

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ROUTH WRECKER SERVICE, INC
d/b/a ROUTH SERVICE CENTER

AFIN 60-03387

LIS 17-046

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.*, Ark. Code Ann. § 8-7-508, the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, and the regulations promulgated thereunder, in particular Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation Number 12 (Storage Tanks). All Code of Federal Regulations references contained herein are incorporated by reference in APC&EC Reg. 12.104.

The issues herein having been settled by the agreement of Routh Wrecker Service, Inc. d/b/a Routh Service Center ("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 is the owner of two (2) underground storage tanks (USTs) located at Routh Wrecker Service, Inc., 6403 Fourche Dam Pike, Little Rock, Pulaski County, Arkansas ("the Site").
2. On July 21, 2016, an ADEQ inspector conducted a UST compliance inspection at the Site. This inspection confirmed there were two (2) USTs at the Site owned by Respondent. Respondent's USTs have been temporarily closed and empty since January 7, 2003.

3. During this inspection, the ADEQ inspector requested documentation of current three (3) year corrosion protection testing and recertification for the USTs. Respondent failed to provide ADEQ with the required documentation of testing. Failure to test the corrosion protection system every three (3) years is a violation of 40 C.F.R. § 280.70(a) and 40 C.F.R. § 280.31(b)(1).
4. The ADEQ inspector also noted that Respondent did not have a Class A and Class B operator designated at the Site. Failure to have a designated Class A and Class B operator for the Site is a violation of APC&EC Reg. 12.704(A).
5. At the conclusion of this inspection, the ADEQ inspector provided Respondent with a copy of the compliance inspection report. ADEQ gave Respondent a deadline of August 26, 2016, to correct the noted violations.
6. On September 19, 2016, the ADEQ inspector conducted a follow-up inspection at the Site. During this follow-up inspection, the ADEQ inspector requested documentation of current three (3) year corrosion protection testing and recertification for the USTs. Respondent again failed to provide ADEQ with documentation that the required testing and recertification had been performed.
7. The ADEQ inspector also noted that Respondent still did not have a Class A and Class B operator designated at the Site.
8. ADEQ mailed a certified letter dated September 21, 2016, to Respondent citing violations identified during the July 21, 2016 compliance inspection and the September 19, 2016 follow-up inspection. This letter also informed Respondent that the 2016 annual registration fees for the USTs had not been paid. This letter further informed Respondent that documentation indicating the violations have been corrected, or are scheduled for correction, must be submitted to ADEQ by October 7, 2016. Respondent did not provide ADEQ a response by the October 7, 2016 deadline.

9. Respondent has failed to pay the 2016 annual tank fees for the USTs. The outstanding balance due for the tank fees is One Hundred Fifty Dollars (\$150.00) plus a late fee of Ten Dollars (\$10.00) for total fees owed of One Hundred Sixty Dollars (\$160.00) for Invoice Number TKS-133943. Respondent failed to pay late fees associated with the 2009 and 2014 annual tank fees for the USTs. The outstanding balance due for the late fees associated with Invoice Numbers TKS-097359 and TKS-123691 is Twenty Dollars (\$20.00). The total outstanding balance due for tank fees and late fees is One Hundred Eighty Dollars (\$180.00). Failure to pay tank fees is a violation of APC&EC Reg. 12.203.
10. On November 17, 2016, the ADEQ inspector conducted a second follow-up inspection at the Site. During this follow-up inspection, the ADEQ inspector requested documentation of current three (3) year corrosion protection testing and recertification for the USTs. Respondent again failed to provide ADEQ with the requested documentation. The ADEQ inspector also noted that Respondent still had not designated a Class A and Class B operator at the Site. At the conclusion of this follow-up inspection, the ADEQ inspector red-tagged the USTs with tags #1884 and #1948, in accordance with APC&EC Reg. 12.110(G)(2).

ORDER AND AGREEMENT

1. Wherefore, Respondent and ADEQ do hereby stipulate and agree:
 - a. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit documentation to ADEQ indicating that the corrosion protection system for the USTs has been tested and recertified in accordance with 40 C.F.R. § 280.70(a) and 40 C.F.R. § 280.31(b)(1).

- b. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit documentation to ADEQ that a certified Class A and Class B operator has been designated at the Site.
 - c. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall pay the 2016 UST annual registration fee of One Hundred Fifty Dollars (\$150.00), the Ten Dollar (\$10.00) late fee associated with the 2016 UST annual registration, the Ten Dollar (\$10.00) late fee associated with the 2009 UST annual registration, and the Ten Dollar (\$10.00) late fee associated with the 2014 UST annual registration for a total amount of One Hundred Eighty Dollars (\$180.00). Payment of these tank fees and late fees shall specify the associated invoice numbers, TKS-133943, TKS-097359, and TKS-123691, and shall be made payable to Fiscal Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of **TWO THOUSAND SEVEN HUNDRED DOLLARS (\$2,700.00)** or one-half of the penalty, **ONE THOUSAND THREE HUNDRED FIFTY DOLLARS (\$1,350.00)** if this CAO is signed and returned to Josh Hesselbein, Enforcement, Office of Land Resources, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:30 p.m. on May 25, 2017. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to ADEQ and mailed to 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.

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

- a. First day through the fourteenth day: \$100 per day
- b. Fifteenth day through the thirtieth day: \$500 per day
- c. Each day beyond the thirtieth day: \$1000 per day

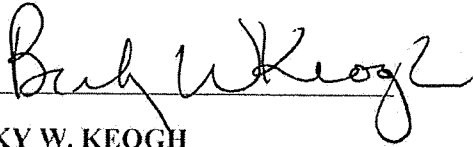
These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of Respondent's failure to comply with the requirements of this CAO. ADEQ reserves the right to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

4. 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.

5. 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 the 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.

6. 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 13 DAY OF June 2017.



BECKY W. KEOGH
DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

ROUTH WRECKER SERVICE, INC.
d/b/a ROUTH SERVICE CENTER

BY: Signature 
Print Name Chris Keuth
Title General Manager
Date 5/24/2017