

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 73-00110

LIS No. 23-075

THE BRYCE COMPANY, LLC
450 SOUTH BENTON STREET
SEARCY, AR 72143

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 The Bryce Company, LLC (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 plastic package manufacturing facility located at 450 South Benton Street in Searcy, White County, Arkansas.
2. The Air Permit referenced in this CAO is 0763-AOP-R21 (the Permit). The Permit was issued on May 16, 2022.

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 August 25, 2022, DEQ personnel performed a routine compliance inspection of the facility for the reporting period of July 2020 through July 2022.

7. General Provision 21 of the Permit states that Respondent shall submit a compliance certification with the terms and conditions contained in the Permit, including emission limitations, standards, or work practices. Respondent must submit the compliance certification annually. If the Permit establishes no other reporting period, the reporting period shall end on the last day of the anniversary month of the initial Title V permit. The report is due on the first day of the second month after the end of the reporting period. Respondent must also submit the compliance certification to the U.S. Environmental Protection Agency (EPA) as well as to DEQ.

8. During the inspection, it was found that Respondent failed to submit an Annual Compliance Certification (ACC) that covered April 1, 2020 through March 31, 2021 to DEQ by May 1, 2022. Such a failure violates General Provision 21 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 5 of the Permit states that Respondent shall maintain records of a material balance to show compliance with the annual Volatile Organic Compounds (VOC) emission limits set in Specific Condition 1 and Specific Condition 4. This material balance should include pounds of VOC per gallon (lb VOC/gal), amount of material used, and any other information pertinent to demonstrate compliance. Any VOC that are properly shipped off-site for disposal according to terms of Plantwide Condition 10 may be subtracted from the total usage as an emission credit. Compliance shall be determined on a monthly basis by completing the VOC Inventory Form in Appendix A. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7. For the purposes of these reports, 100% collection efficiency shall be assumed for all VOC emissions from ink used in production runs. In addition, 95% destruction efficiency shall also be assumed for all VOC emissions emitted by the incinerator.

10. Specific Condition 16 of the Permit states that Respondent shall maintain records of a material balance to show compliance with the annual VOC emission limits set in Specific Condition 12 and Specific Condition 15. This material balance should include lb/gal of VOC, amount of material used, and any other information pertinent to demonstrate compliance. Any VOC that are properly shipped off-site for disposal according to terms of Plantwide Condition 10 may be subtracted from the total usage as an emission credit. Compliance shall be determined on a monthly basis by completing the VOC Inventory Form in Appendix A or a document equivalent to that in Appendix A. Respondent shall update these records by the last day of the month following the month

to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7. For the purposes of these reports, 100% collection efficiency shall be assumed for all VOC emissions from ink used in production runs. In addition, 95% destruction efficiency shall also be assumed for all VOC emissions emitted by the Regenerative Thermal Oxidizer (RTO).

11. Specific Condition 28 of the Permit states that Respondent shall maintain records of a material balance to show compliance with the annual VOC emission limits set in Specific Condition 24 and 27. This material balance should include lb VOC/gal, amount of material used, and any other information pertinent to demonstrate compliance. Any VOC that are properly shipped off-site for disposal according to terms of Plantwide Condition 10 may be subtracted from the total usage as an emission credit. Compliance shall be determined on a monthly basis by completing the VOC Inventory Form in Appendix A or a document equivalent to that in Appendix A. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7. For the purposes of these reports, 100% collection efficiency shall be assumed for all VOC emissions from ink used in production runs. In addition, 95% destruction efficiency shall also be assumed for all VOC emissions emitted by the RTO.

12. General Provision 7 of the Permit states that Respondent must submit reports of all required monitoring every six (6) months. If the Permit establishes no other reporting period, the reporting period shall end on the last day of the month six (6) months after the issuance of the initial

Title V permit and every six (6) months thereafter. The report is due on the first day of the second month after the end of the reporting period. The first report due after issuance of the initial Title V permit shall contain six (6) months of data and each report thereafter shall contain twelve (12) months of data. The report shall contain data for all monitoring requirements in effect during the reporting period. If a monitoring requirement is not in effect for the entire reporting period, only those months of data in which the monitoring requirement was in effect are required to be reported. The report must clearly identify all instances of deviations from permit requirements. A responsible official, as defined in Rule 26.2, must certify all required reports.

