

**STATE OF GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

IN RE: Signal Energy Holdings Company, LLC)
 f/k/a Signal Energy Holdings Corp.,)
 f/k/a Young Refining Corporation) ORDER NO. EPD-HW-
 7982 Huey Road)
 Douglasville, Georgia 30134)
 Respondent.)

CONSENT ORDER

Authority

WHEREAS, Signal Energy Holdings Company, LLC (hereinafter, “Respondent”) owns an inactive refinery located at 7982 Huey Road, Douglasville, Georgia, which formerly separated asphaltic crude oil into various oils, fuels, and grades of asphalts (hereinafter, the “Facility”) and which Facility has an EPA ID number GAD051011344; and

WHEREAS, the Director (the “Director”) of the Environmental Protection Division of the Georgia Department of Natural Resources (“EPD”) administers and enforces the Hazardous Waste Management Act, O.C.G.A. § 12-8-60 *et seq.* (the “HWM Act”); and

WHEREAS, EPD administers and enforces the Hazardous Waste Management Rules, GA. COMP. R. AND REGS. 391-3-11-.01 through 391-3-11-.19 (the “HWM Rules”), which were promulgated and are in effect pursuant to HWM Act; and

WHEREAS, the HWM Act and HWM Rules make it unlawful to construct, install, operate or substantially alter a hazardous waste facility without first obtaining and possessing a hazardous waste facility permit from the Director; and

Civil Penalty

WHEREAS, O.C.G.A. § 12-8-81 provides that any person violating any provision of the HWM Act or any permit condition or license or limitation issued or established pursuant to the HWM Act, HWM Rules, or negligently or willfully failing or refusing to comply with any final order of the Director shall be liable for a civil penalty not to exceed \$25,000.00 per day; and

Background

WHEREAS, pursuant to the HWM Act, EPD renewed the Respondent’s Hazardous Waste Facility Permit No. HW-101(D) on September 28, 2013 (hereinafter, the “Permit”) for closure and post-closure care of a single Hazardous Waste Management Unit (hereinafter, the “HWMU”); and

WHEREAS, the Respondent has submitted, and the Division has approved, a Revised Regulatory Unit Closure Report (hereinafter, the “Closure Report”), dated December 2019, documenting clean closure of both the HWMU and a former K-waste tank (Tank 100); and

WHEREAS, the Respondent has submitted, and EPD has approved, a Revised Results of Site Characterization and Risk Evaluation (hereinafter, the “Site Characterization”), dated December 2019, and further revised April 2020; and

WHEREAS, as described in the Site Characterization, the Respondent has conducted soil and groundwater sampling at the Facility that is satisfactory to EPD to determine the extent of contamination at the Facility; and

WHEREAS, the Respondent has submitted to the Director a proposed Corrective Action Plan (hereinafter, the “CAP”) under the HWM Act and Permit; and

WHEREAS, as of August 26, 2021 EPD approved the June 2021 revised CAP; and

WHEREAS, the CAP, together with the terms of this Consent Order, impose requirements on Respondent that are equivalent to or more stringent than pertinent requirements under the HWM Act, including financial responsibility requirements, groundwater monitoring satisfactory to EPD, and the placement of an Environmental Covenant on the deed for the Facility as described in Appendix A of the CAP; and

WHEREAS, the Closure Report, the Site Characterization, and the obligations entailed by this Consent Order satisfy Respondent’s obligations pursuant to Consent Order No. EPD-HW-1096, Consent Order No. EPD-HW-1443, Consent Order No. EPD-HW-1597, and Consent Order No. EPD-HW-1687 (hereinafter, the “prior Consent Orders”); and

WHEREAS, upon execution by the Director this Consent Order shall replace and supersede all prior Consent Orders regarding the Facility; and

WHEREAS, the Director and Respondent agree not to move to reopen the closed case *Richard E. Dunn, et al. v. Signal Energy Holdings Co. LLC, et al.*, Case No. 16CV02613, in the Superior Court of Douglas County; and

Conditions

WHEREAS, the Director has determined that an amicable disposition of the alleged violations set forth herein is in the best interest of the citizens of the State of Georgia.

NOW THEREFORE, before the taking of any testimony and without adjudicating the merits of the parties’ positions, the parties hereby resolve the allegations in this matter upon order of the Director and consent of Respondent as follows:

1. Respondent shall conduct the groundwater monitoring, reporting, and well closure activities set forth in Section 5 of the CAP.
2. Within thirty (30) days of the execution of this Consent Order, the Respondent shall cause to be recorded on the deed for the Facility an Environmental Covenant limiting the use of the property to industrial activity and restricting the use of groundwater at the Facility in substantially the same form as that attached as Appendix A of the CAP.
3. Within seven (7) days of execution of this Consent Order, the Respondent shall provide evidence of a trust account for the purpose of ensuring adequate funds are available for the completion of the activities set forth in Section 5 of the CAP (hereinafter, the “Trust Account”). The Trust Account shall be maintained at a financial institution acceptable to the Director and must provide assurance that funds are available in the following amounts (hereinafter, the “Estimated CAP Costs”):

Groundwater monitoring	\$ <u>24,000.00</u>
Reporting	\$ <u>30,000.00</u>

Monitoring well abandonment	\$ <u>50,000.00</u>
TOTAL Estimated CAP Costs	\$ <u>104,000.00</u>

4. Upon completion of the monitoring period established by Section 5.3 of the CAP and, as specified in Section 5.5 of the CAP, concurrence by the Director that groundwater (influenced by SEHC operations) is not migrating off-site above risk-based levels, the funds in the Trust Account shall be disbursed to Respondent. If Respondent sells or otherwise transfers the real property on which the Facility is located before completion of all activities required in the CAP, Respondent shall ensure that the property transfer agreement provides for Respondent's access to the Property sufficient to complete the activities required by the CAP.

