

BEFORE THE ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT;  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EATON-MOERY ENVIRONMENTAL SERVICES, INC.  
DEWITT CLASS I LANDFILL  
DEWITT AR. 72042

AFIN #01-00117  
LIS NO. 25-051

**AMENDED RESPONSE TO THE NOTICE OF VIOLATION BY GLEN EATON**

**BACKGROUND GENERAL FACTS**

EATON-MOERY ENVIRONMENTAL SERVICES INC. ("Eaton-Moery") purchased the DeWitt Class 1 Landfill and after the purchase a new permit was issued by the Arkansas Department of Energy and Environment Division of Environmental Quality's ("DEQ") predecessor to Eaton-Moery. GLEN EATON ("Eaton") does not know the permit number and was not the permittee. Eaton was the Agent for Service of Process for Eaton-Moery and was an employee, officer and director until Eaton-Moery filed a Ch. 11 Bankruptcy which was later changed to a Ch. 7 Bankruptcy. The Trustee, acting under federal law, sold all the assets of Eaton-Moery including the Dewitt landfill but found no buyer. The Trustee abandoned the property back to Eaton-Moery and in 2012 the corporation was discharged in bankruptcy and ceased doing business to the best of Eaton's knowledge. Eaton is entitled to the protection of the discharge afforded the company under federal bankruptcy law.

Eaton has had no contact with the Dewitt landfill since 2011-2012 period or the Eaton-Moery corporate entity, which ceased to exist to the best of Eaton's knowledge. Eaton has not been on the site and has not served as an officer of Eaton-Moery in over a

decade. Eaton recalls that the Eaton-Moery company obtained a surety bond for financial assurance for the Dewitt landfill, as required by DEQ at the time, which should apply in this matter. In any event, closure of the landfill in question is governed by CAO LIS12-120 (Doc ID 66240), in which DEQ expressly agreed to hold Eaton-Moery and C.B. Moery responsible for closing the landfill. DEQ's apparent failure to do so gives rise to a host of defenses for Eaton against DEQ's long-expired attempt to make Eaton personally liable.

A Notice of Violation (NOV) containing seven pages was dated June 19, 2025, and signed by Bailey Taylor. NOV was received by Eaton as Agent for Service on June 24, 2025.

Eaton is making his response and request for hearing in his individual capacity. He is no longer an employee, officer or director has not been since 2011-2012 period. Pursuant to Arkansas Pollution Control and Ecology Commission ("APCEC") Rules 8.402(B)(5), 8.601(D), and 8.603, Eaton hereby requests an adjudicatory hearing before the APCEC to contest the allegations in the NOV, the proposed civil penalties, and the proposed corrective actions. This Amended Request for Hearing identifies the legal issues and factual objections as required by, among other rules, Rule 8.603(C)(1)(c), requests Commission review under Rule 8.603(A), and certifies service as required by Rule 8.603(C)(1)(e).

### **RESPONSE TO FINDINGS OF FACT**

1. Eaton denies he currently owns or ever owned the landfill during any relevant time. Pleading affirmatively, Eaton-Moery owned the landfill. The NOV contains no allegations that even attempt to pierce the corporate veil to hold Eaton personally liable for Eaton-Moery.

2. Eaton believes the allegations are true, but he has no personal knowledge as to the issuance of the Permit.

3. This paragraph is asserting a legal provision and does not require a Response.

4. This paragraph is asserting a legal provision and does not require a Response.

5. This paragraph and its subpart alleged facts that Eaton lacks knowledge or information sufficient to form a belief about the truth of the allegations. Eaton has not been on the site for more than 12 years and is not aware of any legal right to enter onto the site since at least 2012 when he ceased to work for Eaton-Moery.

6. Eaton denies he received a letter from DEQ.

7. Eaton denies he received a Proposed Consent Administrative Order. (CAO)

8. Eaton denies he has not adequately responded as he has never received the CAO.

### **PROPOSED CIVIL PENALTY ASSESSMENT**

1. Eaton denies he is subject to any civil penalty and alleges the defense of laches.

2. Eaton denies he is subject to any civil penalty and alleges the defense of laches.

3. Eaton denies he is subject to any civil penalty and alleges the defense of laches.

4. Eaton denies he is subject to any civil penalty and alleges the defense of laches.

5. Eaton denies he is subject to any civil penalty and alleges the defense of laches.

6. This paragraph requires no response as it is advisory.

**PROPOSED CORRECTIVE ACTIONS**

1. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

2. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

3. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

4. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

5. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

6. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

7. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

8. Eaton denies he is responsible for any repairs or corrective action pertaining to the alleged violations.

11. All allegations not specifically admitted are denied.

12. Eaton alleges the defense of Clean Hands. Eaton has not been involved with the landfill for over 12 years. The Petitioner has done nothing until the present.



13. Estoppel by silence by not addressing any problem or problems which could have been remedied 11-12 years ago through enforcement of CAO LIS 12-120. The Petitioner in all good conscience cannot subject Eaton to any monetary penalty or corrective actions.

