

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of El Dorado (Operator)
Ouachita River Joint Pipeline
P.O. Box 1587
El Dorado, AR 71731

LIS No. 20- 165
Permit No. AR0050296
AFIN 70-00729

Lion Oil Company - El Dorado Refinery
1000 McHenry Ave.
El Dorado, AR 71730

Great Lakes Chemical Corporation Central Plant
A LANXESS Solutions US Business
P.O. Box 7020
El Dorado, AR 71731-7020

El Dorado Chemical Company
P.O. Box 231
El Dorado, AR 71731-0231

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“Order”) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations and rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the Ouachita River Joint Pipeline permittees (City of El Dorado (operator), Lion Oil Company (Delek), Great Lakes Chemical Corporation Central Plant—A LANXESS Solutions US Business (GLCC), and El Dorado

Chemical Company, (collectively Respondents) and 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 City of El Dorado operates the Ouachita River Joint Pipeline located approximately 6 miles due east of US Hwy 167, Union County, Arkansas. Respondents are each authorized to discharge from their own permitted facilities to the joint pipeline.
2. The joint pipeline discharges treated wastewater to the Ouachita River in Segment 2D of the Ouachita River Basin.
3. Respondents and their discharges to the joint pipeline are regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
4. Pursuant to the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accordance with 33 U.S.C. § 1342(a).
5. DEQ is authorized under the Arkansas Water and Air Pollution Control Act (“Act”) to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.
6. Ark. Code Ann. § 8-4-217(a)(3) provides:
 - (a) It shall be unlawful for any person to:

...

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 Department of Energy and Environment.

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) 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.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), “[e]ach day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

9. DEQ issued NPDES Permit Number AR0050296 (“Permit”) to Respondents on November 8, 2013. The Permit became effective on December 1, 2013, with an expiration date of November 30, 2018.

10. On December 10, 2013, DEQ executed Consent Administrative Order (CAO) LIS 13-194 with Respondent City of El Dorado. CAO LIS 13-194 addressed the use of materials to construct portions of the Ouachita River Joint Pipeline that deviated from the pipeline material specifications in State Construction Permit AR0049743C.

11. DEQ received a complete Permit renewal application on May 8, 2018, and determined to be administratively complete on May 18, 2018.

12. Respondents’ permit coverage was administratively continued pursuant to APC&EC Regulation 6.201.

Unpermitted Discharges

13. Between November 13, 2013 and January 27, 2020, Respondents reported twenty-nine (29) reported pipeline integrity failures, of which twenty-one (21) resulted in unpermitted discharges. Eight (8) reported pipeline integrity failures were discovered during hydrotesting at pressures above operating levels and did not result in unpermitted discharges. The list of reported pipeline integrity failures is attached as Exhibit A.

14. Each of these twenty-one (21) unpermitted discharges constitutes separate violation of Ark. Code Ann. § 8-4-217(b)(1)(E).

Corrective Action Plan

15. On May 23, 2017, DEQ met with representatives from Respondent City of El Dorado² in regard to the pipeline integrity failures.

16. On September 14, 2017, DEQ requested a Corrective Action Plan (CAP) to address the pipeline integrity failures.

17. On November 13, 2017, Respondents submitted a response to DEQ's CAP request.

18. On March 22, 2018, DEQ requested additional information regarding Respondents' November 13, 2017 CAP response.

19. On May 10, 2018, Respondents submitted a response to DEQ's request for additional information.

20. On August 30, 2018, DEQ requested additional information for Respondents' CAP to address the pipeline integrity failures.

² Correspondence concerning this Permit is directed to and received from the operator, the City of El Dorado. The El Dorado Water Utilities was the department of the City of El Dorado responsible for the operation of the Ouachita River Joint Pipeline at the time of this meeting.

21. On September 26, 2018, Respondents submitted a response to DEQ's request for additional information.
22. On February 15, 2019, Respondents submitted a pipeline repairs report for the February 7, 2019 reported pipeline integrity failures.
23. On August 6 and 13, 2019, Respondents submitted pipeline repairs reports for the July 22, 2019, August 1, 2019, and August 5, 2019 pipeline integrity failures.

