

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Rector
409 South Stewart Street
Rector, AR 72461

LIS No. 21- 122
Permit No. AR0021911
AFIN 11-00057

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 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 Rector (Respondent) and the Division of Environmental Quality¹ (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 municipal wastewater treatment facility (“facility”) located at 1299 South Main Street, Rector, Clay County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary, thence to Post Oak Creek, thence to Big Slough, thence to the St. Francis River in Segment 5A of the St. Francis 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 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 rule 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. DEQ issued NPDES Permit Number AR0021911 (“Permit”) to Respondent on September 29, 2016, with an effective date of October 1, 2016, and an expiration date of September 30, 2021. DEQ issued a minor modification on October 19, 2016, with an expiration date of September 30, 2021.

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, September 30, 2021.

12. On October 7, 2020, and January 7, 2021, Respondent was notified that the Permit would expire on September 30, 2021, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than April 3, 2021.

13. DEQ did not receive a complete Permit renewal application by April 3, 2021. Failure to submit the Permit renewal application by April 3, 2021, is a violation of Part III, Section D, Condition 10 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

14. On August 27, 2021, DEQ contacted Respondent to inquire about the Permit renewal application. Respondent attempted to submit the Permit renewal application to DEQ via email on July 16, 2021. The email was not received by DEQ due to the large size of the attached files. On August 27, 2021, Respondent uploaded the Permit renewal application to a cloud storage service and provided access to DEQ.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

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

2. 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.

3. 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.

4. 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.

5. 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.

6. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8. This Order shall be effective upon the Chief Administrator's signature. 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.

7. 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.

8. 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.

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

10. 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 4th DAY OF October, 2021.

JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Rector

BY: Shelia Dale
(Signature)

Shelia Dale
(Typed or printed name)

TITLE: Recorder - Treasurer

DATE: 10-4-21

10. 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 23RD NOVEMBER ~~4TH~~ DAY OF October, 2021.



JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Rector

BY: Teresa L. Roope, mayor

(Signature)

Teresa L. Roope, mayor

(Typed or printed name)

TITLE: Mayor

DATE: 10/04/2021

MINUTES

RECTOR CITY COUNCIL

OCTOBER 4, 2021

The Rector City Council met at regular session on Oct. 4, 2021 in the Rector Community Center at 7:00 P.M. Those in attendance were Mayor Teresa L. Roofe, City Attorney Kimberly Dale, Recorder-Treasurer Shelia Dale, Councilmembers David Romine, Iva Fahr, Mark Manchester, and Lark Sigsby; Police Chief Allen Haywood, City Supt. Todd Watson, and Fire Chief Huston Bowden. Jane Gatewood, reporter for Times-Democrat was also present as was Kim Romine, City Administrative Assistant.

Mayor Roofe asked for approval of Septembers minutes. With a correction, Councilmember Manchester moved to accept minutes, with a 2nd from Councilmember Sigsby. Aye from Councilmember Fahr, Aye from Councilmember Sigsby, Aye from Councilmember Romine and Aye from Councilmember Manchester, minutes accepted.

From the audience Jane Gatewood came to the council representing Rector Downtown Central, asking for improvements to be done so that the organization can move forward with grant approval in the future. She specifically asked that lighting around the town park be repaired and that shrubbery in such park be attended to. Council will see that Perry Morrisett take care of the shrubs and will make attempts to address lighting. LED lights will be searched out to fix this issue. Some Fall events, including a fundraiser, are planned, and Downtown Central wanted safety for those events. A Dec. 5 event may be forthcoming also to coincide with Rector Christmas parade. Gatewood gave an update to the city about issues the organization had encountered. Flags that had in years past been on city streets, were mentioned. This was not a city project so Gatewood was encouraged to see the Chamber of Commerce. Mark Miller, Crystal Parmenter Williams, and Mrs. Gatewood will take a walking tour Wed. and any and all are invited to join.

