

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

IN THE MATTER OF:

AFIN: 15-00604

LIS No. 21-110

DeSOTO GATHERING COMPANY, LLC  
-SOUTH BROWNIE CPF 2  
#1 CEDAR BRANCH ROAD  
HATTIEVILLE, AR 72063

**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, and APC&EC Regulation 19.

The issues herein having been settled by agreement of DeSoto Gathering Company, LLC – South Brownie CPF 2 (Respondent) and the Director of the Division of Environmental Quality<sup>1</sup> (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 natural gas compression station located at #1 Cedar Branch Road in Hattievville, Conway County, Arkansas.

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<sup>1</sup> Pursuant 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.

2. The Air Permit referenced in this CAO is Tracking No.1868-AGP-236, which indicates authority to operate under the General Air Permit for Minor Source Natural Gas Compressor Stations (the Permit). The Permit was issued on June 25, 2009.

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 December 15, 2020, DEQ personnel performed a compliance inspection of Respondent’s facility. The inspection covered the reporting period of December 2019 through November 2020.

7. Respondent’s facility is subject to the provisions of 40 C.F.R. § 63 Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (Subpart ZZZZ).

8. Subpart ZZZZ requires Respondent to change the oil and filter on each engine every 500 hours of operation or annually, whichever comes first; inspect air cleaner on each

engine every 1,000 hours of operation or annually, whichever comes first, and replace as necessary; and inspect all hoses and belts on each engine every 500 hours of operation or annually, whichever comes first, and replace as necessary.

9. During the inspection, it was found that Respondent failed to conduct the required maintenance on engine 25313766 and engine 25318745 during 2019 and 2020. Respondent could not demonstrate that maintenance had been conducted on the two engines during 2019 and 2020. Such a failure violates Specific Condition 17 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304, as well as Subpart ZZZZ.

10. In a letter dated January 14, 2021, DEQ personnel notified Respondent of the violations found during the December 2020 inspection. This letter was intended to provide Respondent with the opportunity to review the violations to Specific Condition 17 and Subpart ZZZZ and submit any additional information Respondent deemed appropriate.

11. In a response dated February 19, 2021, Respondent provided that engine 25318745 was in operation. It had been added to the preventative maintenance internal tracking system and was on schedule for preventative maintenance in 2021. Respondent also provided that engine 25313766 had not been in use and was being used for spare parts. However, Respondent could not demonstrate that the engine had been out of operation for the inspection period.

12. In an emailed correspondence dated April 6, 2021, DEQ personnel informed Respondent that the violations found during the inspection were routing through formal enforcement channels.

## 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. This CAO addresses all violations referenced in the Findings of Fact.
2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **FOUR THOUSAND EIGHT HUNDRED DOLLARS (\$4,800.00)**, or one-half of the penalty, **TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00)** if this CAO is signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **October 28, 2021**. 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 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 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.

SO ORDERED THIS 20TH DAY OF OCTOBER, 2021.

  
JULIE LINCK, CHIEF ADMINISTRATOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

DeSOTO GATHERING COMPANY, LLC  
-SOUTH BROWNIE CPF 2

BY:  (Signature)

JEREMY R. FITZPATRICK (Typed or printed name)

TITLE: VICE PRESIDENT

DATE: 10/5/2021

