

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CITY OF ELAINE
PO BOX 605
ELAINE, AR 72333

LIS No. 25- 035
AFIN: 54-00077

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("Order") is issued pursuant to the authority of the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, and 22.

The issues herein having been settled by the agreement of City of Elaine (Respondent) and Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. DEQ regulates the disposal of solid waste pursuant to Ark. Code Ann. § 8-6-201 *et seq.*, and APC&EC Rule No. 22.
2. Ark. Code Ann. § 8-6-203(18) defines "Solid Waste" as the following:
 - (A) "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.
 - (B) "Solid waste" does not include:
 - (i) Solid or dissolved materials in domestic sewage;
 - (ii) Solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. § 1342;
 - (iii) Source material, special nuclear material, or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 2011 *et seq.*;

- (iv) Mill scale and slag; or
- (v) Post-use polymers and recovered feedstocks;

3. Ark. Code Ann. § 8-6-203(4) defines "Disposal Site" as "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."

4. Ark. Code Ann. § 8-6-205 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 Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the DEQ;

(2) To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the DEQ;

(3) To dispose of solid wastes at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the division. However, no provision of this subchapter shall be construed so as to prevent an individual from disposing of solid wastes resulting from his or her own household activities on his or her own land if the disposal does not create a public or private nuisance or a hazard to health and does not violate a city ordinance or other law and does not involve the open dumping of garbage;

(4) To dump, deposit, throw, or in any manner leave or abandon any solid wastes, including, but not limited to, garbage, tin cans, bottles, rubbish, refuse, or trash upon property owned by another person without the written permission of the owner or occupant of the property or upon any public highway, street, road, public park or recreation area, or any other public property except as designated for disposal of waste; or

(5) To sort, collect, transport, process, or dispose of solid waste contrary to the rules or orders of the division 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.*

5. Respondent owns property being operated as an illegal city dump (Site) located at 321 Phillips County 500 Road, Elaine, in Phillips County, Arkansas.

6. On July 23, 2024, DEQ Office of Air Quality (OAQ) conducted a complaint investigation at the Site. The following conditions were observed during this investigation:

(A) A deep pit containing the smoldering remains of building demolition debris,

(B) Several separate and distinct burn areas that included household trash, and

(C) Staged piles of burned and unburned vegetative debris.

7. In a letter dated July 25, 2024, OAQ notified Respondent of the findings of the investigation.

8. On July 26, 2024, OAQ referred the complaint to the Office of Land Resources (OLR).

9. OLR's review of the referral determined the following:

(A) Respondent was operating a solid waste disposal site without permit coverage from DEQ. DEQ observed multiple piles and pits of dumped solid waste. Operating a solid waste disposal site without a permit from DEQ violates Ark. Code Ann. § 8-6-205(a)(1) and Ark. Code Ann. § 8-6-205(a)(2).

(B) Respondent was disposing of solid waste at an unpermitted disposal site. City of Elaine has never been permitted by DEQ to dispose of solid waste at the Site. Disposing of solid waste at a disposal site that has not been issued a permit from DEQ violates Ark. Code Ann. § 8-6-205(a)(1) and Ark. Code Ann. § 8-6-205(a)(3).

(C) Respondent was disposing of solid waste in a manner likely to cause water or air pollution. DEQ observed a pit of burning construction and demolition debris and household waste. The fire department was contacted and applied water and a foam

agent to the actively burning pit. A backhoe was then used to fill the burn pit with dirt. Disposing of solid waste in a manner likely to cause water or air pollution violates Ark. Code Ann. § 8-6-205(a)(1) and Ark. Code Ann. § 8-6-205(a)(5).

