

**DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

**City of Camden
206 Van Buren Street
Camden, Arkansas 71701**

**LIS No. 23-24-132
AFIN 52-00069
Permit: 0255-S4**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*, the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601, Landfill Post-Closure Trust Fund, Ark. Code Ann. § 8-6-1002, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, 11, and 22.

The issues herein having been settled by the agreement of the City of Camden (Respondent) and the Department of Energy and Environment, Division of Environmental Quality (DEQ or **Division**), 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 22.
2. DEQ also is the state agency charged with ensuring compliance with Ark. Code Ann. § 8-6-201 *et seq.*
3. Ark. Code Ann. § 8-6-605(a) establishes the Solid Waste Management and Recycling Fund. DEQ administers the fund pursuant to Ark. Code Ann. § 8-6-605(b) and APC&EC Rule 11.
4. Pursuant to Ark. Code Ann. § § 8-6-606(a)(1)-(2), permitted landfills shall pay DEQ a disposal fee of twenty-five cents (25¢) for each uncompacted cubic yard of solid waste or forty-

five cents (45¢) for each compacted cubic yard of solid waste. If a permitted landfill receives waste on a weight basis, the disposal fee is one dollar and fifty cents (\$1.50) for each ton of solid waste received.

5. Ark. Code Ann. § 8-6-1002(a)(1) establishes the Landfill Post-Closure Trust Fund. DEQ administers the Landfill Post-Closure Trust Fund pursuant to Ark. Code Ann. § 8-6-1002(b)(1) and APC&EC Rule 11.

6. Pursuant to Ark. Code Ann. §§ 8-6-1003(a)(1)-(2), permitted landfills shall pay DEQ a disposal fee of fifteen cents (15¢) for each uncompacted cubic yard of solid waste or thirty cents (30¢) for each compacted yard of solid waste. If a permitted landfill receives waste on a weight basis, the disposal fee is one dollar (\$1.00) for each ton of solid waste received.

7. Pursuant to Ark. Code Ann. § 8-1-202(b)(2)(A), the Director of DEQ shall initiate and settle civil or administrative enforcement actions to compel compliance with laws, orders, rules, and federal regulations charged to the responsibility of DEQ.

8. Respondent operates a Class 4 landfill (Facility) located at 2463 Country Club Road, Camden, Ouachita County, Arkansas.

9. On November 28, 1994, DEQ issued Permit 0255-S4 to Respondent. The permit is for the construction and operation of a Class 4 disposal facility. The permit became effective on November 28, 1994.

10. On June 18, 2019, Respondent submitted for review an updated disposal fee plan (DFP). The plan was dated June 12, 2019.

11. On June 28, 2019, in accordance with APC&EC Rule 11.204(D), DEQ approved the updated DFP.

12. On January 26, 2023, DEQ initiated an audit of Respondent's solid waste receipt records in accordance with APC&EC Rule 11.214.

13. On March 10, 2023, DEQ requested that Respondent submit an updated DFP and sample waste ticket.

14. On April 6, 2023, Respondent submitted an updated DFP.

15. On May 10, 2023, DEQ continued the audit of Respondent's solid waste receipt records. DEQ collected Respondent's waste tickets for further review.

16. As a result of the audit, the following violations of APC&EC Rule Nos. 11 and 22 were documented:

- a. The landfill ticket system did not document the general location of disposal. Failure to document such information violates APC&EC Rule No. 22.421(d)(4).
- b. The landfill ticket system did not document the geographic source of the waste. Failure to document such information violates APC&EC Rule No. 11.206(A)(3).
- c. The Facility reported waste received in cubic yards for the second quarter of 2022 but is not approved for reporting waste received by volume. Failure to report waste received in weight violates APC&EC Rule No. 11.206(B)(1)(c).
- d. Several of the landfill tickets were stamped with times outside the Facility's hours of operation. Additionally, the Facility's scale has not been calibrated since 2018. Failure to provide an adequate means of recording the amount of waste received by the landfill violates APC&EC Rule No. 11.206(B)(2).
- e. DEQ conducted a comparison of the waste tickets provided by Respondent and the quarterly reports submitted by Respondent. The comparison indicated that Respondent underreported solid waste tonnage for the first, second, third, and