13. During the inspection, it was found that Respondent failed to maintain VOC records for SN-17, SN-18, SN-19, SN-25, SN-30, SN-31, SN-32, SN-33, SN-45, and SN-46 from April 2022 through July 2022 (4 months). It was also found that Respondent failed to maintain proper records for SN-04, SN-24, SN-25, SN-28, SN-29, SN-31, SN-38, and SN-46 from October 2021 through March 2022 (6 months). The Semi-Annual Monitoring (SAM) report covering April 1, 2021 through March 31, 2022, which was due May 1, 2022, revealed that an error in the Year-to-Date formula resulted in inaccurate VOC records. Consequently, compliance with VOC emissions limits could not be determined. Such failures violate Specific Conditions 5, 16, 28, and General Provision 7 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

14. Specific Condition 7 of the Permit states that Respondent shall maintain the following operational parameters for SN-42, SN-40, and SN-32 in order to continuously demonstrate compliance with the 100% capture efficiency used in the VOC emission calculations. These parameters are the defining criteria for a permanent total enclosure. Any Natural Draft Opening

(NDO) shall be at least four (4) equivalent opening diameters from each VOC emitting point. An “equivalent diameter” is the diameter of a circle that has the same area as the opening. For a circular NDO, this equation simply reduces to the diameter of the opening. The total area of all NDOs shall not exceed five percent of the surface area of the enclosure’s walls, floor, and ceiling. The average face velocity (FV) of air through each NDO shall be at least 200 feet per minute (ft/min). The direction of air through all NDOs shall be into the enclosure. All access doors and windows whose areas are not included as NDOs shall be closed during routine operation of the process.

15. Specific Condition 8 of the Permit states that Respondent shall install and operate a manometer gauge that verifies the pressure differential across the total enclosure. A pressure differential of 0.007 inches of water will demonstrate compliance with the 200 ft/min FV requirement contained in Specific Condition 6. The pressure differential shall be continuously monitored by means of a gauge which measures the drop in air pressure. The gauge shall be monitored at least once per day. These readings shall be recorded and indicate which presses were operating at that time. These records shall be maintained on site and shall be provided to DEQ personnel upon request. These reports shall also be submitted to DEQ per General Provision 7.

16. Specific Condition 18 of the Permit states that Respondent shall maintain the following operational parameters for SN-24, SN-28, SN-29, SN-38, SN-47, SN-48, and SN-46 in order to continuously demonstrate compliance with the 100% capture efficiency used in the VOC emission calculations. These parameters are the defining criteria for a permanent total enclosure. Any NDO shall be at least four (4) equivalent opening diameters from each VOC emitting point. An “equivalent diameter” is the diameter of a circle that has the same area as the opening. For a circular NDO, this equation simply reduces to the diameter of the opening. The total area of all NDOs shall

not exceed five percent of the surface area of the enclosure's walls, floor, and ceiling. The average FV of air through each NDO shall be at least 200 ft/min. The direction of air through all NDOs shall be into the enclosure. All access doors and windows whose areas are not included as NDOs shall be closed during routine operation of the process.

17. Specific Condition 19 of the Permit states that Respondent shall install and operate a manometer gauge which verifies the pressure differential across the total enclosure. A pressure differential of 0.007 inches of water will demonstrate compliance with the 200 ft/min FV requirement contained in Specific Condition 18. The pressure differential shall be continuously monitored by means of a gauge which measures the drop in air pressure. The gauge shall be monitored at least once per day. These readings shall be recorded and indicate which presses were operating at that time. These records shall be maintained on site and shall be provided to Division personnel upon request. These reports shall also be submitted to DEQ per General Provision 7.

18. Specific Condition 30 of the Permit states that Respondent shall maintain the following operational parameters in order to continuously demonstrate compliance with the 100% capture efficiency used in the VOC emission calculations. These parameters are the defining criteria for a permanent total enclosure. Any NDO shall be at least four (4) equivalent opening diameters from each VOC emitting point. An "equivalent diameter" is the diameter of a circle that has the same area as the opening. For a circular NDO, this equation simply reduces to the diameter of the opening. The total area of all NDOs shall not exceed five percent of the surface area of the enclosure's walls, floor, and ceiling. The average FV of air through each NDOs shall be at least 200 ft/min. The direction of air through all NDOs shall be into the enclosure. All access doors and windows whose areas are not included as NDOs shall be closed during routine operation of the process.

19. Specific Condition 31 of the Permit states that Respondent shall install and operate a manometer gauge which verifies the pressure differential across the total enclosure. A pressure differential of 0.007 inches of water will demonstrate compliance with the 200 ft/min FV requirement contained in Specific Condition 30. The pressure differential shall be continuously monitored by means of a gauge which measures the drop in air pressure. The gauge shall be monitored at least once per day. These readings shall be recorded and indicate which presses were operating at that time. These records shall be maintained on site and shall be provided to DEQ personnel upon request. These reports shall also be submitted to DEQ per General Provision 7.

