

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

IN THE MATTER OF:

AFIN: 70-00016

LIS No. 21-133

LION OIL COMPANY, LLC  
1000 McHENRY DRIVE  
EL DORADO, AR 71730

**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 and APC&EC Regulation 26.

The issues herein having been settled by agreement of Lion Oil Company, LLC (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 petroleum refinery located at 1000 McHenry Drive in El Dorado, Union County, Arkansas.
2. This CAO references seven (7) Air Operating Permits. 0868-AOP-R11 (Permit

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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.

R11) was issued on November 10, 2016, and voided on January 23, 2017. 0868-AOP-R12 (Permit R12) was issued on January 23, 2017, and voided on April 20, 2017. 0868-AOP-R13 (Permit R13) was issued on April 20, 2017, and voided on August 16, 2018. 0868-AOP-R14 (Permit R14) was issued on August 16, 2018, and voided on February 28, 2019. 0868-AOP-R15 (Permit R15) was issued on February 28, 2019, and voided on February 7, 2020. 0868-AOP-R16 (Permit R16) was issued on February 7, 2020, and voided on May 19, 2020. 0868-AOP-R17 (Permit R17) was issued on May 19, 2020, and voided on December 1, 2020.

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.”

### **AUGUST 3, 2018 INSPECTION FINDINGS**

6. On January 30, 2018, Respondent submitted a 2017 Annual Compliance Certification (ACC) to DEQ personnel for review. The report covered the reporting period of January 1, 2017 through December 31, 2017.

7. On August 3, 2018, DEQ personnel performed a full compliance inspection of Respondent's facility. The inspection covered the reporting period of July 2017 through June 2018.

8. On April 30, 2018, Respondent submitted a Continuous Emission Monitoring System (CEMS) Excess Emissions Report (EER) for the 1<sup>st</sup> Quarter of 2018 (1Q2018) to DEQ personnel for review. The 1Q2018 EER covered the reporting period of January 1, 2018 through March 31, 2018.

9. On July 30, 2018, Respondent submitted a CEMS EER for the 2<sup>nd</sup> Quarter of 2018 (2Q2018) to DEQ personnel for review. The 2Q2018 EER covered the reporting period of April 1, 2018 through June 30, 2018.

10. Based on the records reviewed in the 2017 ACC Report dated January 30, 2018, 1Q2018 and 2Q2018 EERs, and the August 3, 2018 inspection, the violations in Table I were noted.

Table I		
Condition	Source Number	Violation
FHR 8	SN-811 (#9 Platformer Heater)	According to the 1Q2018 and 2Q2018 EERs, source SN-811 exceeded the NO <sub>x</sub> 0.045 lb/MMBtu on a 3-hour average limit on 29 occasions. There were a total of two (2) deviations reported in which excess emissions exceeded 5% for the quarter of monitored downtime. Respondent reported 16,560 minutes of excess emissions, equating to 12.78% in the 1Q2018 report and reported 9,960 minutes of excess emissions, equating to 7.65% in the 2Q2018.
FHR 8	SN-804 (#4 Atmospheric Furnace)	According to the ACC Report and Inspection Report, the NO <sub>x</sub> 3-hr 0.045 lb/MMBtu limit was exceeded at SN-804. There were six (6) deviations of NO <sub>x</sub> emissions reported during four (4) months in the year 2017. They were April, June, August and October.

Condition	Source Number	Violation
FLA 1	SN-822 and SN-823 (High Pressure Flare and Low Pressure Flare)	According to the ACC Report and Inspection Report, there were 141 deviations in which the SO <sub>2</sub> and H <sub>2</sub> S limits were exceeded in the year 2017 (12 months) and 8 deviations for January 2018 (1 month). The limit for SO <sub>2</sub> is 484 lb/day and 0.1 lb/day for H <sub>2</sub> S. Compliance with this condition is demonstrated by operation of the flare gas recovery system; however, there were instances of excess flaring events at sources SN-822 and SN-823.
ENG 22 and Subpart JJJJ	SN-867 (OCC Generator)	According to the ACC Report and Inspection Report, SN-867 exceeded the 100 hours per calendar year limit beginning in April 2017 (8 months). A review of records for 2018 revealed SN-867 exceeded the 100 hours per calendar year limit again beginning in March 2018 (9 months). Records indicated that operation of SN-867 continued after exceeding the annual hourly limit. This deviation is also a violation of 40 CFR Part 60, Subpart JJJJ.

The violation of Condition ENG 22 is also a violation of 40 CFR Part 60, Subpart JJJJ- Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. Subpart JJJJ requires Respondent to operate SN-867 for a maximum of 100 hours per calendar year, but allows for emergency and non-emergency use, with no more than 50 hours being non-emergency situations. Such acts violate Conditions FHR 8, FLA 1, and ENG 22 of Permits R11, R12, and R13 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304 and Subpart JJJJ.

