

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

IN THE MATTER OF:

AFIN: 22-00392

LIS No. 24-009

ENVIRAPAC MONTICELLO, LLC
346 FIRING RANGE ROAD
MONTICELLO, ARKANSAS 71655

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 EnviraPAC Monticello, 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 powdered activated carbon from round wood production facility located at 346 Firing Range Road in Monticello, Drew County, Arkansas.
2. The Air Permit referenced in this CAO is 2361-AR-1 (the Permit). The Permit was issued on February 1, 2017, and voided on April 10, 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. On January 24, 2023, a complaint was submitted to the Environmental Protection Agency (EPA) regarding fugitive emissions from Respondent’s facility. EPA referred this complaint to DEQ on January 31, 2023.

7. On February 7, 2023, DEQ personnel conducted a complaint investigation and partial compliance evaluation (PCE) of Respondent’s facility.

8. During the PCE, Respondent stated they had operated the entire process, including milling and packaging from January 17, 2023 through January 26, 2023, and again from February 4, 2023 through February 7, 2023.

9. Specific Condition 5 of the Permit states that Respondent shall not conduct operations in such a manner as to unnecessarily cause air contaminants and other pollutants to become airborne.

10. General Condition 9 of the Permit states that Respondent shall operate equipment, control apparatus and emission monitoring equipment within their design limitations. Respondent

shall maintain in good condition at all times equipment, control apparatus and emission monitoring equipment.

11. During the PCE, it was found that the duct for Carbonization Reactor #1 (IA) (R1 - SN-08) was being operated in a state of disrepair. Specifically, the seal of the rotary drum was damaged, which allowed additional contaminants to become airborne. Such an act violates General 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.

12. During the PCE, it was found that the duct for the Carbonization Reactor #2 (IA) (R1 - SN-09) fan, although not in operation at the time of the complaint investigation and PCE, was not properly sealed off from the active processes, allowing fugitive emissions to become airborne. Such an act violates Specific Condition 5 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

13. In a letter dated March 6, 2023, DEQ informed Respondent of the compliance issues identified in the PCE conducted on February 7, 2023. This letter was intended to provide Respondent an opportunity to review the issues identified and submit any additional information Respondent deems appropriate.

14. On April 3, 2023, Respondent submitted a response to the March 6, 2023 letter and provided the following information:

- A. Regarding the violation outlined in Paragraph 10 of the FINDINGS OF FACT, Respondent provided that a capital project aimed at solving the issues leading to material and gas leaks from the uphill seal of the rotary drums at R1-SN-08 was completed and that during testing of the newly installed upgrade, no visible

emissions of gas or material from the uphill seal of the rotary drum was observed.

- B. Regarding the violation outlined in Paragraph 11 of the FINDINGS OF FACT, Respondent stated that the block-off flange used on the fan of R1-SN-09 during the inspection has been removed and sealed with appropriate gasket material, and plant technicians have been advised to identify and repair leaks observed during walkthrough inspections.

15. On April 19, 2023, DEQ sent a formal enforcement letter to Respondent for violations of Specific Condition 5 and General Condition 9 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. This CAO addresses all violations referenced in the FINDINGS OF FACT.
2. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWO THOUSAND ONE HUNDRED EIGHTY DOLLARS (\$2,180.00)**. 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 02 DAY OF JANUARY, ~~2023~~²⁰²⁴



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

APPROVED AS TO FORM AND CONTENT:

ENVIRAPAC MONTICELLO, LLC

BY:  (Signature)

John W. Reese (Typed or printed name)

TITLE: General Manager / Managing Member

DATE: 1/2/2024