

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**REYNOLDS METALS COMPANY
GUM SPRINGS PLANT
500 EAST REYNOLDS ROAD
ARKADELPHIA, ARKANSAS 71923
EPA ID No. ARD006354161
AFIN 10-00004
PERMIT 30H-M007**

LIS 09-132

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "Order") is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act (Act 406 of 1979, as amended; A.C.A. § 8-7-201 et seq.), and the Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation No. 23, APC&EC Regulation No. 8, and APC&EC Regulation No. 7. The issues herein, as they pertain to Reynolds Metals Company – Gum Springs Plant, Arkadelphia, Clark County, Arkansas (hereinafter "Respondent" or "Reynolds Metals") having been settled by the agreement of Respondent and the Arkansas Department of Environmental Quality - Hazardous Waste Division (hereinafter "ADEQ"), it is hereby agreed and stipulated by all parties that the Findings of Fact and Order and Agreement be entered herein.

FINDINGS OF FACT

1. Reynolds Metals- Gum Springs owns and operates a hazardous waste permitted Treatment, Storage and Disposal Facility (hereinafter "TSDF") located at 500 East Reynolds Road in Arkadelphia, Arkansas. The Reynolds Metals- Gum Springs TSDF permit allows for the treatment and landfill disposal of hazardous waste code K088, described as spent potliner from primary aluminum reduction.

2. The Reynolds Metals –Gum Springs permitted disposal area consist of a total of ten (10) landfill cells. Cell 1 was permitted as a solid waste landfill when hazardous waste code K088 was delisted. Cell 1 was separated by a physical gap from the other cells. Cells 2 through 10 are regulated under Subtitle C of RCRA. All cells are connected to a leachate collection system with sumps which capture any free liquids present under the landfill areas. Leachate generated from landfill cell 1 is managed as EPA hazardous waste code D002 (corrosivity) and D004 (arsenic). Leachate generated from the other landfill cells are managed as EPA hazardous waste code K088. This leachate is collected and pumped into a 10,000 gallon double-wall aboveground storage tank (hereinafter “AST”).
3. On June 16, 2009, Reynolds Metals employees observed a spill which occurred at the 90-day TK09 hazardous waste AST located at the landfill. The material involved was leachate, characteristic hazardous waste code D004, from landfill Cell 1. Approximately one hundred (100) gallons of hazardous waste leachate was spilled onto the ground when the pump switch from TK09 was left in a manual position which caused the AST to overflow.
4. Upon discovery of the spill, Reynolds Metals’ employees immediately shut off the pump to the AST and notified their supervisors. Reynolds Metals implemented the facility Contingency Plan and immediately began activities to contain the spill/release. Sand was used to berm the on-site drainage ditch and drainage pipes leading to the drainage ditch. Absorbent material (oil dry) was placed on pooled material on the soil in the spill area immediately west of the tank. Reynolds Metals’ spill response contractor pumped water from the bermed area to a tanker truck and transferred it to a rail tanker for off-site disposal as D004 hazardous waste. Surface soils were excavated from the bermed area to a depth of approximately six (6) inches and placed into roll-offs for disposal. Samples were collected from the excavated soil and underlying soil.

5. During Reynolds Metals' investigation of the incident, it was determined that a materials transfer pump control switch was left in "manual" position instead of the "auto" or "off" position; the manual position is designed for maintenance troubleshooting to jog or test the system. In the manual position, the switch bypasses the auto-shutoff protection. In addition, a monitoring system's communication fault prevented the overflow condition from reporting/alarmed to the panel in the control room.
6. On July 22, 2009, ADEQ conducted a Compliance Evaluation Inspection (hereinafter "CEI") at the Reynolds Metals- Gum Springs facility.
7. APC&EC Regulation No. 23, § 265.194(b)(2) states that a facility owner/operator must use appropriate controls and practices to prevent spills and overflows from tanks or containment systems. These include, at a minimum, overflow prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank). The fact that the selector switch on the TK09 storage tank allowed the pump to be left on in manual mode, resulting in an overflow, is a violation of APC&EC Regulation No. 23.
8. Based on information provided by Respondent in their verbal and written self-reporting and the findings of the CEI on July 22, 2009, a condition was identified which ADEQ constitutes a violation of APC&EC Regulation No. 23. The violation, as provided below, was identified in the CEI Report which was mailed to the Respondent on August 10, 2009, which is hereby incorporated by reference into this Order:
 - a. APC&EC Regulation No. 23, § 265.194(b)(2) – Failure of the owner/operator to use appropriate controls and practices to prevent spills and over flows from tank or containment systems. These include at a minimum, overflow prevention controls (e.g., Level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank).

