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ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF  
ENVIRONMENTAL QUALITY

IN THE MATTER

HEBRON OF AR, LLC  
6109 Crystal Hill Road  
North Little Rock, AR 72118

LIS No. 22- 108  
Facility ID No. 60000897  
AFIN 60-03242

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.*, and the rules promulgated thereunder, in particular, Arkansas Pollution Control and Ecology Commission (APC&EC) Rule Number 12 (Storage Tanks). All Code of Federal Regulations references contained herein are incorporated by reference in APC&EC Rule No. 12.104.

The issues herein having been settled by the agreement of HEBRON OF AR, LLC (Respondent) and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. DEQ regulates underground storage tanks pursuant to Ark. Code Ann. § 8-7-801, *et seq.* and APC&EC Rule No. 12.
2. DEQ, as administered by its Chief Administrator, is the state agency charged with ensuring compliance with Ark. Code Ann. § 8-7-801 *et seq.* and APC&EC Rule No. 12.
3. Ark. Code Ann. § 8-7-801(5) defines "Operator" as "any person in control of or having responsibility for the daily operation of an underground storage tank."

4. Ark. Code Ann. § 8-7-801(6)(A)(i) defines “Owner” as, “in the case of an underground storage tank in use on November 8, 1984, or brought into use after November 8, 1984, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances.”

5. Ark. Code Ann. § 8-7-801(9) defines “Regulated substance” as “any substance defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(14), but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6921 *et. seq.*; and petroleum.”

6. Ark. Code Ann. § 8-7-801(13) defines “Storage tank” as “an aboveground storage tank or underground storage tank as defined in this subchapter.”

7. Pursuant to 40 CFR § 280.244, Class A and Class B operators of underground storage tank systems determined by the implementing agency to be out of compliance must complete a training program or comparable examination in accordance with requirements in 40 CFR § 280.242.

8. Respondent operates a retail fuel facility located at 6109 Crystal Hill Road, North Little Rock, Pulaski County, Arkansas (Facility).

9. On February 16, 2022, DEQ conducted an inspection of the Facility’s underground storage tanks. As a result of the inspection, the Respondent was determined to be out of compliance due to the following violations identified during the inspection:

- a. Respondent failed to conduct annual automatic line leak detector testing. Failure to conduct automatic line leak detector testing annually violates 40 CFR § 280.40(a)(3)(iii).

- b. Respondent failed to conduct either annual line tightness testing or monthly monitoring. Failure to conduct line tightness testing or monthly monitoring violates 40 CFR § 280.41(b)(1)(i)(B).
- c. Respondent failed to conduct cathodic protection testing. Failure to conduct testing on underground storage tank systems equipped with cathodic protection system every three (3) years violates 40 CFR § 280.31(b)(1).
- d. Respondent failed to conduct spill bucket testing. Failure to conduct spill bucket testing every three (3) years violates 40 CFR § 280.35(a)(1)(ii).
- e. Respondent failed to install overfill prevention equipment. Failure to install such overflow equipment violates 40 CFR § 280.20(c)(1)(ii).
- f. Respondent failed to conduct release detection testing. Failure to conduct leak detection testing annually violates 40 CFR § 280.40(a)(3).

10. On February 21, 2022, Respondent's contractor, Arkansas Testing Services, conducted line leak detector, line tightness, cathodic protection, spill bucket, and release detection testing.

11. In an email dated February 23, 2022, Respondent's contractor included an Overfill Equipment Inspection Recordkeeping Form which confirmed to DEQ that no overfill equipment had been installed on any of the tanks.

12. On February 25, 2022, in accordance with APC&EC Rule No. 12.110(F)(1)(b), DEQ red-tagged the tanks, prohibiting fuel delivery.

13. On February 28, 2022, DEQ observed flapper valves being installed by Respondent's contractor.

14. On February 28, 2022, while DEQ was on-site, Respondent's contractor verbally confirmed to DEQ that flapper valves had been installed on all of the tanks and that parts had been ordered to repair the TS 550 EVO Automatic Tank Gauge (ATG).
15. On February 28, 2022, DEQ removed the red tags from the tanks.
16. On March 10, 2022, Respondent's contractor replaced the spill buckets and performed the appropriate testing.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. On or before the effective date of this CAO, Respondent shall submit documentation confirming that the ATG has been repaired and that release detection testing is being performed.
2. Within forty-five (45) calendar days of the effective date of this CAO, Respondent shall recertify for the appropriate operator certification.
3. All documents required by this CAO to be submitted to DEQ, excluding the penalty payment required by Paragraph 4 below, shall be emailed to Enforcement, Office of Land Resources, at [olrenforcement@adeq.state.ar.us](mailto:olrenforcement@adeq.state.ar.us), or submitted by Certified Mail or hand-delivered to Enforcement, Office of Land Resources, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
4. In compromise and full settlement for instances of noncompliance specified in the Findings of Fact, Respondent agrees to pay the sum of Six Thousand Two Hundred Dollars (\$6,200.00), or one-half of the full civil penalty of Three Thousand One Hundred Dollars (\$3,100.00) if this CAO is signed and returned to the Office of Land Resources, Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this CAO. Payment is due within thirty (30) calendar days of the

effective date of this CAO. Such payment of the penalty shall be made payable to DEQ and mailed to the attention of:

Division of Environmental Quality  
Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalties within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection as well as all other lawful fees and penalties.

5. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

6. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- a. First day through the fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1,000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to DEQ by reason of Respondent's failure to comply with this CAO.

7. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail

the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

8. 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 the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

9. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

10. This CAO is subject to public review and comment in accordance with APC&EC Rule No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty-day public comment period.

11. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by

APC&EC Rule No. 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

12. 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 as attested by the secretary of said entity. Execution of this CAO by an individual other than a Managing Member 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 27th DAY OF OCTOBER, 2022.



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

**APPROVED AS TO FORM AND CONTENT:  
HEBRON OF AR, LLC**

**BY:**

**Signature**

**Print Name**

Joseph Park

**Title**

Manager

**Date**

10/14/22