

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

IN THE MATTER OF:

AFIN: 60-00065

LIS No. 25-039

W & W -AFCO STEEL LLC
1500 EAST 22ND STREET
LITTLE ROCK, AR 72202

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, now codified at 8 CAR § 10-101, *et seq.*, APC&EC Rule 8 (8 CAR § 11-101, *et seq.*), APC&EC Rule 18 (8 CAR § 40-101, *et seq.*), APC&EC Rule 19 (8 CAR § 41-101, *et seq.*), and APC&EC Rule 26 (8 CAR § 42-101, *et seq.*).

The issues herein having been settled by agreement of W & W -AFCO Steel 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 industrial construction company using fabricated steel located at 1500 East 22nd Street in Little Rock, Pulaski County, Arkansas.
2. The Air Permit referenced in this CAO is 1043-AOP-R7 (the Permit). The Permit was

issued on November 16, 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 June 13, 2024, DEQ personnel performed a routine compliance inspection of Respondent’s facility. The reporting period for this inspection was January 2022 through May 2024.

7. Specific Condition 11 of the Permit states that visible emissions from Respondent’s two shot blasters (SN-03 and SN-04) shall not exceed the limits specified in the permit as measured by EPA Reference Method 9. Respondent shall demonstrate compliance with this condition by Specific Condition 12. Emissions shall not exceed 5% as stated by EPA Reference Method 9.

8. Specific Condition 12 of the Permit states that SN-03 and SN-04 are subject to and shall comply with all applicable provisions of APC&EC Rule 19.304, now codified at 8 CAR § 41-204, 40 C.F.R. §§ 52.170–52.200, and 40 C.F.R. § 64.6 for compliance assurance monitoring:

- a. Daily observations of the opacity from SN-03 and SN-04 shall be conducted by a person trained but not necessarily certified in Method 9. If visible emissions in excess of 5% are detected, Respondent shall immediately take action to identify

the cause of the emissions in excess of the limit, implement correction action and document that visible emissions did not appear to be in excess of the permitted opacity following the corrective action.

- b. Respondent shall maintain records which contain the following items in order to demonstrate compliance with this specific condition:
 - i. The date and time of the observation.
 - ii. If visible emissions which appeared to be above the permitted limit were detected.
 - iii. If visible emissions which appeared to be above the permitted limit were detected, the cause of the exceedance of the opacity limit, the corrective action taken, and if the visible emissions appeared to be below the permitted limit after the corrective action was taken.
 - iv. The name of the person conducting the opacity observations.

9. During the inspection, DEQ personnel reviewed the visible emission observation records provided by Respondent and compared the records to recorded sunrise and sunset times. It was revealed that Respondent failed to complete 170 visible emissions observations correctly by conducting the observations at least one hour or more before sunrise or after sunset. Also, one visible emission observation was recorded on September 31, 2023, (not a calendar day) at SN-03 and SN-04. This makes the determination of visible emissions unknown during the inspection review period. Such acts violate Specific Conditions 11 and 12 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

10. On July 17, 2024, Trinity Consultants submitted a response to DEQ's inspection findings on behalf of Respondent. The response stated that Respondent acknowledges that the

opacity observations were not conducted according to the Permit requirements for SN-03 and SN-04. As a corrective measure, Respondent plans to implement a policy that opacity observations be conducted after 8am daily and have two (2) employees trained and certified in Method 9.

11. In correspondence dated July 26, 2024, 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 fifteen (15) calendar days of the effective date of this CAO, Respondent shall submit a corrective action plan to properly maintain emission observations and daily observations of opacity data to maintain compliance with the Permit.

2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit for SN-03 and SN-04 daily observations of opacity in accordance with Specific Condition 12 of the Permit. Records shall be submitted on a monthly basis for a period of six (6) months beginning with the month following the effective date of this CAO.

3. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **TWO THOUSAND EIGHT HUNDRED DOLLARS (\$2,800.00)**, or one-half of the penalty, **ONE THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00)** if this CAO is signed and returned to Air Enforcement Program, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **May 25, 2025**. Payment is due within thirty (30) calendar days after the effective date of this CAO. Such payment shall be made payable to:

DEQ, Fiscal Services
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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. As provided by APC&EC Rule 8, now codified at 8 CAR § 11-101, *et seq.*, 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.

10. 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.

11. 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.

12. 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 8 DAY OF May, 2025.

Bailey Taylor
BAILEY TAYLOR
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

W & W -AFCO STEEL LLC

BY: Bill Snyder (Signature)

Bill Snyder (Typed or printed name)

TITLE: SR VP of HR

DATE: 5/1/25