

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

IN THE MATTER OF:

AFIN: 47-00124

LIS No. 24-137

MISSISSIPPI COUNTY LANDFILL
1695 EAST COUNTY ROAD 506
LUXORA, ARKANSAS 72358

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 et seq., and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 et seq., Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 7, APC&EC Rule 8, APC&EC Rule 18, and APC&EC Rule 19.

The issues herein having been settled by agreement of Mississippi County Landfill (Respondent) and the Director of 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 owns and operates a landfill located at 1695 East County Road 506 in Luxora, Mississippi County, Arkansas.
2. 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 Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by DEQ;

3. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this chapter and rules, permits, or plans issued pursuant to this chapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.”

4. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

5. Respondent’s facility is subject to the provisions of 40 C.F.R. Part 60, Subpart XXX—Standards of Performance for Municipal Solid Waste (MSW) Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014 (Subpart XXX).

6. APC&EC Rule 26.301(A) states that no part 70 source may operate unless it is operating in compliance with a part 70 permit, or unless it has filed a timely and complete application for an initial or renewal permit as required under these rules.

7. Subpart XXX states that the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters is subject to part 70 or 71 permitting requirements.

8. On June 30, 2015, DEQ issued Respondent Solid Waste Permit 0136-S1-R4 (Permit R4) that approved the expansion of Cell 1. The permit application associated with Permit R4 lists the landfill's capacity as 7,381,777 cubic meters. Cell 1 of the expansion of the landfill was completed sometime in late October to early November 2016.

9. During a review of the New Source Performance Standards (NSPS), Subpart XXX

and APC&EC Rule 26 by DEQ Permits Branch, it was determined that Respondent's landfill design capacity exceeded the threshold for obtaining a Part 70 permit as required by Subpart XXX. Respondent failed to obtain an Air Operating Permit from DEQ. Such a failure violates APC&EC Rule 26.301(A) and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304. Such a failure also violates Subpart XXX.

10. On August 31, 2023, DEQ personnel contacted Respondent's environmental consultant by email and informed the consultant that the facility would require a Title V Air Permit.

11. On September 18, 2023, Respondent's consultant responded to the August 31, 2023 email and stated that after a review, they also determined that the facility would need a Title V Air Permit.

12. In correspondence dated October 2, 2023, DEQ informed Respondent that formal enforcement action was proceeding regarding this matter.

13. On March 22, 2024, DEQ sent Respondent a proposed CAO for the violation described in Paragraph 9 of the FINDINGS OF FACT section of this CAO.

14. On April 8, 2024, Respondent submitted a response to the proposed CAO. The response stated that Respondent's environmental consultant prepared a cost estimate and proposal to obtain the necessary air permit. After a review by the Quorum Court, the proposal was approved and a contract signed with Respondent's environmental consultant to prepare and submit the Title V Air permit application to DEQ.

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and DEQ do hereby agree and stipulate as follows:

1. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall, if they have not done so by the execution of this document, submit a complete Title V Air Operating Permit application that addresses all Rule 26.301(A) and Subpart XXX requirements applicable to Respondent's facility to DEQ.

2. Immediately, Respondent shall comply with all applicable requirements of Subpart XXX. If compliance with requirements of Subpart XXX require additional equipment controls and time to implement, Respondent shall provide a compliance plan and schedule to DEQ for review and approval within thirty (30) calendar days of the effective date of this CAO.

3. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ the most current design capacity of the landfill.

4. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ the Non-Methane Organic Compound reports required in Subpart XXX from 2015-2023.

5. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00)**. Payment is due within thirty (30) calendar days after the effective date of this CAO. Such payment shall be made payable to:

DEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection.

6. All applicable submissions required by this CAO are subject to approval by DEQ. In

the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ, submit any additional information requested. Failure to respond adequately to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

7. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of this CAO. If Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to DEQ civil penalties according to the following schedule:

- | | |
|--|----------------|
| (a) First day through the fourteenth day: | \$100 per day |
| (b) Fifteenth day through the thirtieth day: | \$500 per day |
| (c) More than thirty days: | \$1000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of DEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and 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 the requirements of this CAO. DEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

8. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, Respondent shall 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 have passed. 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.

9. 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 DEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

10. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) calendar days after public notice of the CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) day public comment period.

11. 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 CAO is granted by the Commission.

12. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws. Except as specifically provided herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.

13. Nothing in this CAO shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO neither

exonerates Respondent from any past, present, or future conduct that is not expressly addressed herein, nor relieves Respondent of the responsibilities for obtaining any necessary permits.

14. This Order has been reviewed and approved by the Quorum Court of Mississippi County in a duly convened meeting with a quorum present. It is the intention of the Quorum Court of Mississippi County to be bound by the terms appearing in the Order. A copy of the Resolution or Minutes of the Quorum Court meeting is attached as Exhibit A.

15. The Quorum Court of Mississippi County has authorized the County Judge to sign this Order on behalf of the County.

16. The Quorum Court of Mississippi County has authorized the County Judge or Treasurer to expend funds for compliance activities required by this Order including but not limited to the payment of a civil penalty in the amount listed above.

SO ORDERED THIS 11 DAY OF September, 2024.