11. In a letter dated September 19, 2018, DEQ notified Respondent of the violations found in the ACC Report, the 1Q2018 and 2Q2018 EERs, and the inspection report. This was intended to provide Respondent with the opportunity to review the violations and submit additional information deemed appropriate regarding the areas of non-compliance.

12. In correspondence dated December 3, 2018, Respondent addressed the violations noted in the September 19, 2018 letter from DEQ. The correspondence referred to previously submitted reports and documentation to explain causes and corrective actions for the deviations noted. Respondent provided that at SN-811, the 3<sup>rd</sup> quarter EER for 2018 did not show an exceedance of the NO<sub>x</sub> 0.045 lb/MMBtu limit in condition FHR 8. Respondent also provided that an evaluation of operations at SN-867 was being conducted with consideration of permitting the source as a non-emergency engine.

13. On January 31, 2019, DEQ sent Respondent a letter notifying Respondent that the violations were routing through formal enforcement.

14. On April 25, 2019, DEQ met with Respondent to discuss formal enforcement proceedings.

15. In an email dated April 30, 2019, DEQ personnel requested additional information to be considered under the formal enforcement actions. This additional information included records with actual instances of excess flaring for the years 2017 and 2018, and weather data for the 1Q2018.

16. In a response dated May 3, 2019, Respondent provided additional information as requested by DEQ.

17. In a letter dated March 13, 2020, Respondent provided a response to the proposed CAO, dated January 9, 2020. In the response Respondent detailed improvements to operations in hopes of preventing the likelihood of future emission exceedances from the noncompliant sources. Respondent also requested that the penalty be reduced due to the corrective actions implemented at the facility.

18. In a response dated October 22, 2020, Respondent provided a counteroffer penalty to the re-proposed CAO that was dated October 8, 2020. The penalty counteroffer included explanations for each violation reduction based on Respondent's viewpoint.

#### **JULY 27, 2020 INSPECTION FINDINGS**

19. On July 27, 2020, DEQ personnel performed a full compliance inspection of Respondent's facility for the reporting period of July 1, 2019, through June 30, 2020. The inspection included the review of records and reports applicable to the reporting period.

20. Specific Condition FCCU 5 of Permits R15, R16, and R17 require Respondent to maintain and operate a NO<sub>x</sub> Continuous Emission Monitoring Systems (CEMS) to monitor performance of the FCCU (SN-809), and subsequently, the Lo Tox System, SO<sub>2</sub>, CO, and O<sub>2</sub>. The CEMS shall be operated in accordance with DEQ's CEMS Conditions, §60.13 and appendices A, B, and F.

21. Section II(E) of DEQ's CEMS Conditions requires that all CEMS shall be in continuous operation and shall meet minimum frequency of operation requirements of 95% up-time for each quarter for each pollutant measured. Failure to maintain operation time shall constitute a violation of the CEMS conditions.

22. On January 30, 2020, DEQ received Respondent's Continuous Emission Monitoring Systems (CEMS)/Continuous Parameter Monitoring System (CPMS) Quarterly Report (Fourth Quarter Report – 2019). The reporting period dates were from October 1, 2019 through December 31, 2019. The total operating time in this reporting period was 2,208 hours.

23. The inspection revealed that Respondent failed to meet the minimum frequency of operation requirements of 95% up-time for the fourth quarter of 2019 for NO<sub>x</sub>, SO<sub>2</sub>, CO, and O<sub>2</sub>

at SN-809, which is presented in Table II below. Such failure violates Specific Condition FCCU 5 of Permits R15, R16, and R17 and Section II(E) of DEQ's CEMS Conditions and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

Table II: Fourth Quarter Report – 2019, Up-Time at SN-809				
Emission Measured	Down-time (hours)	Total Operating Time (hours)	Up-time Required (percent)	Up-time Recorded (percent)
NO <sub>x</sub>	320	2,208	95.0%	<b>85.55%</b>
SO <sub>2</sub>	324	2,208	95.0%	<b>85.37%</b>
CO	320	2,208	95.0%	<b>85.55%</b>
O <sub>2</sub>	320	2,208	95.0%	<b>85.55%</b>

24. In correspondence dated October 2, 2020, Respondent stated that the down-time at SN-809 was related to a leaking isolation valve that allowed ambient oxygen into the sample going to the analyzer. A new valve was installed; thus, eliminating the monitor down-time.

25. Specific Condition ENG 5 states that Respondent shall not operate the emergency generator SN-870 in excess of 500 total hours (emergency and non-emergency) per calendar year in order to demonstrate compliance with the annual emission rate limits.

26. On February 3, 2020, DEQ received Respondent's Semi-Annual Monitoring (SAM) report covering the reporting period of January 1, 2019 through December 31, 2019. The SAM report included the hours that SN-870 was operated during the 2019 calendar year.

