

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CR Custom Processing, Inc.
132 Cedar Road
Malvern, AR 72104

LIS No. 22- 064
Permit No. 5146-W expired
AFIN 30-00621

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 CR Custom Processing, Inc. (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 slaughterhouse and meat processing facility with a septic tank and subsurface leach field treatment system (“facility”) located at 2426 Finch Road, Bismarck, Hot Spring County, Arkansas.
2. Respondent is regulated pursuant to the Arkansas Water and Air Pollution Control Act (“the Act”), Ark. Code Ann. § 8-4-101 *et seq.* and APC&EC Rule 17.

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. DEQ is authorized under the Act to issue permits in the state of Arkansas for the operation of disposal systems or any part of them and to initiate an enforcement action for any violation of a permit issued pursuant to the Act.

4. Ark. Code Ann. § 8-4-217 provides:

(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].

5. APC&EC Rule 17.401 provides:

No person shall construct, install, alter, modify, or operate any underground injection facility without a permit from the [Division] or, as to Class II and Class V bromine-related brine disposal wells, from the Arkansas Oil and Gas Commission.

6. 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.

7. 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.”

8. On April 7, 2021, DEQ conducted an inspection of the facility in response to a public complaint sent to DEQ on February 12, 2021. The inspection revealed the following violations:

- a. Respondent was operating a treatment system without the required permit. This action is a violation of APC&EC Rule 17.401 and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
 - b. Surfacing and runoff of industrial waste from drip dispersal field was observed exiting the site and entering the stormwater drainage ditch of a nearby road. This action is a violation of Ark. Code Ann. § 8-4-217 (a)(2) and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
9. On April 28, 2021, DEQ notified Respondent via certified mail of the inspection results and requested a response to the violations be submitted to DEQ by May 15, 2021.
 10. On June 4, 2021, Respondent submitted an email response to the inspection to DEQ with documentation of the repairs made to the field lines.
 11. On June 4, 2021, DEQ received a new permit application from Respondent for a No-Discharge Permit for the facility.
 12. On October 18, 2021, DEQ notified Respondent via letter that the response dated June 4, 2021, sufficiently addressed the conditions documented in the inspection report.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the requirements of expired Permit 5146-W until DEQ makes a final decision on Respondent's permit application.
 - a. The septic tank shall be maintained to prevent surfacing and runoff (leaking or seepage). Any leaks or seeps shall be reported to DEQ and appropriately corrected. Any discharge from the system such as an overflow, broken pipe, etc., shall be immediately reported to DEQ in accordance with Part II Condition 13 of Permit 5146-W.

2. No later than thirty (30) calendar days following the effective date of this Order, Respondent shall submit to DEQ an evaluation of the septic system and leach field and a certification from a Professional Engineer (P.E.) licensed by the State of Arkansas that the design is sufficient to process and treat the industrial waste flow from the facility during peak usage cycles and is operating according to manufacture design.

3. If the design flow is determined to be insufficient to process and treat the industrial waste flow from the facility effectively during peak usage cycles or corrective actions to prevent surfacing are unsuccessful, then no later than ninety (90) days following the effective date of this Order, Respondent shall submit to DEQ, for review and approval, a Corrective Action Plan (CAP), milestone schedule, and final compliance date to address the design flow deficits. The approved CAP including the milestone schedule and final compliance date will be enforceable as terms of this Order.

4. If a CAP is required, a final compliance report stamped by a P.E. certifying that the milestones have been completed and the treatment system is operating compliantly as of the final compliance date shall be submitted no later than thirty (30) days following the approved final compliance date of the CAP.

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Eight Hundred Dollars (\$2800.00), or one-half of the full civil penalty of One Thousand Four Hundred Dollars (\$1400.00) 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. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 26th DAY OF May, 2022.



JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

C & R Meat Processing, Inc.

BY: 

(Signature)

Josh Casarik

(Typed or printed name)

TITLE: President

DATE: 4/28/22
