

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Carlisle
P.O. Box 49
Carlisle, AR 72024

LIS No. 19- 112
Permit No. AR0033740
AFIN 43-00062

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“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 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 Carlisle (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 municipal wastewater treatment facility (“Facility”) located at 854 Highway 13 South, Carlisle, Lonoke County, Arkansas.
2. Respondent discharges treated wastewater to Bayou Two Prairie, thence to Bayou Meto, thence to the Arkansas River in Segment 3B of the Arkansas River Basin.

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.

3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
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 Arkansas Water and Air Pollution Control Act (“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 AR0033740 (“Permit”) to Respondent on January 16, 2015. The Permit became effective on February 1, 2015, and expires on January 31, 2020.

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, January 31, 2020.

12. On February 6, 2019, and May 3, 2019, DEQ notified Respondent that the Permit would expire on January 31, 2020, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than August 4, 2019.

13. The Division received an incomplete application for renewal from Respondent on May 3, 2019, and notified Respondent that its Permit renewal application was incomplete on May 10, 2019.

14. The complete Permit renewal application was not received by August 4, 2019. Failure to submit the Permit renewal application by August 4, 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. On or before the effective date of the Order, Respondent shall submit a complete Permit renewal application to the Division.
2. Respondent shall comply with the existing Permit until the effective date of the permit renewal.

3. 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 (\$1000.00), 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 Arkansas Division of Environmental Quality, and mailed to the attention of:

Arkansas 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

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

12. 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 6th DAY OF December, 2019.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Carlisle

BY: Ray Glover
(Signature)

RAY GLOVER
(Typed or printed name)

TITLE: MAYOR

DATE: 11/19/19

**CARLISLE CITY COUNCIL
MEETING MINUTES**

Mayor Ray Glover declared a quorum and called the regular meeting of the Carlisle City Council to order on Tuesday, November 19th, 2019 at 6:00 PM, in the Council Meeting Room of the Carlisle Civic Center.

Present

Mayor Ray Glover, City Attorney Mike Stuart, Clerk Angelia James, Council Members Anne Anderson, Mike Walker, Jon Plafcan, Kevin Kegley and Larry Flynn were present. Council Member Todd Turner was absent.

Motion # 2019111901

Motion made by Council Member Anderson, with second by Council Member Flynn, to approve the minutes of the regular council meetings on 10/15/19 and the special council meeting minutes on 11/15/19. Motion passed with all members present voting aye (5-0).

New Business

Mayor Glover stated that he and Clerk James had a meeting with Sharon Sanders of the U.S. Census Bureau about a week ago to discuss forming a Complete Count Committee for Carlisle for the 2020 Census. He stated that people need to be made aware that the City gets funding based on the number of people who complete the survey. Clerk James advised that several surrounding towns have begun to develop their committees, and a training has been set up for Carlisle on 11/20 from 10-12 at the Civic Center. Anyone who wants to attend the training can come, but hopefully she and Janice would learn enough to be able to pass the information along to others. The committee's purposes is to try to assist the hard to reach citizens, such as the citizens in the apartments. She stated committee members would go around and assist the people and encourage them to complete the survey. The committee should be made up of several different people. The Census Bureau has set up meetings at Immanuel Baptist Church and the Methodist Church. She also advised that there would be a Census Bureau recruitment day at the Civic Center for anyone that is looking for a job. Mayor Glover asked the Council if he could count on their help.

Also in new business, Mayor Glover addressed the Council about the Consent Order sent out by ADEQ, regarding the City dumping in the bayou. Mayor Glover stated that there is a form to fill out to that gives us consent to treat wastewater. It was mailed to the City and Monica signed for it, but it got lost. This is an every five year deal. As the months went on, he stated he received a call from Jeremy Stone asking if the City had received the form for the consent to treat wastewater. Mayor Glover advised he hadn't received it, but Stone stated ADEQ advised they had sent the form by certified mail. Mayor Glover stated after looking, he found the form and sent it back in. He continued by stating that Stone advised that the form was to be completed six months before the permit was due to run out; the permit doesn't expire until February. Stone advised that the city would be fined. Mayor Glover advised the fine was going to be \$500.00. He stated that Stone advised that the City could write them a letter and state that there was a clerical error to see if they would waive the fine. Mayor Glover advised that they City did that, but Angelia talked to Mr. Gray of ADEQ who stated that waiving the penalty is out of the question. He stated that Stone advised to send them another letter for \$100.00, so another letter was sent stating the City thought the \$500.00 was excessive because the City had never been late.

