

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AFIN: 20-00017

LIS No. 17-016

IDAHO TIMBER OF CARTHAGE, LLC
322 NORTH OAK STREET
CARTHAGE, AR 71725

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 Idaho Timber of Carthage, 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 lumber mill located at 322 North Oak Street in Carthage, Dallas County, Arkansas.
2. ADEQ issued Air Operating Permit 0551-AOP-R6 (the Permit) to Respondent on June 8, 2015.

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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. On May 6, 2016, Respondent submitted stack test results to ADEQ for emissions testing conducted April 5-6, 2016. The results of the test indicated that the Wood Waste Fired Boiler (SN-01) exceeded the permitted emission rate limits for Particulate Matter (PM), Particulate Matter less than 10 microns in diameter (PM₁₀), and Nitrogen Oxides (NO_x) (Table 1). Such acts violate Specific Conditions 1 and 2 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

Table 1

SOURCE	POLLUTANT	TEST RESULTS (lb/hr)	TEST RESULTS (lb/hr) extrapolated to 204 tons/day	PERMIT LIMIT (lb/hr)
SN-01	PM	31.61	82.20	18.2
	PM ₁₀	6.55	17.89	13.7
	NO _x	11.77	32.15	11.5

7. Specific Condition 8 of the Permit states that the emission testing results shall be extrapolated to correlate with 100% of the permitted capacity to demonstrate compliance. The permitted production rate was 204 tons per day. Test results indicated that during the emissions test, the production rate was 74.68 tons per day. Based on the extrapolated emission test results, the production rate at SN-01 is limited to 82.15 tons per day.

8. In a cover letter to the stack test results submitted on May 6, 2016, Respondent listed a plan of action the facility will take in regards to the failed stack test. The plan of action includes making repairs to the boiler as recommended in the inspection report from the May 4, 2016 inspection of the boiler. Furthermore, Respondent stated that after the recommended repairs are made, an emissions re-test at SN-01 for PM, PM₁₀, and NO_x will be scheduled.

9. On July 13, 2016, ADEQ and Respondent met to discuss the re-testing of SN-01 and the possibility of submitting a permit modification application to raise the PM, PM₁₀, and NO_x emission limits at SN-01.

10. On July 15, 2016, Respondent submitted a discussion summary of the July 13, 2016 meeting between ADEQ and Respondent. In the summary, Respondent stated that a Title V Renewal Application would be submitted within ninety (90) days to increase the permit limits for PM, PM₁₀, and NO_x at SN-01, the repairs of the boiler air leaks identified in the May 4, 2016 inspection of the boiler would be completed, and a progress report would be submitted to the Department every thirty (30) days.

11. On August 23, 2016, ADEQ personnel conducted a full compliance inspection of Respondent's facility for the reporting period covering August 2015 through August 2016. During the inspection, records reviewed indicated that Respondent exceeded the 82.15 tons per day capacity rate limit at SN-01 on eighty-one (81) days between April 6, 2016 and August 22,

2016. On December 16, 2016, ADEQ personnel contacted Respondent and requested the SN-01 production rate records for August 23, 2016 through December 16, 2016. Respondent submitted the SN-01 production rate records on December 16, 2016. After a review of the records, it was determined that Respondent had exceeded the 82.15 tons per day capacity rate limit on seventy-four (74) days between August 23, 2016 and December 16, 2016. Respondent exceeded the 82.15 tons per day capacity rate a total of one hundred fifty-five (155) days from April 6, 2016 to December 16, 2016 (Table 2).

Table 2

DATE	EXTRAPOLATED WOOD WASTE FIRED		WOOD WASTE FIRED TONS/DAY
	LIMIT	TONS/DAY	
April 8, 2016	82.15		83.64
April 15, 2016	82.15		84.10
April 17, 2016	82.15		87.50
April 18, 2016	82.15		87.57
April 19, 2016	82.15		85.15
April 22, 2016	82.15		85.04
April 23, 2016	82.15		86.81
May 19, 2016	82.15		84.64
May 22, 2016	82.15		90.06
May 23, 2016	82.15		97.42
May 24, 2016	82.15		96.63
May 25, 2016	82.15		99.58
May 26, 2016	82.15		98.41
May 27, 2016	82.15		87.35
May 28, 2016	82.15		88.78
May 29, 2016	82.15		103.73
May 30, 2016	82.15		102.67
May 31, 2016	82.15		100.34
June 2, 2016	82.15		106.87
June 3, 2016	82.15		103.97
June 4, 2016	82.15		103.93
June 5, 2016	82.15		101.34
June 6, 2016	82.15		99.90
June 7, 2016	82.15		97.25
June 8, 2016	82.15		96.56
June 9, 2016	82.15		94.82
June 10, 2016	82.15		95.73