Inspection and Effluent Violations

24. On April 23, 2018, DEQ conducted a routine compliance evaluation inspection of the joint pipeline. The DEQ inspector observed deficiencies in Respondent's procedures and processes for NPDES permit compliance sampling and testing.
25. On May 17, 2018, DEQ notified Respondents of the inspection results.
26. On June 14, 2018, DEQ received the Respondents' response to the violations cited in the inspection report.
27. DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondents in accordance with the Permit.
28. The review revealed that Respondents reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from June 1, 2015 through May 31, 2019:
 - a. Two (2) violations for CBOD5; and
 - b. Three (3) violations for Ammonia Nitrogen.
29. Each of the five (5) discharge limitation violations listed above constitutes a separate permit violation for a total of five (5) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Within sixty (60) calendar days of the effective date of this Order, Respondents shall submit to DEQ, for review and approval, an updated CAP with regard to pipeline integrity failures on the Ouachita River Joint Pipeline. The CAP shall be certified by a Professional Engineer (PE) licensed in the state of Arkansas and at a minimum, shall include the following information:

1. A plan to evaluate and implement system(s) to provide rapid detection (less than 24-hours) of the loss of pipeline integrity in the Ouachita River Joint Pipeline; and
2. A plan to evaluate methods, or equipment, or technology, or combinations thereof to mitigate pipeline integrity failures to the extent feasible;
3. A report detailing the integrity assessments and evaluations completed since the first detected pipeline integrity failure and the results of those assessments and evaluations; and
4. A milestone schedule outlining the expected completion dates for the actions proposed in the CAP. Schedule updates would be provided to DEQ on a monthly basis, with each update due on or before the 15th of the following month, addressing the evaluation, implementation, and execution of CAP Items 1 and 2 above, as well as any proposed subsequent timetable revisions based on the outcomes of those corrective actions.

2. Respondents shall hire a third party to conduct an Internal Audit of the compliance sample management procedures for effluent discharge in accordance with the Permit. The Internal Audit shall identify any instances of noncompliance with applicable sample custody, transfer, and documentation methods and procedures; develop consistent standard operating procedures with the Ouachita River Joint Pipeline permittees; and conduct training to demonstrate compliance with the Permit. Respondents shall submit the Internal Audit to DEQ within ninety (90) calendar days of the effective date of this Order.

3. Within one hundred twenty (120) calendar days of the effective date of this Order, Respondents shall implement such actions as are necessary to achieve and maintain compliance with the sampling and collection requirements of the Permit for all instances of noncompliance including, but not limited to, any violations identified in the Internal Audit.

4. Within one hundred fifty (150) calendar days from the effective date of this Order, Respondents shall submit a report to DEQ describing actions taken to achieve and maintain compliance with respect to any instances of noncompliance detected by the Internal Audit. If DEQ informs Respondents that the actions taken were insufficient to achieve compliance with applicable requirements, DEQ will provide Respondents with a list of deficiencies, and Respondents shall undertake any additional action(s) required to achieve and maintain compliance with the applicable requirements.

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Twenty Seven Thousand One Hundred Dollars (\$27,100.00), of which Twelve Thousand Dollars (\$12,000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Twelve Thousand Dollars (\$12,000.00) shall be DISMISSED by DEQ. Payment of Fifteen Thousand One Hundred Dollars (\$15,100.00) is due within thirty (30) calendar days of

the effective date of this Order. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, or fails to pay the reduced sum of Fifteen Thousand One Hundred Dollars (\$15,100.00), the full balance of Twenty Seven Thousand One Hundred Dollars (\$27,100.00) shall become immediately due and payable to DEQ on demand. Payment shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

6. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondents should fail to meet any such requirements or deadlines, Respondents consent and agree to pay on demand to DEQ stipulated penalties according to the following schedule:

- | | |
|---|-------------------|
| a. First day through fourteenth day: | \$100.00 per day |
| b. Fifteenth day through the thirtieth day: | \$500.00 per day |
| c. Each day beyond the thirtieth day: | \$1000.00 per day |

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to DEQ by reason of failure by Respondents to comply with the requirements of this Order.

