

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 04-02739

LIS No. 21-045

RED LINE CONTRACTORS, LLC  
2156 E. EMMA AVENUE  
SPRINGDALE, ARKANSAS 72764

**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.*, the Removal of Asbestos Material Act, Ark. Code Ann. § 20-27-1001 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, and APC&EC Regulation 21.

The issues herein having been settled by agreement of Red Line Contractors, LLC (Respondent) and the Director of the Division of Environmental Quality<sup>1</sup> (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

**FINDINGS OF FACT**

1. On or before September 8, 2020, Respondent demolished or caused to be demolished a structure formerly located at 303 Town Center NW (lot 49), Bella Vista, Benton County, Arkansas 72714 (the Site).

---

<sup>1</sup> 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 Arkansas Department of Energy and Environment.

ORIGINAL

2. Ark. Code Ann. § 20-27-1007(2) and (4) provides:

It shall be unlawful for any person:

...

(2) To participate in any response action, demolition, or renovation contrary to the rules or orders issued under this subchapter or contrary to the Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*, and the Arkansas Solid Waste Management Act, § 8-6-201 *et seq.*, and the rules promulgated thereunder, whether or not such person is required to have a license or certificate pursuant to this subchapter;

...

(4) To violate any provision of this subchapter or any rule or order adopted or issued under this subchapter.

3. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this chapter and rules, permits, or plans issued pursuant to this chapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.”

4. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 20-27-1002(a), “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

5. The structure(s) in question constitutes a “facility” as defined in APC&EC Regulation 21, Chapter 4.

6. Respondent meets the definition of an “owner or operator of a demolition or renovation activity” as defined in APC&EC Regulation 21, Chapter 4.

7. APC&EC Regulation 21.701 (A)&(B) states that the owner or operator shall keep at the site:

(A) A copy of the inspection report, including results of any bulk sample analysis, and any air monitoring data,

(B) A copy of the NOI or any revised NOI submitted in compliance with this

*Original*

regulation and the attached order of any State or local government official ordering the demolition of a facility due to structural unsoundness and danger of imminent collapse if applicable.

8. APC&EC Regulation 21.703 states that the owner or operator shall make available upon request by the Department any information related to a site, including, but not limited to, the information as set forth at Reg. 21.701 above.

9. On August 28, 2020, Respondent submitted a Notice of Intent (NOI) for the demolition of the Site. The NOI stated that the demolition was scheduled to occur between September 8, 2020 and September 15, 2020.

10. On September 8, 2020, DEQ personnel conducted an inspection of the demolition site. The Site had already been demolished to a pile of debris and no one was present at the Site. APC&EC Regulation 21.701(A) & (B) require Respondent to maintain a copy of the asbestos inspection report and NOI onsite.

11. On September 9, 2020, DEQ personnel emailed Respondent and requested the asbestos inspection report and NOI. To date, Respondent has not submitted a copy of the asbestos inspection report or the NOI to DEQ. Such failure violates APC&EC Reg. 21.703 and therefore violates Ark. Code Ann. § 20-27-1007(4).

12. On January 26, 2021, DEQ informed Respondent by email of the compliance issues identified during the September 8, 2020 inspection conducted at the Site. This was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

13. On February 8, 2021, DEQ emailed Respondent a formal enforcement letter for the compliance issues identified during the September 8, 2020 inspection.

## ORDER AND AGREEMENT

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

1. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit the asbestos inspection report and the NOI to:

DEQ, Asbestos Section  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317

2. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **FIVE HUNDRED SIXTY DOLLARS (\$560.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

DEQ, 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, DEQ shall be entitled to attorneys' fees and costs associated with collection.

3. All applicable submissions required by this CAO are subject to approval by DEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ, submit any additional information requested. Failure to respond adequately 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.

4. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of this CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on

demand, to DEQ 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 DEQ'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 that may be available to DEQ by reason of Respondent's failure to comply with the requirements of this CAO. DEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

5. 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 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 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.

6. DEQ 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

ORIGINAL

to notify DEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

7. 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. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

8. 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.

9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws.

10. Nothing in this CAO shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO neither exonerates Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of the responsibilities for obtaining any necessary permits.

11. 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 that individual as duly ratified by the governing body of the entity.

ORIGINAL

SO ORDERED THIS 13 DAY OF May, 2021.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

RED LINE CONTRACTORS, LLC

BY: Tom Smith (Signature)

Tom Smith (Typed or printed name)

TITLE: owner

DATE: 4-29-21

ORIGINAL