10. In a letter dated August 13, 2024, OLR notified Respondent of the findings of the investigation.

11. Respondent did not submit a response to DEQ.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately cease illegal disposal of all solid waste at the Site.
2. Respondent shall immediately excavate, remove, and dispose all wastes at a facility that is permitted to accept the class and characteristics of the wastes removed. Asbestos Containing Material shall be managed in accordance with APC&EC 22.702 - Asbestos Containing Material.
3. Respondent shall retain all copies of disposal receipts to provide to DEQ as evidence of proper disposal at a permitted solid waste facility.
4. All documents required by this Order to be submitted to DEQ, excluding the penalty payment required by Paragraph 5 below, shall be emailed to Office of Land Resources Enforcement Branch at OLRenforcement@arkansas.gov, or submitted by Certified Mail, or hand-delivered to Office of Land Resources Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Hundred Dollars (\$1,000.00). The total penalty amount is Five Thousand Four Hundred Dollars (\$5,400.00), of which Four Thousand Four Hundred Dollars (\$4,400.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this CAO, the SUSPENDED civil penalty of Four Thousand Four Hundred

Dollars (\$4,400.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this CAO. 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:

Division of Environmental Quality
Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

If Respondent violates any term of this CAO or fails to pay the reduced sum of One Thousand Dollars (\$1,000.00), the full balance of Five Thousand Four Hundred Dollars (\$5,400.00) shall become immediately due and payable to DEQ. 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, 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 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) calendar 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. 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.

13. The city council of Respondent has authorized the mayor and city clerk/treasurer to sign this Order on behalf of Respondent. See Exhibit A.

SO ORDERED THIS 18¹⁷ DAY OF March April Bmt, 2025.

Bailey Taylor

BAILEY TAYLOR, DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:
CITY OF ELAINE

BY:

Signature

Print Name

Title

Date

Lisa V. Gilbert
Mayor
March 18, 2025

ELAINE CITY COUNCIL

MINUTES from February 25, 2025, MEETING

Present were Mayor Lisa Hicks Gilbert, Alderman Webster, Alderman Williams, Alderman Miller, and Alderman Scaife. City Attorney Amy Green was present, and City Clerk Kristin Allen was absent. (due to having the Flu)

The meeting was called to order at: 6:15 P.M.

Alderman Webster made a motion to accept the minutes from the January 28, 2025, meeting, with a change to reflect that the money for Sandy Franklin come out of the Water Department funds and not the General Funds. The request for this change was made by the mayor. Second by Alderman Scaife. All in favor, motion to accept the minutes with the change passed.

Ordinance #1212 was read, an ordinance appropriating money to defray the expenses of the incorporated city of Elaine, and to pay its officials for the month of January and for other purposes. Be it ordained by the city council of Elaine, AR That the sum of \$16,624.52 city and \$3,998.42 street and \$251.56 fire and the same is hereby appropriated. Motion was made by Alderman Webster, Second by Alderman Scaife. All in favor, Motion carries.

A motion was made by Alderman Miller to suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its second reading. Second by Alderman Webster. All in favor, motion carries.

A motion was made by Alderman Webster to suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its third and final reading. Second by Alderman Miller. All in favor, motion carries.

A motion to adopt ordinance #1212 was made by Alderman Miller, second by Alderman Webster. All in favor, motion carries.

Old Business: none

NEW BUSINESS:

- Ordinance #1213 was read an ordinance to adopt to establish at Large dog/canine policy. Motion was made by alderman Williams, second by Alderman Scaife. All in favor, motion carried.
- Ordinance #1214 was read, an ordinance to adopt to establish purchaser and debit/credit user policy. Motion was made by Alderman Webster, second by Alderman Williams. All in favor, motion carried.
- An ordinance to adopt to increase Mayor's salary was read. Discussion was had by city council members; the concern was where the money would come from. This ordinance

was not approved, and the mayor opted to no revisit at this time. She stated that she would no longer do the duties of others and would only work her 16 hours per week.

- Resolution, Donation of Real property from Arkansas American Legion. -tabled, The American legion will meet on March 7, 2025, and the ordinance to accept donated property will be brought to the next city council meeting.
- The Division of Environmental Quality Fine-The fine was originally \$5400.00, the mayor has asked that the fine be reduced. The fine was reduced from \$5400.00 to \$2700.00. The Mayor has again asked if the fine can be reduced to \$1000.00. waiting on confirmation. The council approves the mayor to make the payment.

Department reports:

- Police/Fire Department-Jeremy Jones is the new fire chief. The police department is asking for camaras.
- Water/Street Department-The street department needs more money to purchase the truck that is needed. Alderman Webster made a motion to increase the total amount to purchase a street department truck from \$35,000.00 to \$45,000.00. Second by alderman Scaife, all in favor, motion carried.
- Elaine planning commission, Water advisory board- Water advisory board elected officers.

