

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

IN THE MATTER OF:

AFIN: 26-00375

LIS No. 24-142

USNR, LLC  
d/b/a TIMBER AUTOMATION, LLC  
400 AVIATION PLAZA, SUITE C  
HOT SPRINGS, AR 71913

**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 USNR, LLC d/b/a Timber Automation, 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 computer-controlled sawmill equipment manufacturing facility located at 400 Aviation Plaza, Suite C in Hot Springs, Garland County, Arkansas.
2. The Air Permit referenced in this CAO is 1864-A (the Permit). The Permit was issued on February 14, 2000.

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 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. In a letter dated September 29, 2023, Respondent requested consideration under DEQ’s Environmental Self-Disclosure Incentive Policy (Policy) for Respondent’s disclosure of the non-compliance issues associated with Respondent’s facility.
7. In the self-disclosure letter, Respondent stated that it had installed two (2) unpermitted spray paint booths.
8. On November 15, 2023, DEQ personnel performed an inspection at Respondent’s facility. The inspection found the same violations disclosed in the self-disclosure letter, which included the unpermitted open-faced paint booth and a collapsible paint booth.
9. General Condition 16 of the Permit states that the permit authorizes only those pollutant emitting activities addressed therein.
10. Respondent installed two (2) unpermitted spray paint booths at their facility. Such an act violates General Condition 16 of the Permit and therefore violates Ark. Code Ann. § 8-4-

217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. On November 8, 2023, Respondent submitted a permit modification application to address the violation of General Condition 16 of the Permit. The application was administratively complete on November 29, 2023.

12. In correspondence dated November 22, 2023, DEQ informed Respondent that it had met all eight (8) conditions of the Policy; therefore, DEQ may mitigate up to 100% of the gravity-based component of any 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. Until such time that a final Permit is either issued or denied, Respondent shall comply with the conditions and emission limits contained within the permit modification application referenced in Paragraph 11 of the FINDINGS OF FACT.

2. 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.

3. 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.

4. 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.

5. 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.

6. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d). However, this CAO shall become effective upon execution by Respondent and the Director of DEQ.

7. 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.

8. 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.

9. 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.

10. 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 25 DAY OF September, 2024.

Bailey Taylor  
BAILEY TAYLOR

CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR  
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

USNR, LLC  
d/b/a TIMBER AUTOMATION, LLC

BY: [Signature] (Signature)

Dale Brown (Typed or printed name)

TITLE: CEO / Managing Member

DATE: September 19, 2024