

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

IN THE MATTER OF:

AFIN: 35-00017

LIS No. 23-094

TWIN RIVERS PINE BLUFF, LLC
1701 JEFFERSON PARKWAY
WHITE HALL, 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 Twin Rivers Pine Bluff, 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 Pulp and Paper Mill located at 1701 Jefferson Parkway in White Hall, Jefferson County, Arkansas.
2. The Air Permit referenced in this CAO is 0385-AOP-R12 (the Permit). The Permit was issued on March 1, 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 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. DEQ personnel performed a review of a stack test report which was submitted on February 3, 2023, for testing conducted on December 6 and 7, 2022.

7. 40 C.F.R. § 63.862(a)(1)(ii)(A) states that, as an alternative to meeting the requirements of § 63.862(a)(1)(i), each owner or operator of a kraft or soda pulp mill may establish particulate matter (PM) emissions limits for each existing kraft or soda recovery furnace and smelt dissolving tank that operates 6,300 hours per year or more by establishing an overall PM emission limit for each existing process unit in the chemical recovery system at the kraft or soda pulp mill using the methods in § 63.865(a)(1) and (2).

8. Specific Condition 21 of the Permit states that Respondent shall not exceed the emission rates set forth in the following table.

Source	Pollutant	Permit Limit
Recovery Boiler (SN-02)	PM ₁₀	17.1 lb/hr

9. Specific Condition 47 of the Permit states that Respondent shall not exceed the emission rates set forth in the following table.

Source	Pollutant	Permit Limit
Smelt Dissolving Tank (SN-04)	PM ₁₀	6.5 lb/hr

10. During review of the stack test report, it was revealed that Respondent failed the PM₁₀ emissions limits at SN-02 and SN-04, shown in the table below. Such a failure violates Specific Condition 21 and Specific Condition 47 of the Permit and 40 C.F.R. § 63.862(a)(1)(ii)(A) and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

Source	Pollutant	Permit Limit	Test Result	Result
SN-02	PM ₁₀	17.1 lb/hr	17.7 lb/hr	Fail
SN-04	PM ₁₀	6.5 lb/hr	8.1 lb/hr	Fail

11. In correspondence dated February 22, 2023, DEQ informed Respondent that it had completed its evaluation of the stack test report and that the sources were determined to be out of compliance.

12. In correspondence dated April 6, 2023, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

13. On July 24, 2023, DEQ sent Respondent a proposed CAO.

14. In correspondence dated August 10, 2023, Respondent requested a reduction in the proposed civil penalty.

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 fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit a test protocol for PM₁₀ testing at SN-02 and SN-04.

2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall conduct emissions testing for PM₁₀ at SN-02 and SN-04.

3. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit the emissions test results for SN-02 and SN-04 to DEQ.

4. The emissions test results shall be submitted to:

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

5. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **SEVEN THOUSAND THREE HUNDRED EIGHTY DOLLARS (\$7,380.00)**. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 21st 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:

TWIN RIVERS/PINE BLUFF, LLC

BY:  (Signature)

William D. Word (Typed or printed name)

TITLE: Mill Manager

DATE: 16 NOV 2023