

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Billy Stain Construction, LLC  
14 Buddy Lane  
Conway, AR 72032

LIS No. 25-069  
Permit No: Unpermitted  
AFIN: 60-04066

**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 Billy Stain Construction, LLC (Respondent) and the 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. Respondent operates a construction site ("site") on certain lots within site, Bent Tree Estates Phase II, which is a residential subdivision development. Billy Stain Construction, LLC as of January 21, 2025, owns 31 lots to be sold or built upon, having an interest in 11 other lots, wherein construction of homes has been completed. .
2. Pursuant to the findings of DEQ, Respondent discharges stormwater to a tributary of Kellogg Creek which flows into Kellogg Creek which flows into Bayou Meto which flows into the Arkansas River just above the White River.

3. Respondent is subject to regulation 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 a NPDES permit.

6. DEQ regulates stormwater discharges associated with construction activity pursuant to the NPDES Stormwater Construction General Permit, Permit Number ARR150000 ("General Permit"). DEQ issued the General Permit with an effective date of November 1, 2021, and an expiration date of October 31, 2026.

7. Respondent's activities at the site fall within the definition of "Construction Activities" in Part I. A of the General Permit, making the site a "Construction Site" as defined by the General Permit. In accordance with the General Permit and APC&EC Rule 6, Respondent is required to have permit coverage for stormwater discharges associated with construction activity.

8. 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].

9. 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.

10. 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.”

11. On April 19, 2023, DEQ received complaints that the Respondent was operating without environmental protections. Said complaint states that runoff flows into Cato Creek, which is affecting the creek water as well as neighboring properties.

12. On April 24, 2023, DEQ conducted a reconnaissance inspection of the site. The inspection revealed the following:

a. Respondent is operating a construction site without a Construction Stormwater General Permit. This is a violation of Ark. Code Ann. § 8-4-217(b)(1) and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

b. Stormwater Best Management Practices (BMPs) had been installed along the perimeter of the construction lots to prevent sediment from discharging onto the roads, into storm drain inlets, and into nearby waters of the state. Silt fencing which was in place, but due to it’s natural usage had become in need of replacement, which Respondent did replace and repair.

13. On June 2, 2023, DEQ notified Respondent of the inspection results via letter and requested a written response addressing the violations be submitted to DEQ within thirty (30) calendar days from receipt of the letter.

14. On June 5, 2023, the letter was returned to DEQ.

15. On June 19, 2023, DEQ contacted Respondent to obtain a correct address and notify Respondent of the inspection results by letter.

16. On July 25, 2023, Respondent submitted a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) to DEQ.

17. On August 22, 2023, the City of North Little Rock - Engineering Department (NLR) submitted the results from their inspection of Bent Tree Estates after receiving the results of DEQ's inspection on July 20, 2023. The NLR inspection revealed the following:

- a. The contractor has not established sufficient erosion control on sites with elevations above city streets which is allowing sediment-contaminated stormwater to flow into the streets and either collect in low points or enter the stormwater system downstream.
- b. The contractor installed construction entrances out of native excavated soils rather than constructing proper tracking entrances.
- c. amounts of litter and debris have been thrown on the ground on the property, and could flow into low points downstream or enter the stormwater systems downstream.

18. On January 8, 2024, DEQ returned the NOI to Respondent. DEQ tried multiple times to get the information needed to issue the permit. Without the proper documentation, no permit can be issued. Respondent had made application for the permit, following the request DEQ, however the system was not allowing requested edits to be made to the application.

19. On December 13, 2024, DEQ received an email from Respondent regarding the inspection. Respondent stated that a silt fence was installed and the permit was paid for. The response did not contain any photographic documentation. Respondent also stated that Respondent submitted

photographic documentation to the City of North Little Rock, Engineering Department, who made a site visit to the location to determine progress and found to be acceptable to the City of North Little Rock Engineering Department.

20. On January 9, 2025, Respondent submitted a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) for the Stormwater Construction General Permit to DEQ.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the Construction Stormwater General Permit.
2. On or before the fifteenth (15th) day of the month following the effective date of this Order, and each month thereafter for a period lasting of one year from the effective date of this Order, Respondent shall submit a Corrective Action Report (CAR) detailing what actions have been performed to maintain the site. Site inspections, any updates to the SWPPP, any updates to the site map and photographic documentation should be included with the CAR.
3. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Eight Thousand Eight Hundred Dollars (\$8800.00), of which Five Thousand Five Hundred Fifty Dollars (\$5500.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance and Respondent's efforts to take appropriate corrective actions to achieve compliance with the Permit. If Respondent fully complies with this Order, the suspended civil penalty of Five Thousand Five Hundred Fifty Dollars (\$5500.00) 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 Five Thousand Five Hundred Fifty Dollars (\$5500.00) shall be payable immediately to DEQ. Payment

of the civil penalty in the amount of Three Thousand Three Hundred Dollars (\$3300.00) is due within thirty (30) calendar days of the effective date 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.

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 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 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 an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer 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 15 DAY OF September, 2025.

Bailey Taylor  
BAILEY M. TAYLOR  
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Billy Stain Construction, LLC

BY:

(Signature)

Billy Stain  
(Typed or printed name)

TITLE:

President / COO

DATE:

9/10/25