Council Member Kegley asked what the permit was for. Supt. Walters stated that the permit is to treat wastewater. The permit never expired, ADEQ just didn't receive the approval in the six-month time. Council Member Kegley stated that if the \$500.00 isn't paid, then the City won't have a permit. Supt. Walters advised that the City can't not pay the fine. City Attorney Stuart advised that they can withhold processing if the fine isn't paid.

Council Member Kegley asked what the Council needs to do about this. Mayor Glover stated that the Council needs to hear this. Clerk James advised that in the order it stated that the Council needs to approve the order

by resolution or in the meeting minutes. City Attorney Stuart advised he would pay the \$500.00 and get it over with.

Motion #2019111902

Motion made by Council Member Kegley, with second by Council Member Flynn to approve the Consent Administrative Order as presented and pay the penalty of \$500.00 or any amount less. Motion passed with all members present voting aye (5-0).

Council Member Plafcan asked if there was a bond that covered issues like this, when an employee makes a mistake; he asked if the employee could be held liable. City Attorney stated it had been so long since he had read about the bonds, but he believed that would only be covered in theft. He advised that Carlisle is not the only City that has had to pay the penalty amount. Supt. Walters stated that it wasn't like it was something he was looking for because it is every five year deal. He stated that the letter was addressed to the Mayor, not him. City Attorney Stuart suggested that the City look at the mail collection process, and maybe have all certified mail be turned over to the Mayor's office then distributed to the correct departments. He stated that if they would have sent it certified restricted, then only the Mayor could have signed for it.

Old Business

Nothing to Report

Airport

Mayor Glover stated he believed the Airport had been taken care of. He then asked City Attorney Stuart what the issue was. City Attorney Stuart advised that an ordinance was done to allow them to borrow up to 250000 on a line of credit, which would be paid back by the FAA. However, what they should have asked for was the full amount of the project, instead of just the \$250,000.00. The bank didn't issue a line of credit, they issued a regular note. When the city repaid the \$250,000.00, it canceled the note instead of being a line of credit. He stated that it was kind of the way it was presented to the Council, because he believed that was incorrect. Mayor Glover advised Council Member Kegley was the only one that wasn't at the meeting. He stated that bids were taken again and BancorpSouth was the low bidder at 3.95%.

Council Member Kegley asked what would have happened if the City would have said no. City Attorney Stuart advised then the FAA would take the airport land, probably. Council Member Kegley stated that he didn't understand why the City has to ever have a special vote. He stated they should take care of business a whole lot faster than what they are doing, and they should have their ducks in a straighter row so they can hand it to the Council to see what they need. Council Member Anderson stated that they are dealing with the government. Council Member Kegley stated that no, it is the guys who are running the airport because they are not bringing the information to the Council right. He stated the Airport Commission should have showed up way soon when they asked for it. He stated they know what they need to do a project. Council Member Plafcan advised this wasn't the first one. Council Member Kegley stated that it doesn't make any sense that they can't do a better job than that. Mayor Glover stated he would relay that to the Airport Commission.

Parks & Recreation

Parks Director Ashmore advised that he has completed basketball signups, will be ordering uniforms tomorrow and the first game is December 7th in Clarendon. He stated that he has about 80 kids signed up.

