

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 06-00004

LIS No. 17-047

POTLATCH LAND & LUMBER, LLC
810 WEST PINE STREET
WARREN, AR 71671

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 Potlatch Land & Lumber, LLC (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 wood products manufacturing facility located at 810 West Pine Street in Warren, Bradley County, Arkansas.
2. ADEQ issued Air Operating Permit 0356-AOP-R9 (the Permit) to Respondent on August 27, 2014.

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) 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. The Permit authorizes Respondent to operate its Wood Waste Boiler (SN-02) that uses a multiple cyclone system in tandem with an electrostatic precipitator (ESP) to control emissions. Specific Condition 4 of the Permit restricts the discharge of any gases from SN-02 that exhibit opacity greater than 20 percent, except for one 6-minute period per hour of not more than 27 percent opacity.

7. In correspondence dated May 6, 2013, Respondent submitted an Initial Notification of Applicability to the United States Environmental Protection Agency, Region 6 and to the ADEQ informing them that SN-02 is an affected source under 40 C.F.R. Part 63, Subpart DDDDD (Boiler MACT). Under the Boiler MACT, SN-02 must maintain opacity at less than or equal to 10% opacity or the highest hourly average opacity reading measured during a performance test run demonstrating compliance with the particulate matter emission limitation.

The Boiler MACT requires existing affected sources to comply with this subpart no later than January 31, 2016.

8. On March 2, 2016, Respondent conducted initial performance testing of SN-02 in accordance with the Boiler MACT. The testing results that were received by ADEQ on March 30, 2016, indicated that Respondent had demonstrated initial compliance with the applicable 10% opacity limit. The opacity readings measured during the performance test averaged 7.57%.

9. On April 22, 2016, Respondent submitted a Notification of Compliance Status (NCS) report to ADEQ. Respondent stated in the NCS that opacity calculated on a daily block average would be used to demonstrate compliance with the Continuous Monitoring System (CMS). The Boiler MACT defines daily block average as the arithmetic mean of all valid emission concentrations or parameter levels recorded when a unit is operating measured over the 24-hour period from 12 a.m. to 12 a.m., except for periods of startup and shutdown or downtime.

10. In correspondences dated August 9, 2016, AirTech Environmental Consultants, LLC, on behalf of Respondent, stated that on July 1, 2016, after a three (3) week boiler maintenance shutdown, the CMS at SN-02 began detecting opacity in excess of 10%. Respondent submitted Upset Condition Reports (UCR) to ADEQ covering the detected opacity exceedances. From June 30, 2016 through October 10, 2016, Respondent submitted seventy-three (73) UCRs that disclosed daily block opacity averages that ranged from 10.1% to 14.6%. Such acts violate APC&EC Reg. 19.304 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

11. Respondent scheduled a rebuild of the ESP that would return opacity to less than 10% at the earliest possible time, and determined that as a result of the deteriorating opacity

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readings from the ESP, further stack testing to establish an interim site specific opacity limit was not appropriate.

12. In correspondence dated October 10, 2016, AirTech Environmental Consultants, LLC, on behalf of Respondent, reported that Respondent has contracted with a company to repair the ESP. The repairs are scheduled to be completed no later than March 10, 2017.

13. In correspondence dated February 28, 2017, Respondent requested the applicable annual performance test of SN-02 be changed to no later than June 2, 2017. The request was approved by ADEQ on March 13, 2017.

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. Respondent shall complete the applicable annual performance test of SN-02, per the Boiler MACT, no later than June 2, 2017.

2. Respondent shall submit a Notification of Intent to conduct the annual performance test referenced in ORDER AND AGREEMENT Paragraph 1 of this CAO at least fifteen (15) calendar days before the performance test is scheduled to begin.

3. Respondent shall submit the performance test results referenced in ORDER AND AGREEMENT Paragraph 4 of this CAO within thirty (30) calendar days of the date that the performance test was conducted.

4. The notice and report referenced in ORDER AND AGREEMENT Paragraphs 2 and 3 of this CAO shall be mailed to:

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ADEQ, Office of Air Quality
- Enforcement Section
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

5. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)**. 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.

6. 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.

7. 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 consents and agrees to 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

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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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 13 DAY OF June, 2017.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

POTLATCH LAND & LUMBER, LLC

BY: Michael Fitzgerald (Signature)

Michael Fitzgerald (Typed or printed name)

TITLE: Mill Manager

DATE: 6/9/17