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DATE	EXTRAPOLATED		WOOD WASTE FIRED TONS/DAY
	WOOD WASTE FIRED LIMIT	TONS/DAY	
June 11, 2016	82.15		95.69
June 15, 2016	82.15		99.48
June 16, 2016	82.15		99.84
June 17, 2016	82.15		98.54
June 18, 2016	82.15		96.35
June 19, 2016	82.15		94.03
June 22, 2016	82.15		105.71
June 23, 2016	82.15		96.71
June 26, 2016	82.15		95.81
June 27, 2016	82.15		86.68
June 28, 2016	82.15		94.00
June 29, 2016	82.15		89.67
July 1, 2016	82.15		99.31
July 2, 2016	82.15		113.60
July 3, 2016	82.15		102.31
July 4, 2016	82.15		93.66
July 5, 2016	82.15		87.61
July 6, 2016	82.15		89.27
July 7, 2016	82.15		88.34
July 8, 2016	82.15		88.26
July 9, 2016	82.15		90.69
July 11, 2016	82.15		89.45
July 12, 2016	82.15		87.16
July 13, 2016	82.15		87.67
July 15, 2016	82.15		87.49
July 16, 2016	82.15		87.02
July 17, 2016	82.15		87.71
July 18, 2016	82.15		88.19
July 19, 2016	82.15		85.15
July 20, 2016	82.15		82.63
July 21, 2016	82.15		82.99
July 22, 2016	82.15		85.55
July 24, 2016	82.15		84.84
July 25, 2016	82.15		105.56
July 26, 2016	82.15		95.89
July 27, 2016	82.15		91.31
July 28, 2016	82.15		88.43
July 29, 2016	82.15		89.62
July 30, 2016	82.15		85.71
August 3, 2016	82.15		85.16
August 4, 2016	82.15		84.66
August 5, 2016	82.15		95.14
August 7, 2016	82.15		83.18

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DATE	EXTRAPOLATED WOOD WASTE FIRED LIMIT TONS/DAY	WOOD WASTE FIRED TONS/DAY
August 8, 2016	82.15	83.01
August 12, 2016	82.15	82.62
August 14, 2016	82.15	89.38
August 15, 2016	82.15	87.75
August 16, 2016	82.15	88.48
August 17, 2016	82.15	87.10
August 18, 2016	82.15	88.88
August 19, 2016	82.15	88.33
August 20, 2016	82.15	85.94
August 21, 2016	82.15	85.47
August 22, 2016	82.15	86.16
August 27, 2016	82.15	98.29
August 28, 2016	82.15	93.06
August 29, 2016	82.15	94.88
August 30, 2016	82.15	93.90
August 31, 2016	82.15	94.46
September 1, 2016	82.15	92.67
September 2, 2016	82.15	92.55
September 3, 2016	82.15	91.50
September 5, 2016	82.15	94.81
September 6, 2016	82.15	118.72
September 7, 2016	82.15	101.91
September 8, 2016	82.15	91.73
September 9, 2016	82.15	92.01
September 10, 2016	82.15	88.87
September 15, 2016	82.15	84.40
September 16, 2016	82.15	88.19
September 18, 2016	82.15	88.59
September 19, 2016	82.15	106.95
September 20, 2016	82.15	118.94
September 21, 2016	82.15	97.90
September 22, 2016	82.15	85.75
September 24, 2016	82.15	101.46
September 25, 2016	82.15	99.83
September 26, 2016	82.15	83.54
September 27, 2016	82.15	85.21
September 28, 2016	82.15	98.2
September 29, 2016	82.15	99.64
September 30, 2016	82.15	95.91
October 1, 2016	82.15	96.94
October 2, 2016	82.15	96.88
October 3, 2016	82.15	96.97
October 4, 2016	82.15	98.57

