

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

IN THE MATTER OF:

AFIN: 35-01477

LIS No. 23-088

HIGHLAND PELLETS, LLC
5601 INDUSTRIAL DRIVE NORTH
PINE BLUFF, AR 71602

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 Highland Pellets, 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 pellet mill facility located at 5601 Industrial Drive North in Pine Bluff, Jefferson County, Arkansas.
2. There are two Air Permits referenced in this CAO. 2341-AOP-R4 (Permit R4) was issued on January 11, 2022, and voided on April 7, 2023. 2341-AOP-R5 (Permit R5) was issued on April 7, 2023.

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 DEQ;

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. In correspondence dated July 5, 2022, Trinity Consultants (Trinity), on behalf of Respondent, self-reported violations of conditions in Permit R4.

7. Specific Condition 45 of Permit R4 states that Respondent shall conduct an initial performance test on all four (4) Pellet Cooler baghouses (SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4) in accordance with Plantwide Condition 3. Respondent shall conduct initial performance tests within sixty (60) days of achieving the maximum production rate, but no later than 180 days after initial start-up. Respondent shall conduct a subsequent performance test for each listed pollutant every sixty (60) months. Respondent shall operate all sources during the performance tests at ninety percent (90%) of maximum capacity, maintain a record of the production rate during the tests, and include production rate data in the test report. If Respondent fails to achieve ninety percent (90%) production rate during the test, then Respondent shall be limited to the production rate recorded during the test plus ten percent (10%). Respondent shall use one hundred percent (100%) softwood

blend during testing. Respondent shall conduct the initial performance test using the test methods specified in the following table.

Test Location	Pollutant	Test Method	Maximum Hourly Emission Rate (lb/hr)
9.09-1, 9.09-2, 9.09-3, 9.09-4	PM ₁₀	Method 201A with 202	0.4 ^a
	VOC	Method 25A	13.8 ^a

^aEmission rate for a single production line, combines five (5) Andritz pellet presses, a pellet screen and a pellet cooler.

8. Plantwide Condition 3 of Permit R4 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 start-up 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.

9. Correspondence dated July 5, 2022, from Trinity, on behalf of Respondent, indicated that an initial performance test on all four (4) Pellet Cooler baghouses (SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4) would not be completed within 180 days after initial start-up. Start-up began on January 15, 2022. Such failure violates Specific Condition 45 and Plantwide Condition 3 of Permit R4 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. In correspondence dated July 14, 2022, DEQ informed Respondent that formal

enforcement action was proceeding regarding this matter.

11. Trinity, on behalf of Respondent, provided the following updates regarding compliance actions for SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4.

- a. In correspondence dated July 15, 2022, provided that test ports had been installed.
- b. In correspondence dated July 25, 2022, provided that engineering tests had been run.
- c. In correspondence dated August 15, 2022, provided that simultaneous inlet and outlet data should have been collected during the initial engineering tests. However, the performance test company failed to follow guidance for that testing; therefore, a second round of engineering tests would need to be conducted.

12. In correspondence dated September 22, 2022, Trinity, on behalf of Respondent, provided the following updates regarding inconsistencies between facility operations and Permit R4.

- a. Currently, the air emissions from the aspiration and pellet cooler operations (SN-9.07-1, SN-9.07-2, SN-9.07-3, and SN-9.07-4) are evenly split at twenty-five percent (25%) to each baghouse, but the air emissions from the dry hammermills (SN-8.01, SN-8.03, SN-8.05, SN-8.07, SN-8.09, SN-8.11, SN-8.13, and SN-8.15) are ducted to only baghouses 2 and 3 (SN-9.09-2 and SN-9.09-3) at fifty percent (50%) each.
- b. To fix the issue, Trinity proposes ducting all emissions from the dry hammermill island to the existing Wet Electrostatic Precipitators (ESP) and Regenerative

Thermal Oxidizers (RTO). Half of the emissions will go to Train A and the other half will go to Train B. The emissions from baghouse 1 and 2 will be combined into a new RTO. This treats all emissions from pellet coolers 1 and 2 along with aspiration lines from pellet lines 1 and 2. The emissions from baghouses 3 and 4 will be combined into a second new RTO. This treats all emissions from pellet coolers 3 and 4 along with aspiration lines from pellet lines 3 and 4.

- c. Trinity provides that the advantage to completing ductwork to the existing RTOs would be more expedited than procurement and construction of a new RTO.

13. On October 31, 2022, DEQ sent Respondent a proposed CAO for the violation outlined in Paragraph 9 of the FINDINGS OF FACT.

14. In correspondence dated November 28, 2022, Trinity, on behalf of Respondent, responded to the proposed CAO. In regards to inconsistencies between facility operations and Permit R4, Trinity provided that as of November 10, 2022, the preliminary design was to route all emissions evenly to the four (4) baghouses and then send all four (4) exhaust streams to either a single RTO or two (2) smaller RTOs such that all emissions would then be controlled.

15. On December 12, 2022, DEQ sent Respondent a re-proposed CAO for the violation outlined in Paragraph 9 of the FINDINGS OF FACT.

