

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

IN THE MATTER OF:

AFIN: 19-00006
RICELAND FOODS, INC.
-PARKIN FACILITY
HIGHWAY 64 EAST
PARKIN, AR 72160

LIS No. 22-058

AFIN: 19-00008
RICELAND FOODS, INC.
-HICKORY RIDGE FACILITY
210 SOUTH FRONT STREET
HICKORY RIDGE, AR 72347

AFIN: 62-00012
RICELAND FOODS, INC.
-WHEATLEY FACILITY
133 DENNIS STREET
WHEATLEY, AR 72392

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) Rule 7, APC&EC Rule 8, APC&EC Rule 18, and APC&EC Rule 19.

The issues herein having been settled by agreement of Riceland Foods, Inc. – Parkin, Hickory Ridge, and Wheatley facilities (Respondent) and the Director of the Division of Environmental Quality¹ (DEQ), it is hereby agreed and stipulated that the following FINDINGS

¹ 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.

OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent owns and operates three (3) grain processing plants. The Parkin facility is located at Highway 64 East in Parkin, Cross County, Arkansas. The Hickory Ridge facility is located at 210 South Front Street in Hickory Ridge, Cross County, Arkansas. The Wheatley facility is located at 133 Dennis Street in Wheatley, St. Francis County, Arkansas.

2. The air permit issued to the Parkin facility as referenced in this CAO is 1608-AR-4 (Parkin Permit). The permit was issued on March 30, 2016.

3. The air permit issued to the Hickory Ridge facility as referenced in this CAO is 0476-AR-3 (Hickory Ridge Permit). The permit was issued on July 24, 2009.

4. The air permit issued to the Wheatley facility as referenced in this CAO is 0478-AR-14 (Wheatley Permit). The permit was issued on February 20, 2018.

5. 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 Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

6. 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.”

7. 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.”

Parkin Facility

8. Specific Condition 5 of the Parkin Permit provides that Respondent shall not conduct operations in such a manner as to unnecessarily cause air contaminants and other pollutants to become airborne.

9. General Condition 16 of the Parkin Permit provides that only those pollutant emitting activities addressed in the permit are authorized.

10. APC&EC Rule 18.301 provides that no person shall cause or permit the operation, construction, or modification of a stationary source without first obtaining a permit.

11. APC&EC Rule 18.602 provides that no person shall cause or permit the open burning of refuse, garbage, trade waste, or other waste material, or shall conduct a salvage operation by open burning.

12. On November 5, 2020, DEQ personnel conducted a compliance inspection of the Parkin facility for the inspection review period of October 1, 2017, through October 31, 2020.

13. During the inspection, DEQ personnel observed that Respondent was operating a grain waste storage operation at its facility without first obtaining a permit. Several piles of grain waste were openly stored on the west end of the facility. Storing these piles in the open and uncovered allows for grain waste to become airborne and is a pollutant emitting activity that is not addressed in the Parkin Permit. Such acts violate Specific Condition 5 and General Condition 16 of the Parkin Permit and APC&EC Rule 18.301 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. Respondent stated that their trash truck had been inoperable since November 1, 2020, and that once it was repaired, they would remove the piles. Respondent’s Plant Manager

also stated that there were piles of grain waste already on site when he took over as manager in July 2020.

15. Some of the piles of grain waste were burning. Respondent stated that these piles had started smoldering in August 2020 presumably by spontaneous combustion. Smoke, which contains air pollutants, was seen rising above the burning piles. Such act violates APC&EC Rule 18.602 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

16. In correspondence dated November 16, 2020, DEQ informed Respondent of the compliance issues identified during the November 5, 2020 compliance inspection of the facility. This was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

17. In correspondence dated December 14, 2020, Respondent stated that under normal circumstances, the facility hauls grain waste to a neighboring landowner, where it is managed/land applied. Respondent also stated that it is not its intent to have piles linger and especially smolder, and that most of the piles have been spread and the rest will be done when it dries up some more. The trash truck is currently up and running.

18. Respondent also stated that the facility will make every possible attempt to avoid dumping grain waste on site. In the event of a trash truck breakdown, the facility will make other arrangements to haul the waste off site. The smoldering grain piles have been extinguished and spread.

19. In correspondence dated January 15, 2021, DEQ informed Respondent that formal enforcement action was proceeding in the matter pertaining to the violations identified during the

inspection of Respondent's Parkin facility on November 5, 2020.

20. On April 5, 2022, Respondent submitted an application for an administrative amendment to add the grain waste activities as an insignificant activity, including documentation that all grain waste piles that were not included in the application were removed.

21. In correspondence dated April 21, 2022, DEQ informed Respondent that the administrative amendment to add grain waste activities as insignificant activities was approved.

Hickory Ridge Facility

22. Specific Condition 5 of the Hickory Ridge Permit provides that Respondent shall not conduct operations in such a manner as to unnecessarily cause air contaminants and other pollutants to become airborne.

23. General Condition 16 of the Hickory Ridge Permit provides that only those pollutant emitting activities addressed in the permit are authorized.

