

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TAS Environmental Services, L.P.
7825 Fourche Road
Little Rock, AR 72209

LIS No. 21- 127
Permit No. Unpermitted
AFIN 60-06076

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 rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of TAS Environmental Services, L.P. (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 operates waste transportation services located at 7825 Fourche Road, Little Rock, Pulaski County, Arkansas.
2. Ark. Code Ann. § 8-4-217(a)(2)–(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.

(2) Place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state.

(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. § 8-4-103(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.

4. 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.”

5. On June 29, 2021, DEQ received a complaint that Respondent had dumped approximately 3000 gallons of leachate into a dry drainage ditch on the side of an unnamed dirt road off Gravel Pit Road approximately ½ mile east of the Jefferson County Landfill, Pine Bluff, Jefferson County, Arkansas. The leachate was observed to have traveled 180 feet from the point of discharge moving north in the dry drainage ditch, thence to the northeast into the surrounding woods, thence traveled 162 feet entering a dry creek bed, thence traveled 35 feet east in the dry creek bed. The act of releasing leachate into an unnamed tributary is a violation of Ark. Code Ann. § 8-4-217(a)(2) and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

6. On June 29, 2021, Respondent used a vacuum truck to remove the standing liquid from the dry drainage ditch and placed a boom to secure the site. Respondent also collected samples of the liquid for analysis and took photos of the affected areas.

7. On June 30, 2021, Respondent excavated all impacted areas. Four (4) soil samples were collected from various areas that were excavated and retained for analysis. Toxicity Characteristic Leaching Procedure (TCLP) analysis of the soil and liquid samples established

that the materials discharged were non-hazardous; the liquid sample was not analyzed for typical wastewater parameters such as pH, dissolved oxygen, biochemical oxygen demand, or total suspended solids. DEQ personnel were on site during the aforementioned activities.

8. On July 1, 2021, Respondent completed excavation of all impacted areas. Respondent spread seed and hay throughout the wooded area that was excavated.

9. On July 2, 2021, Respondent reported restoration of the site to be complete. Respondent implemented the following practices:

- a. Backfilled and filled the dry drainage ditch with stone; and
- b. Reinforced the berm diverting the runoff into the woods.

Respondent noted that the grass seed had already begun to grow and the dry creek bed had been returned as close as possible to the natural state before the incident.

10. On July 12, 2021, Respondent's executives received Material Transport and Release Response training. Other employees are scheduled to receive training by August 1, 2021.

11. On July 26, 2021, Respondent was notified the site had been cleaned up properly.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall dispose of all wastes in accordance with Arkansas law and any applicable rules promulgated thereunder.
2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Six Thousand Four Hundred Dollars (\$6400.00), or one-half of the full civil penalty of Three Thousand Two Hundred Dollars (\$3200.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. Payment is due within thirty (30) calendar days of the effective date of this

Order. 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.

3. 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.

4. 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.

5. DEQ may grant an extension of any provision of this Order, provided that the 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 and without the fault of Respondent and the length of the delay attributable to such circumstances, shall rest with the Respondent. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

6. 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.

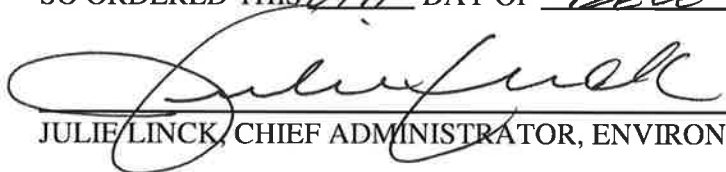
7. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (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.

8. 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.

9. By virtue of the signature appearing below, the individual represents that he or she is a General Partner of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than a General Partner 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 8th DAY OF DECEMBER, 2021.



JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

TAS Environmental Services, L.P.

BY: 

(Signature)

Ed Genovese

(Typed or printed name)

TITLE: CEO

DATE: 11/24/2021
