

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Tilton's Processing, LLC  
7289 Blevins Road  
Harrison, AR 72601

LIS No. 21- 114  
Permit No. 5353-W (PENDING)  
AFIN 05-00449

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 rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of Tilton's Processing, LLC (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 an industrial and commercial septic system ("facility") located at 7289 Blevins Road, Harrison, Boone County, Arkansas.
2. DEQ is authorized under Ark. Code Ann. § 8-4-101 *et seq.*, APC&EC Rule 2, Arkansas Water Quality Standards, and APC&EC Rule 17 to issue permits for wastewater treatment systems that include septic tank and subsurface fluid distribution systems.

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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.

3. Ark. Code Ann. § 8-4-217(b)(1)(C) provides:

(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:

...

(C) To construct, install, or operate any building, plant, works, establishment, or facility, or any extension or modification thereof, or addition thereto, the operation of which would result in discharge of any wastes into the waters of this state or would otherwise alter the physical, chemical, or biological properties of any waters of this state in any manner not already lawfully authorized.

4. Ark. Code Ann. § 8-4-217(a)(3) provides:

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

...

(3) Violate any provision 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 [DEQ]

5. 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 rule or permit issued pursuant to the Act.

6. 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.”

7. On October 8, 2019, DEQ received an anonymous complaint that Respondent did not have a permit to discharge its wastewater from the meat processing business.

8. On October 10, 2019, DEQ conducted a routine compliance evaluation inspection of the facility. The inspection revealed that Respondent was operating the facility without a permit in violation of APC&EC Rule 17.401(a) and therefore in violation of Ark. Code Ann. § 8-4-217(a)(3).

9. On October 23, 2019, DEQ notified Respondent of the violation identified during the October 10, 2019 inspection and requested a written response by November 6, 2019.

10. On November 5, 2019, Respondent submitted a State No-Discharge Permit application to DEQ.

11. On January 8, 2020, DEQ notified Respondent the information submitted to DEQ on November 5, 2020, sufficiently addressed the violation documented in the October 23, 2019 inspection report.

12. On June 30, 2020, DEQ notified Respondent via letter that the State No-Discharge Permit application submitted on November 5, 2019, was determined to be incomplete. DEQ requested the following information be submitted:

- a) A Waste Management Plan (WMP) stamped and signed by a Professional Engineer (P.E.) licensed in the state of Arkansas;
- b) A Disclosure Statement;
- c) Proof of ownership or control of the land; and
- d) A copy of a letter notifying the Arkansas Department of Health (ADH) Division of Engineering of the following:
  - i. A permit application has been submitted to DEQ;
  - ii. A complete set of maps indicating the facility location and waste treatment plans; and

iii. A description of the facility.

13. On December 4, 2020, ADH Division of Engineering submitted a letter of acknowledgement of the project.

14. On May 5, 2021, Respondent submitted a revised State No-Discharge Permit application.

15. On May 11, 2021, DEQ notified Respondent via letter the permit application received on November 5, 2019, with additional information received on October 30, 2020, and May 5, 2021, was determined to be administratively complete.

16. On May 12, 2021, Respondent submitted proof of the application of the public notice publication date.

#### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with APC&EC Rule 17 and 40 C.F.R. Parts 144 and 146.
2. Until the effective date of permit 5353-W, Respondent shall:
  - a. Not discharge any waste from this operation to the waters of the state or onto the land in any manner that may result in runoff to the waters of the state or ponding on the surface of the land.
  - b. Not bypass the waste management system.
  - c. Not exceed the maximum volume of waste of 303 gallons per day.
  - d. Maintain current and complete records of all activities related to the removal of solid materials, oil, grease, wastewater, etc., from the operation to include:
    - (1) Date of the activity;
    - (2) Volume or weight of material removed;
    - (3) Type of material removed;
    - (4) Interim or final destination of the material discarded;

- (5) Complete identification of the carrier(s) transporting the material; and
- (6) Name and address of the receiving entity or firm if the waste is to be recycled or reused.

e. Not add connections outside of the described service area, or connections that cause an exceedance of the treatment works design flow

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) of which One Thousand Dollars (\$1000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of One Thousand Dollars (\$1000.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of One Thousand Dollars (\$1000.00) shall become immediately due and payable to DEQ and shall be 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.

4. Failure to meet any requirement or deadline of this Order constitutes a violation of this 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 that 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 that 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 if Respondent requests such an extension in writing, and 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. Respondent has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondent, as well as the length of the delay attributable to such circumstances. Failure to notify 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 Rule 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 (30) 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 Rule 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. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein as attested by the secretary of said entity. Execution of this Order by an individual other than a Managing Member of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 4<sup>TH</sup> DAY OF NOVEMBER, 2021.

  
JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Tilton's Processing, LLC

BY:   
(Signature)

Wes Tilton  
(Typed or printed name)

TITLE: president

DATE: 10-27-21