14. Waiver as to the logical fact that the factual conditions of the landfill would have occurred over a considerable period, conditions were not brought to the attention of Eaton until he received is NOV. The penalty and causes of action against Eaton which are denied have been waived due to the considerable delay in the filing of NOV. DEQ entered a CAO regarding the landfill in 2014, CAO LIS 12-120, which Eaton signed only in his capacity as President of Eaton-Moery. In CAO LIS 12-120, DEQ agreed that Mr. C. B. Moery would be personally responsible for the closure of the landfill and maintenance of adequate financial assurances to enable the closure of the landfill. To the extent DEQ failed to ensure that CAO LIS 12-120 was properly implemented by Mr. Moery or that DEQ could have brought claims against Mr. Eaton in his personal capacity regarding closure of the landfill and did not, the current NOV fails to identify facts or law that enable DEQ to hold Mr. Easton personally liable now for conditions that Eaton was not even personally liable for under CAO LIS 12-120 over a decade ago. The NOV is therefore barred by laches, estoppel, unclean hands, and res judicata.

#### **ADDITIONAL ARGUMENTS AND DEFENSES**

In addition to the denials and defenses set forth above, Eaton asserts that the NOV is invalid, defective, and should be dismissed because it fails to comply with specific requirements of APCEC Rule 8 (Administrative Procedures), which governs the issuance of Notices of Violation and enforcement actions by the Division of Environmental Quality (DEQ) under Rule Reg.8.401 et seq. These failures constitute grounds for dismissal or, at

minimum, require an adjudicatory hearing under Rules 8.402(6) 8.603 to resolve. Eaton reserves the right to amend these arguments following discovery, as permitted under Rule 8.611 (applying Arkansas Rules of Civil Procedure to procedural matters not addressed in Rule 8).

**Failure to Specify Penalties for Each Violation (Violation of Rule 8.402(B)(2)):** Pursuant to APCEC Rule 8.402(B)(2), a NOV must include "[t]he administrative civil penalty, if any, proposed by the Director to be assessed for each violation." The NOV groups multiple alleged violations together (e.g., paragraphs 5.a and 5.b are assessed as a single \$2,200 penalty) without specifying a penalty amount for each individual violation. This grouping deprives Eaton of clear notice of the basis for each penalty assessment, hinders his ability to contest them separately, and violates the "each violation" requirement. As a result, the proposed penalties are invalid and unenforceable.

**Insufficient Findings of Fact Regarding Individual Liability (Violation of Rule 8.402(B)(1)):** APCEC Rule 8.402(B)(1) requires a NOV to include a statement of "all alleged violations of which the person is accused." The NOV makes generic allegations against "Respondents" collectively, and therefore fails to provide specific statements of the violation Eaton committed that would give rise to his individual liability (e.g., no details on his personal actions, control, or knowledge post-2012 bankruptcy discharge) as distinct from Eaton-Moery, the now defunct corporate entity that owned the property and operated it under the DEQ-issued permit. Eaton denies individual ownership or responsibility, and the NOV's vague, collective allegations do not meet the specificity required, rendering it defective as to Eaton personally.

**Lack of Evidence of Compliance with Public Notice Requirements (Potential Violation of Rule 8.405):** Under APCEC Rule 8.405(A), DEQ must

publish a list of all issued NOVs in a newspaper of statewide circulation on or about the 10th and 25th day of each month, including details such as the identity of the alleged violator, location, description of violations, and proposed penalties. The NOV was issued on June 19, 2025, but Eaton has no evidence that public notice was provided as required (e.g., no proof of publication attached or referenced). If DEQ fails to comply, the NOV is procedurally invalid, and Eaton requests discovery to confirm compliance or move for dismissal.

**Inadequate Notification of Hearing Rights and Default Procedures (Violation of Rule 8.402(B)(5) and (6)):** APCEC Rule 8.402(B)(5) and (6) require the NOV to clearly state the respondent's right to file a Request for Hearing within 20 calendar days, the consequences of failure (Default Administrative Order), and entitlement to Commission review and adjudicatory hearing. While the NOV mentions these elements, it does so in a manner that is incomplete and confusing (e.g., referencing a prior Proposed CAO dated July 26, 2024—potentially a typographical error inconsistent with the NOV's June 19, 2025 date—and failing to fully explain the adjudicatory process under Chapter Six). This inadequacy prejudices Eaton's ability to respond fully and warrants dismissal.

WHEREFORE, Glen Easton prays that the Notice of Violation be dismissed as to himself and such other legal and equitable defenses and the right to amend its Answer after further discovery.

GLEN EATON

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**CERTIFICATE OF SERVICE**

I, Dennis Zolper, certify that on the 14<sup>th</sup> day of July 2025 I served a copy of the foregoing Response to the Notice of Violation by Fed Ex addressed to:

Ms. Lisa Thompson, Esq  
Arkansas Energy & Environment  
Arkansas Pollution Control and Ecology Commission  
3800 Richards Road, North Little Rock, AR 72117

And a PDF version via Email to [patricia.goff@arkansas.gov](mailto:patricia.goff@arkansas.gov) and [pce-filings@adeq.state.ar.us](mailto:pce-filings@adeq.state.ar.us).

By: \_\_\_\_\_  
Dennis Zolper