

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LITTLE RIVER COUNTY  
351 NORTH 2ND STREET  
ASHDOWN, AR 71822

LIS No. 21-013  
Water Permit Tracking No. ARR001778  
Solid Waste Permit: 0003-STSW-B  
AFIN 41-00080

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) 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.*, the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *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 Little River County (Respondent) and the Division of Environmental Quality<sup>1</sup> (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 solid waste transfer station (the Facility) located at 1318 Hwy 108 in Ashdown, Little River County, Arkansas.
2. Respondent previously entered into CAO LIS 15-118 to address violations at this Facility.

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<sup>1</sup> 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.

## Solid Waste Violations

3. DEQ regulates the disposal of solid waste pursuant to the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201, *et seq.*, and APC&EC Rule 22.

4. DEQ, as administered by its Director, is the state agency charged with ensuring compliance with the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*

5. Ark. Code Ann. § 8-6-203(9) defines solid waste as follows:

“Solid waste” means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342, or source, special nuclear, or by-products material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 *et seq.*

6. Under Ark. Code Ann. § 8-6-203(1), a “Disposal Site” means any place at which solid waste is dumped, abandoned, or accepted or disposed of for final disposition by incineration, landfilling, composting, or any other method.

7. Ark. Code Ann. § 8-6-205(a) states in part:

(a) It shall be illegal for any person:

- (1) To violate any provision of this subchapter or any rule or order of the [APCEC] issued pursuant to this subchapter or of a permit issued under this subchapter by the [DEQ];
- (5) To sort, collect, transport, process, or dispose of solid waste contrary to the rules or orders of the department or in such a manner or place as to create or be likely to create a public nuisance or a public health hazard or to cause or be likely to cause water or air pollution within the meaning of the

Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*”

8. DEQ issued Permit No. 0003-STSW-B to Respondent on October 17, 2007, this permit expired May 13, 2011.

9. On November 27, 2018, a DEQ Solid Waste Inspector conducted a routine inspection at the Facility. The inspection report is incorporated herein by reference. DEQ identified the following violations of APC&EC Rule 22.904:

- a. During the inspection, DEQ personnel observed conditions of the processing area pad to be inadequate. Standing water was observed on the processing area pad, and the processing area was not curbed to route wastewater to an approved collection and treatment system. The failure to keep the processing area in adequate condition violated APC&EC Rule 22.904(d), which states, “Processing Areas – All processing, tipping, sorting, storage, compaction, and related activities must be conducted in an enclosed or covered area or, if outdoor areas are provided for these functions, within curbed areas where drainage is routed to an approved collection and treatment system. Storm water or wastewater discharges from the site shall conform to Department permitting requirements.” The failure to keep the processing area in adequate condition also violated Ark. Code Ann. § 8-6-205(a)(1). This failure was also cited during subsequent inspections conducted on February 21, 2019, May 30, 2019, September 18, 2019, and December 19, 2019.
- b. The DEQ inspector observed that the Facility had not replaced the sanitary sewer system with an approved holding tank. The sewage and drainage from cleaning,

unloading, and processing areas was observed draining from an open ended pipe into a ditch. This failure to discharge to a sanitary sewer or permitted on-site treatment facility violated APC&EC Rule 22.904(l), which states, "Drainage – All floors must be free from standing water. All drainage from cleaning, unloading, and processing areas must be discharged to sanitary sewers or permitted on-site treatment facilities. Storm water discharges from the site shall conform to DEQ storm water permitting requirements." The failure to obtain an approved holding tank also violated Ark. Code Ann. § 8-6-205(a)(1). This failure was also cited during subsequent inspections conducted on February 21, 2019, May 30, 2019, and September 18, 2019.

10. On December 7, 2018, DEQ notified Respondent of the findings of the November 27, 2018 inspection. DEQ also notified Respondent that the inspection report had been referred to the Office of Land Resources' Enforcement Section.

11. On February 21, 2019, DEQ conducted a routine quarterly inspection at the Facility. The inspection report is incorporated herein by reference. DEQ notified Respondent of the findings of the inspection via certified letter on March 14, 2019. In that letter, DEQ informed Respondent that:

You should immediately undertake all actions necessary to correct the violations cited in the attached report. Written notification of the corrective actions taken, or to be taken, for the alleged violations must be submitted within thirty (30) calendar days from the date of this letter...

