

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

IN THE MATTER OF:

AFIN: 73-01102

LIS No. 24-125

ORCA GATHERING COMPANY, LLC
-WHITE COMPRESSOR STATION
288 WORTHAM ROAD
ROSE BUD, ARKANSAS 72137

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, and APC&EC Rule 19.

The issues herein having been settled by agreement of Orca Gathering Company, 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 a natural gas compression station located at 288 Wortham Road in Rose Bud, White County, Arkansas.

2. The Air Permit referenced in this CAO is the General Air Permit for Minor Source Natural Gas Compression Stations 1868-AGP-000 (the Permit). Respondent is assigned Tracking No. 1868-AGP-245, which indicates authority to operate under the Permit. Respondent's authority to

operate under the Permit was granted on December 10, 2020.

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. Specific Condition 15 of the Permit states that Respondent shall comply with any and all applicable sections of 40 C.F.R. § 60.4245 (d) Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (Subpart JJJJ).

7. Subpart JJJJ states that owners or operators of all Stationary Spark Ignition internal combustion engines (SI ICE) submit a copy of each performance test as conducted in § 60.4244 within 60 days after the test has been completed.

8. Respondent’s Engine Serial Number 4ZS01522 (Unit 2) is a stationary spark ignition internal combustion engine subject to Subpart JJJJ.

9. In correspondence dated June 15, 2023, Respondent requested consideration under DEQ’s Environmental Self-Disclosure Incentive Policy (Policy) for the disclosure of the failure to submit the stack test report for Unit 2 as required by Subpart JJJJ. The failure to submit the report was found during a review of records from the stack test tracking database on June 14, 2023.

10. On June 15, 2023, Respondent provided the required stack test report for Unit 2.

11. Respondent provided that to track testing at engines, a stack test tracking database is maintained. Respondent's review of the stack test database found that a stack test for Unit 2 was conducted on March 20, 2023. Based upon the requirement in Subpart JJJJ to submit the stack test report within 60 days following the stack test, the stack test report was due to be submitted on or before May 19, 2023. Respondent failed to submit the stack test report by the required due date. Such a failure violates Specific Condition 15 of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such an act also violates Subpart JJJJ.

12. In correspondence dated September 26, 2023, DEQ informed Respondent that the review of Respondent's self-disclosure had been completed, and it was determined that Respondent met seven (7) of the eight (8) conditions of the Policy. Therefore, DEQ may mitigate up to 75% of the gravity-based component of any civil administrative penalty in a CAO regarding the self-disclosed violations.

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 of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **THREE HUNDRED DOLLARS (\$300.00)**.

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

SO ORDERED THIS 6 DAY OF August, 2024.

Bailey Taylor
BAILEY TAYLOR
DIVISION OF ENVIRONMENTAL QUALITY, INTERIM DIRECTOR
INTERIM CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

ORCA GATHERING COMPANY, LLC
-WHITE COMPRESSOR STATION

BY: [Signature] (Signature)

JEREMY R. FITZPATRICK (Typed or printed name)

TITLE: VICE PRESIDENT

DATE: 7/30/2024