fourth quarters of 2018 and 2019 and overreported the tonnage for the first, second, third, and fourth quarters of 2020, 2021, and 2022. Failure to establish an accurate method for determining the amount of solid waste received violates APC&EC Rule No. 11.204(A).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall revise the waste ticketing procedure to include the geographic source of the waste and the general location of disposal.
2. Within sixty (60) calendar days of the effective date of this CAO, Respondent shall submit written certification of the repair and calibration of the facility scale or an accurate description of an alternative weighing system to be approved by DEQ.
3. All documents required by this CAO to be submitted to DEQ shall be emailed to olrenforcement@adeq.state.ar.us, submitted by Certified Mail, or hand delivered to the Office of Land Resources, Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
4. In compromise and full settlement for instances of noncompliance specified in the Findings of Fact, Respondent agrees to pay the sum of SIX THOUSAND SEVEN HUNDRED FIFTY-NINE DOLLARS (\$6,759.00) of which FIVE THOUSAND NINE DOLLARS (\$5009.00) shall be conditionally SUSPENDED by DEQ. Payment of ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$1,750.00) is due within thirty (30) calendar days of the effective date of this CAO. Such payment of the penalty shall be made payable to DEQ and mailed to the attention of:

Division of Environmental Quality
Fiscal Division

5301 Northshore Drive
North Little Rock, AR 72118

If Respondent fully complies with this CAO within six (6) months of the effective date, the SUSPENDED civil penalty of FIVE THOUSAND NINE DOLLARS (\$5,009.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of the CAO. If Respondent violates any term of this CAO, the full balance of SIX THOUSAND SEVEN HUNDRED FIFTY-NINE DOLLARS (\$6,759.00) 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 as well as other lawful fees and penalties.

5. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

6. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- | | |
|---|--------------------|
| 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: | \$1,000.00 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 Respondent's failure to comply with this CAO.

7. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.
8. DEQ may grant an extension of any provision of this CAO, 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.
9. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.
10. This CAO 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 CAO based upon the comments received within the thirty (30) day public comment period.

11. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

12. This CAO 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 CAO on behalf of Respondent. See Exhibit A.

14. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this CAO including but not limited to the payment of a civil penalty as set forth in this CAO. See Exhibit A.

SO ORDERED THIS 14³⁰ DAY OF ~~May~~ August BMT, 2024.

Bailey Taylor
~~CALEB J. OSBORNE~~ Bailey Taylor
DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:
CITY OF CAMDEN

BY:

Signature Donna Stewart

Print Name Donna Stewart

Title City Clerk

Date 7/31/24

RESOLUTION NO. 29-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMDEN, ARKANSAS,
AUTHORIZING THE MAYOR AND CLERK TO EXECUTE A CONSENT
ADMINISTRATIVE ORDER; AUTHORIZING THE PAYMENT OF A CIVIL
PENALTY TO THE ARKANSAS DIVISION OF ENVIRONMENTAL QUALITY; AND FOR OTHER
PURPOSES**

WHEREAS, the Arkansas Division of Environmental Quality (DEQ) regulates the disposal of solid waste; and

WHEREAS, the City operates a Class 4 landfill pursuant to a permit issued by DEQ; and

WHEREAS, the DEQ conducted an audit of the landfill's solid waste records; and

WHEREAS, the DEQ documented violations in the landfill record keeping system, including solid waste tonnage being underreported at times, and overreported at other times; and

WHEREAS, the City has installed new weight scales at the landfill to accurately record solid waste deposits; and

WHEREAS, the City desires to resolve the claim by entering into a Consent Administrative Order (CAO); and

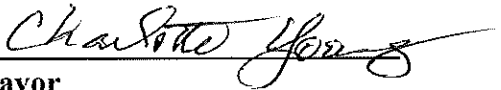
WHEREAS, the City Council desires to authorize the Mayor and Clerk to execute the CAO attached hereto.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAMDEN, ARKANSAS, THAT:


SECTION 1. The Mayor and Clerk are authorized to execute the Consent Administrative Order attached hereto.

SECTION 2. The Mayor, Clerk and Treasurer are authorized to remit payment of a civil penalty to DEQ pursuant to the attached CAO in the sum of One-Thousand, Seven-Hundred and Fifty Dollars (\$1,750.00).

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2024.



Mayor



City Clerk