9. On June 17, 2009, ADEQ was notified that the spill had occurred, which is within the 24-hour timeframe required by APC&EC Regulation No. 23.
10. On July 10, 2009, ADEQ received a 30-day spill report which provided details of the spill response and associated sample results of the excavated soils and the standing water in the bermed containment area of storage tank TK09. Sample results confirmed the removal of all contamination surrounding the AST. Reynolds Metals' stated that a determination had been made that the tank's pump switch had been left in manual position which had caused the tank to overflow. In addition, the computer program relay alarms failed due to an earlier storm event; therefore, the tank system overflow alarm was not working properly.
11. On July 24, 2009, Reynolds Metals', in a phone conversation with ADEQ, stated that immediately after discovering the reason for the spill the following corrective actions were implemented: 1) a new selector switch was installed which would not allow the pump to remain on manual unless personnel were physically holding the switch in the manual position, 2) The wiring arrangement of the switch was changed so that tank overflow protection remained active with the switch in manual mode, 3) a new computer program is now in place which would recognize communication faults in the tank level/monitoring system and provide fault alarms to the control room monitoring system, 4) other onsite similar landfill leachate tank collections systems were reviewed and the same corrective actions applied where similar issues were identified.
12. Respondent agrees to the following Order in full settlement and compromise of the violation of APC&EC Regulation No. 23 as stated herein.

ORDER AND AGREEMENT

1. Henceforth, Reynolds Metals shall ensure that overflow prevention controls on hazardous waste storage tank systems are operational and activated at all times (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank).
2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of SIX THOUSAND THREE HUNDRED SEVENTY-FIVE DOLLARS (\$6,375.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment shall be made payable to the 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.
3. Respondent hereby designates a Project Manager who shall be responsible for overseeing the implementation of the requirements of this Order. The Project Manager shall communicate with ADEQ on all technical issues which arise under this Order and shall be empowered to agree on minor modifications in the implementation of any of the requirements of this Order when such modifications are deemed by ADEQ to further the purpose of this Order. Respondent may change their Project Manager by providing written notice of such change to the ADEQ. The initial Project Manager shall be:

Lyn Shepherd, Environmental Manager
Alcoa Primary Metals,
Reynolds Metals Company – Gum Springs Plant
500 East Reynolds Road
Arkadelphia, Arkansas 71923
Ph No. (870) 245-2720
4. All requirements of this Order are subject to approval by ADEQ. In the event of any deficiencies, Respondent shall, within thirty (30) calendar days of the receipt of written notification by ADEQ, submit any additional information or changes requested, or take

additional actions as specified by ADEQ. Failure to adequately respond to the notice of deficiency within thirty (30) calendar days constitutes a failure to meet a deadline and subjects Respondent to the stipulated penalties established in paragraph 5 below, provided that such notice clearly declares that failure to respond within thirty (30) calendar days of receipt is a failure to meet requirements established by this Order.

5. If Respondent fails to submit to ADEQ any reports or plans, or meet any other requirement of this Order within the applicable deadline established in the Order, ADEQ may assess stipulated penalties for delay in the following amounts:
 - a. First day through the tenth day: \$500/day or less
 - b. Eleventh day through the twentieth day: \$750/day or less
 - c. Twenty-first day through the thirtieth day: \$1,000/day or less
 - d. Each day beyond the thirtieth day: \$2,500/day or less

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 Order.

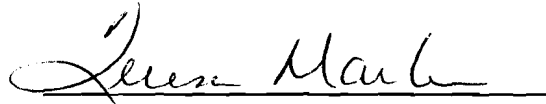
6. If any event occurs, including but not limited to Natural Disasters, which causes or may cause delay in the achievement of compliance by Respondent with the requirements of this Order, Respondent shall notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the deadline has passed. The written notice shall describe in detail the anticipated length of delay, the precise cause of delay, the measures taken and to be taken to minimize the delay, and the timetable by which those measures are implemented.
7. The ADEQ may grant a written extension of any provision of this Order, provided that Respondent requested such an extension in writing and provided that the delay or anticipated delay has been 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 fault of Respondent and the length of delay attributable to such circumstances shall rest with Respondent.

8. Nothing contained in this Order shall be construed as a waiver of ADEQ's enforcement authority over violations not specifically addressed herein; nor does this Order 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 Order be deemed in any way to relieve Respondent of its responsibilities for obtaining or complying with any necessary permits or licenses.
9. This Order is subject to public review and comment in accordance with A.C.A. Section 8-4-103 (d) and is therefore not effective until thirty (30) calendar days after public notice of the Order is given. ADEQ retains the right and discretion to rescind this Order 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 Order is subject to being reopened upon Arkansas Pollution Control & Ecology Commission initiative or in the event a petition to set aside this Order is granted by the Commission.
10. This Order shall apply to and be binding upon ADEQ and upon Respondent, their successors, and assigns. Any changes in ownership or corporate status of Respondent, including, but not limited to, any transfer of shares, assets or other real or personal property, shall in no way alter Respondent's obligations under this Order.

11. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this Order and to legally bind that party to its terms and conditions.

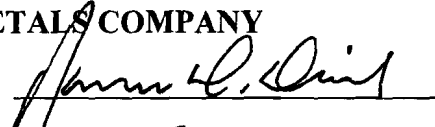
SO ORDERED THIS 2nd DAY OF October, 2009.



**TERESA MARKS
DIRECTOR**

APPROVED AS TO FORM AND CONTENT:

REYNOLDS METALS COMPANY

BY: Signature 
Print or Type Name RONALD D. DICKEL
Title VICE PRESIDENT
Date 9/29/09