7. If any event, including but not limited to an act of nature, occurs that causes or may cause a delay in the achievement of compliance by Respondents with the requirements or deadlines of this Order, Respondents shall so 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 specified in this Order. 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.

8. DEQ may grant an extension of any provision of this Order if Respondents request such an extension in writing, and the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondents. 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. Respondents has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondents, as well as the length of the delay attributable to such circumstances. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

9. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondents shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

10. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty-day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the

month following the date this Order is executed. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative, or in the event a petition to set aside this Order is granted by the Commission.

11. Nothing in this Order shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondents from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondents of its responsibilities for obtaining any necessary permits.

12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of the identified Respondent, being duly authorized to execute and bind the identified Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer of the identified Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

13. This Order has been reviewed and approved by the City Council of Respondent City of El Dorado in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit B.

14. The City Council of Respondent City of El Dorado has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit B.

15. The City Council of Respondent City of El Dorado has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this Order including but not limited to the payment of a civil penalty as set forth in this Order. See Exhibit B.

SO ORDERED THIS 13 DAY OF August, 2020.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of El Dorado (Operator)
BY: Veronica Smith Creer
(Signature)

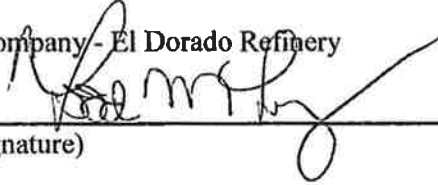
Veronica Smith Creer
(Typed or printed name)

TITLE: Mayor

DATE: 7/28/2020

APPROVED AS TO FORM AND CONTENT:

Lion Oil Company - El Dorado Refinery

BY: 
(Signature)

TODD M LOPEZ
(Typed or printed name)

TITLE: VP, HEALTH SAFETY & ENVIRONMENTAL

DATE: 7/30/20

APPROVED AS TO FORM AND CONTENT:

Lion Oil Company - El Dorado Refinery

BY: _____
(Signature)

(Typed or printed name)

TITLE: _____

DATE: _____

APPROVED AS TO FORM AND CONTENT:

Lion Oil Company - El Dorado Refinery

BY: *Louis LaBelle*
(Signature)

Louis LaBelle
(Typed or printed name)

TITLE: EVP & President of Refinery

DATE: 8-3-2020

APPROVED AS TO FORM AND CONTENT:

Lion Oil Company - El Dorado Refinery

BY: _____
(Signature)

(Typed or printed name)

TITLE: _____

DATE: _____

APPROVED AS TO FORM AND CONTENT:

Great Lakes Chemical Corporation Central Plant,
A LANXESS Solutions US Business

BY: 

(Signature)

Steffen Kallert

(Typed or printed name)

TITLE: Senior Site Manager

DATE: 07/30/2020

APPROVED AS TO FORM AND CONTENT:

El Dorado Chemical Company

BY: Delmar Reppond
(Signature)

Delmar Reppond

(Typed or printed name)

