

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

IN THE MATTER OF:

AFIN: 44-00005

LIS No. 23-099

ROYAL OAK ENTERPRISES, LLC
20174 HIGHWAY 74
HUNTSVILLE, AR 72740

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 Royal Oak Enterprises, 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 charcoal production plant located at 20174 Highway 74 in Huntsville, Madison County, Arkansas.
2. The Air Permit referenced in this CAO is 0892-AR-8 (the Permit). The Permit was issued on June 23, 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. On November 29, 2022, DEQ personnel performed a complaint investigation at the facility.

7. Specific Condition 8 of the Permit states that all kilns emissions must be vented to a properly operating afterburner at all times.

8. Specific Condition 9 of the Permit states that Respondent shall use only propane as an auxiliary fuel to the thermal oxidizers.

9. Specific Condition 10 of the Permit states that the thermal oxidizers combustion gas temperature shall be maintained at a minimum of 1,200 degrees Fahrenheit. This will be done by addition of propane. No kiln shall be operated without the afterburner meeting these requirements.

10. Upon arrival at Respondent’s facility, DEQ personnel observed a considerable amount of smoke coming from the stack of Charcoal Kilns 1A-10A w/Thermal Oxidizer (SN-15).

11. Respondent stated that SN-15 was in start-up mode and that the kilns are fired/lit in

series. Table 1 shows the kiln number, startup date and approximate start-up time.

SN-15 Kiln Number	Approximate Start-up Date and Time
Kiln 3	November 28, 2022 at 11 AM
Kiln 5	November 28, 2022 at 11:15 AM
Kiln 8	November 28, 2022 at 11 PM

The afterburner for SN-15 was observed to be at 407 degrees Fahrenheit at 12:40 PM. The tracking of the afterburner/thermal oxidizer temperature by Respondent's operator indicated a slow climb in temperature after the lighting of Kiln 3. Respondent stated that it typically requires four (4) kilns to be online for the afterburner/thermal oxidizer to reach the 1400 degrees Fahrenheit set point. Kilns are fired/lit in a predetermined sequence as they are loaded until all kilns are in production. Subsequently, kilns are taken offline as they burn down.

12. After further review of the Permit and process description by DEQ Compliance personnel, it was determined that the addition of propane to the afterburner should take place with the startup of the first kiln and subsequent kilns to maintain a stack opacity within the Permit limit.

13. During the complaint investigation, it was revealed that Respondent ignited three (3) kilns prior to reaching the afterburner/thermal oxidizer minimum temperature of 1,200 degrees Fahrenheit. Respondent did not use propane as the auxiliary fuel to the afterburner/thermal oxidizer. Such acts violate Specific Condition 8, Specific Condition 9, and Specific 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.

14. In correspondence dated December 5, 2022, DEQ informed Respondent of the compliance issues identified during the November 29, 2022 complaint investigation. DEQ requested that Respondent submit a written response detailing startup procedures and associated afterburner/thermal oxidizer operating scenario(s).

15. In correspondence dated February 10, 2023, Respondent provided a written response including the startup procedure for the kilns and afterburner.

16. As a follow up to a conference call that occurred on March, 10 2023, DEQ Compliance personnel sent Respondent correspondence dated March 14, 2023 that stated Respondent would submit a permit modification application to address and clarify the startup procedures and associated temperatures as they apply to the operation of the kiln afterburners.

17. In correspondence dated April 28, 2023, Respondent provided a draft startup, shutdown, and malfunction (SSM) plan for DEQ Compliance personnel review before Respondent proceeded with the permit modification application.

18. In correspondence dated May 1, 2023, DEQ Compliance personnel stated that the SSM plan should be included as part of the permit modification application.

19. In correspondence dated May 1, 2023, Respondent stated that it had begun the permit modification application process.

20. In correspondence dated June 13, 2023, Respondent stated the SSM plan and an administrative amendment for the permit.

21. In correspondence dated June 22, 2023, DEQ stated that the administrative amendment could not be processed, as the administrative amendment request did not fall under the requirements of Rule 19.407. DEQ requested that a permit modification application be submitted.

22. In correspondence dated July 11, 2023, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

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 permit modification application to address the violation(s) outlined above in paragraph 13 of the FINDINGS OF FACTS.

2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **THREE THOUSAND SIX HUNDRED DOLLARS (\$3,600.00)**, or one-half of the penalty, **ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800.00)** 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. **December 6, 2023**. 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 said individual as

duly ratified by the governing body of the entity.

SO ORDERED THIS 11th DAY OF December, 2023.



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

APPROVED AS TO FORM AND CONTENT:

ROYAL OAK ENTERPRISES, LLC

BY:  (Signature)

KEVIN Crain (Typed or printed name)

TITLE: Director EHS/ESG

DATE: 27 November 2023