16. On September 26, 2022, DEQ personnel performed a routine compliance inspection of the facility for the period September 2021 through August 2022.

17. Specific Condition 19 of Permit R4 states that Respondent shall install and operate a manometer gauge which verifies the pressure differential across the total enclosure. A pressure differential of at least 0.007 inches of water will demonstrate compliance with the 200 ft/min face

velocity requirement contained in Specific Condition 17(e). The pressure differential shall be continuously monitored by means of a gauge which measures the drop in air pressure.

18. During the inspection, it was revealed that Respondent failed to maintain .007 inches of water for five (5) occurrences in July 2022. Such failures violate Specific Condition 19 of Permit R4 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

19. Specific Condition 31 of Permit R4 states that Respondent shall install, operate, and maintain a continuous parameter monitoring system (CPMS) that measures and records the temperature of the RTOs being used as a control device, totaling in two CPMS, one per pollution control train (A and B). Respondent shall maintain a minimum instantaneous temperature of 1500 °F at all times with a one-half second residence time in each RTO. If Respondent can demonstrate that the required control efficiency can be met with a lower temperature by stack test verification, Respondent may operate at that lower temperature. If applicable, Respondent shall maintain documentation from the stack test used to verify the lower operating temperature and make these records available to DEQ personnel upon request.

20. Specific Condition 32 of Permit R4 states that Respondent shall maintain the records of measurements required by Specific Condition 31 on site and make the records available to DEQ personnel upon request. Respondent shall report all instances the minimum temperature was not maintained, including any corrective action in accordance with General Provision 7.

21. During the inspection, it was revealed that Respondent failed to maintain the minimum temperature limit at RTO Train A on seven (7) occurrences and RTO Train B on eight (8) occurrences. Such failures violate Specific Conditions 31 and 32 of Permit R4 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

22. Specific Condition 33 of Permit R4 states that Respondent shall conduct an initial performance test on both RTO discharge stacks in accordance with Plantwide Condition 3. Respondent shall conduct initial performance tests within sixty (60) days of achieving the maximum production rate, but no later than 180 days after initial start-up. Respondent shall conduct a subsequent performance test for each listed pollutant every sixty (60) months. Respondent shall operate all sources during the performance tests at ninety percent (90%) of maximum capacity, maintain a record of the production rate during the tests, and include production rate data in the test report. If Respondent fails to achieve ninety percent (90%) production rate during the test, then Respondent shall be limited to the production rate recorded during the test plus ten percent (10%). Respondent shall use one hundred percent (100%) softwood blend during testing. The sources that shall be in operation during the performance testing of RTO Discharge Stack A are the following: all six (6) Green Chip Surge Bin & Hammermills (SN-4.01, SN-4.02, SN-4.03, SN-4.04, SN-4.05, SN-4.06), Bark Burner Line 1 (SN-5.01-1), Bark Burner Line 2 (SN-5.01-2), Single Pass Dryer Line 1 (SN-6.01-1), and Single Pass Dryer Line 2 (SN-6.01-2). The sources that shall be in operation during the performance testing of RTO Discharge Stack B are the following: Bark Burner Line 3 (SN-5.01-3), Bark Burner Line 4 (SN-5.01-4), Single Pass Dryer Line 3 (SN-6.01-3), and Single Pass Dryer Line 4 (SN-6.01-4).

23. During the inspection, it was revealed that Respondent failed to conduct performance testing on two (2) RTO discharge stacks within 180 days of initial startup. Initial startup occurred on January 15, 2022. The test deadline was July 14, 2022. Such failures violate Specific Condition 33 of Permit R4 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

24. Specific Condition 42 of Permit R4 states that Respondent shall install and operate a manometer gauge which verifies the pressure differential across the total enclosure. A pressure differential of at least 0.007 inches of water will demonstrate compliance with the 200 ft/min face velocity requirement contained in Specific Condition 40(e). 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. The records shall be maintained on site and shall be provided to DEQ personnel upon request. The reports shall also be submitted to DEQ per General Provision 7.

25. During the inspection, it was revealed that Respondent failed to maintain the minimum pressure differential limit on fifty-three (53) occurrences from July 2021 through May 2022. Such failures violate Specific Condition 42 of Permit R4 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

26. Specific Condition 51 of Permit R4 states that Respondent shall conduct an initial performance test for Volatile Organic Compounds (VOC) on SN-10.01, SN-10.02, SN-10.03, SN-10.04, and SN-10.05 in accordance with Plantwide Condition 3. Respondent shall conduct the initial performance test using the EPA test Method 25A and shall conduct initial performance tests within sixty (60) days of achieving the maximum production rate, but no later than 180 days after initial start-up.

