

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TERRY PRICE
dba TLP ENTERPRISE
279 MOONSHINE RD.
SEARCY, AR 72143

LIS 15 - 147
AFIN: 88-01488

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 Terry Price dba TLP Enterprise, (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 held a license from the Department to test underground storage tanks (hereinafter "USTs"), license number 001146.

2. On June 25, 2014, the Department mailed a testing license renewal reminder to Respondent. The renewal reminder stated that his UST testing license would expire on July 31, 2014.

3. On August 6, 2014, the Department received a partial renewal application from Respondent. The renewal application did not include documentation demonstrating that Respondent had completed at least three (3) UST system tests during the two-year period preceding the renewal application, as required in APC&EC Reg. 12.610(D)(2).

4. The Department was in contact with Respondent on numerous occasions between June 24, 2014, and January 25, 2015, to remind him that the Department needed documentation demonstrating that he had completed three (3) UST system tests during the two-year period preceding the renewal application.

5. Respondent's license, number 001146, expired on July 31, 2014. After Respondent's license was expired, specifically between August 4, 2014, and March 8, 2015, Respondent performed testing on USTs in the State of Arkansas, using expired license number 001146. This act is a violation of Ark. Code Ann. § 8-7-805(a) and APC&EC Reg.12.610(E).

6. The Department requested a list of facilities that were tested by Respondent after his testing license expired. A review of invoices provided by Respondent revealed that Respondent tested a total of thirty-eight (38) lines located at ten (10) different facilities after his testing license expired.

ORDER AND AGREEMENT

WHEREFORE, Respondent and the Arkansas Department of Environmental Quality do hereby stipulate and agree:

1. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a penalty in the amount of Twelve Thousand Dollars (\$12,000.00) if this CAO is signed and 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., November 24, 2015. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to the ADEQ, Attention: 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 attorney's fees and costs associated with collection.

2. If 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, 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 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.

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. 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 23 DAY OF December 2015.


Becky W. Keogh, Director

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

Terry Price dba TLP Enterprise

BY: Terry Price TITLE: OWNER
(Signature)

Terry Price DATE: 11-22-15
(Type or Print Name)