24. APC&EC Rule 18.301 provides that no person shall cause or permit the operation, construction, or modification of a stationary source without first obtaining a permit.

25. On November 5, 2020, DEQ personnel conducted a compliance inspection of the Hickory Ridge facility for the inspection review period of August 1, 2018, through October 31, 2020.

26. During the inspection, DEQ personnel observed that Respondent was operating a grain waste storage operation at its facility without first obtaining a permit. Several piles of grain waste were openly stored at the entrance of the facility. Storing these piles in the open and uncovered allows for grain waste to become airborne. This is a pollutant emitting activity that is not addressed in the Hickory Ridge Permit and is therefore not authorized as indicated by General Condition 16. Such acts violate Specific Condition 5 of the Hickory Ridge Permit and

APC&EC Rule 18.301 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

27. In correspondence dated November 16, 2020, DEQ informed Respondent of the compliance issues identified during the November 5, 2020 compliance inspection of the facility. This was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

28. In correspondence dated January 11, 2021, Respondent stated that the grain waste was removed shortly after the inspection. The facility has an offsite location to take grain waste. Due to wet conditions, the facility was unable to haul to the offsite location and had to temporarily stage the grain waste on site. Respondent stated that other solutions for grain waste disposal were currently under consideration.

29. In correspondence dated February 8, 2021, DEQ informed Respondent that a formal enforcement action was proceeding in the matter pertaining to the violations identified during the inspection of Respondent's Hickory Ridge facility on November 5, 2020.

30. On February 24, 2021, Respondent submitted an administrative amendment permit application requesting DEQ include grain waste loading and unloading activities to its permit. This was in response to the November 5, 2020 compliance inspection in which DEQ personnel observed Respondent operating an unauthorized grain waste storage operation at the Hickory Ridge facility.

31. In correspondence dated March 3, 2021, DEQ informed Respondent that its request to store and handle grain waste at its Hickory Ridge property was approved as an administrative amendment to its permit.

Wheatley Facility

32. Specific Condition 5 of the Wheatley Permit provides that Respondent shall not conduct operations in such a manner as to unnecessarily cause air contaminants and other pollutants to become airborne.

33. General Condition 9 of the Wheatley Permit requires Respondent to maintain in good condition at all times equipment, control apparatus and emission monitoring equipment.

34. General Condition 16 of the Wheatley Permit provides that only those pollutant emitting activities addressed in the permit are authorized.

35. APC&EC Rule 18.301 provides that no person shall cause or permit the operation, construction, or modification of a stationary source without first obtaining a permit.

36. On September 28, 2020, DEQ received a complaint (PDS Complaint Number: 027498) alleging that dust being emitted from Respondent's facility was worse this year than in previous years.

37. On October 1, 2020, in response to the complaint that was received by DEQ on September 28, 2020, DEQ personnel visited the complainant's residence, which is located adjacent to Respondent's Wheatley facility. During the complaint investigation, DEQ personnel observed grain waste and dust on surfaces outside of the complainant's residence, including the roof, lawn, etc.

38. On October 1, 2020, DEQ personnel conducted a compliance inspection of Respondent's facility as part of the complaint investigation. The inspection review period was October 1, 2019, through September 30, 2020.

39. During the inspection, DEQ personnel informed Respondent of the complaint investigation findings. Respondent disclosed that there had been equipment failures that week,

which included the breaking loose of the Unit #7 trash line piping, two electric motors stopped working on the Unit #7 Trash Tank (SN-64) and Unit #7 Hull Tanks (SN-74), and the west bin at SN-64 trash tank was clogged. DEQ personnel determined these equipment failures represent equipment that was not maintained in good condition at all times. Such failures violate General Condition 9 of the Wheatley Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. These equipment failures were believed to have contributed to the grain waste and dust outside of the complainant's residence.

40. During the inspection, DEQ reviewed the facility's Dust Management Plan with Respondent. The Dust Management Plan includes a log report that Respondent is to record all upset conditions and equipment malfunctions on. The Dust Management Plan provides that the log report be kept for five (5) years and will be made available for DEQ's review upon request.

41. The inspection revealed that Respondent had not recorded in the Dust Management Plan log any of the equipment malfunctions that Respondent disclosed had occurred that week.

42. During the inspection, DEQ personnel observed that Respondent was operating a grain waste storage operation at its facility without first obtaining a permit. Several piles of grain waste were openly stored on the south side of the facility. Storing these piles in the open and uncovered allows for grain waste to become airborne and is a pollutant emitting activity that is not addressed in the Wheatley Permit. Such acts violate Specific Condition 5 of the Wheatley Permit and APC&EC Rule 18.301 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. These grain waste piles were believed to have contributed to the general haze observed from the complainant's residence during the complaint investigation.

43. On November 3, 2020, DEQ received a complaint (PDS Complaint Number: 027594) from the same complainant as referenced in paragraph 31 of the FINDINGS OF FACT of this CAO, alleging that dust being emitted from Respondent's facility was so bad that the complainant could hardly see the facility's dryer.

44. On November 5, 2020, DEQ personnel visited the complainant's residence to conduct a complaint investigation. During the investigation, DEQ personnel observed a general haze in the open field between the Wheatley facility and the complainant's property.

