

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

IN THE MATTER OF:

AFIN: 54-00003

LIS No. 20-133

SOLFUELS USA INC.
1463 HIGHWAY 20 SOUTH
HELENA-WEST HELENA, AR 72342

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 Solfuels USA Inc. (Respondent) and the Director of the Division of Environmental Quality¹ (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 biodiesel production facility located at 1463 Highway 20 South in Helena-West Helena, Phillips County, Arkansas.

2. There are two Air Permits referenced in this CAO. 0444-AR-6 (Permit R6) was

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Arkansas Department of Energy and Environment.

issued on September 14, 2018, and voided on September 27, 2019. 0444-AR-7 (Permit R7) was issued on September 27, 2019.

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 the Division 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 DEQ 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 October 22, 2018, Respondent conducted initial performance testing of the Biodiesel Recovery System Final Vent (SN-05).

7. On December 20, 2018, Respondent submitted the test results of the initial performance testing of SN-05.

8. In correspondence dated December 20, 2018, Trinity Consultants, Inc. (Trinity), on behalf of Respondent, stated that Respondent is evaluating corrective action alternatives in response to the test results of the initial performance testing of SN-05. Trinity stated that one alternative would be to retest SN-05. The second alternative would be to modify the Permit to

increase the permitted emission rates.

9. In correspondence dated January 4, 2019, DEQ informed Respondent of its evaluation of the test results of the initial performance testing of SN-05. The evaluation revealed that the VOC emission rate limit at the time of testing was 2.67 pound per hour (lb/hr). This rate exceeded the permitted VOC emission rate limit of 0.1 lb/hr. Such act violates Specific Condition 1 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. The exceedance is identified in the table below.

10. The evaluation revealed that the Methanol emission rate at the time of testing was 0.57 lb/hr. This rate exceeded the permitted Methanol emission rate limit of 0.1 lb/hr. Such act violates Specific Condition 2 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. The exceedance is identified in the table below.

TABLE				
Results of Initial Performance Test Conducted October 22, 2018				
Source	Pollutants	Units	Permit Limits	Test Results
SN-05	VOC	lb/hr	0.1	2.67
SN-05	Methanol	lb/hr	0.1	0.57

11. In correspondence dated January 10, 2019, DEQ informed Respondent that formal enforcement action was proceeding in this matter.

12. On May 2, 2019, Respondent submitted a permit modification application to address the VOC and Methanol exceedances at SN-05 that occurred during initial performance testing conducted on October 22, 2018. Respondent, through the permit modification application, requested the following changes to Permit R6: a) add an acidulating system for crude glycerin purification; b) add and a diatomaceous earth filtration system; c) increase the VOC emission

rate to 4.7 lb/hr and 20.5 tons per year; and d) increase the methanol emission rate to 1.0 lb/hr and 4.38 tons per year.

13. On September 27, 2019, DEQ issued Respondent Permit R7 in response to the permit modification application submitted by Respondent on May 2, 2019.

14. In correspondence dated January 23, 2020, DEQ clarified the permitted capacity at SN-05, in Specific Condition 32 of Permit R7. The permitted capacity for purposes of determining testing conditions is 70 gallons per minute.

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. Respondent shall test SN-05 for VOC and Methanol no later than 180 days after the initial startup of the acidulating system and the diatomaceous earth filtration system at SN-05, and shall adhere to testing notification and reporting requirements of General Condition 7 of Permit R7. Testing shall be conducted with the source operating at least at 90% of its permitted capacity of 70 gallons per minute (4.7 lb/hr VOC and 1.0 lb/hr Methanol). Emission testing results shall be extrapolated to correlate with 100% of the permitted capacity to demonstrate compliance. Failure to test within this range shall limit Respondent to operating within 10% above the tested rate. Respondent shall measure the operation rate during the test and if testing is conducted below 90% of the permitted capacity, records shall be maintained at all times to demonstrate that the source does not exceed operation at 10% above the tested rate.

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 FOUR HUNDRED DOLLARS (\$2400.00)**, or one-half of the penalty, **ONE THOUSAND TWO HUNDRED DOLLARS (\$1200.00)** if this CAO is signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **February 26, 2020**. Payment is due within thirty (30) calendar days of 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 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. 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 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 that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 5th DAY OF March, 2020.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SOLFUELS USA INC

BY: [Signature] (Signature)

Jordan Ketchum (Typed or printed name)

TITLE: Process Supervisor

DATE: 2-18-20

[Faint handwritten notes or stamp]