

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Altus
P.O. Box 214
Altus, AR 72821

LIS No. 19-084
Permit No. AR0044725
AFIN 24-00025

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“Order”) 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.*, 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 City of Altus (“Respondent”) and the Division of Environmental Quality¹ (DEQ or “Division”), 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 facility (“Facility”) located 1.2 miles west on Liberty Road from Carbon Plant Road (Ark Hwy 179) in Franklin County, Arkansas.
2. Respondent discharges treated wastewater to the Arkansas River in Segment 3H of the Arkansas River Basin.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

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. 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 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:

...

(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. The Division issued NPDES Permit Number AR0044725 (“Permit”) to Respondent on November 17, 2014. The Permit became effective on December 1, 2014, and expires on November 30, 2019.

10. Part III, Section D, Condition 10 of the Permit requires Respondent to submit a complete permit renewal application at least 180 days prior to the expiration date of the Permit if the activity regulated by the Permit is to continue after the expiration date.

11. Respondent intends to operate this facility beyond the expiration date of the current permit, November 30, 2019.

12. On December 4, 2018, and March 6, 2019, Respondent was notified that the Permit would expire on November 30, 2019, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than June 3, 2019.

13. On May 31, 2019, Respondent submitted an incomplete permit renewal application to the Division. On June 5, 2019, the Division notified Respondent that the permit renewal application was incomplete.

14. Respondent submitted additional information on June 27, 2019. On July 5, 2019, the Division notified Respondent that the permit renewal application was administratively complete.

15. The complete Permit renewal application was not received by June 3, 2019. Failure to submit the Permit renewal application by June 3, 2019, is a violation of Part III, Section D, Condition 10 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the expired Permit until either the effective date of the permit renewal or the effective date of the permit termination.

2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Dollars (\$1,000.00), or one-half of the full civil penalty of Five Hundred Dollars (\$500.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. 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 Division of Environmental Quality, and mailed to the attention of:

Division 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, DEQ shall be entitled to attorneys' fees and costs of collection.

3. 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 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 Respondent to comply with the requirements of this Order.

4. 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 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.

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

6. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent 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.

7. 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.

8. 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 Respondent from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

9. 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.

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

11. 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 as set forth in this Order. See Exhibit A.

SO ORDERED THIS 9th 27th DAY OF September, 2019.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Altus

BY: Mayor Veronica Post / Diane Gray
(Signature)

Mayor Veronica Post / Diane Gray, Admin. Asst.
(Typed or printed name)

TITLE: Mayor / Administrative Assistant

DATE: 9/20/2019

**Altus City Council
Meeting Minutes
September 9, 2019
Altus City Hall 6:30 PM**

The regular scheduled meeting of the Altus City Council was called to order by Mayor Veronica Post, followed by the invocation. The Pledge of Allegiance was led by Council Member Susan Alston. Council members answering the roll call were Susan Alston, Mary Darter, Catherine Henry, Ron Kranc, Matthew Nelson, and Nancy Sinyard. City Attorney Sarah Capp was absent.

PUBLIC INPUT

[None]

MINUTES / FINANCIAL REPORTS

The minutes from the August 19, 2019, regular council meeting were approved 6/0 upon a motion by Council Member Matthew Nelson and a second by Council Member Ron Kranc.

After review of the Financial Reports from August, Council Member Mary Darter made a motion to approve the financial reports, seconded by Council Member Ron Kranc; the motion passed 6/0.

DEPARTMENT REPORTS

MUSEUM

Mary Darter thanked the Master Gardeners who have helped with weeding the flower beds at the corner of Hendrix and Main while she has been disabled and for keeping the planter barrels watered. Mayor Post gave a reminder that the quilt raffle tickets are available at the museum and at City Hall for a chance to win a quilt given by Sandy Stewart of Tea Time Quilt Cottage in Altus who made and donated the quilt for the fundraiser.

FIRE

The monthly report of fire department activity for August, 2019, was presented to the Council showing 1 fire meeting/training, 2 medical calls, and 1 fire call in the city and 3 medical calls in the Rural Fire District. It was announced that public notice will be given in the event of a burn ban if the weather continues to get dryer.



WATER AND STREET

Mayor Post reported that the city employees have been mowing and doing cleanup on roadsides and that most property owners have been responding by cleaning up their properties after receiving cleanup notices. Mayor Post also said letters will be going out soon regarding the low to moderate income survey required for the proposed sewer extension.

The new pole banners, which were approved for purchase last month by the council, were displayed, and city employees said they will begin installing the fall design banners the following week and will continue when time allows between meter reading and fixing water leaks which continue to occur this time of year. A city resident stated that he was glad the council approved the banner purchase as visitors always make mention of them and it is an "ego boost" for him and good for tourism in the city.

Mayor Post read a letter and detailed information of a Consent Administrative Order (CAO) from the Arkansas Department of Environmental Quality regarding the city's five-year sewer discharge renewal application stating that a \$500 civil penalty is being imposed due to failure to include a discharge map with the application filed in May, which the mayor noted was also not included in the copies she received of the previous application submitted five years ago by a previous mayor. Mayor Post explained the lengthy renewal process and that the time period during the renewal documents was while Water/Sewer Superintendent Leon Hall was absent due to his severe eye infection and hospitalization at UAMS in Little Rock. Additional delay factors were the tornadic wind damage and extreme flooding in the Arkansas River Valley during May. Because of these severe weather events, one employee was unable to get to work, Leon Hall was still out with his eye trouble, and the other employee was doing tree and debris cleanup and monitoring road closures. Superintendent Hall's assistance was needed to provide the records for answers to the renewal application questions. Mayor Post reported that after ADEQ Received the renewal application on May 31, before the June 3 deadline, the City was notified that a process flow diagram was still needed to make the application complete. Such diagram was prepared upon Leon's return to work in June, and the city was notified that the renewal application was administratively complete on June 27, after the June 3 deadline. To meet the ADEQ's Order and Agreement and Finding of Fact requirements, the council passed a motion 6-0 made by Council Member Mary Darter and seconded by Matthew Nelson authorizing the mayor and treasurer to sign the CAO and return it to ADEQ within 20 days. In a separate motion by Council Member Susan Alston, seconded by Catherine Henry, the council approved 6-0 for the water department to comply with the penalty expenditure if deemed necessary by ADEQ.