45. On November 5, 2020, DEQ personnel conducted a compliance inspection of Respondent's facility as part of the complaint investigation.

44. During the inspection, DEQ personnel informed Respondent of the complaint investigation findings. Respondent disclosed that the filter bags of the upper nuisance dust system (SN-32) and lower nuisance dust system (SN-67) were clogged. Also, the Unit #5 Dump Pits Bagfilter (SN-66) was not working. DEQ personnel determined these equipment failures indicate that the equipment was not maintained in good condition at all times. Such acts violate General Condition 9 of the Wheatley Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. These equipment malfunctions were believed to have contributed to the general haze observed from the complainant's residence.

45. During the inspection, DEQ personnel observed Unit #5 bin's aeration system noticeably emitting particulate matter. Some of the emissions were attributed to the diminished capacity of the unit's nuisance dust bagfilters, but not all. Respondent operated the aeration system, a stationary source, without first obtaining a permit to account for the air contaminant(s) it emitted. Such act violates Specific Condition 5 of the Wheatley Permit and APC&EC Rule 18.301 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. §

8-4-304.

46. In correspondences dated October 21, 2020, and November 16, 2020, DEQ informed Respondent of the compliance issues identified during the complaint investigations and compliance inspections that were conducted at the Wheatley facility on October 1, 2020, and November 5, 2020. These were intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

47. In correspondence dated December 11, 2020, Respondent stated that the soil was too wet to bring in equipment to move the grain waste. Also, grain salvage companies refused to collect the waste because the existing piles were too wet and of no value.

48. Respondent stated that the facility plans to attempt removal of the piles either by renting equipment and hauling the waste offsite themselves, or by contracting the work out. It is the facility's goal to eliminate having to pile up grain waste on site.

49. In correspondence dated January 15, 2021, Respondent stated that the facility is in the process of gathering all the filter bags needed to perform a complete filter replacement in baghouses SN-32, SN-66, and SN-67. This work was expected to be complete by the end of February 2021.

50. In this correspondence, Respondent stated that the facility ran approximately three (3) weeks with the bagfilters not operating properly. The facility calculated that during this period that an estimated amount of 0.3 tons of PM₁₀ might have been emitted under a worst-case scenario.

51. In correspondence dated January 15, 2021, DEQ informed Respondent that formal enforcement action was proceeding in the matter pertaining to the violations identified during

inspections of Respondent's Wheatley facility on October 1, 2020, and November 5, 2020.

52. On March 17, 2021, DEQ received Respondent's administrative amendment permit application requesting DEQ include grain waste loading and unloading activities to its permit. This was in response to the October 1, 2020 compliance inspection in which DEQ personnel observed Respondent operating an unauthorized grain waste storage operation at the Wheatley facility.

53. In correspondence dated June 22, 2021, DEQ informed Respondent that after the review of the permit application, it was determined that the request cannot be processed as an administrative amendment because not all emissions are accounted for and additional requirements are necessary to control fugitive dust emissions.

54. DEQ informed Respondent that complete emissions calculations that include wind erosion from the piles and an updated Dust Management Plan would be needed. Respondent was also informed that the updated fugitive Dust Management Plan would need to be maintained on site, updated as necessary, and should include specific additional actions intended to reduce impacts to the surrounding community.

55. DEQ requested that Respondent submit a complete significant modification application no later than July 9, 2021.

56. On July 27, 2021, Respondent resubmitted an Administrative Amendment application to address the grain waste activities at the Wheatley facility. The application contained the additional emissions calculations requested by DEQ.

57. On March 21, 2022, Respondent submitted a revised Dust Management Plan.

58. In correspondence dated March 30, 2022, DEQ informed Respondent that it had reviewed and approved the Dust Management Plan. Additionally, DEQ requested Respondent

withdraw the administrative amendment submitted on July 27, 2021, and resubmit a revised administrative amendment application that includes the approved Dust Management Plan no later than April 15, 2022.

59. On April 1, 2022, Respondent submitted a revised administrative amendment application requesting DEQ add grain waste piles and the approved Dust Management Plan to its air permit.

60. In correspondence dated April 20, 2022, DEQ informed Respondent that it will institute the changes to the permit documents within sixty (60) days or when a final permit is issued if a modification to the permit is currently under review.

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 contained 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 **SEVEN THOUSAND NINE HUNDRED DOLLARS (\$7,900.00)**. 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 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 Rule 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.

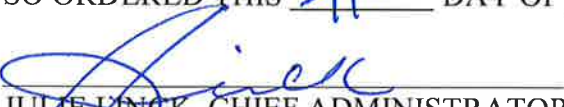
9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws. Except as specifically provided herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.

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 11th DAY OF May, 2022.


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

APPROVED AS TO FORM AND CONTENT:

RICELAND FOODS, INC.
-PARKIN, HICKORY RIDGE, AND WHEATLEY FACILITIES

BY:  (Signature)
Andrew H. Dallas (Typed or printed name)

TITLE: VP- General Counsel & Sec.

DATE: 5/11/22