The poles at Rockefeller are about to put up, the building has been moved and all the old bleachers are down, and the new bleachers are out there to be installed after the concrete is poured. Mayor Glover asked where the new bleachers were going to be put. Parks Director Ashmore stated that one thing he wanted to add in the budget for next year is control panels for softball. The one out there is outdated and it is huge. Each box has one big giant flip switch. It would be nice to have a small box. Mayor Glover stated that Rockefeller is going to be a first-class place when they get through. He stated there were volunteers and

people who put in money to make it look good. He stated that he was going to try to talk to the Rockefeller's main man to try to get some parking. He advised that if they would give the City about 300 foot to the north, it would help the City Out. Council Member Flynn advised that he was at a softball tournament in Benton and got to looking at theirs, and Rockefeller is almost identical to theirs. Mayor Glover stated Whitney Jones has really worked hard getting things done out there. Parks Director Ashmore advised Whitney Jones and BJ Greene are responsible for getting all the people out there to help. He stated they ran down the funds. Elder's is setting the poles. Mark Roberts did all the block work.

Civic Center

Civic Center Director Ronnie Ashmore advised that he didn't have anything on the Civic Center. Mayor Glover asked about the guy that was going to fix the roof. Civic Center Director Ashmore stated he showed up, looked at the building and said he was going to come back the next day. He didn't return the next day. Mayor Glover asked if Civic Center Director had his information. Civic Center Director advised he didn't give them anything. Council Member Kegley asked how bad the roof was. Civic Center Director Ashmore advised that it has been leaking and there are a couple tiles that need to be replaced. Mayor Glover advised he would call Jason Patterson, because he was the one who sent him back. Civic Center Director Ashmore stated that it was at the point now to where when it rains there are puddles in the floor. Council Member Kegley stated that when it is known that it is going to rain, the tiles can be taken out. Civic Center Director Ashmore stated that there would still be puddles in the floor.

Mosquito Control

Nothing to Report.

Water, Sewer and Streets

Supt. Walters stated that the biggest thing he has going right now are the bleachers. He stated they are putting them in like crazy. Mayor Glover advised that his was put in today. He stated that that people have been griping about how they were put in, but his looks really nice. Council Member Walker stated that his looks good, but he has seen some around time that have been put in crooked. Supt. Walters advised that the ones that are crooked are usually the ones that need dirt. Once the contractors are done putting them in, they are going back around to straighten the boxes and put in dirt. He stated that they didn't have enough dirt to put around them because when they were dug up, it was wet. Council Member Kegley stated that the answer is, the contractors are not done. Supt. Walters agreed, and stated that the contractors are not done with the meters that have been installed so far. Council Member Walker asked how many have been done. Supt. Walters advised that they are 1/3 of the way done. He stated that they have had issues. He said the main guy has been going behind them and wiring the antennas. Council Member Kegley asked if there was a projection as to when they would be done. Supt. Walters advised 120 days. City Attorney Stuart asked if they were getting any of the metal boxes. Supt. Walters advised they are getting a lot of them. He stated that they have just about decided that the ones that are in a driveway or close to a driveway will eventually have to have a metal box, but with this loan, they can't use any metal. He stated while the plastic ones are down, they are going to really brick them up so if they are run over then they won't hurt the water line, and they will probably go back and replace those with a metal box. Council Member Anderson asked about Medsker's meter box. Supt. Walters advised that any of those that are in the asphalt are not going to be sticking up, because they are not going to make them a tripping hazard. They will be level with the ground and if they have to they will put the metal boxes in there.

Council Member Anderson stated that there was thing in the water bill about the new meters but it didn't say how much they were going to cost. Council Member Walker stated that since his new meter has been in, his water bill went down about \$30.00. City Attorney Stuart stated that if the metal boxes are for sale, then they would like to buy them for their subdivision. Clerk James stated that she believed the cost that the people wanted to know was the cost if they tore up the set up. Supt. Walters advised that the cost of the box was about \$30.00, but with the meter, antenna and all that stuff would have to be discussed with the company.

Mayor Glover asked if there were any more questions about water and sewer. Council Member Walker advised that he had one more question. He asked what was going on in Virgil Gann's driveway. Supt. Walters advised that Gann has a manhole in his driveway, and it started leaking. He stated he saw that it was caved in. Mayor Glover asked if the City would have to fix it. Supt. Walters advised yes; the City will have to fix it.