POLICE

The council was furnished with reports of traffic stops, warnings and arrests from all Altus Officers which showed 14 incidents from the RPS Reporting System, 27 warnings, 16 citations issued, and 4 arrests. The financial report of payments was prepared by City Hall/Water Clerk Amy Nichols showing \$2,011.89 deposited for the Police Department in August.

PLANNING AND ZONING

Catherine Henry reported on the August meeting of the Planning and Zoning Committee with one permit granted Zach Collins for an 80' x 60' 4-foot high wire and post fence at the rear of the residence on Elm Street, and for an 8'x12' portable building for Joyce Darden of Halsell Street, contingent on moving the location of the storage building to the rear yard. The Committee denied a request by Kipur Atwood on behalf of Kathy Vaught for a 16'x12' – 256 square foot deck with ramp to be located off the front of her residence on Smitherman Street. Committee member Henry said it was decided unanimously to deny the request since the zoning ordinance specified that decks be constructed behind or to the side of a resident, not at the front. It was stressed by P & Z Secretary Henry that a free building permit must be obtained for consideration by the commission before anything is built. Fines will be enforced, she said, for violation of the ordinance requirement. Mayor Post said the regulations are for the public safety, health and protection. Council member Ron Kranc commented about certain ordinance requirements, and the mayor said they will be reviewed at the commission's meeting at 5 PM on September 18.

A motion was made by Councilman Ron Kranc to approve all reports, seconded by Councilman Matthew Nelson, and passed 6/0.

UNFINISHED BUSINESS

It was reported by Mayor Post that the city is still searching for persons or companies interested in the water tank atop St. Mary's now that the new pump system is not utilizing it. The city is not attempting to sell tank, Mayor Post said, but is just interested in having it removed. The City does have information on a couple of companies to be contacted about the tank. Anyone interested in removing the tank for private use without a cost must be licensed and insured.

Ordinance #2019-3 was read in its entirety by Mayor Post for the Annexation Ordinance for Properties Surrounded Within Altus to annex two properties. Mayor Post said both property owners had voluntarily signed a petition for annexation, having assumed they were already in the city. A requirement of the ordinance was a public hearing, which was held on September 6, and had no opposition. Following the first reading, a motion by Councilman Nancy Sinyard, seconded by Councilman Matthew Nelson, was approved 6-0 to suspend the rules regarding three separate readings on three separate dates and to place the ordinance on its second and third readings by title only. Upon final reading, the motion to adopt Ordinance 2019-3 made by Councilman Matthew Nelson, seconded by Councilman Susan Alston, was approved 6-0. After reading the Emergency Clause of the ordinance, a motion to accept the clause by Councilman Ron Kranc was seconded by Councilman Mary Darter and passed 6-0.

NEW BUSINESS

A Proclamation of October 4, 2019, as Go Pink Day for Breast Cancer Awareness was presented and read by Mayor Post who urged everyone to wear pink on Oct. 4, the designated day.

"Breast cancer has affected people in this room and family of people in this room," the Mayor noted. A copy will be sent to the Governor's office as the state has encouraged all cities to issue such a proclamation.

The discussion of insurance, uniforms and vehicle use policies by departments was the only other item of new business. Mayor Post provided the council with information on the increasing cost of uniform rentals for the three street and water employees who she said had agreed to launder their own uniforms if provided by the city. Various stipends for their expense were discussed, but Council Member Nancy Sinyard suggested that City Attorney Sarah Capp first determine if the city has a binding contract with the rental company, although Mayor Post said she had not knowingly signed such a contract.

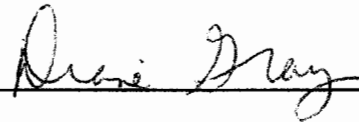
Mayor Post told the council that middle school resource officer Kyle Eveld is interested in working extra hours for the city beyond his school duties and suggested that his pay for part-time work be increased from \$12.50 to \$15 per hour in lieu of taking a patrol unit to his home. Mayor Post said \$15 is the same wage paid Officer Thomas Hobbs and other previous part-time employees. With the resignation of Jason Parsons, the Mayor said Officer Hobbs has accepted the full-time position and Officer Eveld is interested in helping the city with extra patrols beyond his School Resource Officer duties and hours. Upon motion by Councilman Matthew Nelson, seconded by Councilman Ron Kranc, the council voted 5-1 to establish a qualified officer part-time rate of pay of \$15 per hour. Councilmember Nancy Sinyard cast a "no" vote since no increase was being proposed for the full-time officer, which Mayor Post said could be addressed anytime later. The Mayor also pointed out that any wage increase also increases the city's payment into the fire and pension fund. The matter of an officer taking a police vehicle home was opposed by the council. Mayor Post said each officer is assigned a certain Police Department vehicle, and they are housed in a secure location within the city.

ADJOURN

Council Member Catherine Henry made the motion to adjourn, seconded by Council Member Nancy Sinyard and approved 6/0, and the meeting adjourned.



Mayor



Attest: Administrative Assistant