Vicious Dog – Attorney Dale was asked to read for second time-Title only, the Ordinance for addressing vicious dogs in the City. Moving for that reading was Councilmember Romine, 2nd from Councilmember Manchester. City Attorney Dale read, title only, the new ordinance. Moving for acceptance of that reading was Councilmember Manchester, 2nd from Councilmember Fahr. Aye from Councilmember Manchester, Aye from Councilmember Sigsby, Aye from Councilmember Romine and Aye from Councilmember Fahr. Moving to suspend the rules and place on its 3rd reading was Councilmember Romine. 2nd by Councilmember Fahr. Asking if any citizen response to the ordinance and council having none, City attorney Dale read 3rd reading, title only. Moving to accept 3rd reading and approve Ordinance 569, was Councilmember Fahr with 2nd from Councilmember Manchester, Aye from Councilmember Sigsby, Aye from Councilmember Romine, Aye from councilmember Fahr, and Aye from Councilmember Manchester, Ordinance for Vicious Dogs approved.

CAO Resolution- By vote, Council accepted the Consent Administrative Order issued by Arkansas Dept. of Energy and Environment Division of Environmental Quality. Moving to accept permit was

Councilmember Sigsby with a 2nd from Councilmember Manchester. Voting to accept permit order was Councilmember Fahr, Aye from Councilmember Sigsby, Aye from Councilmember Romine, and Aye from Councilmember Manchester. Due to failure by Engineering Co. to address such matter, as directed, and discussed, City of Rector Council Resolution 2021-9 was passed.

Condemnation for property -

A dwelling owned by Windom Tutt Windella of Mesquite, Tx at 1119 S Dodd St. in Rector qualifies as a nuisance to the citizens of the city. By failing to maintain the property yard, windows broken, falling out, doors open or missing, holes in the roofing, overgrown yard materials, the City of Rector moves to condemn as unsafe and unsightly, fearing for the safety of our children. Photo attached proving such. Reading the Resolution by City Attorney Dale, a Motion to move by Resolution to begin condemnation process was Councilmember Fahr, 2nd from Councilmember Manchester. Aye from Councilmember Romine, Aye from Councilmember Sigsby, Aye from councilmember Fahr, and Aye from Councilmember Manchester. Resolution 2021-10 passed.

2022 budget – Rector City Administrative Assistant Kim Romine, brought before the council 2022 budget items. She noted that General Fund changes will include Water tower loan paid off June 2022, Fire Dept. loan paid off April 2022, contract mowing expenses decreased due to city purchase of bush hog. Municipal court expense will decrease due to changes by court system. Too, street budget changes noted within Budget. Budget did include a 3% raise for all employees. She asked council to review and call/see her with any questions.

Water Dept. report- done by Supt. Watson

Street Dept. report – read by Supt. Watson noting that street cuts done by Black Hills Energy have been reimbursed after billing them. With Arkansas Highway Dept crew in town at this writing, Council was given listing of street names that will have work being done soon. Also, new Street signs and stop signs have been ordered.

Code Enforcement report. – read by Supt. Watson

Community Center report- Mayor Roofe read noting the Craft Fair will be Nov. 20th. Asking if city Facebook page mentions it?

Fire dept. report – read by Chief Bowden As per budget item, Dept will be seeking out a new truck for carrying supplies.

Police Dept. -read by Chief Haywood

Property issues – done earlier

Other business – Mayor Roofe noted that Halloween will be observed on Sat. before the holiday on Sunday, and for our children's safety, she asks all families watch for our kids on city streets, using caution, so all can enjoy the holiday. Citizens , please turn on carport or front door lights.

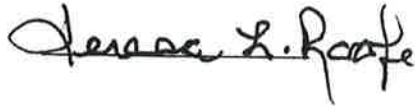
Councilmember Romine asked about removing the stop sign placed in past few years at the intersection of 1st St and Phillips, near Rector Housing Authority. With no objection, and permission of Chief Haywood, motion to remove that stop sign was councilmember Romine, 2nd from councilmember Fahr.

With Aye from councilmember Sigsby, Aye from Councilmember Manchester, Aye from Councilmember Fahr, and Aye from Councilmember Romine. Motion passed.

City spraying for mosquitoes will continue until product is depleted, per chemical instruction. Many noted spraying had worked at greatly improving the outdoor activity.

Moving to adjourn was Councilmember Fahr, 2nd by Councilmember Manchester. With Aye from councilmember Romine, Aye from Councilmember Fahr, Aye from Councilmember Sigsby, and Aye from Councilmember Manchester, meeting adjourned.

Mayor Teresa L. Roofe



Recorder-Treasurer Shelia Dale