12. Respondent did not provide a response to DEQ within thirty (30) calendar days from receipt of DEQ's March 14, 2019 letter.

13. On May 30, 2019, DEQ conducted a routine quarterly inspection at the Facility. The inspection report is incorporated herein by reference. DEQ notified Respondent by certified letter on June 13, 2019 of the findings of the inspection. In that letter, DEQ informed Respondent that:

You should immediately undertake all actions necessary to correct the violations cited in the attached report. A written response and documentation of the within thirty (30) calendar days from receipt of this letter.

14. Respondent did not provide a response to DEQ within thirty (30) calendar days from receipt of DEQ's June 13, 2019 letter.

15. On September 18, 2019, DEQ conducted a routine quarterly inspection at the Facility. The inspection report is incorporated herein by reference. In addition to the violations previously cited, the following violation was identified during the inspection:

- a. Respondent did not submit the annual report to DEQ for calendar year 2018. The failure to submit required reports is a violation of APC&EC Rule 22.904(n), which states in part, "Annual Reporting - The facility owner or operator shall prepare and file with the Department annual reports by March 31 covering the period from the previous January through December on a form provided by or acceptable to the Department..." The failure to submit an annual report also violated Ark. Code Ann. § 8-6-205(a)(1). This failure was also cited during a subsequent inspection conducted on March 3, 2020.

16. On September 25, 2019, Respondent met with DEQ to discuss the Facility's permit status and installation of a leachate tank.

17. On October 2, 2019, DEQ notified Respondent of the September 18, 2019 inspection findings and requested a response within thirty (30) calendar days of receipt of the letter. Respondent failed to respond to the inspection report.
18. On November 19, 2019, DEQ conducted a routine quarterly inspection at the Facility. The inspection report identified two (2) repeat violations of APC&EC Rule 22.904 and is incorporated herein by reference.
19. On December 3, 2019, DEQ notified Respondent by certified mail of the findings of the November 19, 2019 inspection. Respondent received DEQ's December 3, 2019 letter on December 5, 2019. In that letter, DEQ informed Respondent that:
- You should immediately undertake all actions necessary to correct the violations cited in the attached report. A written response and documentation of the corrective actions must be submitted by email to [olrenforcement@adeq.state.ar.us](mailto:olrenforcement@adeq.state.ar.us) and [greenwood@adeq.state.ar.us](mailto:greenwood@adeq.state.ar.us), or delivered in person or by mail to the address found at the bottom of this letter, within thirty (30) calendar days from receipt of this letter.
20. Respondent did not provide a response to DEQ within thirty (30) calendar days from receipt of DEQ's December 3, 2019 letter.
21. On February 4, 2020, DEQ received Respondent's Notice of Intent (NOI) for coverage under the General Permit for the Construction and Operation of Solid Waste Transfer Station. In that NOI, Respondent stated that leachate and other wastewater on-site is pumped into a leachate holding tank that is periodically transported to Texarkana Water Utilities Wastewater Treatment Plant for disposal.
22. On March 3, 2020, DEQ conducted a routine quarterly inspection at the Facility. The inspection report identified two (2) repeat violations of APC&EC Rule 22.904 and is

incorporated herein by reference. That inspection indicated that that leachate and other wastewater on-site was not routed to an approved collection and treatment system.

23. On April 21, 2020, DEQ notified Respondent by certified mail of the findings of the March 3, 2020 inspection.

### Water Violations

24. 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).

25. DEQ is authorized under the Arkansas Water and Air Pollution Control Act to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit or the federal Clean Water Act.

26. Ark. Code Ann. §§ 8-4-217(a)(2), (3) and (b)(1)(A) provide:

(a) It shall be unlawful for any person to:

...

(2) Place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state;

(3) Violate any provisions of this chapter or of any rule or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ]...

(b) (1) It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from the division:

(A) To construct, install, modify, or operate any disposal system or any part thereof, or any extension or addition thereto, that will discharge into any of the waters of this state.