Deadlines

Time is of the essence in this Consent Order. Compliance with any deadline that falls on a Saturday, Sunday or state-recognized holiday shall be by the next business day.

Addresses

All notices, correspondence, etc., from Respondent to EPD relating to this Consent Order shall be sent to:

Jim McNamara, Program Manager
Hazardous Waste Corrective Action Program
Land Protection Branch, Georgia Environmental Protection Division
2 Martin Luther King Jr. Dr. SE, Suite 1054 East Tower
Atlanta, Georgia 30334-9000
Email: jim.mcnamara@dnr.ga.gov

All correspondence from the Director and EPD to Respondent relating to this Consent Order shall be sent to:

Michael Hudson
Signal Energy Holdings Company, LLC
517 Cassell Lane SW
Roanoke, Virginia 24014
Email: mhudsonal13@gmail.com

Public Notice

This Consent Order will be subject to public notice and comment.

Required Submissions

Upon the submission of any reports, plans, schedules or other information required by any Condition(s) of this Consent Order, EPD shall review the submission to determine its completeness. If EPD determines that the submission is complete, EPD shall notify Respondent in writing that the submission is approved.

If EPD determines that the submission is incomplete, it shall provide Respondent with written notice of the deficiencies. Respondent shall have fifteen (15) days from issuance of EPD's notice of deficiency to submit a corrected submission.

All submissions required by this Consent Order are, upon approval by EPD, incorporated by reference into, and made part of, this Consent Order. Any noncompliance with an approved submission shall be deemed noncompliance with this Consent Order.

Approval by EPD of any submission required by this Consent Order is not an agency determination that compliance with any state laws, regulations and/or permits, licenses, etc., will thereby be achieved, but is strictly limited to the completeness of the technical aspects of the submission with regards to the requirements of this Consent Order.

Force Majeure

Failure of Respondent to complete the requirement(s) of any Condition(s), other than payment obligations, by the deadline(s) specified therein may be excused by EPD if; 1) Respondent's failure was caused by a force majeure event, and 2) Respondent complies with all notification requirements in this section. Respondent shall have the burden of proving to EPD that it was rendered unable, in whole or part, by the force majeure event to meet the deadline(s).

The term "force majeure event" as used herein shall be limited to the following: an act of war (whether declared or not), including an invasion, act of foreign enemies, or terrorism; a strike, lockout, or other labor or industrial blockade or embargo which is not attributable to any unreasonable action or inaction on the part of Respondent; public riot; specific incidents of exceptional adverse weather conditions or natural disasters such as a hurricane, flood, or earthquake; a fire or explosion affecting the Respondent's operations; failure to secure timely and necessary federal, state, or local approvals or permits, provided approvals or permits have been timely and diligently sought; and any other occurrence caused by unforeseeable circumstances beyond the reasonable control of Respondent, as determined by EPD in its sole discretion.

Within two (2) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall notify EPD verbally or in writing. Within seven (7) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall submit written notice to EPD of the force majeure event, the possible effects and the anticipated length (if known) of any delay. EPD shall review the submission and negotiate with Respondent regarding the length of the proposed extension of deadlines, if any. The Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

Effect of Order

Respondent consents and the Director executes this Consent Order solely for the purpose of addressing the alleged violations set forth herein. This Consent Order does not relieve Respondent of any obligations or requirements of any statute, rules, permit, or other matter administered by EPD except as specifically authorized herein, which authorization shall be strictly construed. This Consent Order is not a finding, determination, or adjudication of a violation of any state laws, rules, standards and/or requirements, nor does Respondent by consenting to this Consent Order make any admission with respect to any factual allegation contained in this Consent Order or to any liability to any third party.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

Further Enforcement

Failure by Respondent to comply with any provision of this Consent Order may result in further enforcement action. Issuance of this Consent Order does not waive the Director's right to use the violation(s) alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

Finality

For the purpose of enforcement, this Consent Order constitutes a final order of the Director in accordance with applicable Georgia law. By agreement of the parties, this Consent Order shall be final and effective immediately upon execution by the Director, shall not be appealable, and Respondent does hereby waive all administrative proceedings and judicial hearings on the terms and conditions of this Consent Order.

Electronic Signatures

The parties agree that any electronic signatures on this Consent Order constitute original, valid signatures pursuant to the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1 *et seq.*

It is so ORDERED and CONSENTED TO on the following date _____.

For the Georgia Environmental Protection Division:

By: _____
Richard E. Dunn, Director

For Respondent Signal Energy Holdings Company, LLC:

By: _____


Printed Name: _____
Michael Hudson

Title: _____
President & CEO