



ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

48 17-051

PHILIP BRYAN SERVICES, L.L.C.
1160 STUBBS VINSON ROAD
MONROE, LA 71203

AFIN: 88-01530

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.*, 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 Philip Bryan Services, L.L.C. ("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. There are three (3) underground storage tanks (USTs), located at Jade Foods, 9217 Strong Hwy, Strong, Union County, Arkansas ("the Site"). Department records indicate Dimum, Inc., P.O. Box 723, Strong, Union County, Arkansas, is the registered owner of the USTs located at the Site.
2. On August 23, 2016, a Department inspector conducted an UST Compliance Inspection at the Site. During the inspection, the inspector observed two new submersible ("sub") pumps and line leak detectors (LLDs) installed on the unleaded and diesel sub pumps.

3. The inspector asked Dimum to provide an invoice for work completed on the sub pumps. Dimum could not provide an invoice for the work completed but did provide an estimate for the work from Respondent, which included a quote for the installation of the LLDs and sub pumps. At the conclusion of the Compliance Inspection, Dimum confirmed that Respondent had in fact installed the LLDs and sub pumps on the USTs located at the Site.
4. A review of the Department's records for licensed contractors revealed that Respondent was not licensed with the Department to install, repair or upgrade a UST system in the state of Arkansas, which is a violation of APC&EC Reg. 12.504 (B).
5. A certified letter, dated October 27, 2016, was mailed from the Department to Respondent requesting clarification for the invoiced repairs on the USTs at the Site.
6. On November 3, 2016, Respondent confirmed with the Department that they did install sub pumps and LLDs for the USTs at the Site without a license from the Department.

ORDER AND AGREEMENT

WHEREFORE, Respondent and ADEQ do hereby stipulate and agree:

1. In compromise and full settlement of civil penalties for the violation described in paragraph 4 of the Findings of Fact, Respondent agrees to pay a penalty in the amount of **ONE THOUSAND EIGHT HUNDRED DOLLARS AND ZERO CENTS (\$1,800.00)** for the violations noted or one-half of the penalty, **NINE HUNDRED DOLLARS AND ZERO CENTS (\$900.00)**, 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. on July 20, 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, ADEQ, 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 the 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. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits, and it does not 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 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 21 DAY OF July 2017.

Becky W. Keogh

BECKY W. KEOGH
DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:
PHILIP BRYAN SERVICES, L.L.C.

BY: Signature [Signature]
Print Name Greg McMullen
Title Owner
Date 7/18/17