27. During the inspection, it was revealed that Respondent failed to perform initial performance tests for VOC on the Pellet Storage Silos (SN-10.01, SN-10.02, SN-10.03, SN-10.04 and SN-10.05) within 180 days of initial startup. Initial startup occurred on January 15, 2022. The test deadline was July 14, 2022. Such failures violate Specific Condition 51 of Permit R4 and

therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

28. In correspondence dated December 16, 2022, in response to the September 26, 2022 inspection, Respondent provided the following:

- a. In regards to Paragraphs 9 and 18 of the FINDINGS OF FACT, Respondent acknowledged the violations found during the inspection and requested that DEQ exercise enforcement discretion and take no further action.
- b. In regards to Paragraph 21 of the FINDINGS OF FACT, Respondent acknowledged the violations found during the inspection and stated that an addendum to the permit modification submitted to DEQ in October 2022 would be made to request that the instantaneous compliance required by Specific Conditions 31 and 32 be revised to allow for a 3-hour averaging period. Respondent requested that DEQ exercise enforcement discretion and take no further action.
- c. In regards to Paragraph 23 of the FINDINGS OF FACT, Respondent acknowledged that the required performance tests were not completed and stated that the performance tests for the RTO discharge stacks required by Specific Condition 33 cannot be completed until after the issues with the pellet cooler baghouse self-reported in July 5, 2022 are resolved. Respondent requested that DEQ exercise enforcement discretion and take no further action.
- d. In regards to Paragraph 25 of the FINDINGS OF FACT, Respondent acknowledged the fifty-three (53) occurrences of the pressure differential below the minimum limit, but provided that the failure to maintain the minimum

pressure differential limit was fourteen (14) occurrences in January 2022 and two (2) occurrences in September 2022 and not the monthly occurrences provided by DEQ. Respondent requested that DEQ exercise enforcement discretion and take no further action.

- e. In regards to Paragraph 27 of the FINDINGS OF FACT, Respondent acknowledged that the initial performance tests for VOC at the Pellet Storage Silos (SN-10.01, SN-10.02, SN-10.03, SN-10.04 and SN-10.05) were not completed within 180 days of startup due to the sources not operating at that time. Respondent states these sources cannot be stack tested due to a lack of airflow and have only been used for emergency purposes due to quality issues. The October 2022 permit modification includes a request to remove the performance test requirement for these sources. Respondent requested that DEQ exercise enforcement discretion and take no further action.

29. On December 22, 2022, DEQ informed Respondent that areas of concern noted during the September 26, 2022 compliance inspection would be included in the pending formal enforcement action.

30. On April 7, 2023, Permit R5 was issued. Specific Condition 51 regarding the initial performance test for VOC at SN-10.01, SN-10.02, SN-10.03, SN-10.04, and SN-10.05 was removed from the Permit.

31. On August 18, 2023, DEQ sent Respondent a re-proposed CAO.

32. In correspondence dated August 25, 2023, Respondent stated that it had discovered a mistake in Permit R5. Respondent stated that Specific Conditions 17 and 37 (formerly Specific

Conditions 19 and 42 in Permit R4) were intended to be removed from the permit in the permit modification application from October 2022.

33. On August 28, 2023, Respondent requested revisions to the re-proposed CAO.

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 compliance plan and implementation schedule addressing Paragraph 9 of the FINDINGS OF FACT of this CAO. DEQ shall review the plan and may submit to Respondent a written request for additional information to determine that the proposed procedures adequately address Paragraph 9 of the FINDINGS OF FACT of this CAO as outlined in the proposed plan.

2. Within thirty (30) calendar days after the completion of tasks outlined in the compliance plan and implementation schedule, Respondent shall demonstrate compliance with Specific Condition 40 of Permit R5 by conducting initial performance testing of SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4 and meeting permitted VOC emission limits.

3. Within sixty (60) calendar days after the completion of the initial performance testing of SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4, Respondent shall submit the test results of the performance testing in accordance with Permit R5.

4. Within sixty (60) calendar days after the completion of the initial performance testing as outlined in Paragraph 2 of the ORDER AND AGREEMENT, Respondent shall submit a Title V Permit Modification application to address any outstanding issues surrounding equipment, emission

limits, and initial performance testing of SN-9.09-1, SN-9.09-2, SN-9.09-3, and SN-9.09-4.

5. Within thirty (30) calendar days after the completion of tasks outlined in the compliance plan and implementation schedule, Respondent shall demonstrate compliance with Specific Condition 30 of Permit R5 by conducting performance testing on the RTO discharge stacks.

6. Within sixty (60) calendar days after the completion of the performance testing of the RTO discharge stacks, Respondent shall submit the test results of the performance testing in accordance with Permit R5.

7. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a permit modification application to remove Specific Conditions 17 and 37 from Permit R5.

8. The compliance plan and implementation schedule pursuant to Paragraph 1 of the ORDER AND AGREEMENT shall be submitted to:

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

9. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWENTY-FOUR THOUSAND ONE HUNDRED EIGHTY DOLLARS (\$24,180.00)**. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.


16. 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.

17. 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.

18. 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 6th DAY OF November, 2023.



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

APPROVED AS TO FORM AND CONTENT:

HIGHLAND PELLETS, LLC

BY:  (Signature)
JEFF VANDERPOOL
EVP / MANAGING MEMBER (Typed or printed name)

TITLE: EVP / MANAGING MEMBER

DATE: Oct. 25, 2023