

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 60-02306

LIS No. 21-129

CHAPEL HILL MEMORIAL PARK CEMETERY, INC.  
d/b/a CHAPEL HILL MEMORIAL PARK CREMATORY  
1504 NORTH J.P. WRIGHT LOOP ROAD  
JACKSONVILLE, AR 72076

**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.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, and APC&EC Regulation 19.

The issues herein having been settled by agreement of Chapel Hill Memorial Park Cemetery, Inc. d/b/a Chapel Hill Memorial Park Crematory (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. Respondent owns and operates a crematory located at 1504 JP Wright Loop Rd. in Jacksonville, Pulaski County, Arkansas.

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<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.

2. The Air Permit referenced in this CAO is the General Air Permit for Minor Source Animal/Human Remains Incinerator Facilities 1976-AGP-000 (the Permit). Respondent is assigned Tracking No. 1976-AGP-024, which indicates authority to operate under the Permit. The Permit was issued on January 31, 2018.

3. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...  
(3) Violate any provisions of this chapter or of any rule or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

4. 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.”

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6. On June 22, 2021, DEQ personnel conducted a compliance inspection of Respondent’s facility for the time period of February 1, 2017, through May 31, 2021.

7. Respondent operates two (2) human remains incinerators at its facility. The maximum hourly charging rates established in the confirmation letter dated January 31, 2018, is 150 pounds per hour (lb/hr) for each incinerator.

8. Specific Condition 11 of the Permit requires Respondent to maintain records

which demonstrate compliance with the hourly and annual charging rates established in the confirmation letter.

9. On April 8, 2019, and May 24, 2021, based on the hours the incinerator was operated and weight of each charge, charging rates were calculated to be 166.7 lb/hr and 175 lb/hr, respectively; thus, Respondent exceeded the maximum charge rate of 150 lb/hr. Such acts violates Specific Condition 11 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. Specific Condition 10 of the Permit requires Respondent to record the start time, stop time, date, and weight of each charge burned in each unit. A record shall also be kept of the secondary chamber's start- and mid-cycle temperature each time a unit is in operation. Records shall be kept on separate log sheets for each individual incinerator on site.

11. Records reviewed during the inspection revealed seventy-two (72) instances in which the hours operated do not match the recorded start and stop time, three (3) instances in which no stop time was recorded, two (2) instances in which the charge rates were not recorded, and one (1) instance in which the start- and mid-cycle temperature was not recorded. Also, Respondent used one (1) incinerator run log sheet to record the operation of both incinerators instead of using a separate run log sheet for each unit. Such acts violate Specific Condition 10 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. In correspondence dated July 16, 2021, DEQ informed Respondent of the compliance issues identified during the June 2021 compliance inspection. The letter 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. In correspondence dated August 13, 2021, Respondent stated that it now has separate incinerator run log sheets for each of its two (2) incinerators. Also, the facility is providing ongoing record-keeping training to its staff to address record-keeping errors discovered during the compliance inspection.

14. In correspondence dated September 30, 2021, DEQ informed Respondent that formal enforcement action was proceeding in this matter.

### **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. To demonstrate compliance with Specific Conditions 10 and 11 of the Permit, Respondent shall, for a period of three (3) months, submit monthly copies of its incinerator run log sheets for both incinerators. These records shall be submitted by the 15<sup>th</sup> day of the month following the month which the records represent. The table below details the months for which the reports are to represent and their respective due dates.

<b>Incinerator Run Logs</b>	
<b>Month/Year</b>	<b>Due Date</b>
January 2022	February 15, 2022
February 2022	March 15, 2022
March 2022	April 15, 2022

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 TWO HUNDRED FORTY DOLLARS (\$6,240.00)**, or one-half of the penalty, **THREE THOUSAND ONE**

**HUNDRED TWENTY DOLLARS (\$3,120.00)** if this CAO is signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **December 8, 2021**. 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 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 (30) 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. Except as specifically provided herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.

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 relieves 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 an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 13th DAY OF DECEMBER, 2021.

Julie Linck  
JULIE LINCK, CHIEF ADMINISTRATOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

CHAPEL HILL MEMORIAL PARK CEMETERY, INC.  
d/b/a CHAPEL HILL MEMORIAL PARK CREMATORY

BY: [Signature] (Signature)

John K. Harris (Typed or printed name)

TITLE: President

DATE: NOV. 30, 2021