

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 10-00064

LIS No.

17-077

SIPLAST, INC.  
1111 HIGHWAY 67 SOUTH  
ARKADELPHIA, ARKANSAS 71923

**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) Regulation 7, APC&EC Regulation 8, APC&EC Regulation 18, and APC&EC Regulation 19.

The issues herein having been settled by agreement of Siplast, Inc. ("Respondent") and the Director of the Arkansas Department of Environmental Quality (ADEQ), 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 asphalt roofing manufacturing facility located at 1111 Highway 67 South in Arkadelphia, Clark County, Arkansas.
2. The investigation noted in this CAO covered Air Permit 0641-AR-5 ("the Permit"). The Permit was issued on August 8, 2011, and is currently still in effect.

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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, regulation, or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

4. Ark. Code Ann. § 8-4-103(c)(1)(A) as referenced by Ark. Code Ann. §§ 8-4-304 and 8-4-311 authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

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 March 21, 2017, and March 30, 2017, ADEQ personnel conducted a full compliance inspection of Respondent's facility.

7. The inspection covered the reporting period of January 2015 through February 2017.

8. The inspection revealed that Respondent had failed to maintain the established temperature operating parameters for the Fiber Bed Filter systems ("Systems") as required by Specific Condition 24 of the Permit and Table 4 of 40 C.F.R. Part 63, Subpart AAAAAAA – National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing (Subpart AAAAAAA). These Systems control emissions from the main manufacturing equipment, SN-01A and SN-01B, at the facility. ADEQ reviewed records from the Continuous Parameter Monitoring System for the Systems during the inspection

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and found that 1,126 three-hour temperature averages were outside of the established temperature operating parameters (64°F – 120°F) between March 1, 2016, and February 28, 2017 (12 months). Such acts violate Specific Condition 30 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such acts also violate Subpart AAAAAAA.

9. In a letter dated April 5, 2017, ADEQ informed Respondent of the compliance issues identified in the inspection conducted on March 21, 2017 and March 30, 2017. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deemed appropriate.

10. Respondent submitted a response on May 5, 2017. The response stated that after consultation with the manufacturer of the control device, it had been determined that the system was effective at inlet gas temperatures up to 150°F. Respondent stated that the Site Specific Monitoring Plan was modified to reflect this new operating parameter.

11. The response also stated that “the intakes to the control device were found to be blocked or closed. The issue has been corrected and the intakes are now operating and are expected to continue to operate within the new temperature range. The facility has instituted daily operating parameter inspections, set up an automatic flagging system in the computer for out of range readings, and instituted monthly reviews and weekly maintenance checks on all air intakes.”

#### **ORDER AND AGREEMENT**

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and ADEQ do hereby agree and stipulate as follows:

1. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall conduct a compliance emissions test to demonstrate that the Fiber Bed Filter systems can effectively control emissions from the main manufacturing equipment (SN-01A and SN-01B) within the temperature range of 64°F to 150°F as stated in the revised Site Specific Plan.

2. Within ninety (90) calendar days of the effective date of this CAO, Respondent shall submit the results of the compliance emissions test to ADEQ. All records shall be mailed to:

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

3. 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)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

ADEQ, 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, ADEQ shall be entitled to attorneys' fees and costs associated with collection.

4. All applicable submissions required by this CAO are subject to approval by ADEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by ADEQ, submit any additional information requested. Failure to adequately respond 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 said CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent consents and agrees to pay, on demand, to ADEQ 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 ADEQ'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 which may be available to ADEQ by reason of Respondent's failure to comply with the requirements of this CAO. ADEQ 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 ADEQ 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. ADEQ 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 ADEQ 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. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

9. As provided by APC&EC Regulation 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.

10. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO 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 ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve 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 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 said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 29 DAY OF September, 2017.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SIPLAST, INC.

BY: Gary White (Signature)

Gary White (Typed or printed name)

TITLE: Operations Mgr

DATE: 09-21-2017

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**DELEGATION OF SIGNING AUTHORITY**

*I, Jason Pollack, Executive Vice President Business Affairs and General Counsel of SIPLAST, Inc., do hereby duly authorize, Gary White in his role as the Operations Manager for the SIPLAST, Inc. Arkadelphia Facility located at 1111 Highway 67 South, Arkadelphia, AR 71923 (hereinafter "Facility") to act as agent and representative of SIPLAST, Inc. in all matters that pertain to administrative actions relative to environmental regulations. Gary White is duly authorized to sign environmental permits, discharge monitoring reports and permit submissions on behalf of SIPLAST, Inc., including, without limitation, agency submittals and reports. Gary White, in his role as Operations Manager has overall responsibility for the Facility's operations and environmental matters.*

Jason Pollack

SIPLAST, Inc.

Dated: September 19, 2017

State of New Jersey

County of Morris

I, Sandra A. Leffler, being duly sworn, state that I am a Notary Public of the State of New Jersey and do hereby certify that Jason Pollack appeared before me and that the signature appearing on the above referenced Delegation dated September 19, 2017 is his true and correct signature.

SWORN TO AND SUBSCRIBED TO THIS

19th day of September, 2017

Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

Bus

**SANDRA A. LEFFLER**  
Notary Public of New Jersey  
My Commission Expires April 15, 2019