

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

JK Oilfield Service
4 Melody Lane
Quitman, AR 72131

LIS No. 21-020
Permit No. Unpermitted
AFIN 12-00456

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“Order”) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the JK Oilfield Service (Respondent) and the Division of Environmental Quality¹ (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent owns or has owned a facility that includes storage for fluids generated from oil and gas fluids truck washout (“facility”) located at 4 Melody Lane, Quitman, Arkansas.
2. Ark. Code Ann. § 8-4-217(a)(3) provides:
 - (a) It shall be unlawful for any person to:

...

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

(3) Violate any provisions of this chapter or of any rule or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].

3. Ark. Code Ann. § 8-4-217(b)(1)(C) provides:

(b)(1) It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from the division:

...

(C) To construct, install, or operate any building, plant, works, establishment, or facility, or any extension or modification thereof, or addition thereto, the operation of which would result in discharge of any wastes into the waters of this state or would otherwise alter the physical, chemical, or biological properties of any waters of this state in any manner not already lawfully authorized;

4. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes DEQ 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 rule or permit issued pursuant to the Act.

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), “[e]ach day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6. 40 C.F.R. § 122.26(b) identifies types of facilities that are considered industrial, and 40 C.F.R. § 122.26(c) requires that such facilities obtain an NPDES permit based on their assigned SIC codes.

7. The facility is classified under the Standard Industrial Classification (SIC) Code of the Industrial General Stormwater Permit (IGP) of Sector II:1381-1389, Oil and Gas Field Service.

8. On March 28, 2019, DEQ conducted a site visit of the facility, which revealed the following violations:

- a) DEQ observed an outdoor storage pit on site that contained waste from an oil and gas operation, specifically waste from an oil and gas truck washout operation. This activity requires a State No-Discharge Waste Storage Permit. Respondent does not have a State No-Discharge Waste Storage Permit. Therefore, Respondent is operating without the required permit. This is a violation of Ark. Code Ann. § 8-4-217(b)(1)(C) and therefore are violations of Ark. Code Ann. § 8-4-217(a)(3).
 - b) In accordance with 40 C.F.R. § 122.26(c), as adopted by APC&EC Rule 6, dischargers of stormwater associated with industrial activity, as defined by under 40 C.F.R. § 122.26(b)(14)(i-ix, xi), are required to obtain coverage under the NPDES Industrial Stormwater General Permit ARR000000. DEQ observed industrial activity, as defined by under 40 C.F.R. § 122.26(b)(14)(i-ix, xi), at Respondent's facility, and Respondent did not have coverage under the NPDES Industrial Stormwater General Permit ARR000000. Therefore, Respondent is operating without the required permit. This is a violation of Ark. Code Ann. § 8-4-217(b)(1)(C) and therefore are violations of Ark. Code Ann. § 8-4-217(a)(3).
9. On July 27, 2019, DEQ notified Respondent of the findings of the March 28, 2019 site visit, via certified letter. The letter requested Respondent submit the following within thirty (30) days of receipt of the letter:
- a. A complete Notice of Intent (NOI) for coverage under the NPDES Industrial Stormwater General Permit (IGP) and a Stormwater Pollution Prevention Plan (SWPPP).

- b. A complete State No-Discharge Water Storage Permit application or a written report, including photographic documentation that documents the removal and proper disposal of the oil and gas waste from the site.
10. To date, DEQ has not received a response to the July 27, 2019 letter from Respondent.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately cease any unpermitted activities and obtain appropriate permit coverage prior to resuming any operations at the facility.
2. On or before the effective date of the Order, Respondent shall remove and properly dispose of all oil and gas waste, and any related waste, and any solid waste from the site that is exposed to the elements and provide to DEQ a written report, including photographic documentation, that documents the removal and proper disposal of the oil, gas, and related waste and any solid waste. The report shall be certified by a Professional Engineer licensed in the state of Arkansas.
3. If Respondent fails to comply with Paragraphs 2 of this Order, Respondent shall reimburse DEQ for any costs incurred by DEQ in the performance of any corrective, remediation or closure activities at the facility.
4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Five Thousand Dollars (\$5000.00), of which Four Thousand (\$4000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Four Thousand Dollars (\$4000.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of Five Thousand Dollars (\$5000.00) shall be payable immediately to

DEQ on demand. Payment of One Thousand Dollars (\$1000.00) is due within thirty (30) calendar days of the effective date of this Order. Such payment of the penalty shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

5. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to DEQ stipulated 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 performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of failure by Respondent to comply with the requirements of this Order.

6. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so notify DEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. 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.

7. DEQ may grant an extension of any provision of this Order if Respondent requests such an extension in writing, and 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. Respondent has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondent, as well as the length of the delay attributable to such circumstances. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

8. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

9. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Rule 8, this matter is subject to being

reopened upon Commission initiative, or in the event a petition to set aside this Order is granted by the Commission.

10. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

11. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer 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 11th DAY OF March, 2021.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

JK Oilfield Service

BY: [Signature]
(Signature)

Sarung Malung
(Typed or printed name)

TITLE: owner

DATE: 3-2-21