

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

IN THE MATTER

**Olin Russellville Cell Technologies LLC
3230 Dow Drive
Russellville, AR 72802**

**LIS No. 21- 036
EPA ID: ARD051965416
AFIN: 58-00011**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979, Ark. Code Ann. § 8-7-201 *et seq.*, the Arkansas Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, and 23.

The issues herein having been settled by the agreement of Olin Russellville Cell Technologies, LLC (Respondent) 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 operates a manufacturing facility (Facility) located at 3230 Dow Drive, Russellville, Pope County, Arkansas.
2. The Facility engages in casting and finishing, electrode manufacturing, and cell manufacturing used in chlor-alkali production.
3. Respondent is a Large Quantity Generator of hazardous waste.

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.

4. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes DEQ to assess an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (the Act) and any rule or permit issued pursuant to the Act.

5. Ark. Code Ann. § 8-7-205(1) states, "It shall be unlawful for any person to [v]iolate any provisions of this subchapter or of any rule, permit, or order adopted or issued under this subchapter[.]"

6. On March 6, 2020, Respondent submitted a letter self-disclosing violations to DEQ pursuant to DEQ's Environmental Self-Disclosure Incentive Policy. The self-disclosure detailed an internal compliance audit of the Facility conducted by the Respondent on January 27-30, 2020, and concluded on February 24, 2020. The self-disclosure report, dated March 6, 2020, is incorporated herein by reference. The following violations of APC&EC Rule No. 23 were identified during the internal compliance audit:

- a. Respondent failed to identify methylene chloride waste as listed hazardous waste (F002). The failure to identify hazardous waste violates APC&EC Rule No. 23 § 262.11.
- b. Respondent failed to identify wipes contaminated with acetone (D001, F003) and perchloroethylene (D039) as a characteristic and listed hazardous waste. The failure to identify hazardous wastes also violates APC&EC Rule No. 23 § 262.11.
- c. Respondent treated hazardous waste without a permit to render the waste less hazardous by allowing the methylene chloride to evaporate in the pan with no capture or control of the solvent. The failure to obtain a permit to treat hazardous waste violates APC&EC Rule No. 23 § 270.1(c).

- d. Respondent disposed of hazardous waste at a non-hazardous waste landfill. The failure to dispose of hazardous waste at a permitted Treatment, Storage, and Disposal Facility (TSDF) violates APC&EC Rule No. 23 § 2(c).
 - e. Respondent failed to properly manage hazardous waste within closed containers. The failure to keep hazardous waste properly stored in closed containers violates APC&EC Rule No. 23 § 265.173.
 - f. Respondent failed to achieve compliance with air emission standards for hazardous waste containers. The failure to achieve compliance with air emission standards violates APC&EC Rule No. 23 § 265.1087(a).
 - g. Respondent failed to prepare a uniform hazardous waste manifest when offering hazardous waste for transport off-site. The failure to prepare uniform hazardous waste manifests for transport off-site violates APC&EC Rule No. 23 § 262.20.
7. On July 1, 2020, DEQ notified Respondent of the findings of the self-disclosure report.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

- 1. Immediately upon the effective date of this CAO, Respondent shall cease the unpermitted treatment of hazardous waste.
- 2. Immediately upon the effective date of this CAO, Respondent shall cease disposal of hazardous waste at a non-hazardous waste landfill.
- 3. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation used to identify all generated hazardous waste streams. This documentation shall include, but not be limited to, waste analysis, waste profiles, safety data

sheets, and any other documentation used by Respondent to identify all hazardous waste generated at the Facility.

4. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation of proper disposal of all generated hazardous waste for calendar year 2020.

5. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation demonstrating the procedure used to manage solvent contaminated wipes either under the exclusion found in APC&EC Rule No. 23 § 261.4(b)(18) or managed as a hazardous waste as found in APC&EC Rule No. 23 § 262.17.

6. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation demonstrating proper management of all generated hazardous waste in closed containers, either in Satellite Accumulation Area (SAA) containers or Central Accumulation Area (CAA) containers.

7. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation of procedures used to achieve compliance with air emission standards for hazardous waste containers.

8. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation demonstrating that training has been given to personnel with regard to revised procedures implemented for identification, management, and proper disposal of all hazardous waste streams generated at the Facility.

9. All documents required by this CAO to be submitted to DEQ shall be emailed to the Enforcement Branch, Office of Land Resources, at olrenforcement@adeq.state.ar.us, or submitted by Certified Mail, or hand delivered to Enforcement, Office of Land Resources, DEQ,

5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

10. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- | | | |
|-----|--|--------------------|
| (a) | First day through the fourteenth day: | \$250.00 per day |
| (b) | Fifteenth day through the thirtieth day: | \$1,250.00 per day |
| (c) | Each day beyond the thirtieth day: | \$2,500.00 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 Respondent's failure to comply with this CAO.

11. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

12. 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 the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

13. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

14. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty-day public comment period.

15. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule No. 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

16. 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 as attested by the secretary of said entity. 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 5th DAY OF May, 2021.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

Olin Russellville Cell Technologies, LLC

BY: Norbert A. Fleck
(Signature)

Norbert A. Fleck
(Typed or printed name)

TITLE: Site Leader

DATE: 4/29/21