Callie Tinsley - Chairman

Norman McCray – Vice Chairman

James Lamb - Secretary

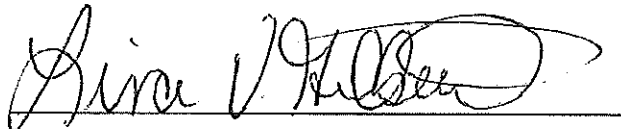
PUBLIC COMMENTS: Toria Jefferson

Mrs. Jefferson is concerned that the city council approved of a \$10,000.00 increase to purchase a street department truck but would not approve of the mayor's salary increase.

Community Announcement/Community Events:

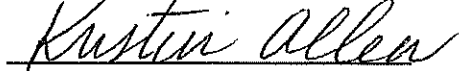
Next city council meeting: Tuesday, March 18, 2025.

Motion to adjourn the meeting was made by Alderman Webster, second by Alderman Miller.
All in favor. The meeting adjourned at 7:30 p.m.

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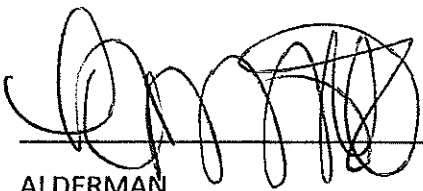
LISA HICKS GILBERT, MAYOR

ATTEST:

A handwritten signature in black ink, appearing to read "Kristin Allen", written over a horizontal line.

KRISTIN ALLEN

RECORDER/TREASURER

A handwritten signature in black ink, consisting of several loops and strokes, written over a horizontal line.

ALDERMAN

ELAINE CITY COUNCIL

MINUTES from March 18, 2025 MEETING

Present were Mayor Lisa Hicks Gilbert, Alderman Webster, Alderman Miller, Alderman Williams, and Alderman Scaife. City Attorney Amy Green was present.

February 2025 minutes are not available.

Ordinance #1215, an appropriation ordinance was read, an ordinance to pay the officials of the City of Elaine.

Discussion regarding payment to elected officials when a city council meeting is missed. Ordinance states there is no payment this month for the City Recorder/Treasurer. City Attorney will review prior ordinances and consult with the Mayor prior to the next meeting. The budget ordinance can be amended next month if necessary.

A motion was made by Alderman Webster made a motion to suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its second reading. Second by Alderman Williams. All in favor, motion carries.

A motion was made by Alderman Webster to further suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its third and final reading. Second by Alderman Scaife. All in favor, motion carries.

A motion was made by Alderman Webster to adopt Ordinance #1215. Second by Alderman Williams. All in favor, motion carries.

No additions to the agenda.

An ordinance to adopt the 2025 Standard Operations and Policy Manual for the Elaine Police Department was read, ordinance #1216.

A motion was made by Alderman Webster made a motion to suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its second reading. Second by Alderman Miller. All in favor, motion carries.

A motion was made by Alderman Webster to further suspend the rule requiring that an ordinance be read on three separate occasions, placing it on its third and final reading. Second by Alderman Williams. All in favor, motion carries.

A motion was made by Alderman Webster to adopt Ordinance #1216. Second by Alderman Williams. All in favor, motion carries.

Resolution to Accept Donation of Real Property from Arkansas American Legion was discussed. The American Legion desires to gift the property to the City of Elaine as a charitable donation. The property is 400 Main Street and adjacent tracts in Elaine, Arkansas. Discussion regarding costs of maintenance, upkeep, insurance. Discussion included comments regarding preserving the history of the building and

the artifacts inside the building. Mayor stated the plan is to gain access and see what needs to be done to get the property up to par, stating any revenue generated for the first year would go back into upkeep of the building. Discussion regarding the dilapidated playground needing to be removed right away.

Motion to approve the resolution was made by Alderman Webster, second by Alderman Scaife. All in favor, motion carries.

Mayor stated the council should have a copy of the audit engagement letter in their packets.

