

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SEMCO LLC
1 RECOVERY ROAD
MORRILTON, AR 72110

EPA ID No. ARR000007872
AFIN 15-00328

LIS 17- 082

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act, Ark. Code Ann. § 8-7-201 *et seq.*, the Arkansas Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*, and Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 23, APC&EC Regulation No. 8, and APC&EC Regulation No. 7. The issues herein having been settled by the agreement of Semco LLC (“Respondent”) and the Arkansas Department of Environmental Quality (ADEQ or “Department”), it is hereby agreed and stipulated by all parties that the following Findings of Fact and Order and Agreement be entered.

FINDINGS OF FACT

1. Respondent’s facility is located at 1 Recovery Road, Morrilton, Arkansas (“the Site”).
2. Respondent is a Small Quantity Generator of hazardous waste.
3. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes ADEQ to assess an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (“the Act”) and any regulation or permit issued pursuant to the Act.

4. Ark. Code Ann. § 8-7-205(1) states, "It shall be unlawful for any person to ... [v]iolate any provisions of this subchapter or of any rule, regulation, permit, or order adopted or issued under this subchapter...."
5. Based on APC&EC Regulation 23 § 262.41, Annual Report requirements, ADEQ has identified the following violation:
 - a. **Failure to submit a Hazardous Waste Annual Report:** As a Small Quantity Generator of hazardous waste in Arkansas, Respondent is required to submit a Hazardous Waste Annual Report to ADEQ by March 1 for the preceding calendar year. On December 19, 2016, ADEQ sent a reminder letter to submit the 2016 Annual Report by March 1, 2017. On March 16, 2017, ADEQ sent a certified letter to Respondent notifying them that they were in violation of APC&EC Regulation 23 § 262.41 and Ark. Code Ann. § 8-7-201 *et seq.*, and to submit the 2016 Annual Report within thirty (30) calendar days of receiving this letter. Respondent received this letter March 20, 2017 and therefore should have submitted the Annual Report by April 19, 2017. Respondent's employee contacted ADEQ on or about March 23, 2017 to request instructions for submitting the Annual Report. ADEQ emailed Respondent these instructions on March 23, 2017. Failure to submit a Hazardous Waste Annual Report is a violation of APC&EC Regulation No. 23 § 262.41, which states in part, "Any person who generated more than 100kg of hazardous waste in any given month during the preceding calendar year in the State of Arkansas must prepare and submit a single copy of an Annual Report to the Director not later than March 1 of each year." This is also a violation of Ark. Code Ann. § 8-7-205(1).

ORDER AND AGREEMENT

Wherefore, Respondent and the Arkansas Department of Environmental Quality do hereby stipulate and agree as follows:

1. Upon the effective date of this CAO, Respondent shall immediately submit their 2016 Hazardous Waste Annual Report, in accordance with APC&EC Regulation No. 23 § 262.41.
2. Upon the effective date of this CAO, Respondent shall conduct an Internal Compliance Audit of all hazardous waste management units and related activities. The Internal Compliance Audit shall be of sufficient scope to identify any instances of noncompliance

with applicable hazardous waste management requirements, whether identified by the aforementioned CEI Report or not.

3. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a report to ADEQ describing actions taken to achieve and maintain compliance with respect to any instances of noncompliance detected by the CEI Report and the Internal Compliance Audit. The report will be subject to ADEQ approval. If ADEQ does not approve the report, in whole or in part, because the actions taken by Respondent were insufficient to achieve compliance with applicable requirements, Respondent shall undertake any additional actions identified by ADEQ in order to achieve and maintain compliance with the applicable requirements.
4. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall conduct a Pollution Prevention Study (PPS) to investigate ways to reduce the amount of waste from the facility and submit a Report of Findings specific to the PPS to ADEQ for review and approval.
5. Respondent shall submit to ADEQ one (1) electronic and one (1) hard copy of all reports, documents, plans or specifications required under the terms of this CAO.
6. All submittals required of the CAO, excluding the requirement for the payment submittal in Paragraph 8 below, shall be electronically emailed to nicol@adeq.state.ar.us and submitted by Certified Mail or hand delivered to Julie Nicol, Enforcement, Office of Land Resources, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
7. All submittals shall be subject to applicable review fees pursuant to APC&EC Regulation No. 23 § 6(t).
8. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of **ONE THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$1,125.00)** or one-half of the penalty, **FIVE HUNDRED**

SIXTY-TWO DOLLARS AND FIFTY CENTS (\$562.50) if this embossed CAO is signed and returned to Julie Nicol, Enforcement, Office of Land Resources, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. twenty (20) calendar days after this CAO is received. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to ADEQ, Attention: 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, ADEQ shall be entitled to attorneys' fees and costs of collection, as well as all other lawful fees and penalties.

9. All requirements of this CAO are subject to approval by ADEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies within the timeframe specified by ADEQ. Failure to adequately respond in writing within the timeframe specified by ADEQ constitutes a failure to meet the requirements established by this CAO.
10. If Respondent fails to submit to ADEQ any reports or plans, or meet any other requirement of this CAO within the applicable deadline established in this CAO, ADEQ may assess stipulated penalties for delay in the following amounts:
 - a. First day through the fourteenth day: \$250 per day
 - b. Fifteenth day through the thirtieth day: \$1,250 per day
 - c. Each day beyond the thirtieth day: \$2,500 per day

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

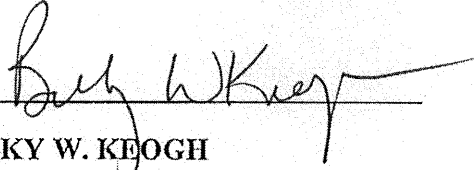
11. Respondent shall notify ADEQ within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the

anticipated length of the delay, the precise cause of the delay, the measures being taken to correct and minimize the delay, and an implementation schedule. Such notification or request for extension shall be made in writing and prior to the deadline.

12. ADEQ may grant an extension of any provision of this CAO, provided that Respondent requested such an extension in writing and provided that the delay has been, 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 no 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 fault of Respondent, and the length of delay that is attributable to such circumstances, shall rest with Respondent.
13. Nothing contained in this CAO shall be construed as a waiver of ADEQ's enforcement authority over violations not specifically addressed herein, nor does this CAO exonerate past, present, or future conduct which is not expressly addressed herein. Nothing contained herein shall relieve Respondent of any other obligations imposed by any local, state, or federal laws, nor shall this CAO be deemed in any way to relieve Respondent of its responsibilities for obtaining or complying with any necessary permits or licenses.
14. This CAO is subject to public review and comments in accordance with Ark. Code Ann. § 8-4-103(d) and is therefore not effective until thirty (30) calendar days after public notice of this CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period or based on any other considerations which may subsequently come to light. Additionally, this CAO is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the Commission.
15. 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

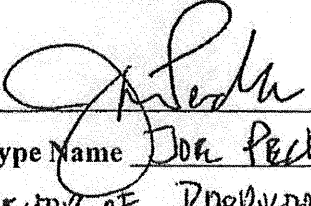
Managing Member of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 9th DAY OF October 2017


BECKY W. KEOGH
DIRECTOR
ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SEMCO LLC

BY: Signature 
Print or Type Name Don Peck
Title DIRECTOR OF PRODUCTION
Date 9/18/17