

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 35-00025

LIS No. 20-176

PLANTERS COTTON OIL MILL, INC.
2901 PLANTERS DRIVE
PINE BLUFF, AR 71601

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 Planters Cotton Oil Mill, Inc. (Respondent) and the Director of the Division of Environmental Quality¹ (DEQ), 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 cooperative cottonseed oil mill located at 2901 Planters Drive in Pine Bluff, Jefferson County, Arkansas.

2. The Air Permit referenced in this CAO is 1427-AOP-R16 (the Permit). It was

¹Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Arkansas Department of Energy and Environment.

issued on June 18, 2018.

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 or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

4. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this chapter and rules, permits, or plans issued pursuant to this chapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.”

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 September 4, 2019, DEQ personnel conducted a routine compliance inspection of Respondent’s facility for the reporting period of August 1, 2017 through July 31, 2019.

7. In correspondence dated September 10, 2019, DEQ informed Respondent of the compliance issues identified during the September 4, 2019 compliance inspection. This was intended to provide Respondent with the opportunity to review the violations and submit information Respondent deemed appropriate regarding the compliance issues.

8. In correspondence dated October 2, 2019, Respondent replied to DEQ’s September 10, 2019 correspondence regarding the compliance issues that were identified during the recent compliance inspection. In its correspondence, Respondent failed to provide

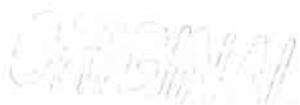
information appropriate to demonstrate compliance with Specific Conditions 54 and 57, Specific Conditions 107 and 109, and Plantwide Condition 13 of the Permit. The revised Annual Compliance Certification (ACC) reports received after the incomplete ACC report that was submitted on August 6, 2019, satisfied the noncompliance ACC reporting issues associated with Specific Condition 114 and General Provision 21 of the Permit.

9. In correspondence dated December 9, 2019, DEQ informed Respondent that the unresolved noncompliance issues were proceeding through formal enforcement channels.

10. In correspondence dated January 29, 2020, Respondent responded to the noncompliance issues noted in DEQ's December 9, 2019 formal enforcement correspondence (the Response) and requested DEQ to consider the response as mitigating factors.

11. Specific Condition 54 of the Permit pertains to two 20.92 MMBtu/hr boilers identified as SN-44 and SN-45. This condition requires Respondent to meet the work practice standards of Table 3 of 40 C.F.R. Part 63, Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants: Industrial, Commercial, and Institutional Boilers and Process Heaters (Boiler MACT). Specifically, boilers and process heaters in the units designed to burn gas 1 fuels subcategory with a heat input capacity greater than 10 MMBtu/hr must complete a tune-up every year. Item three (3) of Table 3 requires Respondent to conduct annual tune-ups on its boilers, SN-44 and SN-45.

12. Specific Condition 57 of the Permit requires Respondent to conduct annual tune-ups on SN-44 and SN-45 according to 40 C.F.R. § 63.7540(a)(10) of the Boiler MACT. 40 C.F.R. § 63.7515(d) of the Boiler MACT states that each annual tune-up must be conducted no more than thirteen (13) months after the previous tune-up.



13. The inspection revealed that tune-ups on SN-44 and SN-45 were last conducted on October 2, 2017. Based on the work practice standards of Table 3 and 40 C.F.R. § 63.7515(d) of the Boiler MACT, the next annual tune-ups were required no later than November 2, 2018. However, the tune-ups were not conducted until April 9, 2019, approximately five (5) months past their due date. Such failures violate Specific Conditions 54 and 57 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. In the Response, Respondent agreed that the tune-ups were conducted after the due date, but were performed immediately after discovery and no major issues were noted in the tune-up report. The boilers were tuned-up in April 2019 and again in October 2019.

15. Specific Condition 107 of the Permit and Table 2c of 40 C.F.R. Part 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (Subpart ZZZZ) require Respondent to comply with the following requirements for the Emergency Generator (SN-79):

- (a) Change oil and filter every 500 hours of operation or annually.
- (b) Inspect air cleaner every 1000 hours of operation or annually, whichever comes first, and replace as necessary; and
- (c) Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.