Bailey Taylor
BAILEY TAYLOR

~~INTERIM~~ CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

MISSISSIPPI COUNTY LANDFILL

BY: Nelson (Signature)

John Alan Nelson (Typed or printed name)

TITLE: Mississippi County Judge

DATE: 8/28/24

BY: _____ (Signature)

_____ (Typed or printed name)

TITLE: _____

DATE: _____

JOURNAL OF PROCEEDINGS
MISSISSIPPI COUNTY QUORUM COURT
August 27, 2024

The Quorum Court of Mississippi County, Arkansas, met in regular session at 6:00 p.m. in the Mississippi County Courthouse in Osceola, Arkansas with Judge John Alan Nelson presiding. Justice Neil Burge gave the invocation, which was followed by the Pledge of Allegiance.

The following members answered roll call:

Justice Ash	Justice Jackson
Justice Brown	Justice Martin
Justice Burge	Justice McClanahan
Justice Cullom	Justice McDonald
Justice Hepler	Justice White

Absent: Justices Mangat.

Justice White moved to dispense with the reading of the minutes as copies had been provided to the members. Justice Ash seconded the motion and the voice vote was unanimous.

Justice White made a motion to amend the agenda to include a potential motion for action after the committee reports but before the resolutions and ordinances, Justice Ash seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat.

In the treasurer's report, Cindy George, Administrative Secretary reported the interest rate at Farmers Bank in Blytheville on a \$100,000.00 CD was 5.25% for one year. She reported the sales tax revenue was up this month.

Committee Reports:

Insurance Committee: Justice Cullom reported the committee met on August 5, 2024 with Billie Ann Heugel and Tisha Dudley. Topics of discussion were:

- Overview of expenses to date (claims and premiums).
- Insurance renewal timeline
- Changes in Medicare rules.
- New ground and air transportation with MASA medical emergency services.
- Scheduling open enrollment meetings.
- PEPM fee

Planning & Development Committee: Justice White reported the committee met on August 15, 2024 and discussed:

- A requested resolution from Crypto Farms.
- Three requests from Economic Development:
 1. \$250,000.00 for Remuriate for 25 jobs.
 2. \$500,000.00 for Edw Levy Co for 50 jobs.
 3. 250,000.00 for Ferrosorce for 25 jobs.

- Discussion on forming a Planning & Zoning Commission.
- Solar Farms economic impact on the county

Finance Committee: Justice White reported the committee on August 19, 2024 and topics of discussion were:

- Expenditures for 2024 Looking good at 58%.
- OEM Request for a \$35,000.00 appropriation.
- Closing on the county owned property on Highway 61.
- Landfill request for funding a temporary slot.
- Three requests from Economic Development:
 4. \$250,000.00 for Remuriate for 25 jobs.
 5. \$500,000.00 for Edw Levy Co for 50 jobs.
 6. 250,000.00 for Ferrosorce for 25 jobs.
- Discussed a possible Zoning Committee

Personnel Committee: Justice McDonald reported the committee met on August 22, 2024 to discuss:

- Landfill's request to create a temporary slot.
- County Clerk Janice Currie's request to create a temporary slot to help with elections.
- CAO fines at the landfill

New Business:

Justice Ash moved to amend the agenda to include permission for the judge to approve, sign and expend the funds (6,500.00) for the CAO at the landfill, White seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat.

The clerk was asked to read a resolution titled: A RESOLUTION ADOPTING THE HAZARD MITIGATION PLAN FOR MISSISSIPPI COUNTY. Following the reading, Justice White moved to adopt, Justice McDonald seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. R-2024-05 was adopted by the court.

The clerk read a resolution titled: A RESOLUTION CONFIRMING THE SALE OF COUNTY OWNED PROPERTY. Following the reading, Justice Ash moved to adopt, Justice Hepler seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. R-2024-06 was adopted by the court.

The clerk was asked to read an ordinance titled: AN ORDINANCE APPROPRIATING FUNDS TO CREATE TEMPORARY POSITION AT THE LANDFILL. Following the reading, Justice White moved to adopt, Justice McClanahan seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. O-2024-34 was adopted by the court.

The clerk read an ordinance titled: AN APPROPRIATION ORDINANCE FOR EXPENSES FOR HAZARD MITIGATION PLAN. Following the reading, Justice White moved to adopt, Justice Ash seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. O-2024-35 was adopted by the court.

The clerk was asked to read an ordinance titled: AN APPROPRIATION ORDINANCE AUTHORIZING COMMITMENT TO REMURIATE. Following the reading, Justice White moved to adopt, Justice Hepler seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. O-2024-36 was adopted by the court.

The clerk read an ordinance titled: AN APPROPRIATION ORDINANCE AUTHORIZING COMMITMENT TO FERROSOURCE. Following the reading, Justice White moved to adopt, Justice Hepler seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. R-2024-37 was adopted by the court.

The clerk read an ordinance titled: AN APPROPRIATION ORDINANCE AUTHORIZING COMMITMENT TO ED. LEVY CO. Following the reading, Justice White moved to adopt, Justice McDonald seconded and the vote was: Aye - - Ash, Brown, Burge, Cullom, Hepler, Jackson, Martin, McClanahan, McDonald and White; Nay - - None; Absent - - Mangat. O-2024-38 was adopted by the court.

There being no further business to come before the court, Justice White moved to adjourn, Justice Ash seconded and the voice vote was unanimous. The court adjourned at 6:50 p.m.

Respectfully submitted:

Janice Currie
County Clerk/Secretary