

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Waldo  
P.O. Box 461  
Waldo, AR 71770

LIS No. 15- *142*  
Permit No. AR0043508  
AFIN 14-00050

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "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 issued thereunder by Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC").

The issues herein having been settled by the agreement of the City of Waldo (hereinafter "Respondent") and the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department"), 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 Wastewater Treatment Plant (hereinafter "facility" or "WWTP") located at Columbia Road 58, Waldo, in Columbia County, Arkansas.
2. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (hereinafter "NPDES").

3. Respondent discharges treated wastewater to an unnamed tributary of Big Creek, thence to Big Creek, and thence to Dorcheat Bayou in Segment 1A of the Red River Basin.

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 accord with 33 U.S.C. § 1342(a).

5. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act (hereinafter "the Act") to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.

6. Respondent operates the facility under NPDES Permit Number AR0043508 (hereinafter "Permit") which was issued to the Respondent on June 30, 2008. The Permit became effective on July 1, 2008, and expired on June 30, 2013.

7. A permit renewal application was received on December 4, 2012, with additional information received on December 14, 2012. The application was determined to be administratively complete on December 18, 2012. APC&EC Regulation 6.201 and 40 C.F.R. § 122.6, as adopted by Regulation 6.104, only allows for the continuation of expired permits pending issuance of a renewal permit if the permittee has submitted a timely (i.e., 180 days prior to the permit's expiration date) and complete application.

8. Respondent's permit application was received and determined to be administratively complete 180 days prior to the expiration date of the Respondent's permit. Through no fault of Respondent, the renewal permit has not been issued. As a result, the permittee is continuing to operate under the previously issued permit until the renewal permit is issued.

9. 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 [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

10. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000.00) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.

11. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

12. On March 2, 2015, the Arkansas Department of Health notified an ADEQ Water Division District Field Inspector that Respondent's wastewater treatment pond was overflowing into Beech Creek, which flows into Lake Columbia. Lake Columbia is a drinking water reservoir for the City of Magnolia.

13. On March 3, 2015, the Department conducted a complaint inspection of the facility. The inspection revealed the following violations:

a. The overflow was due to a malfunctioning pump that was not adequately delivering water from the stabilization pond to the gravel filter beds. This failure to properly operate and maintain the WWTP is a violation of Part III, Section B, Paragraph (1) of the Permit and therefore also violated Ark. Code Ann. § 8-4-217(a)(2).

- b. An overflow from the WWTP stabilization pond entering into a ditch that traveled to Beech Creek and into Lake Columbia was observed. This was an unpermitted discharge which violated Ark. Code Ann. § 8-4-217(b)(1)(E).
- c. The facility had insufficient freeboard (estimated less than 6 inches) in the wastewater lagoon. Insufficient freeboard is a violation of APC&EC Regulation 6.202(B) and Part III, Section B (1)(a) of the Permit, and therefore violates Ark. Code Ann. § 8-4-217 (a)(3).

14. Following the inspection, on March 3, 2015, a telephone conference was conducted between the Department and Respondent to determine what actions had been taken to correct the immediate problem and to discuss the importance of controlling the overflow of water from the pond. Respondent said she understood the importance of the issues, and would respond accordingly. Respondent stated she hired an engineering firm to assist in the management of the wastewater treatment plant.

15. On March 5, 2015, the Department conducted a follow-up inspection of the facility. The inspector noted the unpermitted discharge was persistent, albeit flow was subsiding. Following the inspection, the Department contacted Respondent to obtain additional information. Respondent explained steps taken by her office to stop the flow of water from the pond to the ditch. The Respondent brought in tanker trucks to pump off thirty-four thousand and twenty (34,020) gallons of water; broken pumps were repaired; and, as a result, the pond level was dropping.

16. On March 6, 2015, the Department conducted another follow-up inspection of the facility. During the inspection it was noted that water pumped into the filter beds was overflowing the beds and flowing into the creek.

