

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

VAN A. HILL

LIS 15- 095 DOCKET: 15-005-NOV  
AFIN: 36-00304

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "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.*, and the regulations promulgated thereunder, in particular Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation Number 12 (Storage Tank Regulations.) 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 Van A. Hill (hereinafter "Respondent") and the Director of the Arkansas Department of Environmental Quality (hereinafter "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 purchased the land and property located at Knoxville Market & Gas, 2347 Hwy 64, Knoxville, Johnson County, Arkansas (hereinafter "the site") on September 25, 2014. This included one underground storage tank (hereinafter "UST").
2. During an inspection on September 29, 2014, the Department learned the Respondent had acquired ownership of the property.

3. A review of the ADEQ records revealed that Respondent failed to register the tank after acquiring ownership of the property. Failure to register tanks is a violation of APC&EC Reg. 12.201.

4. On December 18, 2014, Respondent informed the ADEQ inspector that he removed the UST from the property.

5. A review of Department records indicates that Respondent is not licensed by the Department to close UST systems in the state of Arkansas. It is a violation of APC&EC Regulation 12.504(A)(1) for a person to close a UST unless the person is, or employs, an individual licensed by the Department to perform such work.

6. A review of Department records revealed the Respondent did not provide a thirty (30) day notice of closure for the UST. It is a violation of 40 C.F.R. § 280.71, as incorporated by APC&EC Reg. 12.104(A)(1), for owners/operators to fail to provide a thirty (30) day notice of closure to the Department of their intent to permanently close a UST.

#### ORDER AND AGREEMENT

WHEREFORE, Respondent and the ADEQ do hereby stipulate and agree:

1. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent shall pay a penalty in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750.00), to be paid at the time the Respondent signs this CAO. This Order must be returned to Alberta Faye Hires, Enforcement/Compliance Branch, Regulated Storage Tanks Division, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m., October 2, 2015. Such payment shall be made payable to the ADEQ, Attention: Fiscal Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

2. Respondent will comply with APC&EC Reg. 12.504(A)(1) wherein he will hire a contractor, licensed by the Department to conduct a proper closure, to perform proper closure sampling and submit a closure excavation assessment in accordance with 40 C.F.R. § 280.72. Respondent will also provide notice of scheduled closure sampling to ADEQ prior to the sampling being performed. The closure assessment must be provided to ADEQ within (thirty) 30 days of the effective date of this CAO.

3. If the Respondent fails to submit to ADEQ any reports or plans, or to meet any other 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 through thirty days: \$500.00 per day
- c) Each day beyond thirty days: \$1,000.00 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 rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

4. This CAO hereby settles all issues pending before the Commission in this matter. The Respondent hereby withdraws his Request for Hearing and requests the matter be closed pursuant to APC&EC Reg. 8.615(A).

5. 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.

6. 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.

7. 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.

8. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this CAO and to legally bind that party to its terms and conditions.

SO ORDERED THIS 7th DAY OF October, 2015.

Becky W. Keogh  
Becky W. Keogh, Director

ARKANSAS DEPARTMENT OF  
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

VAN A. HILL

BY:

(Signature)

TITLE:

OWNER

(Type or Print Name)

DATE:

10-02-2015

VAN ALAN HILL  
NANCY JO HILL  
PH. (479) 970-9502  
610 PRIVATE ROAD 2627  
LAMAR, AR 72446-8164

10/5/15 CAO

81-43/824

Date 10-02-2015 4453

Pay to the  
Order of

A DEQ  
Seventeen Hundred and Fifty Dollars \$1750.00  
with interest

Arbor Day Foundation

Simmons Bank

AFW 36-00304

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