

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

IN THE MATTER OF:

AFIN: 70-00032

LIS No. 23-011

RESOLUTE EL DORADO, INC.
5482 JUNCTION CITY HIGHWAY
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) Rule 7, APC&EC Rule 8, APC&EC Rule 18, APC&EC Rule 19, and APC&EC Rule 26.

The issues herein having been settled by agreement of Resolute El Dorado, Inc. (Respondent) and the Chief Administrator of the Division of Environmental Quality (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 sawmill located at 5482 Junction City Highway in El Dorado, Union County, Arkansas.
2. The Air Permit referenced in this CAO is 2348-AOP-R2 (the Permit). The Permit was issued on June 9, 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 March 23, 2022, DEQ personnel performed a routine compliance inspection of the facility and covered the reporting period of February 1, 2020, through February 28, 2022.

7. Specific Condition 8 states that the permittee must develop, maintain, and follow a repair, maintenance, and housekeeping plan for SN-01, SN-02, and kilns and burners; conducted maintenance should be recorded and maintained; and to the extent practicable, maintain and operate the kilns and burners in a manner consistent with good air pollution control practice for minimizing emissions. The permittee shall maintain records and records should be updated on an as-performed basis, maintained on site, and made available to Division personnel upon request.

8. During the inspection, Respondent failed to provide documentation of the implementation of a maintenance and housekeeping plan for SN-01 and SN-02 for twenty-five

(25) months. Such a failure violates Specific Condition 8 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

9. Specific Condition 16 states that the permittee shall operate the control equipment (baghouse and/or cyclones) when the contiguous in-line process equipment, Planer Mill (SN-06) or Truck Bin (SN-08), is in operation at all times. If the baghouse or cyclones cannot operate, then the respective contiguous process equipment, either SN-06, and/or SN-08, must be shut down. The baghouse and cyclones should also be operated and maintained in accordance with the manufacturer's specifications and good air pollution control and operating practices for minimizing emissions. The records shall be updated on an as-performed basis, maintained on site, and made available to Division personnel upon request.

10. The manufacturer's specifications state that the pump used for SN-06 and SN-08 must be lubricated at least once every twenty-six (26) weeks.

11. During the inspection, Respondent failed to provide documentation that maintenance was being routinely conducted on four (4) occurrences for SN-06 and SN-08. Such a failure violates Specific Condition 16 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. In correspondence dated April 21, 2022, DEQ informed Respondent of the compliance issues identified during the March 23, 2022, inspection. 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.

13. In correspondence dated May 5, 2022, Respondent provided a reproduced kiln maintenance plan. The kiln maintenance plan provided for weekly inspections and weekly lubrication of the kiln fan shaft bearings. Respondent also provided some documentation of

routine maintenance for SN-01 and SN-02 showing a repair of the kiln burners in October of 2021, along with documentation of the performance of the kiln maintenance plan for February 2022 and part of March of 2022. There were no other records produced by Respondent that demonstrated compliance with the kiln maintenance plan. In total, twenty-four (24) months or one-hundred four (104) weeks of kiln maintenance records were missing and not provided by Respondent.

14. In correspondence dated May 5, 2022, Respondent provided records of some repairs performed on SN-06 and SN-08 during the inspection period, but did not provide specific documentation of routine maintenance as required by Specific Condition 16. Therefore, compliance with Specific Condition 16 was not demonstrated.

15. In correspondence dated May 23, 2022, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

16. In correspondence dated December 1, 2022, Respondent requested a penalty reduction. Respondent provided missing maintenance records for SN-01 and SN-02. The records covered February 1, 2020 through February 28, 2022. The records were missing the facility name and location and the name of the person conducting maintenance. Therefore, the records did not satisfy Specific Condition 8 of the permit.

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 maintenance schedule for SN-06 and SN-08. The maintenance schedule shall

address weekly maintenance, monthly maintenance, six month maintenance, bag replacement, bag cleaning, and lubrication.

2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit maintenance records showing compliance with Specific Condition 8 and Specific Condition 16. The records shall include the facility name, facility location, name of maintenance conductor, and total work time. The records shall be submitted monthly for a period of six (6) months.

3. Respondent shall submit the maintenance schedule and records to:

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

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWELVE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$12,480.00)**. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.


11. 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.

12. 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.

13. 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 25th DAY OF January, 2023.

~~CAROL J. OSBORNE~~ 
JULIE LINCK, CHIEF ADMINISTRATOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

RESOLUTE EL DORADO, INC.

BY:  (Signature)

Chad Kisner (Typed or printed name)

TITLE: GM Operations Arkansas Sawmills

DATE: Jan 18/23