DATE	EXTRAPOLATED		WOOD WASTE FIRED TONS/DAY
	WOOD WASTE FIRED LIMIT	TONS/DAY	
October 6, 2016	82.15		84.33
October 8, 2016	82.15		93.06
October 9, 2016	82.15		88.81
October 10, 2016	82.15		89.13
October 11, 2016	82.15		86.38
October 12, 2016	82.15		92.65
October 13, 2016	82.15		91.90
October 14, 2016	82.15		88.27
October 15, 2016	82.15		93.60
October 16, 2016	82.15		92.65
October 17, 2016	82.15		91.79
October 18, 2016	82.15		95.41
October 19, 2016	82.15		96.42
October 20, 2016	82.15		95.27
October 22, 2016	82.15		92.70
October 23, 2016	82.15		93.95
October 24, 2016	82.15		93.22
October 25, 2016	82.15		92.36
November 4, 2016	82.15		85.97
November 5, 2016	82.15		85.05
November 6, 2016	82.15		85.18
November 7, 2016	82.15		86.39
November 8, 2016	82.15		90.75
November 9, 2016	82.15		92.26
November 10, 2016	82.15		91.83
November 11, 2016	82.15		89.39
November 12, 2016	82.15		91.51
November 16, 2016	82.15		86.38
November 19, 2016	82.15		90.35
November 22, 2016	82.15		89.38
November 23, 2016	82.15		89.20
December 5, 2016	82.15		103.27
December 6, 2016	82.15		120.81
December 7, 2016	82.15		93.45
December 8, 2016	82.15		152.76
December 9, 2016	82.15		148.47
December 10, 2016	82.15		146.45
December 11, 2016	82.15		112.58
December 12, 2016	82.15		149.01
December 14, 2016	82.15		138.54
December 15, 2016	82.15		152.47
December 16, 2016	82.15		148.47

Such acts violate Specific Condition 8 of the Permit and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

12. In a letter dated August 31, 2016, ADEQ informed Respondent of the compliance issues identified in the inspection conducted on August 23, 2016. This letter was intended to give Respondent an opportunity to review the issues and submit any additional information Respondent deems appropriate.

13. On September 26, 2016, Respondent submitted a response to the August 31, 2016 letter. The response letter stated, "because the daily fuel usage limit has never been established based on measured steam output, it is not appropriate to set the fuel usage limit based on a failed stack test when the boiler was not operating efficiently. Idaho Timber will schedule a retest within 60 days after the repairs have been completed to establish an appropriate fuel usage limit. Idaho Timber is preparing to submit the Title V renewal application by October 15, 2016 to address the boiler emission limits as well as the fuel usage limit."

14. On October 28, 2016, Respondent submitted a Title V renewal application to ADEQ. The Title V renewal application requested to revise the monitoring requirements of SN-01 to steam output rather than tons of wood waste fired. The Title V renewal also requested that the emission rate limits for PM, PM₁₀, and NO_x at SN-01 be increased (Table 3).

Table 3

Source	Pollutant	Permit Limit 0551-AOP-R6 lb/hr	Requested Permit Limit lb/hr	Permit Limit 0551-AOP-R6 TPY	Requested Permit Limit TPY
SN-01	PM	18.2	48.4	79.8	211.9
SN-01	PM ₁₀	13.7	31.4	60.0	137.4
SN-01	NO _x	11.5	43.9	50.4	192.3

15. In correspondence dated January 30, 2017, Respondent stated that a performance test of SN-01 has been scheduled for March 15, 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. This CAO addresses the exceedances of the daily capacity rate limit of SN-01 for the reporting period of April 8, 2016 through March 15, 2017. The performance testing scheduled for March 15, 2017 will establish a new daily capacity rate limit for SN-01.

2. Respondent shall conduct a performance test of SN-01 on March 15, 2017. The performance test of SN-01 shall demonstrate compliance with the emission limits listed in the October 28, 2016 Title V renewal application.

3. In compromise and full settlement for instances of noncompliance specified in the FINDINGS OF FACT, Respondent agrees to pay the sum of **SIX THOUSAND SIX HUNDRED DOLLARS (\$6,600.00)**. 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.

4. 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.

5. Failure to meet the limits, requirements, or deadlines of this CAO or the

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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 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 27 DAY OF February, 2017.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

IDAHO TIMBER OF CARTHAGE, LLC

BY: Kevin Ramer (Signature)

Kevin Ramer (Typed or printed name)

TITLE: General Manager

DATE: 2-17-17