- a. The overflow was due to pumps delivering water from the stabilization pond to the gravel filter beds above the flow capacity of the filter beds. This failure to properly operate and maintain the WWTP is a violation of Part III, Section B, Paragraph (1) of the Permit and therefore also violated Ark. Code Ann. § 8-4-217(a)(2).
- b. An overflow from the WWTP filter beds entering into a ditch that traveled to Beech Creek and into Lake Columbia was observed. This was an unpermitted discharge which violated Ark. Code Ann. § 8-4-217(b)(1)(E).
- c. After the inspection, the Department notified the Respondent of the violations observed. Respondent immediately proceeded to reduce the flow into the filter beds, and packed sandbags around the filter beds to stop the overflow.

17. On March 10, 2015, the Department conducted a review of certified Discharge Monitoring Reports submitted by the facility in accordance with the Permit. The review revealed the following violations of the permitted effluent discharge limits detailed in Part I Section A of the Permit:

Respondent reported eight (8) violations of the permitted effluent limits of five (5) pollutants from April 2012 through May 2015. Respondent reported one (1) violation of the effluent discharge limit for Ammonia Nitrogen, one (1) violation of the limit for Carbonaceous Biochemical

Oxygen Demand, two (2) violations of the limit for Total Suspended Solids, three (3) violations of the limits for Dissolved Oxygen, and one (1) violation of the limit for pH. Each of the eight (8) discharge limitation violations listed above constitutes a separate permit violation and therefore eight (8) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

18. On March 12, 2015, the Department received Respondent's response to the violations cited in the original inspection report dated March 5, 2015. Respondent stated, as of March 12, 2015, all overflows on the aeration pond had ceased, the pumps were repaired, and, although the freeboard was less than the recommended 24 inches, the water had receded to approximately 8 inches and falling.

19. On March 16, 2015, via a telephone call, Respondent addressed the inspections of March 5, 2015 and March 6, 2015 with the Department. Respondent stated that additional work was being performed on the pumps for the rock reed filters and the overflows of the rock reed filters would cease by March 17, 2015.

20. As of March 20, 2015, the unpermitted discharges were reported to have ceased.

#### ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately comply with all permitted effluent limits, unless a CAP is submitted as provided in Paragraph 2 of this Order and approved by ADEQ, in which case, Respondent shall comply with all permitted effluent limits no later than September 30, 2016.

2. If unable to immediately comply with all permitted effluent limits, Respondent

shall, within thirty (30) calendar days of the effective date of this Order, submit to ADEQ, for review and approval, a comprehensive CAP, developed by a Professional Engineer registered in the state of Arkansas. The CAP shall, at minimum, include a reasonable milestone schedule with a date of final compliance no later than September 30, 2016, and the CAP shall detail the methods and best available technologies that will be used to correct the violations listed in the Findings of Fact paragraph seventeen (17) and prevent future violations. Upon review and approval by ADEQ, Respondent shall comply with the terms and milestone schedule contained in the CAP and the approved CAP and milestone schedule shall be fully enforceable as terms of this Order.

3. Respondent shall submit quarterly progress reports that detail the work completed from the approved CAP until the project is completed. The first progress report shall be due within three (3) months of the effective date of this Order.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Eleven Thousand Four Hundred Dollars (\$11,400.00), or one-half of the full civil penalty, Five Thousand Seven Hundred Dollars (\$5,700.00) if this Order is signed and returned to the Water Division Enforcement Branch, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, prior to November 12, 2015. Even if the Order is timely returned for receiving a reduced penalty of Five Thousand Seven Hundred Dollars (\$5,700.00), failure to otherwise comply with any provision of this Order will result in the Penalty reverting to the full civil penalty of Eleven Thousand Four Hundred Dollars (\$11,400.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such

payment of the penalty shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department of Environmental Quality  
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 or fails to comply with any provision of this Order, ADEQ shall be entitled to attorney's fees and costs of collection.

5. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to ADEQ 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 ADEQ by reason of failure by Respondent to comply with the requirements of this Order.

6. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall so 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 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  
City of Waldo, CAO



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 Order, 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 preceding paragraph of this Section, shall be grounds for a denial of an extension.

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

9. 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. ADEQ 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 10<sup>th</sup> or 25<sup>th</sup> 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.

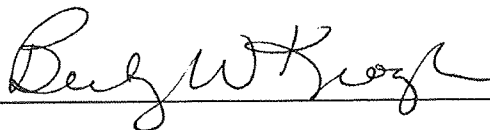
10. Nothing in this Order shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve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

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

12. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of the Respondent. See Exhibit A.