20. General Provision 8 of the Permit states that Respondent shall report to DEQ all deviations from permit requirements, including those attributable to upset conditions as defined in the Permit. Respondent shall make a full report in writing to DEQ within five (5) business days of discovery of the occurrence. The report must include, in addition to the information required by the initial report, a schedule of actions taken or planned to eliminate future occurrences or to minimize the amount the Permit's limits were exceeded and to reduce the length of time the limits were exceeded. Respondent may submit a full report in writing (by facsimile, overnight courier, or other means) by the next business day after discovery of the occurrence, and the report will serve as both the initial report and full report. For all deviations, Respondent shall report such events in SAM reports and ACCs required by the Permit.

21. During the inspection, it was found that Respondent failed to report pressure differential deviations in the submitted SAM Reports and ACC Reports. Differential deviations occurred on September 30, 2020, November 3, 2020, and June 1, 2021 for a total of three (3) occurrences during the reporting period of July 2020 through July 2022. Such failures violate

Specific Conditions 7, 8, 18, 19, 30, 31, and General Provisions 7, 8, and 21 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

22. Specific Condition 47 of the Permit states that Respondent shall maintain records that demonstrate compliance with the limits set in Specific Condition 46. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained onsite, made available to Division personnel upon request, and submitted in accordance with General Provision 7.

23. Specific Condition 50 of the Permit states that Respondent shall maintain records that demonstrate compliance with the limits set in Specific Condition 49. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

24. Specific Condition 53 states that Respondent shall maintain records that demonstrate compliance with the limits set in Specific Condition 52. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

25. Specific Condition 56 states that Respondent shall maintain records which demonstrate compliance with the limit set in Specific Condition 55. Respondent shall update these records by the last day of the month following the month to which the records pertain. The 12-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

26. Specific Condition 59 states that Respondent shall maintain records which demonstrate compliance with the limits set in Specific Condition 58. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

27. During the inspection, it was found that Respondent failed to maintain throughput records during the reporting period for the following: Storage Tank 1 (SN-17) for twenty-six (26) months; Storage Tank 2 (SN-18) for twenty-three (23) months; Storage Tank 3 (SN-19) for twenty-six (26) months; Storage Tank 4 (SN-30) for eighteen (18) months; and Solvent Distillation Unit 1 (SN-33) for thirteen (13) months. Such failures violate Specific Conditions 47, 50, 53, 56, 59, and General Provision 7 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

28. Specific Condition 64 states that Respondent shall maintain monthly records to demonstrate compliance with Specific Condition 63. Respondent shall update these records by the fifteenth day of the month following the month to which the records pertain. The calendar year totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

29. During the inspection, it was found that Respondent failed to maintain operating hour records for Existing CI Emergency Generator (SN-43) from October 1, 2019 through September 30, 2021 for a total of twenty-four (24) months during the reporting period. Such a failure violates Specific Conditions 64 and General Provision 7 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

30. General Provision 23 states that the Permit authorizes only those pollutant emitting activities addressed therein.

31. During the inspection, it was found that Respondent installed five (5) unauthorized sources (Flex Printing Presses P5-5 and P5-7 and Extrusion Laminators L5-4, L5-5A, and L5-5B) at the facility. Such actions violate General Provision 23 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

32. Plantwide Condition 3 states that Respondent must test any equipment scheduled for testing, unless otherwise stated in the Specific Conditions of the Permit or by any federally regulated requirements, within the following time frames: (1) new equipment or newly modified equipment within sixty (60) days of achieving the maximum production rate, but no later than 180 days after initial startup of the permitted source; or (2) operating equipment according to the time frames set forth by DEQ or within 180 days of permit issuance if no date is specified. Respondent must notify DEQ of the scheduled date of compliance testing at least fifteen (15) business days in advance of such test. Respondent shall submit the compliance test results to DEQ within sixty (60) calendar days after completing the testing.

33. During the inspection, it was found that Respondent failed to test Eight Color Press 1 (SN-47) within 180 days of initial startup. Startup occurred on January 14, 2021; therefore, an emissions test was due by June 21, 2021. Such a failure violates Plantwide Condition 3 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

34. Plantwide Condition 9 states that Respondent shall maintain monthly records to demonstrate compliance with Plantwide Condition 8. Respondent shall update these records by the last day of the month following the month to which the records pertain. The twelve-month rolling

totals and each individual month's data shall be maintained on-site, made available to DEQ personnel upon request, and submitted in accordance with General Provision 7.

35. During the inspection, it was found that Respondent failed to maintain Natural Gas Usage records from March 2022 through July 2022 for five (5) months during the reporting period. Such a failure violates Plantwide 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.