27. The inspection revealed, as presented in the Generator Engine Hours of Operation portion of the SAM report for 2019, Respondent operated SN-870 a total of 1,223 hours during the 2019 calendar year; thus, exceeding the 500 total hours that the engine is allowed to be operated during any calendar year. Such act violates Specific Condition ENG 5 of Permits R15, R16, and R17 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

28. In correspondence dated October 2, 2020, Respondent stated that SN-870 was operated in emergency service after September 23, 2019, to provide firewater service for the refinery while the electric firewater pump was out of service for maintenance. A new emergency firewater pump was installed in December 2019 bringing the emergency usage to an end.

29. Specific Condition ENG 17 states that Respondent must not operate either SN-870 or SN-871 more than 100 hours per calendar year for the purposes of maintenance checks and readiness testing. Respondent may use either SN-870 or SN-871 for non-emergency purposes for no more than 50 hours per calendar year. Those 50 hours must be included in the 100 hours allowed for maintenance and readiness.

30. SN-870 and SN-871 are two 800 hp diesel-fired emergency fire pump engines subject 40 C.F.R. § 60 Subpart III — Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (Subpart III).

31. Subpart III § 60.4214(b) requires the owner or operator to keep records of the operation of the engine(s) in emergency and non-emergency service that are recorded through the non-resettable hour meter. The owner must record the time of operation of the engine and the reason the engine was in operation during that time.

32. The inspection revealed that Respondent failed to maintain records of the operation of the engine in emergency service, non-emergency service, maintenance checks, and readiness testing. Therefore, a determination of compliance with Specific Condition ENG 17 could not be made. Such act violates Specific Condition ENG 17 of Permits R15, R16, and R17 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such act also violates Subpart III § 60.4214(b).



33. In correspondence dated August 19, 2020, DEQ informed Respondent of the compliance issues identified during the inspection that was conducted on July 27, 2020. This was intended to provide Respondent with the opportunity to review the violations and submit additional information deemed appropriate regarding the areas of non-compliance.

34. In correspondence dated January 4, 2021, DEQ informed Respondent that formal enforcement action was proceeding in this matter.

35. On August 19, 2021, DEQ mailed a proposed CAO to Respondent containing violations found during the 2018 and 2020 compliance inspections.

36. In a response dated September 17, 2021, to the proposed CAO, Respondent provided the following:

- a. In regards to findings in Paragraph 1 for SN-867, Respondent stated that SN-867 ran approximately 37 hours in the year 2019 and 9.9 hours in the year 2020 and has maintained full compliance since the documented findings in Table 1.
- b. In regards to findings in Paragraph 10 for SN-822 and SN-823, Respondent stated that after an extensive evaluation of each HP and LP flaring events the correct number of deviations at FLA 1 should be 26 deviations. Respondent stated that the remaining flaring events during the identified periods occurred under startup, shutdown, upset, or malfunction conditions.
- c. In regards to findings in Paragraph 10 for FLA 1, Respondent requested the revision to the H<sub>2</sub>S reference of “0.1 pound per day (lb/day)” to “0.1 grains per dry standard cubic feet (gr/dscf)” as referenced in Table 1.

d. In regards to findings in Paragraph 27 for SN-870, Respondent states compliance systems have been updated to document engine operations in emergency service, non-emergency service, maintenance checks, and readiness testing to determine compliance with Title V Specific Condition ENG-17 and will document accordingly in future Title V Semi-Annual Monitoring Reports.

37. On October 5, 2021, DEQ emailed the penalty worksheets for the 2020 inspection findings to Respondent. In review of the penalty worksheets, Respondent requested a penalty reduction be considered under cooperation since the compliance systems to document engine operations in emergency service, non-emergency service, maintenance checks, and readiness testing was updated at SN-870.

### **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 thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a revised ACC Report for the year 2017 to reflect the correct in the number of deviations that occurred at source FLA 1 for SN-822 and SN-823.

2. Submittal of the information shall be mailed to:

DEQ, Office of Air Quality  
Compliance Branch  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317.

3. In compromise and full settlement for instances of noncompliance specified in the

FINDINGS OF FACT, Respondent agrees to pay the sum of **SIXTEEN THOUSAND TWO HUNDRED TWENTY DOLLARS (\$16,220.00)**. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 13TH DAY OF DECEMBER, 2021.

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

APPROVED AS TO FORM AND CONTENT:

LION OIL COMPANY, LLC

BY: Michael Reed (Signature)

MICHAEL J. REED (Typed or printed name)

TITLE: VP/GENERAL MANAGER EL DORADO REF.

DATE: 12/1/21

[Signature] Signature

TOJO M LOPEZ Printed

Title: VP HEALTH SAFETY AND ENVIRONMENTAL

Date: 12/3/21

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