.

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$4,800.00)**, or one-half of the penalty, **TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00)** if this CAO is signed and returned to Air Enforcement Section, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **February 18, 2017**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

ADEQ, Fiscal Division
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 associated with collection.

5. All applicable submissions required by this CAO are subject to approval by ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

6. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | |
|--|----------------|
| (a) First day through the fourteenth day: | \$100 per day |
| (b) Fifteenth day through the thirtieth day: | \$500 per day |
| (c) More than thirty days: | \$1000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of ADEQ's demand

to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and 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 the requirements of this CAO. ADEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

7. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, Respondent shall notify ADEQ in writing as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates have passed. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

8. ADEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify ADEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

9. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective 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.

10. As provided by APC&EC Regulation 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.

11. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO be deemed in any way to relieve Respondent of responsibilities contained in the permit.

12. 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.

13. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than a Managing Member 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 1th DAY OF February, 2017.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

KNL HOLDINGS, LLC

BY: [Signature] (Signature)

Fred E. Workman (Typed or printed name)

TITLE: Owner

DATE: 2-1-17