27. On December 19, 2018, DEQ conducted a reconnaissance compliance evaluation inspection of the Facility. The inspection revealed the following violation:

- a. Respondent operates a solid waste transfer station, and the activities at the Facility are industrial activities. The processing area for the transfer station is uncovered and exposed to stormwater. Pursuant to 40 C.F.R. 122.26, as incorporated by Rule 6.104, an NPDES permit is required for stormwater discharges associated with industrial activity, including activities at a solid waste transfer station. Respondent is discharging stormwater associated with industrial activity without a permit. This is a violation of 40 C.F.R. 122.26, as incorporated by Rule 6.104, and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

28. On January 7, 2019, DEQ notified Respondent of the December 19, 2018 inspection results.

29. On March 26, 2019, DEQ received from Respondent a Notice of Intent (NOI) for coverage under the NPDES Industrial Stormwater General Permit, ARR000000.

30. DEQ issued NPDES Industrial Stormwater General Permit, ARR000000, on December 31, 2013, with an effective date of July 1, 2014, and an expiration date of June 30, 2019. DEQ renewed ARR000000 on November 6, 2018, with an effective date of July 1, 2019, and an expiration date of June 30, 2024.



31. On April 23, 2019, DEQ issued permit coverage to Respondent for the NPDES Industrial Stormwater General Permit, ARR000000, and assigned permit tracking number ARR001778 (Permit ARR001778) to Respondent's Facility.

32. On June 26, 2019, DEQ received Respondent's Recertification Notice of Intent (RNOI) for coverage under Industrial Stormwater General Permit, ARR000000 (effective July 1, 2019). DEQ received additional information from Respondent on September 20, 2019.

33. On December 6, 2019, DEQ issued coverage to Respondent under the renewed NPDES Industrial Stormwater General Permit, Permit Tracking Number ARR001778.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately cease Facility operations generating drainage from cleaning, unloading, and processing areas.
2. On or before the effective date of this CAO, Respondent shall submit a report, stamped by a Professional Engineer licensed in the State of Arkansas, stating that the any discharges from the septic tank or any connected pipes have ceased.
3. Upon the effective date of this Order, CAO LIS 15-118 shall be closed.
4. Until such a time as DEQ issues a permitting decision or permit coverage to Respondent for the solid waste transfer station activities at the Facility, Respondent shall comply with General Permit 0003-STSW-B.
5. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ for review and approval a comprehensive Corrective Action Plan (CAP) developed by a Professional Engineer licensed in the state of Arkansas, that at a minimum

contains the methods and best available technologies that will be used to correct the violations listed in Findings of Fact and prevent future violations. The CAP shall include the instillation of an approved holding tank, a process for routing the collected wastewater to an approved treatment system, and a reasonable milestone schedule with a date of final compliance. The milestone schedule and final compliance date shall be fully enforceable as terms of this CAO.

6. Following DEQ's approval of Respondent's CAP, Respondent shall implement its CAP prior to re-commencing facility operations that generate drainage from cleaning, unloading, and processing areas.

7. For violations cited under the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*, a civil penalty of **Three Thousand Two Hundred Fifty Dollars (\$3,250.00)** shall be assessed.

8. For violations cited under the Arkansas Water and Air Pollution Control Act and the federal Clean Water Act, 33 U.S.C. § 1311(a) *et seq.*, a civil penalty of **One Thousand Four Hundred Dollars (\$1,400.00)** shall be assessed.

9. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of **FOUR THOUSAND SIX HUNDRED FIFTY DOLLARS (\$4,650.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment of the penalty shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

DEQ, 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.

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: \$ 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 that may be available to DEQ by reason of Respondent's failure to comply with this CAO.

11. Respondent shall notify DEQ 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 the delay, the precise cause of the delay, and the measures being taken to correct and minimize the delay. Such notification or request for extension shall be made in writing and prior to the deadline.

12. DEQ may grant a written extension of any provision of this CAO, provided that Respondent requested such an extension in writing and provided that the delay or anticipated delay has been 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 fault of Respondent and the length of delay attributable to such circumstances shall rest with Respondent.

13. 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 CAO

14. This CAO is subject to public review and comments in accordance with Ark. Code Ann. § 8-4-103(d) and is therefore 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 or based on any other considerations which may subsequently come to light. Additionally, this CAO is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the Commission.