13. The City Council of Respondent 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 in the amount of Eleven Thousand Four Hundred Dollars (\$11,400.00). See Exhibit A.

SO ORDERED THIS 8th DAY OF December, 2015.

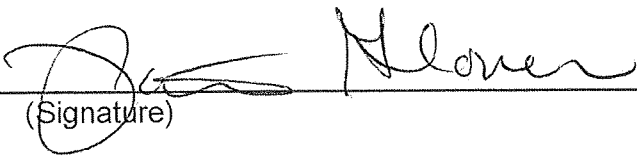
  
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City of Waldo, CAO

BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Waldo, AR WWTP

BY:   
(Signature)

Patricia D Glover  
(Typed or printed name)

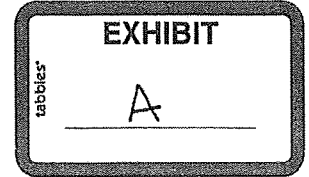
TITLE: Mayor

DATE: 11-2-15

CITY OF WALDO  
COUNCIL MEETING  
NOVEMBER 9, 2015  
@6PM

POST  
NOV 25 2015  
MARKED

A28RUP  
RECEIVED  
DEC 01 2015



MAYOR PATRICIA GLOVER CALLED THE MEETING TO ORDER AT 6:02 PM.  
ALDERMAN SCOTT MCDONALD LEAD THE MEETING IN PRAYER.

ALDERMEN PRESENT:

RICKEY LAMBERT  
SCOTT MCDONALD  
DEBBIE NEILL  
MARGIE STANDOAK  
BOBBY YOUNG  
KENNETH YOUNG

APPROVAL OF MINUTES:

ALDERMAN BOBBY YOUNG MADE A MOTION TO APPROVE THE MINUTES OF OCTOBER 8, 2015 FINANCE MEETING, AND THE OCTOBER 12, 2015 COUNCIL MEETING, WITH CORRECTIONS OF BOBBY YOUNG AND NOT BOBBY NEILL. THE MOTION WAS SECOND BY SCOTT MCDONALD. ALL APPROVED, MOTION PASSED.

WATER REPORT:

THE WATER REPORT WAS GIVEN BY ALDERMAN KENNETH YOUNG FOR THE ABSENT SUPERINTENDENT, JASON TERRY.

FIRE REPORT:

THE FIRE REPORT WAS GIVEN BY ALDERMAN DEBBIE NEILL.

POLICE REPORT:

THE POLICE REPORT WAS GIVEN BY REGGIE ELLIS

COMMITTEE REPORTS:

ALDERMAN DEBBIE NEILL, CHAIRPERSON FOR THE FIRE DEPARTMENT COMMITTEE HAD NOTHING TO REPORT.

ALDERMAN SCOTT MCDONALD, CHAIRPERSON FOR THE POLICE DEPARTMENT REPORTED THAT THE DEPARTMENT WAS LOOKING INTO HIRING A CERTIFIED POLICE OFFICER AFTER THE FIRST OF THE YEAR IF THE BUDGET WILL ALLOW IT. HE ALSO SUGGESTED ADDING THE POLICE DEPARTMENT WITH THE FIRE DEPARTMENT'S \$3.00 SURCHARGE ON THE BALLOT TO INCREASE REVENUE FOR THE POLICE DEPARTMENT. HE ALSO SUGGESTED TAXING THE SALES OF BEER AND LIQUOR TO INCREASE REVENUE

FOR THE GENERAL FUND.

ALDERMAN RICKEY LAMBERT, CHAIRPERSON FOR THE STREET DEPARTMENT HAD NOTHING TO REPORT.

ALDERMAN RICKEY LAMBERT, CHAIRPERSON FOR THE FINANCE COMMITTEE REPORTED THAT THERE WILL BE A FINANCE MEETING THURSDAY NIGHT, NOVEMBER 12, 2015 AT 6PM.