Sanitation & Pollution

Nothing to Report.

Emergency Services Police & Fire

Chief Frank advised that he doesn't have much to report. He stated that he had one change. One dispatcher went out on maternity leave but didn't come back. Her name was Robyn Walters. However, one of his former dispatchers came back full time. He stated that he still doesn't have an applicant for a policeman. He advised that he has had some apply, but no one is certified.

Assistant Fire Chief Brent Doney advised that they have had a couple leave and one join as far as firemen. The rescue truck has been down for a couple weeks. He stated they thought it was the transmission, but it was something with the parking break. Keith Woodall is fixing it. Mayor Glover asked if the trucks that were bought are doing ok. Asst. Chief Doney advised that is one of them. Mayor Glover asked how many years the trucks were financed. Clerk James advised five years. Council Member Kegley asked if the oil was changed in all the vehicles. Asst. Chief Doney advised he didn't know. Supt. Walters advised Keith Woodall changed the oil. Council Member Anderson stated that would change next year. Supt. Walters stated that it will be them.

Mayor Glover asked if they were doing a lot of training, because he keeps hearing that is what drives the rating. Doney advised that training is like 5% of the score. He stated that the score is divided into 50% the fire department itself, and the other 50% is dispatch and water supply. He stated that Chief Frank has done several improvements on dispatch. He stated the fire department has been buying equipment to get all of the equipment on the trucks. For each piece that they don't have, they lose points. He stated they recently bought hoses, because they expire. He stated the bulk of their hose is from the 80s. If they are expired, they don't count. He stated the bulk of what has been put in on budget requests have been to replace the old stuff. Mayor Glover stated that the Fire Dept. has bought a lot of stuff. He asked when the next time they will be expected. He stated the goal is to get a 4 this time to decrease insurance premiums.

He stated that they have bunker gear that is expired that will have to be replaced. If not, they will get marked off for that. He stated that the bulk of what is on the list is what is out of date. Mayor Glover advised there are some things that the fire department will probably never get. He stated that the whole thing about ratings, is that you want to get as many points as you can to drop the rate. He stated that the rules have changed when it comes to the rating.

Council Member Anderson asked if there was any house in town that was over 1,000 feet to a hydrant. Supt. Walters advised no. Council Member Kegley asked if all the hydrants have been tested. Supt. Walters stated they have all been flushed. Doney advised that all the hydrants have been flushed and all are working. Mayor Glover stated that the wish list totaled \$120,000.00 so it would have to be prioritized.

Mayor Glover stated they would look things over and see what would be put in the budget.

Animal Control

Nothing to Report.

Budget, Tax & Finance

Mayor Glover advised that the Council needed to approve the postage machine lease agreement for 63 months.

Motion #2019111903

Motion made by Council Member Walker, with second by Council Member Plafcan to enter into the lease agreement for the postage machine with MailFinance/Lineage for 63 months. Motion passed with all members present voting aye (5-0).

Mayor Glover advised that the Council needed to approve the Arkansas Municipal League invoices for the annual service fee and workers compensation trust.

Motion #2019111904

Motion made by Council Member Flynn, with second by Council Member Anderson to approve payment for the ARML invoice for the annual service fee in the amount of \$3,250.30. Motion passed with all members present voting aye (5-0).

Motion #2019111905

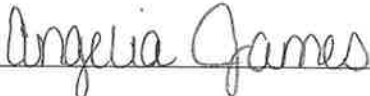
Motion made by Council Member Walker, with second by Council Member Flynn to approve payment for the ARML Workers' Compensation Trust invoice, in the amount of \$10,363.00. Motion passed with all members present voting aye (5-0).

Clerk James advised that a Budget, Tax & Finance Meeting would be held very soon.

Adjournment

There being no further business of the Council, motion was made by Council Member Plafcan, with a second by Council Member Flynn, to adjourn the meeting at 7:12 PM. The next meeting of the Council will be Tuesday, December 17th, 2019, at 6:00 PM.

Minutes Submitted By:



Clerk-Treasurer

Approved By:



Mayor