

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

IN THE MATTER OF:

AFIN: 22-00392

LIS No. 22-045

ENVIRAPAC MONTICELLO, LLC  
346 FIRING RANGE ROAD  
MONTICELLO, ARKANSAS 71655

**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 EnviraPAC Monticello, 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 powdered activated carbon facility located at 346 Firing Range Road in Monticello, Drew County, Arkansas.
2. The Air Permit referenced in this CAO is 2361-AR-1 (the Permit). The 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.

was issued on February 1, 2017.

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 2, 2021, DEQ received a complaint of ash from carbon waste at Respondent’s facility covering adjacent properties.

7. On September 9, 2021, DEQ personnel conducted an investigation into the complaint. During the investigation, it was observed that the complainant’s property, including car and canopy, was covered in ash from carbon waste. Further, during a site visit at the facility, the ash from carbon waste was observed on the ground in various locations around the Respondent’s facility.

8. On September 9 and 23, 2021, DEQ personnel conducted a full compliance inspection of Respondent’s facility.

9. Specific Condition 4 of the Permit states that the permittee shall not cause or

permit the emission of air contaminants, including odors or water vapor and including an air contaminant whose emission is not otherwise prohibited by Regulation 18, if the emission of the air contaminant constitutes air pollution within the meaning of Ark. Code Ann. § 8-4-303.

10. Specific Condition 5 of the Permit states that the permittee shall not conduct operations in such a manner as to unnecessarily cause air contaminants and other pollutants to become airborne.

11. During the investigation and subsequent inspection, it was discovered that Respondent caused or permitted air contaminants (particulate matter in the form of ash from carbon waste) to become airborne. Such act violates Specific Condition 4 and 5 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. Specific Condition 9 of the Permit states that the permittee shall test the Thermal Combustor (SN-07) for NO<sub>x</sub> using EPA Method 7E, for CO using EPA Method 10, and VOC using EPA Method 25A. This test shall take place within sixty (60) days of achieving the earlier of the maximum production rate after Phase II construction or 24 months following initial startup of Phase I in accordance with General Condition #7.

13. During the inspections, it was discovered that Respondent had failed to conduct emissions testing at SN-07 within 24 months of startup. The startup dated for Phase 1 was October 26, 2018. SN-07 was required to be tested no later than October 26, 2020. Such failure violates Specific Condition 9 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. Specific Condition 11 of the Permit states that to demonstrate compliance with Specific Condition 10, the permittee shall set and maintain a temperature controller and it will be connected to the thermocouple located in the exit of the combustion chamber of the thermal

combustor and shall operate a continuous chart recorder to record the measured temperature.

15. During the inspection, it was discovered that Respondent failed to install a continuous chart recorder to record the measured temperature of the combustion chamber of SN-07. Such failure violates Specific Condition 11 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failure also inhibits DEQ's ability to determine compliance with Specific Condition 10 of the Permit.

16. APC&EC Regulation 18.301 states, in part, that no person shall cause or permit the operation, construction, or modification of a stationary source without first obtaining a permit from the Department.

17. During the inspection, it was discovered that Respondent installed and operated seven (7) unpermitted sources at the facility prior to having the sources added to the Permit. The unpermitted sources included a sawdust waste storage pile, a natural gas fired emergency generator, carbon grinding mill controlled by two baghouses, truck and tote load out controlled by a dust collector, a dust collector at the reject tote loading, and a bag loading building with inside dust collectors. Such act violates APC&EC Regulation 18.301 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

18. In a letter dated September 29, 2021, DEQ informed Respondent of the compliance issues identified in the inspections conducted on September 9 and 23, 2021. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deems appropriate.

19. On October 29, 2021, Respondent submitted a response to the September 29, 2021 letter and provided the following information:

A. Regarding the violations outlined in Paragraph 11 of the Findings of Fact,

Respondent stated that the facility had developed a new Dust Management Plan and included a copy of the new plan with the response letter.

B. Regarding the violations outlined in Paragraph 13 of the Findings of Fact, Respondent stated that the facility has contracted with an emissions testing company and plans to test SN-07 during the next production run scheduled after January 1, 2022, when the facility restarts operations.

C. Regarding the violations outlined in Paragraph 15 of the Findings of Fact, Respondent stated that the facility has purchased (September 15, 2021) and installed (October 8, 2021) a Monarch Paperless Recorder. It is currently recording the required thermocouple output from SN-07. With the facility currently not operating, this temperature value has been displaying average ambient temperatures, though it is capable of reading up to 2498°F which is well above the 1562°F required in Specific Condition 10.

D. Regarding the violations outlined in Paragraph 17 of the Findings of Fact, Respondent stated that the facility will address new and removed emission sources in a permit revision.

20. On December 2, 2021, DEQ sent Respondent a formal enforcement letter for the compliance issues discovered during the September 9 and 23, 2021 compliance inspections.

21. On January 24, 2022, Respondent submitted a permit modification application to DEQ to add the seven (7) unpermitted sources to the Permit.

22. On January 26, 2022, the permit modification application was deemed administratively complete.

## 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, if they have not done so prior to the execution of this document, conduct emissions testing at SN-07 for NO<sub>x</sub>, CO, and VOCs in accordance with Specific Condition 9 of the Permit. If the facility is not in operation, then the emissions testing is to be conducted within thirty (30) calendar days of the re-start of operations at the facility.

2. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall, if they have not done so prior to the execution of this document, submit the emissions test results to DEQ for the emissions testing of SN-07. If the facility is not in operation, then the test results shall be submitted to DEQ within thirty (30) calendar days of the completion of the emissions testing.

3. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **ELEVEN THOUSAND THREE HUNDRED FORTY DOLLARS (\$11,340.00)**, or one-half of the penalty, **FIVE THOUSAND SIX HUNDRED SEVENTY DOLLARS (\$5,670.00)** 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 **April 18, 2022**. 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 said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 26th DAY OF April, 2022.

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

APPROVED AS TO FORM AND CONTENT:

ENVIRAPAC MONTICELLO, LLC

BY:  (Signature)  
JOHN W. REESE (Typed or printed name)

TITLE: GENERAL MGR & COO

DATE: 4/8/22