

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 71-00315

LIS No. 18-090

DESOTO GATHERING COMPANY, LLC  
- GRAVEL HILL CPF-2  
1384 CLAUDE SCHOOL HOUSE ROAD  
CLEVELAND, AR 72030

**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, APC&EC Regulation 19, and APC&EC Regulation 26.

The issues herein having been settled by agreement of DeSoto Gathering Company, LLC – Gravel Hill CPF-2 (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 compression station located at 1384 Claude School House Road in Cleveland, Van Buren County, Arkansas.
2. The self-disclosure notification noted in this CAO covered Air Operating Permit 2204-AOP-R1 (the Permit). The Permit was issued on September 25, 2015, and was still in effect

at the time of investigation.

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. Specific Condition 10(b) of the Permit requires Respondent to conduct performance testing of its Natural Gas-Fired Compressor Engines, Unit 15270 (SN-20) and Unit 15271 (SN-19), every 8,760 hours or three (3) years, whichever comes first. These units were last tested on April 5, 2017. Based on the 8,760 hour testing cycle these units would have had to be re-tested on or before April 5, 2018.

7. These units were scheduled to be tested on March 22, 2018; May 24, 2018; July 24, 2018. But during each of these testing dates SN-20 and SN-19 were unable to be tested because they were shut down due to mechanical failures.

8. On August 29, 2018, during a monthly audit of its natural gas-fired compressor engines against state and federal testing requirements it was discovered that the 8,760 hour

allotted run time for SN-20 had been exceeded by 120 hours and by 156 hours for SN-19. Such act violates Specific Condition 10(b) of the Permit and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Upon this discovery, Respondent immediately shut down these units and scheduled a new test date for August 31, 2018.

9. On August 31, 2018, Respondent successfully conducted performance testing of SN-20 and SN-19.

10. In correspondence dated September 7, 2018, Respondent requested consideration under ADEQ's Environmental Self-Disclosure Incentive Policy for Respondent's disclosure of deviations of established performance testing limits at SN-20 and SN-19.

11. In order to prevent reoccurrence of this oversight, Respondent has implemented the following actions: a) Any unit shut down for maintenance for an extended period of time will be tracked on a list; b) Hours of operation since the last emissions test will be recorded when the unit is shut down; c) Operations will notify the regulatory team before a unit is returned to regular service and will make sure there are enough hours remaining to fulfill the thirty day test notice requirement prior to testing the unit; and d) If the unit is within 720 hours of its 8,760 operational limit, it will not be returned to service until an emissions test has been scheduled.

12. In correspondence dated November 1, 2018, ADEQ informed Respondent that it had completed its review of Respondent's self-disclosure and found that it met all of the conditions of the ADEQ Self-Disclosure Policy. Therefore, ADEQ may mitigate up to 100 percent 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 ADEQ do hereby agree and stipulate as follows:

1. This CAO addresses all violations contained in the FINDINGS OF FACT.
2. 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.
3. 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.

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

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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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

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

SO ORDERED THIS 01 DAY OF November, 2018.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

DESOTO GATHERING COMPANY, LLC  
- GRAVEHILL CPF-2

BY: Larry Foshee (Signature)

Larry Foshee (Typed or printed name)

TITLE: Operations Director

DATE: 11/12/18

*[Faint stamp]*