

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

IN THE MATTER OF:

AFIN: 58-00582

LIS No. 22-077

MAX TAYLOR OIL COMPANY, INC.
807 EAST 28TH STREET
RUSSELLVILLE, ARKANSAS 72802

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 Max Taylor Oil Company, Inc. (Respondent) and the Chief Administrator 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 gasoline bulk plant located at 807 East 28th Street in Russellville, Pope County, Arkansas.
2. The Air Permit referenced in this CAO is the General Air Permit for Minor

Source Gasoline Bulk Plants 2243-AGP-000 (the Permit). Respondent is assigned Tracking No. 2243-AGP-041, which indicates authority to operate under the Permit. The Permit was issued on January 7, 2011, and modified on January 4, 2021.

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 1, 2021, DEQ personnel conducted a full compliance inspection of Respondent’s facility.

7. The inspection covered the reporting period of October 2017 through October 2021.

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

9. APC&EC Rule 18.310(B) provides that sources that would qualify for a general permit must apply to the Department for coverage under the terms of the general permit or must

apply for a permit consistent with this chapter.

10. On April 29, 2020, DEQ sent Respondent a letter stating that the General Air Permit for Minor Source Gasoline Bulk Plants (General Permit) would expire on November 9, 2020. The letter stated that if Respondent decided to continue coverage under General Permit 2243-AGP-041, then Respondent was required to submit a Notice of Intent (NOI) for renewal by September 1, 2020.

11. During the inspection, it was discovered that Respondent failed to submit a NOI for coverage under the General Permit by September 1, 2020. Respondent's Permit was voided on November 9, 2020. Respondent submitted a new NOI for coverage under the General Permit on December 28, 2020, and was granted coverage under General Permit 2243-AGP-041 on January 4, 2021. Respondent operated the facility without coverage under the General Permit from November 10, 2020, through January 3, 2021. Such act violates APC&EC Rules 18.301(A) and 18.310(B) and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. In a letter dated December 16, 2021, DEQ informed Respondent of the compliance issues identified in the inspection conducted on December 1, 2021. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

13. On January 20, 2022, Respondent submitted a response to the December 16, 2021 letter. Respondent stated that "Max Taylor Oil unintentionally failed to submit the air permit renewal NOI, before the permit expiration date of [November 9, 2020], due to disturbances in their daily business operations caused by the COVID-19 Health Emergency. On December 23,

2020, this deficiency was brought to Max Taylor Oil's attention via a letter from Ms. Rhonda Bowler. Max Taylor Oil immediately contracted ESGI to complete the air permit renewal NOI. ESGI began the application as soon as possible and submitted it on December 28, 2020. As mentioned in the Cover Letter to the renewal NOI, Max Taylor Oil experienced COVID-19 infections and many were unable to work due to exposures to COVID-19 and the subsequent CDC recommended quarantines. Max Taylor Oil does not anticipate this being an issue in the future, as 2020 was an unusual time navigating the COVID-19 Health Emergency."

14. On February 17, 2022, DEQ sent Respondent a formal enforcement letter for the compliance issues discovered during the December 1, 2021 compliance inspection.

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 **ONE THOUSAND NINE HUNDRED TWENTY DOLLARS (\$1,920.00)**, or one-half of the penalty, **NINE HUNDRED SIXTY DOLLARS (\$960.00)** 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 **July 3, 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.

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.

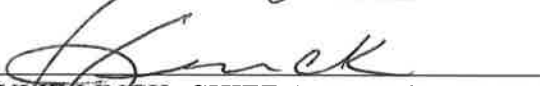
9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws. Except as specifically provided

herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.

10. Nothing 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. 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 6th DAY OF July, 2022.


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

APPROVED AS TO FORM AND CONTENT:

MAX TAYLOR OIL COMPANY, INC.

BY:  (Signature)

Charlie McAlistre (Typed or printed name)

TITLE: President

DATE: 6-30-22