These requirements were last conducted on June 12, 2018. Respondent operated SN-79 less than 500 hours over the twelve (12) months following June 12, 2018; therefore, these requirements were to be conducted by June 12, 2019.

16. Specific Condition 108 of the Permit states that at all times, Respondent must be in compliance with the applicable emission limitations and operating limitations of Subpart ZZZZ. Failing to meet the requirements of Specific Condition 107 of the Permit is also a

violation of Specific Condition 108.

17. Specific Condition 109 of the Permit and § 63.6605(b) of Subpart ZZZZ requires Respondent to operate and maintain SN-79 in a manner consistent with safety and good air pollution control practices for minimizing emissions. Failing to meet the requirements of Specific Conditions 107 and 108 of the Permit would also be a violation of Specific Condition 109. Such failures violate Specific Conditions 107, 108, and 109 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

18. In the Response, Respondent stated that the required maintenance inspections were conducted in June 2018 and then again in September 2019, therefore, 2019 maintenance inspections were not performed in time. This permit deviation is reported in the revised ACC report submitted on January 29, 2020.

19. Plantwide Condition 13 of the Permit states that if the compliance ratio is less than or equal to 1.00, the facility was in compliance with the HAP emission requirements for the previous operating month.

20. A review was conducted of Table 3 - Compliance Determination and Status Log, of the revised Semi-Annual Monitoring report that Respondent submitted on August 30, 2019. The review revealed that Respondent failed to meet the compliance ratio of equal to or less than 1.00 for the months of May, June, and July of 2019.

21. In the Response, Respondent stated that it agreed that the compliance ratio was exceeded for the months of May through July 2019. Respondent also reported that it had failed to meet the compliance ratio of equal to or less than 1.00 for the months of August through December of 2019 and requested that these exceedances be addressed through this CAO. Such

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failures violate Plantwide Condition 13 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. See table below for a summary of compliance ratio exceedances during the months of May through December of 2019.

TABLE - Compliance Ratio Exceedances, May 2019 – December 2019		
Month/2019	Compliance Ratio Limit	Compliance Ratio
May	1.00	1.16
Jun.	1.00	1.11
Jul.	1.00	1.09
Aug.	1.00	1.06
Sept.	1.00	1.15
Oct.	1.00	1.22
Nov.	1.00	1.14
Dec.	1.00	1.12
Note: Compliance ratio data was obtained from Respondent's monthly NESHAP Subpart GGGG Deviation Notification Reports.		

ORDER AND AGREEMENT

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

1. Within fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit a compliance action plan that is subject to DEQ approval to address the continued exceedances of the compliance ratio, as referenced in paragraphs 20 and 21 of the FINDINGS OF FACT of this CAO. The plan shall describe the issues that are contributing to the higher actual solvent losses and their affect on compliance ratio exceedances. The plan shall describe the corrective actions to be taken and the planned implementation by Respondent of the corrective actions to comply with the compliance ratio of less than or equal to 1.00. The requirements of this paragraph shall be met upon issuance of a letter by DEQ approving this compliance action

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plan.

2. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **SEVEN THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$7,740.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

DEQ, 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, DEQ shall be entitled to attorneys' fees and costs associated with collection.

3. All applicable submissions required by this CAO are subject to approval by DEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ, submit any additional information requested. Failure to respond adequately 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 this CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to DEQ 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 DEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in

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scheduled performance and shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with the requirements of this CAO. DEQ 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 DEQ 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. DEQ 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 DEQ 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

of the CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) 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. Except as specifically provided herein, nothing contained in this CAO shall 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 DEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO neither exonerates Respondent from any past, present, or future conduct that is not expressly addressed herein, nor relieves 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 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 that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 8th DAY OF October, 2020.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

PLANTERS COTTON OIL MILL, INC.

BY: J. C. Fricke (Signature)

JOHN C. FRICKE (Typed or printed name)

TITLE: PRES

DATE: 9/17/20