36. Plantwide Condition 10 states that Respondent may use all scrap VOC and HAPs that are contained and shipped offsite to a proper disposal site as a credit towards the facility's VOC and HAP emissions. Only the VOC and HAP portion of the shipment may be taken as a credit. Before a credit can be given, the following conditions must be met. (Reg.19.705 and Ark. Code Ann. § 8-4-203 as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311). First, testing will be performed quarterly in order to establish representative concentrations of VOC and HAPs for the waste streams. This testing is to be performed by an independent laboratory with representative samples taken from the bulk storage tanks containing VOC and HAPs. The samples are to be tested for percentage of VOC and HAP content by weight and reported as such. The average of the samples will be applied to all the VOC and HAP containing containers disposed of for the next three (3) month period. Second, DEQ personnel are to be notified no later than seven (7) days prior to the date the samples are taken. DEQ has the option of attending the sampling and selecting the bulk storage tanks to be sampled. Third, the sampling reports are to be maintained on site with the VOC and HAP emissions records required by the Permit. These records will be made available to DEQ personnel upon request. Finally, Respondent must maintain a spreadsheet that reflects the waste streams and the respective weight fractions of VOC and HAP shipped on a monthly basis. This spreadsheet must also contain

monthly calculations for VOC and HAP emissions reductions. A copy of this spreadsheet is to be made available to DEQ personnel upon request.

37. During the inspection, it was found that Respondent failed to notify DEQ of VOC or HAP testing, failed to conduct VOC or HAP testing, and failed to provide a VOC or HAP monthly spreadsheet showing monthly emission reductions. Such failures violate Plantwide Condition 10 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

38. During the inspection, DEQ requested that Respondent provide records for monthly VOC emissions data, tank throughput, natural gas usage, emergency generator usage log, and three-hour inlet temperature by August 29, 2022.

39. In correspondence dated August 26, 2022, Respondent requested that the deadline for the requested records be extended to September 16, 2022.

40. In response to the correspondence dated August 26, 2022, DEQ extended the deadline for the requested records to September 2, 2022.

41. In correspondence dated September 22, 2022, DEQ informed Respondent of the compliance issues identified during the August 25, 2022 inspection.

42. In correspondence dated October 24, 2022, Respondent provided records for the monthly VOC emissions data, tank throughput, natural gas usage, emergency generator usage log, and three-hour inlet temperature for Specific Conditions 5, 16, 28, 47, 50, 53, 56, 59, 64, and Plantwide Condition 9.

43. A review of the October 24, 2022 correspondence indicated the following:

a. The tank throughput records, natural gas usage records, and emergency generator

usage log demonstrated compliance with Specific Conditions 47, 50, 53, 56, 59, 64, and Plantwide Condition 9; therefore, satisfying Paragraphs 22, 23, 24, 25, 26, 28, and 34 in the FINDINGS OF FACT.

- b. The monthly VOC emissions data did not demonstrate compliance with Specific Conditions 5, 16, and 28.
- c. Testing for SN-46 occurred on November 22, 2023. SN-47 is routed to SN-46. Respondent passed the test for SN-46, satisfying the testing for SN-47 required by Plantwide Condition 3; therefore, satisfying Paragraph 32 in the FINDINGS OF FACT.

44. In correspondence dated November 29, 2022, DEQ informed Respondent that formal enforcement action was proceeding regarding the violations of Specific Conditions 5, 7, 8, 16, 18, 19, 28, 30, 31, 47, 50, 53, 56, 59, and 64; Plantwide Conditions 3, 9, and 10; General Provisions 7, 8, 21, and 23.

45. In correspondence dated March 28, 2023, DEQ provided the draft permit, statement of basis, and public notice to Respondent. The draft permit included Flex Printing Presses P5-5 and P5-7 as permitted sources and Extrusion Laminators L5-4, L5-5A, and L5-5B as insignificant activities.

46. On June 16, 2023, DEQ sent Respondent a proposed CAO for the violations listed in the FINDINGS OF FACT section of this CAO.

47. In correspondence dated July 14, 2023, Respondent requested a penalty reduction.

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 VOC records showing compliance with Specific Conditions 5, 16, and 28. The records shall be submitted monthly for a period of six (6) months. These records shall be submitted to:

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

2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWENTY-SEVEN THOUSAND TWO HUNDRED FORTY DOLLARS (\$27,240.00)**. Payment is due within thirty (30) calendar days after 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 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 31 DAY OF OCTOBER, 2023.



CALEB J. OSBORNE
DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

THE BRYCE COMPANY, LLC

BY: Fraser Humphreys III (Signature)

FRASER HUMPHREYS III (Typed or printed name)

TITLE: SECRETARY / GENERAL COUNSEL (MANAGING MEMBER, BOARD)
MEMBER

DATE: 10/2/23