

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 88-01598

LIS No. 24-039

ALTERNATIVE WASTE MANAGEMENT, LLC
43 WHITE CITY ROAD
MAYFLOWER, ARKANSAS 72106

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 Alternative Waste Management, LLC (Respondent) and the Director 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 an air curtain incinerator located at 43 White City Road in Mayflower, Faulkner County, Arkansas.
2. The Air Permit referenced in this CAO is the General Air Permit for Title V Air Curtain Incinerators 2370-AGP-000 (the Permit). Respondent is assigned Tracking No. 2370-AGP-

004, which indicates authority to operate under the Permit. The Respondent's authority to operate under the Permit was granted on March 20, 2017.

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 conducted a full compliance inspection of Respondent's facility on January 4, 2023. The inspection covered the reporting period of September 2021 through December 2022.

7. 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.

8. During the inspection, it was discovered that Respondent failed to submit the Semi-Annual Monitoring (SAM) Report by May 1, 2022. The Permit requires Respondent to submit reports of all required monitoring every six (6) months. Respondent submitted the SAM Report on January 12, 2023, nine (9) months after it was due. Such a failure violates 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.

9. 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 as well as to DEQ.

10. During the inspection, it was discovered that Respondent failed to submit the Annual Compliance Certification (ACC) Report by May 1, 2022. Respondent submitted the ACC Report to DEQ on January 12, 2023, nine (9) months past the due date. 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.

11. In a letter dated January 19, 2023, DEQ informed Respondent of the compliance issues identified during the January 4, 2023 inspection. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

12. On March 24, 2023, DEQ sent Respondent a formal enforcement letter for the compliance issues discovered during the January 4, 2023 inspection.

13. On May 23, 2023, DEQ sent Respondent a proposed CAO for the violations listed in the FINDINGS OF FACT section of this CAO.

14. On June 5, 2023, Respondent submitted a response to the proposed CAO in which it objected to the issuance of a CAO. Respondent believes it fully cooperated with DEQ by providing all information when requested. Respondent stated during further communications with the DEQ inspector, the SAM and ACC reports were provided to DEQ on January 12, 2023.

15. DEQ personnel reviewed the SAM and ACC reports submitted on January 12, 2023, and determined that the reports were sufficient to demonstrate compliance.

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 contained in the FINDINGS OF FACT.
2. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **THREE THOUSAND ONE HUNDRED TWENTY DOLLARS (\$3,120.00)**. 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 an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

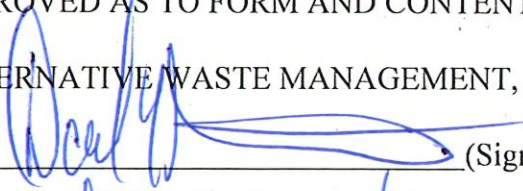
SO ORDERED THIS 26th DAY OF February, 2024.



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

APPROVED AS TO FORM AND CONTENT:

ALTERNATIVE WASTE MANAGEMENT, LLC

BY:  (Signature)

David T. Steinmetz (Typed or printed name)

TITLE: President

DATE: 2-15-24