

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

IN THE MATTER OF:

AFIN: 48-00065

LIS No. 20-186

SOUTHERN SQUARES COMPANY, INC.
625 GARFIELD STREET
CLARENDON, ARKANSAS 72029

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, and APC&EC Regulation 19.

The issues herein having been settled by agreement of Southern Squares Company, Inc. (Respondent) and the Director of 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 owns and operates a hardwood lumber kiln facility located at 625 Garfield Street in Clarendon, Monroe County, Arkansas. The Southern Squares facility is operated in concert with the T&S Sawmill, which cuts hardwoods, and emissions from both

Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiency Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Arkansas Department of Energy and Environment.

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facilities are included in the permits referenced below.

2. There are three Air Permits referenced in this CAO. 2222-AR-1 (Permit R1) was issued on April 21, 2011 and voided on June 8, 2015. 2222-AR-2 (Permit R2) was issued on June 8, 2015 and voided on December 4, 2017. 2222-AR-3 (Permit R3) was issued on December 4, 2017.

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 Division 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 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.

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 February 20, 2020, DEQ personnel conducted a full compliance inspection of Respondent's facility. The inspection covered the reporting period of April 1, 2014 through January 31, 2020.

7. Specific Condition 9 of Permits R1, R2, and R3 prohibits Respondent from operating the Wood Waste Boiler (SN-01) at steam pressures greater than 100 psi or at a

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combustion temperatures greater than 1800° F. Specific Condition 10 of Permits R1, R2, and R3 requires Respondent to maintain hourly records of the steam pressure and combustion temperature of SN-01. During the inspection, it was discovered that Respondent failed to maintain records of SN-01's steam pressure or combustion temperature from April 1, 2014 to January 31, 2020. Such failure violates Specific Condition 10 of Permits R1, R2, and R3 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Compliance with Specific Condition 9 could not be determined.

8. Specific Condition 15 of Permit R3 and Specific Condition 13 of Permits R1 and R2 require Respondent to follow the written protocol establishing feed rate conversion factors as outlined in Specific Condition 14 of Permit R3 and Specific Condition 12 of Permits R1 and R2 for each combination of wood waste to be fired in SN-01. Specific Condition 16 of Permit R3 and Specific Condition 14 of Permits R1 and R2 require Respondent to not operate SN-01's conveyor at speeds greater than that resulting from the variable frequency drive controller set at 35 hertz. Specific Condition 17 of Permit R3 and Specific Condition 15 of Permits R1 and R2 require Respondent to maintain records of the feed rate conversion factor and the waste wood feed conveyor speed, as represented by the number of hertz, and any time the variable frequency driver controller is changed during a work shift, at SN-01 to demonstrate compliance with Specific Conditions 15 and 16 of Permit R3 and Specific Conditions 13 and 14 of Permits R1 and R2.

9. During the inspection, it was discovered that Respondent failed to maintain records of the feed rate conversion factor and the waste wood feed conveyor speed, as represented by the number of hertz, at SN-01 at the beginning of each work shift from April 1,

2014 to January 31, 2020. Such failure violates Specific Condition 17 of Permit R3 and Specific Condition 15 of Permits R1 and R2 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Compliance with Specific Conditions 15 and 16 of Permit R3 and Specific Conditions 13 and 14 of Permits R1 and R2 could not be determined.

10. SN-01 is subject to 40 C.F.R. Part 63, Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources (Subpart JJJJJJ). Specific Conditions 28, 30, 51, and 61 of Permit R3, Specific Conditions 26, 28, 49, and 59 of Permit R2, and Subpart JJJJJJ require Respondent to conduct a one-time energy assessment on SN-01 and to conduct an initial tune-up on SN-01. During the inspection, it was discovered that Respondent had failed to conduct a one-time energy assessment and an initial tune-up on SN-01. Such failures violate Specific Conditions 28, 30, 51, and 61 of Permit R3 and Specific Conditions 26, 28, 49, 59 of Permit R2 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failures also violate Subpart JJJJJJ.

11. Specific Conditions 43 and 53 of Permit R3, Specific Conditions 41 and 51 of Permit R2, and Subpart JJJJJJ require Respondent to submit a Notice of Compliance Status report that an energy assessment of the boiler and its energy use systems was completed according to Subpart JJJJJJ Table 2 and is an accurate depiction of the facility. During the inspection, it was discovered that Respondent failed to submit a Notification of Compliance Status Report to the Department within 120 days of the compliance date of March 21, 2014. Such failure violates Specific Conditions 43 and 53 of Permit R3 and Specific Conditions 41 and 51 of Permit R2 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code

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Ann. § 8-4-304. Such failure also violates Subpart JJJJJJ.

12. Specific Condition 52 and 61 of Permit R3, Specific Conditions 50 and 59 of Permit R2, and Subpart JJJJJJ require Respondent to conduct biennial tune-ups of SN-01 within 25 months of the previous or initial tune up. During the inspection, it was discovered that Respondent failed to conduct the biennial tune-ups on SN-01. Such failure violates Specific Conditions 52 and 61 of Permit R3 and Specific Conditions 50 and 59 of Permit R2 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failure also violates Subpart JJJJJJ.