ALDERMAN RICKEY LAMBERT, CHAIRPERSON FOR THE WASTEWATER COMMITTEE REPORTED THAT THE CITY HAD RECEIVED A LETTER FROM ADEQ (ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY) CITING THE CITY \$11,400.00 FOR BEING OUT OF COMPLIANCE IN SEVERAL AREAS. THE LETTER STATED THE FINE WOULD BE REDUCED TO \$5700.00, IF THE LETTER OF MAKE THE NECESSARY CORRECTIONS TO BE IN COMPLIANCE, WAS SIGNED AND RETURNED WITHIN TEN(10)DAYS. MAYOR GLOVER STATED THAT SHE HAD SIGNED THE LETTER AND RETURNED IT. THE COUNCIL AGREED THAT WAS OKAY. SHE ALSO STATED THAT SHE SPOKE TO ENGINEER ANDY FRANKS, AND HE ADVISED THAT THE CITY TO WAIT TO RECEIVE A STATEMENT FROM ADEQ.

ALDERMAN KENNETH YOUNG, CHAIRPERSON FOR THE WATER COMMITTEE HAD NOTHING TO REPORT.

ALDERMAN KENNETH YOUNG, CHAIRPERSON FOR THE PARK AND GYM COMMITTEE HAD NOTHING TO REPORT.

MAYOR REPORT:

MAYOR GLOVER REPORTED THE CITY WOULD BE HOSTING A DINNER HONORING THE VETERANS AT THE C.W. EASTER CENTER ON TUESDAY NOVEMBER 10, 2015 AT 5PM. THE COMMUNITY IS INVITED TO ATTEND. ALSO HARVEST FOODS WILL BE COMING ON NOVEMBER 18TH AND CADC WILL BILL GIVING OUT COMMODITIES ON NOVEMBER 19TH AND 20TH. MAYOR ALSO REPORTED THAT SHE WENT TO MEETING IN ON THE GRANT FOR THE PARK. SHE ALSO REPORTED THAT A NEW EMPLOYEE HIRED THROUGH EXPERIENCE WORKS WILL BEGIN WORK ON NOVEMBER 16TH.

UNFINISHED BUSINESS:

RESOLUTION 2015-18 AMDENDMENT

ALDEDRMAN BOBBY YOUNG MADE MOTION TO PASS AMENDED RESOLUTION 2015-18 AND SECOND BY SCOTT MCDONALD. ALL IN FAVOR, MOTION PASSED.

RESOLUTION 2015-19 AMENDMENT

ALDERMAN RICKEY LAMBERT MADE A MOTION TO PASS AMENDED RESOLUTION 2015-19 AND SECOND BY SCOTT MCDONALD. ALL IN FAVOR, MOTION PASSED.

CITY ATTORNEY DAVID GRAHAM READ ORDINANCE 2015-12 FOR THE SECOND READING.  
ALDERMAN DEBBIE NEILL MADE A MOTION TO ACCEPT THE SECOND READING OF ORDINANCE  
2015-12 AND SECOND BY SCOTT MCDONALD. ALL IN FAVOR, MOTION PASSED.

NEW BUSINESS:

RESOLUTION 2015-20 LEVYING TAX FOR 2016

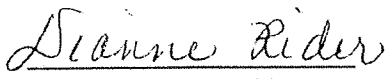
CITY ATTORNEY DAVID GRAHAM READ RESOLUTION 2015-20, A RESOLUTION LEVING TAXES  
FOR 2016. ALDERMAN RICKEY LAMBERT MADE A MOTION TO ACCEPT RESOLUTION 2015-12  
AND SECOND BY ALDERMAN BOBBY YOUNG. ALL IN FAVOR, MOTION PASSED.

MAYOR GLOVER RECOGNIZED VISITOR, JUSTICE OF THE PEACE, ANNETTE PATE.

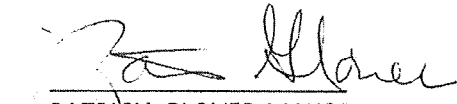
PUBLIC COMMENTS

ALDERMAN BOBBY YOUNG MADE A MOTION TO ADJOURN THE MEETING AND SECOND BY  
ALDERMAN SCOTT MCDONALD. ALL IN FAVOR, MOTION PASSED.

ATTEST:

  
DIANNE RIDER-RECORDER

APPROVED:

  
PATRICIA GLOVER-MAYOR