Mayor updated the council about the ADEQ fine for burning in the City dump. The Mayor negotiated a penalty reduction request to \$1,000.00, which is a significant savings to the City. The Mayor will ask the accountant to print that check and get it to ADEQ tomorrow.

Mayor updated the council regarding HB1695, a bill the legislature is considering regarding helping cities and towns tackle neglected properties. The second bill is SB394 Senate Revenue and Tax, allowing a county to call for an election to reallocate county share of sales tax. The Mayor states this possibility is concerning. This would greatly affect the City's ability to fund the street department.

Department reports:

Police Department: City Attorney stated the Police Chief updated her on the docket for district court tomorrow.

Fire Department: Mayor expressed concern about rumor that the City of Elaine does not have an active fire department. There is an active fire department and the Chief reached out to the County to inform them.

Street Department: There is finally a truck and should be delivered Thursday, a 2022 Chevy Silverado work truck with 22,000 miles and it came in under budget. Questions regarding previous administration's purchase of a truck in City's name. Mayor and City Attorney updated that this was forwarded to the State police. The Mayor has asked attorney general intervention.

Water Advisory Board: The Board just had a meeting this afternoon. Callie Tinsley is the Chair. Ms. Becky Gattas is the newly appointed Secretary for the Board. Mr. McCrae is Vice Chair. Leo Glass and Pastor Lamb are part of the Board. Mayor states the Board is doing an awesome job. They are assisting the City with keeping our water flowing. They are creating a flyer with suggestions and helpful tips on helping the City with the pipes, child proofing toilets, and other helpful informational tips.

Water Department: Mayor states there is an ongoing problem of customers not paying their bills. Councilwoman Miller asked that this be on the agenda. The Mayor is asking to hear from each City Council member about concerns and any solutions they have regarding nonpayment of water bills. Discussion from Councilwoman Miller about customers who state they owe \$900 and more and refuse to pay their water bills. They are not paying water or garbage in some instances.

Mayor handed out current information showing recently 278 bills were sent, 188 bills were paid, leaving 90 unpaid bills with an average bill of \$40. This is \$3,600.00 of unrealized revenue for the City. That does not count the rural, that is just the City. So almost \$6,000.00 a month the City is losing. Councilwoman

Miller stated a resident was bragging he was not going to pay his bill. Mayor stated these are just the accounts the City is aware of, some residents are not on the books. The City cannot afford a meter reader at this time, yet there is unrealized revenue. People are not paying because collection of payments are not being enforced. Discussion regarding pulling meters. Mayor stated some residents have not paid their water bill in 2-5 years. City Attorney stated old accounts can be sent to a collection agency. Mayor and City Attorney stated City has not gotten back on track with enforcing water bill payment since COVID moratorium on shutting residents' water off. Mayor states she intends to be fair across the board. City Attorney states enforcement needs to be uniform. Mayor wants to hire an independent contractor outside of Elaine to assist her water department so there is not picking and choosing about who gets their meter pulled. A meter inventory needs to take place first. The City cannot even get a loan to fix the City's water right now. A notice needs to go out to all residents to give them a deadline to get up to date on their water bills. Current water bills should be paid going forward and arrearages should be paid on a percentage basis/rate scale based on amounts owed. Mayor thanked the Council for coming to an agreement on this issue and supporting the plan going forward.

Public Comment on the Agenda: Toria Jefferson. Ms. Jefferson indicated she would pass and did not wish to be heard.

Public announcement regarding Mustang Madness tomorrow.

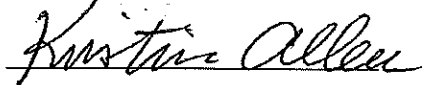
Next City Council meeting Tuesday, April 15, 2025.

Meeting adjourned at 7:03p.m.



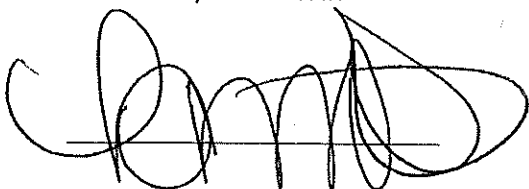
LISA HICKS GILBERT, MAYOR

ATTEST:



KRISTIN ALLEN

RECORDER/TREASURER



ALDERMAN