

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 02-00065

LIS No. 19-046

ENABLE MISSISSIPPI RIVER TRANSMISSION, LLC
- FOUNTAIN HILL COMPRESSOR STATION
409 ASHLEY 8 ROAD
HAMBURG, ARKANSAS 71646

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, APC&EC Regulation 19, and APC&EC Regulation 26.

The issues herein having been settled by agreement of Enable Mississippi River Transmission, LLC – Fountain Hill Compressor Station (Respondent) and the Director of the Arkansas Department of Environmental Quality (ADEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent owns and operates a natural gas compressor station located at 409 Ashley 8 Road in Hamburg, Ashley County, Arkansas.
2. The investigation noted in this CAO covered two (2) Air Operating Permits.

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1433-AOP-R7 (Permit R7) was issued on December 18, 2015, and voided on September 26, 2017. 1433-AOP-R8 (Permit R8) was issued on September 26, 2017, and was still in effect at the time of the investigation.

3. 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, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

4. Ark. Code Ann. § 8-4-103(c)(1)(A) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 authorizes ADEQ 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 regulation or permit issued pursuant to the Act.

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

6. On October 28, 2016, Respondent submitted a Title V Semi-Annual Monitoring Report (SAM) for the reporting period of October 1, 2015 through September 30, 2016. The SAM reported one period of downtime in which the temperature data recorder for SN-06 (Gas Compressor Engine-Unit 1277) failed to maintain the temperature records for the exhaust gas temperature at SN-06. The SAM also reported one period of downtime at the temperature data recorder for SN-07 (Gas Compressor Engine-Unit 1278). Such failures violate General Provision 6 of Permits R7 and R8 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also violate 40 C.F.R. Part 64 – Compliance Assurance

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Monitoring.

7. On April 24, 2017, Respondent submitted a SAM for the reporting period of April 1, 2016 through March 31, 2017. The SAM reported the same two periods of temperature data recorder downtime as the previously identified in the SAM submitted on October 28, 2016.

8. On October 13, 2017, Respondent submitted a SAM for the reporting period of October 1, 2016 through September 30, 2017. The SAM reported one period of temperature data recorder downtime in which the temperature records for SN-07 were not maintained during the reporting period. Such failure violates General Provision 6 of Permits R7 and R8 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failure also violates 40 C.F.R. Part 64 – Compliance Assurance Monitoring.

9. On April 26, 2018, Respondent submitted a SAM for the reporting period of April 1, 2017 through March 31, 2018. The SAM reported three (3) periods of temperature data recorder downtime during the reporting period. One of the periods was previously reported in the SAM submitted on October 13, 2017. The other two periods of temperature data recorder downtime reported were at SN-06 and at SN-07. Such failures violate General Provision 6 of Permits R7 and R8 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also violate 40 C.F.R. Part 64 – Compliance Assurance Monitoring.

10. On July 26, 2018, ADEQ personnel conducted a full compliance inspection of Respondent's facility for the reporting period of May 2017 through June 2018.

11. During the inspection, and subsequent review of the previously submitted SAMs it was determined that Respondent had failed to maintain records of the exhaust gas temperature

readings for SN-06 and SN-07 for five (5) years as required by 40 C.F.R. Part 64 – Compliance Assurance Monitoring and General Provision 6 of Permit R7 and R8. Such failures violate General Provision 6 of Permits R7 and R8 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also violate 40 C.F.R. Part 64 – Compliance Assurance Monitoring.

12. In a letter dated September 18, 2018, ADEQ informed Respondent of the compliance issues identified in the inspection conducted on July 26, 2018. This letter included areas of concern for the Respondent not maintaining records of the exhaust temperature during periods of downtime for the temperature data recorders on SN-06 and N-07. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deems appropriate.

13. On October 17, 2018, Respondent submitted a response to the September 18, 2018 letter. Respondent stated, in part, that monitoring of the inlet catalyst temperature was conducted during the periods of downtime by the programmable logic controller (PLC), although one-hour measurements of catalyst inlet temperature were not available. In addition, Respondent stated that to prevent future occurrences, the facility has identified and is planning to upgrade the Continuous Parameter Monitoring System (CPMS) at the facility.

14. On February 8, 2019, Respondent submitted a letter to ADEQ. The letter stated that on January 31, 2019, Respondent began installing the CPMS upgrades at the facility.

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and ADEQ do hereby agree and stipulate as follows:

1. This CAO addresses all violations contained in the FINDING S OF FACT.
2. In compromise and full settlement for instances of noncompliance specified in the

FINDINGS OF FACT, Respondent agrees to pay the sum of **NINE HUNDRED THIRTY-SEVEN DOLLARS AND FIFTY CENTS (\$937.50)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

ADEQ, 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 associated with collection.

3. All applicable submissions required by this CAO are subject to approval by ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

4. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | |
|--|----------------|
| (a) First day through the fourteenth day: | \$100 per day |
| (b) Fifteenth day through the thirtieth day: | \$500 per day |
| (c) More than thirty days: | \$1000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of ADEQ's demand to Respondent for such penalties. 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 its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

5. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, 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 due dates have passed. 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.

6. ADEQ may grant an extension of any provision of this CAO, 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 ADEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

7. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) calendar days after public notice

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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.

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

9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO be deemed in any way to relieve Respondent of responsibilities contained in the permit.

10. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of the responsibilities for obtaining any necessary permits.

11. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than a Managing Member of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

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SO ORDERED THIS 17 DAY OF May, 2019.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

ENABLE MISSISSIPPI RIVER TRANSMISSION, LLC
- FOUNTAIN HILL COMPRESSOR STATION

BY: Cary D. Watson (Signature)

CARY D. WATSON (Typed or printed name)

TITLE: VICE PRESIDENT - SAFETY, ENVIRONMENTAL AND TECHNICAL PROGRAMS

DATE: 5/16/19

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