

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

USA Truck, Inc.  
Crittenden County (AFIN 18-00028)  
Crawford County (AFIN 17-00123)  
P.O. Box 449  
Van Buren, AR 72956

LIS No. 20- 190  
Permit Tracking No. ARR00B695 (EXPIRED)  
Permit Tracking No. ARR00B696 (EXPIRED)

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“Order”) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations and rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of USA Truck, Inc. (Respondent) and 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 operates a transportation and logistics facility (“Crittenden County Facility”) located at 2600 I-55 North Service Road, West Memphis, Crittenden County, Arkansas.
2. Respondent operates a transportation and logistics facility (“Crawford County Facility”) located at 3108 Industrial Park Road, Van Buren, Crawford 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 Department of Energy and Environment.

3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

4. Pursuant to the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accordance with 33 U.S.C. § 1342(a).

5. DEQ is authorized under the Arkansas Water and Air Pollution Control Act ("Act") to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.

6. 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 [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes DEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any rule or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "[e]ach day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

9. In accordance with 40 C.F.R. § 122.26(c), as adopted by APC&EC Rule 6, dischargers of stormwater associated with industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(i-ix, xi), are required to obtain coverage under the NPDES Industrial Stormwater General Permit ARR000000 or an individual permit.

10. DEQ issued the NPDES Industrial Stormwater General Permit with an effective date of July 1, 2014, and an expiration date of June 30, 2019. DEQ issued a renewal of the NPDES Industrial Stormwater General Permit with an effective date of July 1, 2019, and an expiration date of June 30, 2024.

ARR00B695—CRITTENDEN COUNTY FACILITY

11. DEQ issued Industrial Stormwater General Permit coverage to Respondent for discharge of stormwater into waters of the state pursuant to the NPDES Industrial Stormwater General Permit, Permit Tracking Number ARR00B695 ("Permit-695") with a coverage date of April 25, 2015, and an expiration date of June 30, 2019.

12. Part 2 Condition 2.2 of the Permit-695 requires Respondent to submit a complete RNOI no later than June 30, 2019, in order to maintain permit coverage for the regulated activity.

13. On December 31, 2018, Respondent was notified via letter that Permit-695 would expire on June 30, 2019, and that in order to continue the regulated activity, a complete RNOI must be submitted no later than June 30, 2019.

14. On April 1, 2019, DEQ mailed Respondent an invoice (PDS173785) for annual permit fees. On June 7, 2019, DEQ charged a late fee.

15. On June 17, 2019, Respondent submitted a RNOI.

16. On June 28, 2019, January 6, 2020, and February 10, 2020, DEQ requested the submission of a certificate from Delaware Secretary of State and payment of an overdue invoice (PDS173785) of \$220.00 that was due May 16, 2019.

17. On April 7, 2020, DEQ notified Respondent of the return of the RNOI for failure to submit a certificate of good standing from Delaware Secretary of State and failure to pay the overdue invoice.

18. On April 9, 2020, DEQ again notified Respondent of the requested documents and overdue invoices; Respondent informed DEQ that the document would be submitted and the invoice would be paid.

19. On April 13, 2020, Respondent submitted the certificate of good standing from Delaware Secretary of State.

20. On April 14, 2020, DEQ notified Respondent that a complete Notice of Intent (NOI), Stormwater Pollution Plan (SWPPP), and permit fee need to be submitted.

21. On April 27, 2020, Respondent paid invoice PDS173785 via check.

ARR00B696—CRAWFORD COUNTY FACILITY

22. DEQ issued Industrial Stormwater General Permit coverage to Respondent for discharge of stormwater into waters of the state pursuant to the NPDES Industrial Stormwater General Permit, Permit Tracking Number ARR00B696 ("Permit-696") with a coverage date of September 24, 2014, and an expiration date of June 30, 2019.

23. Part 2 Condition 2.2 of the Permit-696 requires Respondent to submit a complete RNOI no later than June 30, 2019, in order to maintain permit coverage for the regulated activity.

24. On December 31, 2018, Respondent was notified via letter that Permit-696 would expire on June 30, 2019, and that in order to continue the regulated activity, a complete RNOI must be submitted no later than June 30, 2019.

25. On June 17, 2019, Respondent submitted a RNOI.

26. On June 28, 2019, DEQ requested the submission of a certificate from Delaware Secretary of State and notified Respondent that payment of an invoice for \$225.00 was due June 30, 2019.

27. On January 6, 2020 and February 10, 2020, DEQ requested the submission of a certificate from Delaware Secretary of State and payment of the overdue invoice (TKS149566) of \$15.00.
28. On April 10, 2020, DEQ notified Respondent of the return of the RNOI for failure to submit a certificate of good standing from Delaware Secretary of State and failure to pay the overdue invoice.
29. On April 13, 2020, Respondent submitted the certificate of good standing from Delaware Secretary of State.
30. On April 14, 2020, DEQ notified Respondent that a complete Notice of Intent (NOI), Stormwater Pollution Plan (SWPPP), and permit fee need to be submitted.
31. To date, DEQ has not received payment of invoice TKS149566.

#### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately submit a complete NOI, SWPPP, and application fees for both facilities.
2. Respondent shall pay invoice TKS149566.
3. Respondent shall pay all fees associated with Industrial Stormwater General Permit coverage in accordance with the conditions set forth in the Industrial Stormwater General Permit.

These payments shall be made payable to the Division of Environmental Quality and mailed to:

DEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118-5317

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Dollars (\$2000.00), or one-half of the full civil penalty of One Thousand Dollars (\$1000.00) if this Order is signed and returned to the

Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment of the penalty shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

DEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

5. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to DEQ stipulated penalties according to the following schedule:

- |   |                   |
|---|-------------------|
| a. First day through fourteenth day:        | \$100.00 per day  |
| b. Fifteenth day through the thirtieth day: | \$500.00 per day  |
| c. Each day beyond the thirtieth day:       | \$1000.00 per day |

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of failure by Respondent to comply with the requirements of this Order.

6. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so 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 specified in this Order. 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.

7. DEQ may grant an extension of any provision of this Order, 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.

8. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

9. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following

the date this Order is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

10. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its 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 said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 24 DAY OF November, 2020.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

USA Truck, Inc.

BY:   
(Signature)

Zachary King  
(Typed or printed name)

TITLE: SVP + CFO

DATE: 10/22/2020