

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

LIS: 21-038

**ASHISH SANON AND
FORT SMITH PETRO ENVIRONMENTAL, LLC
11802 ROBERTS BLVD, FORT SMITH
SEBASTIAN COUNTY, ARKANSAS 72916**

EMERGENCY ORDER OF THE DIRECTOR

The Director of the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has determined that emergency conditions exist due to threatened release of the potentially hazardous substance(s) and that a threatened release presents an imminent and substantial endangerment to the public health, safety, or welfare or to the environment.

Therefore, pursuant to authority provided by the Remedial Action Trust Fund Act as set forth in Ark. Code Ann. § 8-7-501 *et seq.*; the Arkansas Hazardous Waste Management Act as set forth in Ark. Code Ann. § 8-7-201 *et seq.*; the Arkansas Solid Waste Management Act as set forth in Ark. Code Ann. § 8-6-201 *et seq.*; the Arkansas Water and Air Pollution Control Act as set forth in Ark. Code Ann. § 8-4-101 *et seq.* and the rules promulgated thereunder; the Director makes the following Findings of Fact and orders the following remedial actions to be taken immediately to remedy the emergency conditions.

FINDINGS OF FACT

1. A used oil processing facility is located at 11802 Roberts Blvd., Fort Smith, Sebastian County, Arkansas. The facility has nine (9) Above-ground Storage Tanks (ASTs) and one (1) lay down recovery tank. The facility has a secondary containment structure for the ASTs and the lay down recovery tank. A frac-tank with a separate containment area is located adjacent to the ASTs and the lay down recovery tank.
2. Fort Smith Petro Environmental, LLC operates this facility.
3. DEQ issued NPDES Industrial Stormwater General Permit (IGP), ARR000000, on December 31, 2013, with an effective date of July 1, 2014 and an expiration date of June 30, 2019. The IGP authorizes facilities conducting industrial activities to discharge stormwater to all receiving waters in accordance with the terms and conditions set forth in the IGP.
4. On June 11, 2014, DEQ issued permit coverage under the IGP to Fort Smith Petro Environmental, LLC with an effective date of July 1, 2014,

and assigned NPDES Permit Tracking Number ARR000851 to the facility. Fort Smith Petro Environmental, LLC's coverage under the IGP expired on June 30, 2019, and Fort Smith Petro Environmental, LLC did not renew its IGP coverage.

5. On June 3, 2016, a release occurred at 11802 Roberts Blvd., Fort Smith, Sebastian County, Arkansas. DEQ issued Emergency Order LIS 16-048 to Ashish Sanon and Fort Smith Petro Environmental, LLC in response to that release.
6. On December 22, 2016, DEQ issued Emergency Order LIS 16-103 to Ashish Sanon and Fort Smith Petro Environmental, LLC. Emergency Order LIS 16-103 directed Ashish Sanon and Fort Smith Petro Environmental, LLC to retain a qualified response contractor capable of properly removing all released waste materials and transporting, securely storing, characterizing, identifying, and properly disposing of the waste material at the facility.
7. In response to Emergency Order LIS 16-103, when Ashish Sanon and Fort Smith Petro Environmental, LLC failed to provide reasonable assurance that they had committed to and were capable of initiating corrective and removal action in a timely manner as required by Ark. Code Ann. § 8-7-508(g) by timely dispatching a response contractor, DEQ secured the services of a response contractor to take the immediate and necessary action to prevent a release from the facility.
8. Pursuant to Ark. Code Ann. § 8-7-516, DEQ filed a lien for the costs expended in the amount of \$75,485.02 on the property at 11802 Roberts Blvd., Fort Smith, Sebastian County, Arkansas.
9. On March 10, 2021, DEQ received a complaint reporting that Sebastian County Office of Emergency Management (OEM) investigated a release at the facility and that City of Fort Smith Fire Department responded and contained the release.
10. On April 29, 2021, DEQ inspected the facility and documented waste oil or other unidentified pollutants within the secondary containment area and apparent petroleum-based product outside of the containment area. DEQ documented that product outside of the containment area had the potential to impact Little Vache Grass Creek, which is located less than 125 feet east of the containment area. DEQ also documented breaches in the concrete containment wall for the tanks and in the containment wall for the frac-tank. DEQ identified two (2) locations where product was leaking from the tank piping into the secondary containment areas.
11. As of April 30, 2021, the weather forecast indicated heavy rain for the Fort Smith area beginning on Sunday.

12. Past and present conditions documented at the facility indicate that the storage of waste oil or other unidentified pollutants are not contained by the tanks onsite and that the waste oil or other unidentified pollutants are likely to leak into the secondary containment area. The conditions of the secondary containment area, including temporary repairs to two (2) breaches, are likely to allow the discharge of waste oil or other unidentified pollutants from the facility to Little Vache Grass Creek.

Based on the facts and nature of this situation, the Director determined that an emergency exists and issued a verbal order on April 30, 2021, pursuant to Ark. Code Ann. § 8-7-508(k).

ORDER of REMEDIAL ACTION

This written order confirms the Director's April 30, 2021 verbal order and orders the following:

1. Ashish Sanon and Fort Smith Petro Environmental, LLC (collectively, "Responsible Parties") shall take the following actions:
 - a. By the close of business Friday, April 30, 2021 provide DEQ with the name and contact information for the contractor that will be onsite to take immediate action to remove all free liquid from the containment areas so that no waste oil or other unidentified pollutants are likely to be discharged to Little Vache Grass Creek; and
 - b. Ensure that the named contractor arrives at the facility by noon Saturday, May 1, 2021.
2. If Responsible Parties refuse or are unable take appropriate action to prevent the release of waste oil or other unidentified pollutants from the containment areas, DEQ will engage its contractors, and Responsible Parties will be responsible for the costs incurred by DEQ for that work.
3. Responsible Parties shall remove all of the free liquid from the secondary containment areas necessary to prevent any waste oil or other unidentified pollutants from being discharged from the secondary containment areas and make any temporary repairs to the secondary containment areas necessary to prevent any containment failures. Responsible Parties shall provide weekly updates on the conditions at the facility and any

actions taken to prevent any discharges or containment failures.


4. Within thirty (30) calendar days of issuance of this Written Order, Responsible Parties shall provide, for review and approval by DEQ, a plan detailing the actions to be taken and a timeline for the complete removal of waste oil or other unidentified pollutants from the tanks and remediation of the contamination at the facility and the surrounding areas.
5. Following review and approval by DEQ, Responsible Parties shall undertake those approved actions as detailed by the approved timeline for the complete removal of waste oil or other unidentified pollutants from the tanks and remediation of the contamination at the facility and the surrounding areas.

To prevent endangerment to public health, safety, or welfare or to the environment, DEQ shall have use of moneys from the Remedial Action Trust Fund Act to take necessary actions to include hiring and paying for personnel and equipment to properly abate the endangerments with such costs being billed to the responsible party, if identified, along with applicable charges as allowed by law, in accordance with Remedial Action Trust Fund Act and specifically with Ark. Code Ann. § 8-7-514.

Nothing in this Order shall limit the rights of DEQ to issue further orders to pursue any further enforcement actions for remediation, penalties, and costs from any party.

This Order is effective immediately upon verbal issuance and is confirmed by signature of the Director.

DATED THIS 6th DAY of May, 2021.


Becky W. Keogh,
Director, Division of Environmental Quality