TITLE: General Manager

DATE: 07/29/2020

EXHIBIT A

Exhibit A
Ouachita Pipeline System Leaks

| Identifier | Lat/Long | Discovery Date | Repair Date | OJP Segment | Water Release? | Leak Type |
|------------|--------------------|----------------|-------------|------------------|----------------|--------------------------|
| OJP1 | 33.26771/-92.50679 | 11/7/13 | 11/10/13 | JOINT | Yes | Pipe Failure |
| OJP2 | 33.28933/-92.47315 | 9/19/14 | 9/20/19 | JOINT | Yes | Joint Failure |
| OJP3 | 33.33/-92.633 | 1/4/15 | 1/5/15 | NORTH | Yes | Pipe Failure |
| OJP4 | 33.18088/-92.66535 | 2/7/19 | 2/8/19 | Lion+GLCC Shared | Yes | Pipe Failure |
| OJP5 | 33.24211/-92.63297 | 11/18/19 | 11/21/19 | NORTH | Yes | Pipe Failure |
| #1 | 33.18686/-92.69714 | 10/27/16 | 10/27/16 | GLCC | Yes | Circumferential Fracture |
| #2 | 33.18470/-92.69976 | 11/8/16 | 11/9/16 | GLCC | Yes | Circumferential Fracture |
| E1 | 33.18726/-92.68817 | 11/9/16 | 11/17/16 | GLCC | Yes | Circumferential Fracture |
| E2 | 33.18703/-92.69074 | 11/9/16 | 11/15/16 | GLCC | Yes | Circumferential Fracture |
| E3 | 33.187/-92.69107 | 11/9/16 | 11/16/16 | GLCC | Yes | Circumferential Fracture |
| E4 | 33.18684/-92.69312 | 11/9/16 | 3/15/17 | GLCC | Yes | Circumferential Fracture |
| E5 | 33.18688/-92.69467 | 11/9/16 | 3/20/17 | GLCC | Yes | Circumferential Fracture |
| E6 | 33.1870/-92.69128 | 11/17/16 | 3/15/17 | GLCC | No | Gasket Seep |
| E7 | 33.18688/-92.69377 | 3/13/17 | 3/14/17 | GLCC | Yes | Circumferential Fracture |
| E8 | 33.18683/-92.69435 | 3/13/17 | 3/20/17 | GLCC | No | Gasket Seep |
| E9 | 33.18704/-92.68986 | 3/14/17 | 3/16/17 | GLCC | No | Gasket Seep |
| E10 | 33.18711/-92.68975 | 3/14/17 | 3/16/17 | GLCC | No | Gasket Seep |
| E11 | 33.18659/-92.69904 | 3/15/17 | 3/17/17 | GLCC | Yes | Circumferential Fracture |
| E12 | 33.18417/-92.70034 | 3/21/17 | 3/22/17 | GLCC | Yes | Circumferential Fracture |
| E13 | 33.18714/-92.6899 | 3/21/17 | 3/22/17 | GLCC | Yes | Circumferential Fracture |
| E14 | 33.18708/-92.69206 | 4/4/17 | 4/4/17 | GLCC | No | Circumferential Fracture |
| E15 | 33.18381/-92.70222 | 4/4/17 | 4/5/17 | GLCC | No | Circumferential Fracture |
| E16 | 33.1869/-92.69551 | 9/14/17 | 9/15/17 | GLCC | Yes | Circumferential Fracture |
| E17 | 33.1872/-92.69193 | 6/4/18 | 6/5/18 | GLCC | Yes | Circumferential Fracture |
| E18 | 33.18399/-92.70259 | 8/20/18 | 8/22/18 | GLCC | Yes | Circumferential Fracture |
| E19 | 33.18727/-92.68759 | 7/22/19 | 7/23/19 | GLCC | Yes | Circumferential Fracture |

Exhibit A
Ouachita Pipeline System Leaks

| | | | | | | |
|-----|------------------------|---------|---------|------|-----|-----------------------------|
| E20 | 33.18662/- 92.69906 | 8/1/19 | 8/5/19 | GLCC | No | Circumferential Fracture |
| E21 | 33.1865/- 92.69895 | 8/5/19 | 8/5/19 | GLCC | No | Gasket Seep |
| E22 | 33.18694/- 92.69611 | 1/24/20 | 1/28/20 | GLCC | Yes | Circumferential Fracture |

EXHIBIT B

RESOLUTION NO. 1540

A RESOLUTION ACCEPTING THE FINDINGS IN THE ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT DIVISION OF ENVIRONMENTAL QUALITY CONSENT ADMINISTRATIVE ORDER

WHEREAS, on this the 23rd day of July, 2020, at the regularly scheduled meeting of the City Council of El Dorado, Arkansas, with a quorum present, it is necessary to accept the findings of the Consent Administrative Order attached as Exhibit B.


NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL DORADO, ARKANSAS, that the Consent Administrative Order is approved; that Mayor Veronica Smith-Creer and City Clerk Heather McVay are hereby authorized to sign the Consent Administrative Order; and Mayor Veronica Smith-Creer and City Clerk Heather McVay are hereby authorized to expend the funds for compliance activities required by the Consent Administrative Order including, but not limited to, the payment of a civil penalty and as set forth in the Consent Administrative Order.

PASSED: July 23, 2020.

APPROVED:


VERONICA SMITH-CREER, MAYOR

ATTEST:


HEATHER McVAY, CITY CLERK