13. Specific Condition 54 of Permit R3, Specific Condition 52 of Permit R2, and Subpart JJJJJJ require Respondent to submit a biennial Compliance Certification report to the Department by March 1 of each year. During the inspection, it was discovered that Respondent failed to submit the biennial Compliance Certification reports for the years of 2016 and 2018 to the Department. Such failure violates Specific Condition 54 of Permit R3 and Specific Condition 52 of Permit R2 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such failure also violates Subpart JJJJJJ.

14. In a letter dated March 9, 2020, DEQ informed Respondent of the compliance issues identified in the inspection conducted on February 20, 2020. This letter was intended to give Respondent an opportunity to review the issues identified and submit any additional information Respondent deems appropriate.

15. In a letter dated April 1, 2020, Respondent submitted a response to the March 9, 2020 letter and provided the following information:

a. Regarding the compliance issues identified in Paragraph 7 above, Respondent

submitted records required by Specific Condition 10 of Permit R3 for the time period of February and March 2020 (post-inspection). A review of the records submitted demonstrated compliance with Specific Condition 10 of Permit R3 for that time period.

- b. Regarding the compliance issues identified in Paragraph 9 above, Respondent submitted records required by Specific Condition 17 of Permit R3 for the time period of February and March 2020 (post-inspection). A review of the records submitted demonstrated compliance with Specific Condition 17 of Permit R3 for that time period.
- c. Regarding the compliance issues identified in Paragraph 10 above, Respondent stated that the facility would conduct the initial tune-up on SN-01. However, Respondent stated that SN-01 is less than 10 MMBtu; therefore, a one-time energy assessment is not required.
- d. Regarding the compliance issues identified in Paragraph 11 above, Respondent stated that the facility would create and submit a Notification of Compliance Status Report to comply with this condition.
- e. Regarding the compliance issues identified in Paragraph 12 above, Respondent stated that the facility would conduct an initial tune up, along with subsequent biennial tune-ups.
- f. Regarding the compliance issues identified in Paragraph 13 above, Respondent stated that the facility would create and submit the required biennial compliance certification reports.

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16. On April 29, 2020, DEQ sent Respondent a formal enforcement letter for the compliance issues discovered during the February 20, 2020 inspection.

17. On June 10, 2020, Respondent submitted a response to the April 29, 2020 letter and provided the following information:

- a. Regarding the compliance issues identified in Paragraphs 7 and 9 above, Respondent referenced the response provided in the April 1, 2020 letter which is referenced in Paragraph 15a and 15b above.
- b. Regarding the compliance issues identified in Paragraph 10 above, Respondent stated that the facility retained a consulting firm to complete an Administrative Amendment/Modification Application to correct the boiler verbiage in the permit from 300 hp to 250 hp. Respondent stated that the boiler is less than 10 MMBtu; therefore, does not require a one-time energy assessment.
- c. Regarding the compliance issues identified in Paragraph 11 above, Respondent stated that the facility submitted a Notification of Compliance on March 21, 2014.
- d. Regarding the compliance issues identified in Paragraphs 12 and 13 above, Respondent stated that the facility will complete and document the initial tune-up as well as biennial tune-ups required in the future and have them on file.

18. On June 23, 2020, Respondent submitted an Administrative Amendment application to the DEQ to correct the horsepower (HP) and MMBtu rating of the boiler to below



300 HP and 10 MMBtu and to remove the requirement of the one-time energy assessment at SN-01.

19. On June 29, 2020, the DEQ sent Respondent a letter denying the Administrative Amendment application. The letter instructed Respondent to submit a Permit Modification to the Division no later than July 17, 2020.

20. On July 23, 2020, Respondent submitted a Permit Modification application to the DEQ to correct the horsepower (HP) and MMBtu rating of the boiler to below 300 HP and 10 MMBtu and to remove the requirement of the one-time energy assessment at SN-01. The Permit Modification application states that the boiler is 250 HP and 8.37 MMBtu.

21. The Permit Modification application was deemed administratively complete by the DEQ on July 24, 2020.

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. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall conduct an initial tune-up of SN-01. Documentation of the initial tune up of SN-01 shall be submitted to the DEQ within sixty (60) calendar days of the effective date of the CAO.
2. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit a Biennial Compliance Certification report to the DEQ.
3. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit a Notification of Compliance Status report to the DEQ.

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **SIXTEEN THOUSAND ONE HUNDRED TWENTY DOLLARS (\$16,120.00)**, or one-half of the penalty, **EIGHT THOUSAND SIXTY DOLLARS (\$8,060.00)** if this CAO is signed and returned to Air Enforcement Section, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, prior to 4:00 p.m. on **November 7, 2020**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

DEQ, 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, DEQ shall be entitled to attorneys' fees and costs associated with collection.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) day public comment period.

10. 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.

11. 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.

12. 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.

13. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer 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 6th DAY OF November, 2020.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

SOUTHERN SQUARES COMPANY, INC.

BY: [Signature] (Signature)

Mark Buckner (Typed or printed name)

TITLE: General Manager

DATE: 11-3-20

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