15. Nothing contained in this CAO shall be construed as a waiver of DEQ's enforcement authority over violations not specifically addressed herein; nor does this CAO exonerate past, present, or future conduct that is not expressly addressed herein. Nothing contained herein shall relieve Respondent of any other obligations imposed by any local, state, or federal laws, nor shall this CAO be deemed in any way to relieve Respondent of its responsibilities for obtaining or complying with any necessary permits or licenses.

16. This CAO has been reviewed and approved by the Quorum Court of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.

17. The Quorum Court of Respondent has authorized the County Judge to sign this CAO on behalf of Respondent. See Exhibit A.

18. The Quorum Court of Respondent has authorized the County Judge to expend funds for compliance activities required by this CAO including but not limited to the payment of a civil penalty as set forth in this CAO. See Exhibit A.

SO ORDERED THIS 3<sup>RD</sup> DAY OF FEBRUARY, 2021

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

Little River County Transfer Station

BY: [Signature]  
(Signature)

MIKE CRANFORD  
(Typed or printed name)

TITLE: COUNTY JUDGE

DATE: 1/4/2021

**JOURNAL OF PROCEEDINGS**  
**FOR THE LITTLE RIVER COUNTY QUORUM COURT**  
**JANUARY 4, 2021**

The Little River Quorum Court met Monday January 4, 2021 at 9:30 a.m. at the Little River County Conference Room for a special called meeting. Judge Cranford was absent. Mr. Keith Pullen made the motion to appoint Mr. Charles Henderson served as Chairperson in Judge Cranford's absence. Mr. Ardwin led the prayer and the Pledge of Allegiance. A Quorum was formed by Mark Ardwin, Al Austin, John Bowman, Larry Cowling, Tyler Davis, Charles Henderson, Larry Phillips, Keith Pullen and Suzanne Ward.

Mr. Glen Spears spoke to the Quorum Court about the need to approve a Motion of Consent of the Administrative Order from the Arkansas Division of Environmental Quality Office (DEQ). After looking at the proposed consent and discussion with the Quorum Court, Mr. Cowling made the motion to accept the Order. Mr. Ardwin seconded. Motion carried.

Mr. Pullen made the motion for the regular monthly Q.C. meetings to be held the second Monday of the Month at 9:00 a.m. in the Little River County Conference Room. Mr. Cowling seconded. With 2 – no votes and 7 – yes votes. The motion carried.

Mr. Cowling made the motion to adjourn and Mr. Pullen seconded. Motion carried.

APPROVED: \_\_\_\_\_

Mike Cranford, County Judge

ATTEST: \_\_\_\_\_

Deanna Sivley, County Clerk

**JOURNAL OF PROCEEDINGS  
FOR THE LITTLE RIVER COUNTY QUORUM COURT**

**JANUARY 11, 2021**

The Little River Quorum Court met Monday January 11, 2021 at 9:30 a.m. at the Little River County Conference Room for a special called meeting. Judge Cranford was absent. Mr. Charles Henderson served as Chairperson in Judge Cranford's absence. Mr. Ardwin led the prayer and the Pledge of Allegiance. A Quorum was formed by Mark Ardwin, Al Austin, John Bowman, Larry Cowling, Tyler Davis, Charles Henderson and Keith Pullen.

Mr. Pullen made the motion to accept the December 2020 minutes as mailed. Mr. Davis seconded. Motion carried. Mr. Larry Cowling made the motion to accept the Treasurers report. Mr. Pullen seconded. Motion carried.

Ordinance 0-2021-1 entitled a clean-up ordinance was read. Mr. Pullen made the motion to accept the ordinance and Mr. Cowling seconded. Motion carried. Mr. Pullen made the motion to appoint Mr. Charles Henderson as the Q.C. Delegate. Mr. Ardwin seconded. Motion carried. Mr. Pullen stated there will be a jail meeting Jan. 26.

Mr. Cowling made the motion to adjourn and Mr. Pullen seconded. Motion carried.

APPROVED: \_\_\_\_\_

Mike Cranford, County Judge

ATTEST: Deanna Sivley

Deanna Sivley, County Clerk