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Closure/Storage Tank Enforcement: Arkansas Department of Environmental Quality Garland County, Arkansas Circuit Court Action Seeking Injunctive Relief

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The Arkansas Department of Environmental Quality (“ADEQ”) filed on June 18th a Complaint for Injunctive Relief (“Complaint”) against Edward Motor Company, Inc. (“EMCI”) seeking proper closure of two underground storage tanks (“USTs”).

The USTs are stated to be located in Hot Springs, Arkansas.

ADEQ states it had issued a Notice of Violation (“NOV”) to EMCI for alleged violations of Arkansas Pollution Control and Ecology Commission Regulation 12. See LIS 16-040. The NOV proposed a civil penalty assessment and requirement that the company comply with the relevant provisions of Regulation 12 involving proper closure and sampling of the referenced USTs. The Arkansas Pollution Control and Ecology Commission is stated to have adopted a prior Administrative Law Judge Recommended Decision which determined that certain violations had occurred and assessed a civil penalty.

EMCI paid the civil penalty. However, ADEQ alleges that the company has not completed the closure requirements as mandated by Regulation 12.

The Complaint references 40 C.F.R. § 280.72 addressing closure and argues that ADEQ has not received any sampling from the site of the USTs to “confirm the presence or absence of any environmental contamination that would require additional corrective action work.” It asks the Court to:

. . . enter an Order compelling the Defendant to comply with the requirements of 40 C.F.R. § 280.72 and APC&EC Regulation 12.504(A)(1), including required measurements to determine contamination at the UST site and any required corrective action mandated in 40 C.F.R. § 280.72(b).

A copy of the Complaint can be downloaded [here](#).