

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 71-00478

LIS No. 19-063

FAYETTEVILLE GATHERING COMPANY
- HURRICANE 36 COMPRESSOR STATION
RANCH ROAD
BEE BRANCH, ARKANSAS 72031

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 Fayetteville Gathering Company – Hurricane 36 Compressor Station (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 a natural gas compressor station located at Ranch Road in Bee Branch, Van Buren County, Arkansas.
2. ADEQ granted coverage to Respondent under Minor Source General Air Permit

for Natural Gas Compression Stations, Permit Number 1868-AGP-000 (the Permit). Respondent was issued Permit Tracking Number 1868-AGP-397 on April 26, 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, 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 January 22, 2019, ADEQ personnel conducted an inspection of Respondent’s facility for the reporting period of April 26, 2017, through December 31, 2018.

7. The inspection revealed that Engine Caterpillar G3306TA Serial # 07Y08315 (Serial # 07Y08315) had been placed onsite on October 27, 2017, to replace Engine Caterpillar G3306TA Serial # 07Y06901. The Notice of Intent submitted to ADEQ on January 29, 2019, reports the Nitrogen Oxides (NO_x) emissions for Serial # 07Y08315 as 54.85 tons per year.

8. Specific Condition 12 of the Permit requires Respondent to conduct tests for CO and NO_x on any new or replacement engine if the total allowable emissions are greater than fifty

(50) tons per year. The test is to be conducted within 180 days of the engine start-up.

9. General Condition 7 of the Permit requires Respondent to test newly constructed equipment, as is Serial # 07Y08315, within sixty (60) days of achieving the maximum production rate, but no later than 180 days after initial start-up of the source. Based on the date that Serial # 07Y08315 was placed on site, the engine should have been tested no later than April 25, 2018.

10. The inspection revealed that as of January 22, 2019, Respondent had failed to test Serial # 07Y08315 within 180 days of its start-up. Such failure violates Specific Condition 12 and General Condition 7 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 correspondence dated February 19, 2019, ADEQ informed Respondent of the compliance issues identified during the January 22, 2019 routine compliance inspection. This was intended to provide Respondent with the opportunity to review the violations and submit information Respondent deemed appropriate regarding the compliance issues.

12. In correspondence dated March 26, 2019, Respondent stated that it had reviewed its records and agreed that the test within 180 days of engine start-up was not conducted. Respondent stated that the test would be performed on May 6, 2019.

13. In correspondence dated April 8, 2019, ADEQ informed Respondent that the compliance issues noted in ADEQ's February 19, 2019 correspondence were proceeding through formal enforcement channels.

14. On May 8, 2019, Respondent conducted performance tests of Serial # 07Y08315. In correspondence dated May 29, 2019, ADEQ personnel informed Respondent that a review of

the performance test report determined Serial # 07Y08315 was in compliance with the emission limits of the Permit.

15. In correspondence dated June 10, 2019, Respondent informed ADEQ that on May 21, 2019, Serial # 07Y08315 was removed from the site.

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. This CAO addresses all violations set forth 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 **NINE THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$9,450.00)**, or one-half of the penalty, **FOUR THOUSAND SEVEN HUNDRED TWENTY-FIVE DOLLARS (\$4,725.00)** if this CAO is signed and returned to Air Enforcement Section, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **July 23, 2019**. 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.

3. 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

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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.

4. 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 shall 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.

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 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.

6. 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.

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. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period.

8. 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.

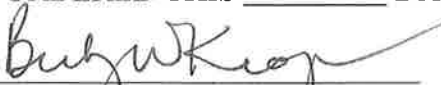
9. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO be deemed in any way to relieve Respondent of responsibilities contained in the permit.

10. 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.

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 said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 12 DAY OF July, 2019.


BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

FAYETTEVILLE GATHERING COMPANY
- HURRICANE 36 COMPRESSOR STATION

BY: CSantamaria (Signature)

CARLA SANTAMARIA (Typed or printed name)

TITLE: OPERATIONS MANAGER - MID CON

DATE: JULY 11, 2019